



# RULES OF THE STATE PERSONNEL BOARD

## 478-1-.16 Absence from Work

### (1) Introduction:

The State recognizes value in providing a reasonable amount of time off to assist employees with balancing work and personal needs. To be a responsible steward of public funds, however, the State must account for any pay provided to employees for time not worked. Paid time off must be charged to appropriate paid leave, accumulated compensatory time, paid holiday time, or suspension with pay.

This Rule defines the available types of paid and unpaid leave and eligibility for each. It further provides a framework for leave, compensatory time, and holiday administration. Information about paid suspension is available in Rule 478-1-.15, *Changes to Employment Status*, and more detailed information about compensatory time can be found in statewide policy #7 – *Rules, Regulations, and Procedures Governing Working Hours, the Payment of Overtime, and the Granting of Compensatory Time*, jointly issued by the Governor’s Office of Planning and Budget and the Department of Administrative Services.

### (2) Applicability:

- (a) The policies and procedures described in this Rule apply to all agencies of the Executive branch, excluding the Board of Regents of the University System of Georgia.
- (b) In accordance with State law (O.C.G.A. § 45-20-32), Section (18) of this Rule, Education Support Leave, is applicable to all branches and entities of State government.

### (3) Definitions:

For the purposes of this Rule, the following terms and definitions apply in addition to those in Rule 478-1-.02, *Terms and Definitions*:

- (a) “Administrative Leave” means paid time off for specified reasons defined in State law. This paid time off is not charged to accrued leave, and the duration is defined in applicable statute.
- (b) “Immediate family” means the employee’s spouse, child, parent, grandparent, grandchild, brother, and sister, including active step and in-law relationships. Immediate family also includes any other person who resides in the employee’s household and is recognized by law as a dependent of the employee.

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- (c) “Seasonal activity” means work during periods of significantly increased demand, which are of a regular and recurring nature.
- (d) “Workday” means a day an employee is regularly scheduled to work.

## **(4) General Leave Administration Provisions:**

- (a) Each agency should establish procedures for employees to request and receive approval for absence from work.
- (b) Employees are expected to properly request and receive approval for absence from work. Failure to follow the employer’s procedures may result in denial of the request and/or other employment action deemed appropriate by the agency, up to and including termination of employment.
- (c) If a request for absence is denied, the employee is expected to work, as scheduled. Failure to do so might result in leave without pay and/or other employment action deemed appropriate by the agency, up to and including termination of employment.
- (d) The agency may require an employee on leave with an uncertain end date to provide periodic reports during the leave regarding the employee’s status and intent to return to work.
- (e) An employee absent on official agency business is not considered to be on leave.
- (f) An employee is expected to return to work as scheduled at the expiration of approved absence. If an extension is desired, the employee must request it in writing from his/her supervisor prior to the leave expiration and adhere to other agency procedures for timely requesting an extension.
- (g) Failure to obtain approval for additional time off beyond the expiration of an approved absence may result in separation from employment or other employment action deemed appropriate by the agency.
- (h) Each agency may, as a condition of return, require an employee who is absent from work because of illness or injury to supply an appropriate medical release or certification that the employee is able to return to work. The release or certification must explain the extent to which the employee is able to perform the essential functions of his/her position, with or without reasonable accommodation.

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1. Each agency must comply with the requirements of the Americans with Disabilities Act, as amended, including providing reasonable accommodation to its qualified employees with disabilities.
2. A limitation exists for employees returning to work from using intermittent reduced schedule Family and Medical Leave. An agency may require fitness-for-duty certification only if the agency reasonably believes the return could pose significant risk of harm to the employee or others. Such certification may be required no more than every 30 calendar days.
3. If the medical certification does not release the employee to perform the essential functions, and there is no available reasonable accommodation, as defined in the Americans with Disabilities Act, as amended, or if the employee fails to provide the required release, the agency may take the employment action it deems appropriate, up to and including termination of employment.
  - (i) Prior to engaging in other employment, including self-employment, while on leave employees must comply with the notice and other requirements set forth in Rule 478-1-.07, *Outside Employment*.
  - (j) Misrepresenting reasons for requesting or continuing an absence may result in disciplinary action, up to and including termination of employment.
  - (k) Exceptions to this Rule will occur if necessary to comply with applicable laws.

## **(5) Types of Paid Leave:**

- (a) The State's paid leave program offers a combination of accrued, personal, and administrative leave for eligible employees.
- (b) The following employees are not eligible for any paid leave benefits:
  1. All temporary employees except for those eligible to receive Maternal Birth Leave and/or Paid Parental Leave under Section (26) of this Rule,
  2. All hourly employees, except for those eligible to receive Maternal Birth Leave and/or Paid Parental Leave under Section (26) of this Rule, and
  3. Active, salaried non-temporary employees who are rehired retirees of the Employees' Retirement System of Georgia (ERS) while receiving retirement

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annuity payments during the first 1,040 hours of work performed in the calendar year.

Eligibility for other employees is defined in the applicable leave section within this Rule.

(c) Accrued Leave:

1. Accrued leave includes annual leave and sick leave. Both annual and sick leave are earned based on time in pay status and automatically accrue to eligible employees. (See Section (6) Annual Leave and Section (7) Sick Leave of this Rule.)
2. Each agency, by written policy, may set a minimum period of annual and/or sick leave to be charged for any use which is only a fraction of that period. The minimum leave period cannot be greater than 15 minutes.
3. Dual Eligibility Relating to Leave Accrual:
  - (i) An employee who is simultaneously employed in two different agencies and is entitled to earn leave under each position s/he holds will independently accrue leave in accordance with each agency's policies.
  - (ii) If employment is terminated with one agency but not the other, all leave accruals will be combined and available in the remaining position, provided both agencies use the same leave accrual program. An exception applies when one of the agencies is a Community Service Board, County Board of Health, or Board of Health Community Operated Program. Leave accrued in these organizations cannot be transferred to an Executive Branch agency except from a County Board of Health to the state Department of Public Health.
  - (iii) If the leave programs differ or if leave cannot otherwise transfer, the terminating agency will pay out/divest the employee's leave as provided in the Annual, Sick, and Personal Leave sections of this Rule.

(d) Administrative Leave:

State law provides paid administrative leave to eligible employees for certain activities. Such leave is in addition to, and not charged against, an employee's accrued leave. Administrative leave is available for/during the following:

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1. Absence Due to Emergency Office Closures (See Section (12) of this Rule.),
2. Blood Donation Leave (See Section (13) of this Rule.),
3. Bone Marrow Donation Leave (See Section (14) of this Rule.),
4. Organ Donation Leave (See Section (15) of this Rule.),
5. Court Leave (See Section (16) of this Rule.),
6. Employee Voting Leave (See Section (17) of this Rule.),
7. Education Support Leave (See Section (18) of this Rule.),
8. Disaster Volunteer Leave (See Section (19) of this Rule.),
9. Line-of-Duty Injury Leave, also known as Special Injury Leave (See Section (20) of this Rule.),
10. Leave for Contracting TB or infectious Hepatitis on the job (See Section (21) of this Rule.),
11. Military Leave (See Rule 478-1-.19, Military Leave.),
12. Maternal Birth Leave (See Section (26) of this Rule), and
13. Paid Parental Leave (See Section (26) of this Rule).

(e) Limitation on Concurrent Use of Paid Leave and Wage Substitutes:

An employee is not allowed to use any type of paid leave, except in special situations discussed in Section (20) of this Rule, for any time that the employee receives any form of State of Georgia-funded wage substitute, including but not limited to Workers' Compensation.

## (6) Annual Leave:

(a) Eligibility:

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1. Each agency provides paid annual leave for non-temporary salaried employees who are regularly scheduled to work 20 or more hours a week.
2. The Georgia Industries for the Blind provides paid annual leave for non-temporary manufacturing employees who are regularly scheduled to work 20 hours or more a week.
3. The following employees are not eligible to accrue annual leave:
  - (i) All temporary employees,
  - (ii) All hourly employees,
  - (iii) Active, salaried, non-temporary employees who are rehired retirees of the Employees' Retirement System of Georgia while receiving retirement annuity payments during the first 1,040 hours of work performed in the calendar year.

(b) Accrual:

1. The accrual process begins on the first date of employment. Annual leave is credited to eligible employees at the end of each pay period.
2. Annual leave accrues on a graduated scale based on an employee's length of continuous, unbroken State service in a position entitled to accrue leave under this Rule.
3. Full-time employees scheduled for at least 40 hours per workweek accrue annual leave at the following rates:

Complete Months of Continuous Service	Paid Semi-Monthly	Paid Monthly
0 through 60	5 hours per pay period	10 hours per pay period
60+ through 120	6 hours per pay period	12 hours per pay period
120+	7 hours per pay period	14 hours per pay period

- (i) Employees paid semi-monthly must be in pay status for at least 40 hours during the pay period to accrue annual leave at the end of that pay period.

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- (ii) Employees paid on a monthly basis must be in pay status for at least 80 hours during the pay period to accrue annual leave at the end of that pay period. An agency that compensates employees on a monthly basis may choose to administer annual leave as if those employees were compensated on a semi-monthly basis.
4. Part-time employees scheduled to work at least 20 (but fewer than 40) hours per workweek accrue annual leave as outlined for full-time employees, but at a prorated rate.
- (i) The prorated rate is determined by dividing the employee's standard weekly work hours by 40. For example, a part-time employee scheduled for 20 hours per workweek would accrue annual leave at 50% of the rate a full-time employee accrues annual leave ( $20 \text{ hours} \div 40 = .5$  or 50%). A new 20-hour employee would earn 2.5 hours of annual leave semi-monthly or 5 hours monthly.
  - (ii) The minimum periods of time in pay status required for annual leave accrual noted in Section (6)(b)3(i)-(ii), above, are similarly prorated for part-time employees. A 20-hour employee would need to be in pay status at least 20 hours during a semi-monthly pay period, or 40 hours during a monthly pay period, in order to accrue leave at the end of that pay period.
- (c) Use and Limitations of Annual Leave:
1. Annual leave may be used for vacation or other personal reasons.
  2. Employees may not take annual leave before it is actually earned.
  3. An agency may by written policy require its employees to use compensatory time and/or deferred holiday time before using annual leave.
  4. An agency may by written policy require its employees to use available sick leave before using annual leave when the absence involves medical reasons that would qualify for sick leave.
  5. In scheduling annual leave, agencies should try to accommodate employee preferences. However, employees who request annual leave during busy periods or at times when coworkers have already requested leave might need to make alternate plans. Supervisors must weigh the agency's business needs and the timeliness of the requests in approving annual leave.

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## (d) Carryover and Forfeiture of Annual Leave:

1. An employee may accrue up to 360 hours of annual leave. Any leave balance in excess of 360 is forfeited at the end of each pay period.
2. Annual leave that is forfeited may be restored as sick leave by the agency if an employee exhausts all paid leave and compensatory time and must be absent because of a personal or immediate family medical condition. The restoration of leave is limited to:
  - (i) The amount required by the circumstances of the medical condition; and
  - (ii) The leave forfeited during the current period of employment. Forfeited leave accrued prior to a break in service cannot be restored except as outlined in Section (7)(h) of this Rule.

## (e) Annual Leave Payout:

1. Annual leave payout can occur in four circumstances:
  - (i) Payout Upon Separation. Employees are paid for their accrued and unused annual leave, which has not been forfeited, upon separation from State employment for at least one full workday for any reason.
    - A. Annual leave payout is limited to a maximum of 360 hours.
    - B. Annual leave is not paid out when an employee transfers between State agencies with no break in service or when annual leave will otherwise transfer to the new employer. (See Section (10) of this Rule.)
    - C. Once a separation date has been determined, the pay status of an employee cannot be extended for the purpose of granting a holiday or an unanticipated non-workday occurring after the last day in pay status. Once an employee notifies the agency of the intent to terminated employment, the employee cannot be continued on the payroll on leave with pay status for the purpose of increasing the current salary, the rate of leave accrual, or the rate at which accrued leave would be paid.

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- (ii) **Extended Leave of Absence Payout:** An employee who is taking an approved leave of absence without pay of 30 calendar days or more may request and receive an annual leave payout for all accrued annual leave excluding forfeited leave, up to a maximum of 360 hours. The lump sum payment will be calculated as outlined in (6)(e)2, below.
- (iii) **Payout Upon Transfer to Position Ineligible to Earn Leave:** Upon transfer into a position that is not entitled to earn annual leave (i.e., temporary position, hourly position for which the employee is paid only for the time worked, or part-time position scheduled for fewer than 20 hours per week) an employee will be paid for accrued and unused annual leave, up to a maximum of 360 hours.
- (iv) **Annual Leave Conversion Payout:** Employees may convert annual leave into a cash payout once per fiscal year upon notice of the availability of this payout option.
  - A. The availability of the annual leave conversion program shall be determined on an annual basis by the Governor's Office of Planning and Budget. The Governor's Office of Planning and Budget shall determine both the availability of funding and timing of the annual leave conversion payout.
  - B. Agencies shall annually certify to the Governor's Office of Planning and Budget the intention to participate in the program and the availability of sufficient funding within individual agency budgets to do so.
  - C. Upon notice of the availability of the annual leave conversion payout, an employee may elect to irrevocably convert an increment of 40 hours of annual leave to a cash payout if the employee has an accrued annual leave balance of at least 160 hours and a sick leave balance of 80 hours at the time of the request.
  - D. Agencies should ensure that employees who are absent on a protected leave status (e.g., leave under the Family and Medical Leave Act, military leave) during the election period are advised of any eligibility to convert annual leave to a cash payout and provided reasonable opportunity to make the conversion.

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- E. Each agency is required to track employee transfers between state agencies to ensure that the payout limitation of 40 hours per fiscal year is not exceeded.
2. To calculate annual leave payout for a full-time employee, the annual base pay last received by the employee is divided by 2,080 hours to determine the value of each hour of leave. (Annual base pay for a part-time employee must first be converted to the equivalent full-time salary for purposes of this calculation.)

The hourly rate is then multiplied by the number of hours to be paid. Decimal fractions of an hour will be rounded to the next highest hundredth of an hour.

3. Each agency has discretion to determine whether it will pay out accrued annual leave for its active, salaried, non-temporary employees who are rehired retirees of the Employees' Retirement System of Georgia when they become ineligible for paid leave benefits upon reinstatement of retirement annuity payments at the beginning of each calendar year. If any agency chooses not to pay out the accrued annual leave, the leave balance will remain credited to the rehired retiree who can then use the leave upon regaining eligibility for paid leave benefits.

## (7) Sick Leave:

### (a) Eligibility:

1. Each agency provides paid sick leave for non-temporary salaried employees who are regularly scheduled to work 20 or more hours a week.
2. The Georgia Industries for the Blind provides paid sick leave for non-temporary manufacturing employees who are regularly scheduled to work 20 or more hours a week.
3. The following employees are not eligible to accrue sick leave:
  - (i) All temporary employees;
  - (ii) All hourly employees; and
  - (iii) Active, salaried, non-temporary employees who are rehired retirees of the Employees' Retirement System of Georgia while receiving retirement annuity payments for the first 1,040 hours of work performed in the calendar year.

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## (b) Accrual:

1. The accrual process begins on the first day of employment. Sick leave is credited to eligible employees at the end of each pay period.
2. Full-time employees paid on a semi-monthly basis will accrue five (5) hours of sick leave at the end of each pay period, provided the employee is in pay status for at least 40 hours during the pay period.
3. Full-time employees paid on a monthly basis will accrue 10 hours of sick leave at the end of each pay period, provided the employee is in pay status for at least 80 hours during the pay period. An agency that compensates employees on a monthly basis may choose to administer sick leave as if those employees were compensated on a semi-monthly basis.
4. Part-time employees scheduled to work at least 20 (but fewer than 40) hours per week accrue sick leave as outlined for full-time employees, but at a prorated rate.
  - (i) The prorated rate is determined by dividing the employee's standard weekly work hours by 40. For example, a part-time employee scheduled for 20 hours per workweek would accrue sick leave at 50% of the rate a full-time employee accrues sick leave ( $20 \text{ hours} \div 40 = .5$  or 50%). A 20-hour employee would earn 2.5 hours of sick leave semi-monthly or five hours monthly.
  - (ii) The minimum periods of time in pay status required for sick leave accrual noted in Section (7)(b)2-3, above, are similarly prorated for part-time employees. A 20-hour employee would need to be in pay status at least 20 hours during a semi-monthly pay period or 40 hours during a monthly pay period in order to accrue leave at the end of that pay period.

## (c) Use and Limitations of Sick Leave:

1. Provided the employee adheres to the procedures for approval of leave, an employee may use accrued sick leave for any absence due to:
  - (i) Personal illness, injury, or disability;

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- (ii) Adoption of a child by the employee when the employee's presence is required for health-related reasons;
  - (iii) Dental or medical care;
  - (iv) Illness, injury, or disability in the employee's immediate family which requires the employee's presence;
  - (v) Death in the employee's immediate family which requires the employee's presence; however, sick leave used for this purpose shall be limited to five (5) workdays or the equivalent of a workweek.
2. Sick leave may also be used to allow an employee paid time off from work because s/he has been exposed to a contagious disease and may reasonably expose others and endanger their health by being present at work.
  3. Employees may not use sick leave before it is actually earned.
  4. An agency may by written policy require its employees to use compensatory time and/or deferred holiday time before using sick leave.
  5. An employee may be required to furnish evidence to support the use of sick leave if the employee uses 17 or more hours of sick leave in a 30 calendar day period or has demonstrated excessive or abusive use of sick leave.
  6. Employees using sick leave during a period of Family and Medical Leave (FMLA) are also subject to the medical certification provisions associated with FMLA. (See Rule 478-1-.23, *Family and Medical Leave*.)
- (d) Excessive or Abusive Use of Sick Leave:

Excessive or abusive use of sick leave is defined as a pattern of intermittent, short-term usage that includes, but is not limited to, the following:

1. Frequent use of sick leave in conjunction with holidays, scheduled off days, weekends, or paydays;
2. Frequent use of sick leave when scheduled for undesirable temporary shifts or assignments, or during periods of peak workload;

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3. A request for sick leave for an absence for which other paid leave has previously been denied;
4. Frequent occurrences of illness during the workday;
5. Peculiar and increasingly improbable excuses;
6. Repetitive use of fewer than 17 hours of sick leave in 30-day periods;
7. Prior written notification of failure to adhere to procedures for approval of leave, inappropriate attendance, or inappropriate use of leave (e.g., written warning, active attendance plan, etc.).

(e) Illness During Annual Leave:

If an employee is ill for three (3) workdays or more during a period of annual leave, the period of illness may be charged to sick leave if the employee provides satisfactory written evidence supporting the illness during annual leave. A request for substitution of sick leave for annual leave must be made to the agency within two (2) weeks after the employee has returned to duty. No substitution will be allowed for illness that does not last for three (3) or more workdays.

(f) Exhaustion of Sick Leave:

If an absence because of illness, injury, or disability extends beyond available sick leave, the absence may be charged to available annual leave, personal leave, compensatory time, or deferred holiday time, unless the employee applies for, and the agency approves, a leave of absence without pay. Leave donations may be available to an employee who must be absent for an extended period of time after exhausting all paid leave and compensatory time. (See Rule 478-1-.17, *Leave Donation*, for program details.)

(g) Carryover and Forfeiture of Sick Leave:

1. An employee may accrue up to 720 hours of sick leave. Any leave balance in excess of 720 is forfeited at the end of each pay period.
2. Sick leave that is forfeited may be restored by the agency if an employee exhausts all paid leave and compensatory time and must be absent because of a personal or immediate family medical condition. The restoration of leave is limited to:

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- (i) The amount required by the circumstances of the medical condition;
- (ii) The leave forfeited during the current period of employment. Forfeited leave accrued prior to a break in service cannot be restored except as outlined in Section (7)(h) of this Rule.

(h) Divestment and Restoration of Sick Leave:

1. Upon a break in State service (i.e., separation from State employment for at least one full workday), an employee's accrued sick leave is divested and not paid out. (See Section (10)(e) of this Rule for an exception in such case as when a Community Service Board, County Board of Health, or Board of Health Community Operated Program agrees to accept an employee's leave upon transfer without a break in service.)
2. An employee's accrued sick leave is divested and not paid when an employee transfers into a position that is not entitled to earn sick leave (i.e., temporary position, hourly position for which the employee is paid only for the time worked, or part-time position scheduled for fewer than 20 hours per week).
3. Each agency has discretion to determine whether it will divest accrued sick leave for its active, salaried, non-temporary employees who are rehired retirees of the Employees' Retirement System of Georgia when they become ineligible for paid leave benefits upon reinstatement of retirement annuity payments at the beginning of each calendar year. If an agency chooses not to divest the accrued sick leave, the leave balance will remain credited to the rehired retiree who can then use the leave upon regaining eligibility for paid leave benefits.
4. Employees who return to State employment on or after July 1, 2003, and remain employed for a period of two (2) consecutive years in a position entitled to earn leave in accordance with this Rule, are eligible to regain sick leave divested when their most recent previous period of State service ended.
5. Divested sick leave includes any sick leave that was available for use at the time of the employee's last separation from State service. It does not include any sick leave forfeited prior to the employee's last separation.
6. The maximum amount of divested sick leave the employee may regain is 720 hours. Divested leave will only be restored to the extent that the restored leave and current unused sick leave total 720 hours. Any remaining balance of divested sick leave will be credited to the employee's current forfeited leave balance.

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7. If a Community Service Board, County Board of Health, or Board of Health Community Operated Program accepts leave upon transfer from the State, then sick leave is not considered divested at the time the employee leaves State service. Should the employee later return to State employment, sick leave divested at the time the employee returns to the Executive Branch would not be eligible for reinstatement. An exception applies as noted in Section (10)(e)(3) when an employee transfers from a County Board of Health to the state Department of Public Health.
8. To obtain restoration of divested sick leave, an employee must apply in writing to the employing agency and include supporting documentation. The agency will determine the appropriate amount of divested sick leave to be restored.
9. Employees returning to State employment within one year of being laid off by a State agency in accordance with a reduction-in-force plan will immediately receive restoration of the sick and forfeited leave that was lost at the time of layoff, provided they return to a position entitled to accrue leave in accordance with this Rule. (See Section (11) of this Rule.)

## **(8) Personal Leave:**

Each year, an employee who has an accrued sick leave balance of more than 120 hours as of November 30 may convert up to 24 hours of the excess sick leave to personal leave.

- (a) The employee must have a remaining sick leave balance of at least 120 hours after conversion.
- (b) The employee must notify the agency of such a conversion no later than December 31 of that year. Agencies should ensure that employees who are absent in a protected leave status (e.g., FMLA, military leave) during the election period are advised of any eligibility to convert sick leave to personal leave and provided a reasonable opportunity to make the conversion.
- (c) Sick leave that is converted during December becomes personal leave on January 1 and cannot be reversed after it is converted. Personal leave is available for use only during the calendar year following conversion.

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- (d) Each agency, by written policy, may set a minimum period of personal leave to be charged for any use which is only a fraction of that period. The minimum leave period cannot be greater than fifteen (15) minutes.
- (e) Personal leave may be used for any reason, upon receiving supervisory approval, with the following exceptions:
  - 1. Employees cannot use personal leave while they are receiving Georgia State-funded wage substitutes, such as Workers' Compensation wage loss benefits.
  - 2. An agency may by written policy require its employees to use available sick leave before using personal leave when the absence involves medical reasons that would qualify for sick leave.
- (f) Agencies should make every reasonable effort to accommodate requests to utilize personal leave. An employee is, however, expected to give as much advance notice as possible to minimize disruptions.
- (g) Personal leave not used by December 31 of the year the leave was available will be divested and cannot be restored.
- (h) Any unused personal leave at the time of an employee's break in State service of at least one full workday is divested and not paid to the employee.
- (i) When an employee transfers into a position that is not entitled to earn leave (i.e., temporary positions, hourly position for which the employee is paid only for the time worked, or part-time position scheduled for fewer than 20 hours per week) any unused personal leave is divested and not paid.
- (j) Personal leave carries no cash value if unused. There will be no payout for unused personal leave upon termination.

## **(9) Election to Use Accrued Leave or Personal Leave for Workers' Compensation Absence:**

- (a) An employee may not use annual, sick, or personal leave for an accidental injury or occupational disease which is compensable under the Georgia Workers' Compensation Act, unless the employee elects in writing to use paid leave in lieu of receiving Workers' Compensation wage loss benefits.

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- (b) The leave granted for such purpose will be credited on a day-for-day basis as compensation against any indemnity award by the State Board of Workers' Compensation.
- (c) An employee may prospectively submit to the agency a written election to use annual, sick, and/or personal leave in lieu of receiving Workers' Compensation wage loss benefits.

## **(10) Transfer of Accrued Leave and Personal Leave:**

The following provisions define the transfer of accrued leave and personal leave when employees transfer to a different State government agency or entity without a break in service from a position entitled to accrue leave into another position entitled to accrue leave. Note that accumulated compensatory time does not transfer between State entities. Upon transfer, the losing organization must pay out unused FLSA compensatory time, and unused State compensatory time balances are divested and not paid. (See Sections (23) FLSA Compensatory Time and (24) State Compensatory Time of this Rule.)

### (a) Transfer between Executive Branch Agencies:

Unused sick, annual, and personal leave and the record of forfeited leave will transfer between Executive branch agencies.

### (b) Transfer between Branches of State Government:

1. Unused sick, annual, and personal leave and the record of forfeited leave will transfer from an Executive branch agency into the Legislative or Judicial branch to the extent the receiving organization agrees to accept the transfer. The employee will be paid for unused annual leave that cannot be transferred, up to a maximum of 360 hours, once the agency has received confirmation that the employee cannot receive credit. Accrued personal leave and sick leave balances that cannot be transferred are not paid and are divested.
2. The unused leave and record of forfeited leave will transfer into an Executive branch agency from the Legislative or Judicial branch only when the losing and receiving organizations have the same leave accrual program. If the Legislative or Judicial branch entity's leave program deviates from this Rule, leave balances and the record of forfeited leave will not transfer into the Executive

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branch agency, and the employee will be considered a new hire for purposes of graduated annual leave accrual.

(c) Transfer between Board of Regents and Executive Branch:

1. Unused sick, annual, and personal leave and the record of forfeited leave will transfer from an Executive branch agency into a unit of the Board of Regents/University System of Georgia to the extent the receiving organization agrees to accept the transfer. The employee will be paid for unused annual leave that cannot be transferred, up to a maximum of 360 hours, once the agency has received confirmation that the employee cannot receive credit. Accrued personal leave and sick leave balances that cannot be transferred are not paid out and are divested.
2. Unused leave and the record of forfeited leave will not transfer into an Executive branch agency from the Board of Regents/University System of Georgia. Transferring employees are considered new hires for purposes of graduated annual leave accrual.

(d) Transfer between Authorities and Executive Branch:

1. Unused sick, annual, and personal leave and the record of forfeited leave will transfer from an Executive branch agency into an authority to the extent the receiving organization agrees to accept the transfer. The employee will be paid for unused annual leave that cannot be transferred, up to a maximum of 360 hours, once the agency has received confirmation that the employee cannot receive credit. Accrued personal leave and sick leave balances that cannot be transferred are not paid and are divested.
2. The unused leave and record of forfeited leave will transfer into an Executive branch agency from an authority only when the losing and receiving organizations have the same leave accrual program. If the authority's leave program deviates from this Rule, leave balances and the record of forfeited leave will not transfer into the Executive branch agency, and the employee will be considered a new hire for the purposes of graduated annual leave accrual.

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- (e) Transfers between Community Service Boards (CSB), County Boards of Health, and Board of Health Community Operated Programs (BOHCOP) and Executive Branch:
1. Unused sick, annual, and personal leave and the record of forfeited leave will transfer from an Executive branch agency into a unit of a CSB, County Board of Health, and BOHCOP to the extent the receiving organization agrees to accept the transfer. The employee will be paid for unused annual leave that cannot be transferred, up to a maximum of 360 hours, once the agency has received confirmation that the employee cannot receive credit. Accrued personal leave and sick leave balances that cannot be transferred are not paid and are divested.
  2. Unused leave and the record of forfeited leave will not transfer into an Executive branch agency from any CSB, County Board of Health, or BOHCOP except as provided in subsection (e)(3). Transferring employees are considered new hires for purposes of graduated annual leave accrual. An exception applies to classified employees whose unused sick, annual, and personal leave and record of forfeited leave will transfer into the Executive branch.
  3. Unused annual and sick leave will transfer from a County Board of Health into the state Department of Public Health if the transferring employee is a member of the state retirement system and there is no break in service. Transferring employees from County Boards of Health to the state Department of Public Health will retain seniority for purposes of graduated leave accrual.

## **(11) Credit for Leave on Return from Layoff:**

The provisions in this section apply to employees rehired into State service in a position entitled to accrue leave in accordance with this Rule within one (1) year of being laid off as a result of agency downsizing or reorganization.

- (a) Upon rehire, the employee's sick leave balance existing at the time of layoff will be reinstated.
- (b) Any record of forfeited leave existing at the time of layoff will be reinstated, but the leave will not be available for the employee's uses, except as provided for in Section (7), Sick Leave, of this Rule.

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- (c) The period of absence for the layoff will not constitute a break in service for purposes of graduated annual leave accrual.
- (d) Upon rehire, the employee's personal leave balance will be reinstated, unless the employee returns in the calendar year after the personal leave would have expired.

## (12) Absence Due to Emergency Office Closures:

When the Governor, or an agency upon delegated authority by the Governor, closes an office or facility because of weather conditions or other emergency circumstances, affected employees are excused from duty without loss of pay as provided in this Rule section. Employees who are not directly affected by an emergency office closure will not be excused from work.

### (a) Employees considered directly affected by a closure:

1. Employees who were scheduled to work in an affected area during an emergency office closure are considered affected by the closure.
2. Non-temporary salaried employees affected by the closure are paid for the scheduled work time they do not work because of the closure. This paid time off is not charged against their accrued leave.
3. The following employees are not eligible for compensation for absences due to emergency closure:
  - (i) Unaffected employees;
  - (ii) All temporary employees;
  - (iii) All hourly employees;
  - (iv) Active, salaried, non-temporary employees who are rehired retirees of the Employees' Retirement System of Georgia while receiving retirement annuity payments during the first 1,040 hours of work performed in the calendar year.

### (b) Employees considered unaffected by the closure:

Employees who were not scheduled to work in an affected area during an emergency office closure are considered unaffected by the closure. Employees

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scheduled to use leave or compensatory time during an emergency office closure will be charged for that pre-approved leave or compensatory time because they are considered unaffected by the closure.

(c) Essential Staff:

An agency may determine that it is essential to continue certain functions during an emergency office closure. Employees whose functions are deemed essential may be required to work, rather than excused from duty.

1. Such employees will be compensated as usual for the time worked during their normal work schedule and do not have any right to additional absence or compensation for this time as a result of paid absence authorized for non-essential staff.
2. Essential employees who are required to work additional time because of an office or facility closing will be compensated in accordance with the provisions of statewide policy #7 – Rules, Regulations and Procedures Governing Working Hours, the Payment of Overtime and the Granting of Compensatory Time.

(d) If an employee is absent from duty because of severe weather conditions or other emergencies that do not cause his/her office or facility to close, the agency may permit the employee to:

1. Make up time lost from work. In order to comply with the Fair Labor Standards Act, a non-exempt employee must make up time during the same workweek as the time lost;
2. Charge the period of absence to accrued compensatory time;
3. Charge the period of absence to accrued annual leave;
4. Charge the period of absence to personal leave;
5. Charge the period of absence to deferred holiday time;
6. Telework (if determined appropriate by the agency); or,

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If none of the above options are available, place the employee on leave without pay for the period of absence.

## **(13) Blood Donation Leave:**

- (a) Non-temporary salaried employees are permitted to take up to two (2) hours of paid time off to donate blood, up to four (4) times each calendar year. Employees who donate blood platelets or granulocytes through plasmapheresis process may take up to four (4) hours of paid time off, up to four (4) times a calendar year.
- (b) An eligibility exception applies to active, salaried, non-temporary employees who are rehired retirees of the Employees' Retirement System of Georgia. Such employees are not eligible for blood donation leave while receiving retirement annuity payments during the first 1,040 hours of work performed in the calendar year.
- (c) The agency may specify the hours during which an employee may be absent in order to donate blood. An employee who does not use the entire time allowed at the time of each donation does not accrue any right to any subsequent paid or unpaid leave.

## **(14) Bone Marrow Donation Leave:**

- (a) Non-temporary salaried employees are granted seven (7) workdays of paid leave to donate bone marrow for transplantation. The amount of leave will not be deducted from any accrued leave balance and will be included as service time for purposes of computing any retirement or pension benefits.
- (b) An eligibility exception applies to active, salaried, non-temporary employees who are rehired retirees of the Employees' Retirement System of Georgia. Such employees are not eligible for bone marrow donation leave while receiving retirement annuity payments during the first 1,040 hours of work performed during the calendar year.
- (c) To receive paid bone marrow donation leave, the employee must have approval from the agency for absence and provide the agency with a written statement from a medical practitioner performing the procedure. If the donation does not occur, bone marrow donation leave is not applicable.

## **(15) Organ Donation Leave:**

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- (a) Non-temporary salaried employees are granted 30 workdays of paid leave to donate an organ for transplantation. The term “organ” means any human organ, including an eye, which is capable of being transferred from the body of one person to another. The amount of leave will not be deducted from any accrued leave balance and must be included as service time for purposes of computing any retirement or pension benefits.
- (b) An eligibility exception applies to active, salaried, non-temporary employees who are rehired retirees of the Employees’ Retirement System of Georgia. Such employees are not eligible for organ donation leave while receiving retirement annuity payments during the first 1,040 hours of work performed in the calendar year.
- (c) To receive paid organ donation leave, the employee must have approval from the agency for absence and provide the agency with a written statement from a medical practitioner performing the transplant procedure or a hospital administrator indicating that the employee is making an organ donation. If the donation does not occur, organ donation leave is not applicable.

## (16) Court Leave:

- (a) The State recognizes employees’ obligation to perform civic duties when summoned as a potential juror or witness and grants time off to employees for such purposes. An employee may not be discharged, disciplined, or otherwise penalized because the employee is absent from employment for the purpose of attending a judicial proceeding in response to a subpoena, summons for jury duty, or other court order or process which requires the attendance of the employee.
- (b) Leave Request and Supporting Documentation:
  - 1. An employee who is summoned to perform jury duty or to serve as a witness during scheduled work time and needs to be absent from work is expected to provide a copy of the summons, subpoena, or other court order when requesting leave.
  - 2. Because employees will typically not know in advance how much time will be required to fulfill their court obligation, employees may be required to update the agency at reasonable intervals concerning the time needed for absence from duty.
- (c) Paid Court Leave:

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1. Paid court leave is granted to non-temporary salaried employees, as outlined in this Rule Section, for the purpose of attending a judicial proceeding in response to a subpoena, summons for jury duty, or other court order or process which requires the attendance of the employee during scheduled work hours. Such paid time off is not charged to an employee's accrued leave.
2. The following employees are not eligible for paid court leave:
  - (i) All temporary employees,
  - (ii) All hourly employees, and
  - (iii) Active, salaried non-temporary employees who are rehired retirees of the Employees' Retirement System of Georgia while receiving retirement annuity payments during the first 1,040 hours of work performed in the calendar year.

(d) Jury Duty:

1. Eligible employees will receive paid court leave while on jury duty for the time they are otherwise scheduled to work. Employees will be paid only for the time they are required to appear by the court, plus any additional time that is reasonably necessary, in the opinion of the agency, for the employee to prepare for or return from jury duty.
2. Employees will not receive any compensation for time spent serving as a juror that exceeds the employee's regular work schedule.
3. Employees may keep any juror fees and travel allowances they receive from the court.

(e) Court Attendance and Witness Duty Leave:

1. An employee summoned to appear as a witness or required by a court to attend a proceeding will typically be paid in the same manner as an employee serving on a jury. However, an employee will not receive paid court leave to attend a trial, arbitration hearing, or other judicial proceeding in which s/he:
  - (i) Is charged with a crime;

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- (ii) Is a plaintiff or defendant;
  - (iii) Voluntarily appears as a witness;
  - (iv) Is a witness in a case arising from or related to his/her outside employment or outside business activity;
  - (v) Is testifying for a fee as an expert witness; or,
  - (vi) Has any other personal or familial interest in the proceeding.
2. When paid court leave is not applicable, the employee must use annual leave, personal leave, compensatory time, deferred holiday time, or take leave without pay.
- (f) Return from Court Leave:

Employees are required to report back to work as soon as they are released from jury duty or other court ordered appearance if the release occurs before the end of the scheduled workday. Management may require verification from the court showing the time served. Failure to return timely from court leave is treated as an unexcused absence.

## **(17) Voting Leave:**

The State encourages employees to exercise their right to vote in all federal, state, and local elections. Paid voting leave is not charged to an employee's accrued leave.

### (a) Eligibility for Voting Leave:

1. Paid voting leave is available to non-temporary salaried employees and may be taken on Election Day or on a day designated for advance in-person voting.
2. Active, salaried, non-temporary employees who are rehired retirees of the Employees' Retirement System of Georgia are not eligible for voting leave while receiving retirement annuity payments during the first 1,040 hours of work performed in the calendar year.

### (b) Voting leave is limited to two (2) hours per election.

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(c) For those employees not eligible for voting leave, agencies have the discretion to arrange flexible work schedules for voting purposes. Agencies may also allow employees to use other available paid leave, other than sick leave, if they are not eligible for voting leave or need more than two (2) hours to vote.

(d) Notification Requirement:

Employees are responsible for requesting and obtaining approval from their supervisor in advance of taking time off to vote. The agency may specify the hours during which an employee uses voting leave to ensure minimal disruption of normal agency operations.

## **(18) Education Support Leave:**

To supplement work-life balance options for State employees, the State provides up to eight (8) paid hours of leave per calendar year to eligible employees for the purpose of promoting education in Georgia. Such leave is in addition to, and not charged against, an employee's accrued leave.

(a) Education support leave may be taken in increments of fewer than eight (8) hours utilizing the same minimum period an agency has established for other forms of paid leave.

(b) Eligibility:

All eligibility criteria defined below must be met before an employee can use education support leave.

1. Any non-temporary, full-time employee of the State of Georgia, or of any branch, department, board, bureau, or commission thereof, may request to use and be considered for education support leave. An exception applies to active, salaried, non-temporary employees in the Executive branch who are rehired retirees of the Employees' Retirement System. Such employees are not eligible for education support leave while receiving retirement annuity payments during the first 1,040 hours of work performed in the calendar year.
2. Only activities directly related to student achievement and academic support will qualify for education support leave. Such activities may range from early

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care and learning through higher education. Each State employer maintains the authority to determine, in accordance with the provisions outlined in this Rule, whether an activity would qualify for education support leave.

3. To use education support leave, an employee may be, but is not required to be, the parent of a student.
  4. Employees must not receive pay for services they perform while using education support leave.
  5. Employees must receive prior approval from their supervisor before providing the services for which they are requesting education support leave. The State employer has discretion to require written verification from a school administrator, teacher, or other official prior to approval.
  6. The State employer maintains discretion to approve or deny requests for education support leave based on operational needs or other reasons, such as conduct, attendance, or unsatisfactory work performance. The State employer should ensure that denials are applied consistently for all similarly situated employees.
  7. Use of education support leave for any political purpose or agenda is prohibited.
- (c) Education support leave does not accumulate, and unused leave does not roll over into subsequent calendar years. Rather, eligible employees may use education support leave for qualifying absences that occur during their regular scheduled work hours, up to a total of eight (8) hours in any calendar year.
- (d) Employees can use no more than eight (8) hours of education support leave in a calendar year regardless of transfer from one State employer to another. Each State employer is responsible for conducting due diligence to ensure an employee has not exhausted education support leave prior to approving the paid leave.
- (e) Education support leave carries no cash value if unused. There will be no payout for unused education support leave upon termination.
- (f) Education support leave is not available to support education outside of the State of Georgia.

## **(19) Disaster Volunteer Leave:**

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The State recognizes that cooperation among government agencies and volunteer service agencies is vital in coping with natural disasters and other emergencies. To help prevent the loss and destruction of life and property, the State believes that employees who are trained and experienced in disaster relief should be able to provide assistance for brief periods without loss of pay and benefits.

(a) Eligibility:

1. To be eligible for paid disaster volunteer leave, an employee must be a certified disaster service volunteer of the American Red Cross whose services have been requested by the American Red Cross or by the Civil Air Patrol Auxiliary of the United States Air Force. The request for leave is subject to approval by the employee's agency and must be coordinated through the Director of Emergency Management.
2. The following employees are not eligible for disaster volunteer leave:
  - (i) All temporary employees;
  - (ii) All hourly employees; and
  - (iii) Active, salaried, non-temporary employees who are rehired retirees of the Employees' Retirement System of Georgia while receiving retirement annuity payments during the first 1,040 hours of work performed in the calendar year.

(b) Paid Disaster Volunteer Leave:

An eligible employee may be granted leave with pay to participate in specialized disaster relief services for the American Red Cross or for the Civil Air Patrol Auxiliary of the United States Air Force. Paid leave to participate in specialized disaster relief services for the Civil Air Patrol Auxiliary of the United States Air Force is available only for service on a numbered mission in support of a county emergency management agency, the Georgia Emergency Management and Homeland Security Agency, or a comparable federal agency.

1. Paid leave under this section cannot exceed 15 workdays in any 12-month period and can be granted only for services related to a disaster occurring within the State of Georgia or in a bordering state which has a reciprocal statutory provision.

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2. Paid disaster volunteer leave is not charged against an employee's accrued leave.
3. The employee will be compensated at the rate of pay for the regularly scheduled hours during which the employee is absent from work as a result of disaster volunteer leave.

## **(20) Line-of-Duty Injury Leave (Special Injury Leave):**

A non-temporary salaried employee scheduled to work 30 or more hours per week who becomes physically disabled as a result of an injury incurred in the line-of-duty and caused by a willful act of violence committed by a non-agency employee is entitled to a leave of absence for the period the employee is physically unable to perform her/his duties. Such a leave of absence will be provided in lieu of using accrued leave, and the employee will continue to receive regular compensation, subject to the limitations below.

- (a) Leave granted under this provision cannot exceed 180 workdays for any single incident.
- (b) An employee seeking leave under this section must submit documentation of disability to the agency.
- (c) The following employees are not eligible for line-of-duty injury leave:
  1. All temporary employees,
  2. All hourly employees, and
  3. Active, salaried, non-temporary employees who are rehired retirees of the Employees' Retirement System of Georgia while receiving retirement annuity payments during the first 1,040 hours of work performed in the calendar year.
- (d) Benefits received under this provision of the Rule will be subordinate to any Workers' Compensation wage loss benefits that the employee is awarded and will be limited to the difference between the amount of Workers' Compensation benefits actually paid and the amount of the employee's regular compensation.
- (e) Injury to Employees of the Department of Transportation:

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When an employee of the Department of Transportation is disabled while working in the proximity of traffic movements or equipment movements doing maintenance, construction, or other activities which may be construed as hazardous, the reasons that qualify for line-of-duty injury leave are expanded. Qualifying reasons include: an act of violence, accident, or injury that is caused by a person other than an employee of the agency or an employee of a contractor or subcontractor performing duties under a contract with the agency.

(f) Permanent Disability to Law Enforcement Personnel:

Law enforcement personnel who are permanently disabled by an act of external violence or injury on the job and who qualify for a disability retirement benefit under O.C.G.A. § 47-2-221 are not eligible to receive line-of-duty injury leave under this provision.

## **(21) Leave for Contracting TB or Hepatitis on the Job:**

- (a) A non-temporary salaried employee who contracts tuberculosis or infectious hepatitis while charged with the care, treatment, or diagnosis of a person infected with tuberculosis or infectious hepatitis, and who has exhausted all available sick and annual leave will be granted a paid leave of absence of one-half her/his total compensation or \$150 per month, whichever is less, for the duration of the disability due to the tuberculosis or infectious hepatitis, not to exceed 350 weeks.
- (b) The following employees are not eligible for paid leave for contracting TB or hepatitis on the job:
  - 1. All temporary employees,
  - 2. All hourly employees, and
  - 3. Active, salaried, non-temporary employees who are rehired retirees of the Employees' Retirement System of Georgia while receiving retirement annuity payments during the first 1,040 hours of work performed in the calendar year.
- (c) An employee receiving leave under this special situation will be given credit for all salary adjustments and advancements, which would have been received had the employee remained in the same position with the same capacity and status held at the time the leave was granted.

## **(22) Leave Without Pay:**

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(a) Leave without pay may be used in the following situations:

1. When an employee is authorized for absence but does not have available paid leave to cover the absence;
2. When an employee is authorized for absence but foregoes the use of available paid leave for a Workers' Compensation-related absence or for other absence with the concurrence of the agency;
3. When an employee does not have approval for an absence (See Section (22)(g), below);
4. When there is insufficient funding for salaries (See Section (22)(h), below); and
5. When there is insufficient work available (See Section (22)(i), below).

(b) Leave without pay is not included as service time for purposes of computing retirement or pension benefits, unless otherwise specified.

(c) Short-Term Authorized Leave without Pay:

Agencies may grant an employee who is absent, but does not have accrued leave to cover the period of absence, leave without pay for a period of not more than 10 consecutive workdays in any one continuous absence. At the expiration of the approved leave, the employee shall be returned to the same position without any loss of rights provided the employee returns within the terms of the leave granted.

(d) Regular Leave of Absence without Pay:

1. A regular leave of absence without pay allows an employee to take unpaid time off for up to 12 continuous months and be granted return to work if the employee returns within the terms of the leave approval.
2. The employee must submit a written request to the agency. If approved, a written notice specifying the terms and conditions of the approval must be provided to the employee, including a statement indicating that the employee will be reinstated to the former position or to a position of equal grade and pay without loss of any rights provided the employee returns within the terms of the leave granted.

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3. Although a regular leave of absence without pay does not constitute a break in service and does not result in divestment of leave, an employee who is taking an approved leave of absence without pay of 30 calendar days or more may request and receive an annual leave payout for all accrued annual leave excluding forfeited leave, up to a maximum of 360 hours. (See Section (6)(e)4 of this Rule.)

## (e) Contingent Leave of Absence without Pay:

1. A contingent leave of absence without pay is similar to a regular leave of absence, but does not guarantee a position will be available for the employee's return.
2. The employee may submit a written request to the agency to take a continuous leave without pay for a period not exceeding 12 months. The notice of approval must include the terms and conditions of the approval including a statement that the employee's right to return at the expiration of leave is not guaranteed and will be contingent upon a suitable vacancy being available.
3. Because a contingent leave of absence without pay does not guarantee an employee the right to return to work at the expiration, it may not be considered a reasonable accommodation under the Americans with Disabilities Act, as amended.
4. Although a contingent leave of absence without pay does not constitute a break in service and does not result in divestment of leave, an employee who is taking an approved leave of absence without pay of 30 calendar days or more may request and receive an annual leave payout for all accrued annual leave excluding forfeited leave, up to a maximum of 360 hours. (See Section (6)(e)4 of this Rule.)

## (f) Extending a Leave of Absence without Pay:

1. The agency may extend an approved leave of absence without pay when such extension is properly requested. The employee must submit a written request for extension before the expiration of the approved leave or follow other agency procedures. If approved, a written notice specifying the terms and conditions of the extension, including any rights to reinstatement, must be provided.
2. A continuous unpaid leave of absence may not exceed 24 months, unless otherwise required by a reasonable accommodation.

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## (g) Unauthorized Leave without Pay:

1. An employee who is absent without approval may be placed in non-pay status and may be subject to disciplinary action, up to and including termination of employment.
2. An unclassified employee who is absent from duty for three (3) consecutive workdays or equivalent without proper authorization may be considered to have voluntarily resigned. (See Rule 478-1-.15, *Changes to Employment Status*.)
3. A classified employee who is absent from duty for five (5) consecutive workdays or the equivalent of a scheduled workweek without proper authorization may be considered to have voluntarily resigned. (See Rule 478-1-.28, *Voluntary Separations for Classified Employees*.)

## (h) Furlough – Insufficient Funding:

1. Due to a curtailment of funds, an agency may place employees in a non-pay status as a temporary reduction-in-force pursuant to a plan filed with the Department of Administrative Services.
2. On furlough days, an employee does not perform work and does not receive pay.
3. Employees may not be placed in non-pay furlough status for more than a total of 30 workdays in any 12-month period.
4. Absences under these circumstances will not be charged against accrued leave or compensatory time, will not be considered a break in service, and will not affect eligibility for salary increases.

## (i) Temporary Layoff – Insufficient Work:

1. If sufficient work is temporarily unavailable or not feasible, the supervisor may, pursuant to a prior written employment agreement with an employee, place the employee in a non-pay status during the period.
2. The agreement should clearly specify the terms and conditions of the leave without pay and any rights to reinstatement.

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3. An employee affected by a temporary layoff because of insufficient work may request the use of accrued annual leave, personal leave deferred holiday time, or compensatory time to remain in pay status.
4. This provision may not be used in lieu of an adverse action against an employee.

## (23) FLSA Compensatory Time:

Overtime for non-exempt employees will be governed by the provisions of the Fair Labor Standards Act (FLSA). Overtime worked by non-exempt employees will normally be credited as FLSA compensatory time at a rate of one and one-half hours of compensatory time for each hour of overtime worked. (See statewide policy #7 – *Rules, Regulations and Procedures Governing Working Hours, the Payment of Overtime and the Granting of Compensatory Time.*)

### (a) Overtime:

1. Each agency is responsible for the control of overtime worked in the agency and for accurately approving and recording such overtime worked in the agency time and leave system.
2. For most non-exempt employees, overtime is credited when the employee actually works more than 40 hours in a defined workweek. The overtime threshold is defined differently for law enforcement, fire protection, hospital, and nursing home employees if they use extended FLSA work period options as provided in statewide policy #7 – *Rules, Regulations and Procedures Governing Working Hours, the Payment of Overtime and the Granting of Compensatory Time.*)
3. Time worked does not include paid time off, such as leave, holidays, or suspension.
4. Unscheduled and unauthorized overtime worked by non-exempt employees will be compensated. However, disciplinary action determined appropriate by the agency, up to and including separation from employment, may be taken against a non-exempt employee who works unscheduled or unauthorized hours.

### (b) Use and Limitations of FLSA Compensatory Time:

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1. An employee must be granted FLSA compensatory time off within a reasonable time after making the request if the use of such time off does not unduly disrupt operations.
2. An agency may by written policy require its employees to use accumulated FLSA compensatory time before using annual and/or sick leave.
3. For most employees, the maximum FLSA compensatory time accrual is 240 hours at any given time. The maximum accrual is 480 hours for employees in a public safety activity, emergency response activity, or seasonal activity. Compensatory time in excess of 240 hours (480 hours for employees in a public safety activity, emergency response activity, or seasonal activity) must be paid out.

## (c) Payment for Overtime:

1. Employees receive pay for overtime only in the following situations:
  - (i) When the agency approves payment in lieu of FLSA compensatory time as provided in statewide policy #7 – *Rules, Regulations and Procedures Governing Working Hours, the Payment of Overtime and the Granting of Compensatory Time*.
  - (ii) Upon exceeding the accumulation limits of FLSA compensatory time. (See Section (23)(b)2.)
  - (iii) Upon separation from employment with the agency, including transfer from the agency to another State employer.
2. Payment for overtime is typically made the pay period following the pay period in which the overtime is earned. Payment for law enforcement, fire protection, hospital, and nursing home staff with unique FLSA work periods is made the pay period following the FLSA work period during which the overtime is earned.

## (24) State Compensatory Time:

State compensatory time is hour-for-hour paid time off for employees who work longer than the normally assigned hours in a work period but do not qualify for FLSA compensatory time. Each agency by written policy defines which of its employees, if any, are eligible for state compensatory time as provided in statewide policy #7 – *Rules, Regulations and Procedures Governing Working Hours, the Payment of Overtime and the Granting of Compensatory Time*.

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- (a) The maximum state compensatory time accrual allowed is 240 hours at any given time. Any state compensatory time earned in excess of 240 hours is lost and not paid out.
- (b) State compensatory time not used within one (1) year of the date that it is earned is lost and not paid out.
- (c) Unused state compensatory time is lost upon separation from employment. The employee will not be compensated for such time in any manner, and it will not transfer with the employee to another State entity.
- (d) An agency may by written policy require its employees to use accumulated state compensatory time before using annual and/or sick leave.

## **(25) Holidays:**

### (a) Observing State Holidays:

The State observes 13 public holidays each calendar year on dates declared by the Governor. State offices are closed and employees do not report for work on declared holidays, except as noted below.

1. 24-7 operations, such as hospitals and correctional facilities, will remain open on holidays, and designated staff will report for work.
2. State operations with seasonal fluctuations that result in insufficient availability of work during certain times of the year may establish a policy for its employees to observe holidays during the work down cycle, rather than on the dates declared by the Governor. The policy must be in writing and communicated to all affected employees, and the alternate holidays must be observed within the same calendar year as the dates declared by the Governor.
3. In emergency situations or to meet essential business needs, an agency may require one or more employees to work on a holiday.

### (b) Eligibility for Paid Holiday:

1. Salaried employees and other employees designated by the Georgia Industries for the Blind are eligible to receive paid time off for State holidays they observe, as provided in this Rule section.

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2. To be eligible for pay on a State holiday, an employee must be in pay status for the full scheduled work shift on either the workday immediately before or immediately after the holiday. "Pay status" means either working or taking approved paid time off.
  3. Employees are not paid for a holiday that occurs the day before they enter or reenter State service.
  4. Employees are not paid for a holiday that occurs the day after they leave State employment.
  5. Employees are not paid for a holiday that occurs on their last day of State employment, unless the holiday is at the end of their normal workweek. (See item 6, below, for an exception.)
  6. The compensation for employees retiring from State employment will not be reduced when their last day of employment before retirement falls on a holiday.
  7. The following employees are not eligible for paid State holidays:
    - (i) All temporary employees,
    - (ii) All hourly employees, and
    - (iii) Active, salaried, non-temporary employees who are rehired retirees with the Employees' Retirement System of Georgia while receiving retirement annuity payments during the first 1,040 hours of work performed in the calendar year.
  8. Part-time salaried employees and part-time employees of the Georgia Industries for the Blind are not paid for a holiday that falls on a day they would not have otherwise been scheduled to work. For example, a part-time employee who is scheduled to work Mondays, Wednesdays, and Fridays, would not be paid for a holiday that falls on a Thursday.
- (c) Pay for Holidays and Provisions for Employees on Alternative Work Schedules:
1. Employees eligible for a paid holiday receive pay for the time they would otherwise have worked that day, up to a maximum of eight (8) hours.
  2. An agency with full-time salaried employees on alternative work schedules will define the options available to its employees who would have been scheduled

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for shifts longer than eight (8) hours on the holiday. Such options include allowing employees to:

- (i) Revert to an 8x5 work schedule during the week of the holiday (or for a 2-week cycle for employees on a 9-hour work schedule);
  - (ii) Use paid leave to supplement the holiday pay and receive full pay for the day; or,
  - (iii) Work additional time during the week of the holiday to remain in pay status the full workweek.
3. An agency with full-time salaried employees on alternative work schedules whose scheduled day off falls on a holiday may allow such employees to revert to an 8x5 schedule, as indicated in Section (25)(c)2, above, or allow them to remain on their alternative schedule and receive equivalent time off for the holiday, as defined in Section (25)(d), below.

(d) Equivalent Time Off or Deferred Holiday Payout:

1. Equivalent time off (i.e., deferred holiday time) will be made available to employees who would otherwise have been eligible for a paid holiday but were either required to work on part or all of a holiday or whose scheduled day off occurred on a holiday. See exceptions in (i) and (ii), below.
  - (i) Neither equivalent time off, nor additional compensation, will be given to those employed on an academic school year basis whose annual compensation is based on a specified number of workdays, and the holiday is a workday on which their salary is based.
  - (ii) Part-time employees whose scheduled day off occurred on a holiday are not given equivalent time off or additional compensation for the holiday.
2. Equivalent time off to observe the holiday will not exceed the time actually worked on the holiday or eight (8) hours, whichever is less.
3. An agency may by written policy require its employees to use deferred holiday time before using annual leave, sick leave, personal leave, or compensatory time.

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4. Deferred holiday time must be used within 365 days after the day proclaimed as a holiday; otherwise, it must be paid out by the agency.
5. An employee who separates from an agency will be paid for any deferred holiday time not used or paid out prior to separation.
6. An employee will not be paid for a holiday in advance of the observance of the holiday.
7. An employee scheduled to work on a holiday who, without prior approval, fails to report for any portion of the scheduled duty will not be granted deferred holiday time for the time (if any) that was worked on the holiday. Such employee may be subject to leave without pay for the scheduled time not worked and/or other appropriate.

(e) Request to Observe Other Religious Holiday:

1. An employee may request priority consideration for time off from work to observe a religious holiday that is not observed as a State holiday. To receive priority consideration, the request should be made at least seven (7) calendar days in advance.
2. An employee may request priority consideration for up to three (3) workdays in each calendar year.
3. A request by an employee for time off for religious observance cannot be denied unless:
  - (i) The duties performed by the employee are urgently required, and the employee, in the agency's judgment, is the only person available who can perform the duties; or,
  - (ii) The agency can otherwise show that accommodating the request would be an undue hardship.
4. Any paid time off granted to observe a religious holiday will be deducted from the employee's accrued annual leave, personal leave, compensatory time, or deferred holiday time available at the time of the observance. If the employee does not have sufficient annual leave, personal leave, compensatory time, or deferred holiday time to cover the period of absence, the agency must allow leave without pay for the absence, unless doing so would be an undue hardship.

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## (26) Maternal Birth Leave and Paid Parental Leave:

To enhance work-life balance for employees, the State provides full-time employees, as well as hourly employees who meet the criteria noted in subsection (a) 2 (ii) below, with up to 120 hours of maternal birth leave during the first three weeks immediately following childbirth and/or 240 hours of paid parental leave in a 12-month period. Maternal birth leave and paid parental leave are not charged against an employee's accrued leave.

### (a) Eligibility:

1. Eligibility for maternal birth leave is based on the qualifying life event of giving birth to one or more children in a single or multiple pregnancy.
2. Eligibility for paid parental leave is based on one of the following qualifying life events:
  - (i) birth of the employee's child;
  - (ii) placement of a minor child for adoption with the employee; or
  - (iii) placement of a minor child for foster care with the employee.
3. To be eligible to use maternal birth leave or paid parental leave for a qualifying life event, an employee must meet one of the two following criteria:
  - (i) if salaried, the employee must have six continuous months of employment with an employing entity (as defined in O.C.G.A. § 45-20-17(a)(2)(A) and O.C.G.A. § 45-20-23(a)(2)(A)); or,
  - (ii) if hourly, the employee must have worked 700 hours for an employing entity (as defined in O.C.G.A. § 45-20-17 (a)(2)(A) and O.C.G.A. § 45-20-23 (a)(2)(A)) in the six months immediately preceding the first requested maternal birth or paid parental leave date.
4. Rehired retirees of the Employees' Retirement System of Georgia, whether salaried or hourly, are not eligible for paid parental leave or maternal birth leave while receiving retirement annuity payments during the first 1,040 hours of work performed in the calendar year.

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## (b) Usage of Maternal Birth Leave:

1. An eligible employee may take a maximum of 120 hours of paid maternal birth leave during the three-week period immediately following the qualifying life event.
2. Leave may be taken as needed and in increments of less than eight hours, using the same minimum period an agency has established for other forms of paid leave, provided however, that the leave shall only be taken in the three-week period immediately following the qualifying life event.
3. If a paid state holiday takes place during the eligible employee's maternal birth leave, the employee shall only be compensated for the state holiday.

## (c) Usage of Paid Parental Leave:

1. An eligible employee may take a maximum of 240 hours or paid parental leave in a rolling 12-month period. The rolling period will be measured backward from the first date of leave taken. The amount of leave in a rolling 12-month period cannot exceed 240 hours, regardless of the number of qualifying events that occur during that period and regardless of transfers between employing entities (as defined in O.C.G.A. § 45-20-17(a)(2)(A)). Each state employer is responsible for conducting due diligence to ensure an employee has not exhausted the 240-hour allotment prior to approval of paid parental leave.
2. Leave may be taken as needed and in increments of less than eight hours, using the same minimum period an agency has established for other forms of paid leave.

(d) If an employee eligible for maternal birth leave and/or paid parental leave is also eligible for leave under the federal Family and Medical Leave Act (FMLA) (see Rule 478-1-.23, *Family and Medical Leave*), an agency may, by written policy, require maternal birth leave and paid parental leave to run concurrently with FMLA leave.

(e) Agencies may require employees to submit appropriate supporting documentation for the use of maternal birth leave and/or paid parental leave. Any required supporting documentation shall be the same as that required for the use of federal family and medical leave under Section (7) of Rule 478-1-.23, *Family and Medical Leave*, for the same qualifying event.

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- (f) Any paid parental leave remaining 12 months after the initial qualifying event shall not carry over for future use.
- (g) Unused maternal birth leave and paid parental leave shall have no cash value and shall not be paid out at the time of the employee's separation from employment.
- (h) Agencies must provide notice of maternal birth leave and paid parental leave benefits to all employees anticipated to become eligible for paid parental leave upon hire and annually thereafter.

**Authority:**

O.C.G.A. §§ 45-20-3, 45-20-3.1, and 45-20-4 (duties and functions of the State Personnel Board and Department of Administrative Services related to the Rules of the State Personnel Board), O.C.G.A. § 45-20-16 (State Personnel Board authority to establish rules for accrual and usage of leave and holidays)

Other State Law References:

O.C.G.A. § 1-4-1 (holidays)  
O.C.G.A. § 21-2-404 (voting leave)  
O.C.G.A. § 31-2A-3.1 (county boards of health leave transfer)  
O.C.G.A. § 31-29-1 (leave for contracting TB or infectious hepatitis)  
O.C.G.A. §§ 32-2-7, 45-7-9, and 47-2-221 (line-of-duty injury leave)  
O.C.G.A. § 34-1-3 (court leave)  
O.C.G.A. § 38-3-93 (disaster volunteer leave)  
O.C.G.A. § 38-2-279 (paid military leave)  
O.C.G.A. § 45-20-17 (paid parental leave)  
O.C.G.A. § 45-20-23 (maternal birth leave)  
O.C.G.A. § 45-20-30 (blood donation leave)  
O.C.G.A. § 45-20-31 (organ and bone marrow donation leave)  
O.C.G.A. § 45-20-32 (education support leave)

Federal Law References:

29 U.S.C. § 201, et seq., Fair Labor Standards Act of 1938, as amended  
42 U.S.C. § 12101, et seq., Americans with Disabilities Act, as amended