

## Policy Memorandum<sup>1</sup>

This Policy Memorandum Issuance #**18-07-002**

Effective Date: Upon Issuance                      Expiration Date Upon Reissuance of IMPP<sup>2</sup> (required)

\_\_\_\_\_ Addresses subject matter for which an IMPP will be forthcoming and assigned to Chapter(s) \_\_\_\_\_ of the IMPP manual.

X Amends or modifies existing IMPP(s) #**02-114D HUMAN RESOURCES: Employee Leave and Absences**

\_\_\_\_\_ Elaborates on the contents of IMPP(s) # \_\_\_\_\_

\_\_\_\_\_ Is for Staff Only                      X Is for Both Staff and Offenders

This policy memorandum is being issued to revise a definition in the DEFINITION section, revise language in Section VIII.B. and B.1. and added a new number 6. in Section XIII.A. as follows:

### DEFINITIONS

Military Leave with Pay: Leave with pay, for a maximum of **15 30** working days per **federal fiscal calendar** year, granted to members of a reserved component of the military service of the United States for active duty for training purposes, pursuant to K.A.R. 1-9-7b or leave with pay granted to a member of any state or national guard unit for the duration of any official call to state emergency duty pursuant to K.A.R. 1-9-7c.

### **VIII. Military Leave**

- B. Any eligible employee who is a member of a reserved component of the military service of the United States shall be granted a maximum of **15 30** working days of military leave with pay for **active required military** duty within each 12-month period beginning October 1 and ending September 30 of the following year, in accordance with K.A.R. 1-9-7b.
1. **Any active Required military** duty in excess of **15 30** working days **within** a **12-month period calendar year** shall be charged to military leave without pay or, at the **employee's employer's** request, to accrued vacation leave, pursuant to K.A.R. 1-9-7**b(b)**.

<sup>1</sup> Note: To keep your IMPP Manual current, please place this Policy Memorandum in your manual at the appropriate location. If the memorandum addresses subject matter for which an IMPP will be forthcoming, place this issuance before the first IMPP in the Chapter indicated. If the memorandum addresses an existing IMPP, the issuance should be placed in front of the existing policy. If this memorandum is for both staff and offenders, it shall be immediately posted.

<sup>2</sup> Unless another Policy Memorandum or IMPP on this subject is issued, the requirements contained herein have no force and effect after the indicated expiration date.

**XIII. Family Medical Leave**

- A. Family medical leave may be granted to an eligible employee in accordance with the Family and Medical Leave Act (FMLA) of 1993 and amendments.
1. An employee taking leave pursuant to the FMLA shall be required to use accumulated sick leave and vacation leave prior to being placed on a leave without pay status.
  2. All time away from work for an FMLA covered condition shall count toward the allowed FMLA leave whether on leave with or without pay.
  3. FMLA leave eligibility (including re-certifications) shall be calculated using a counting forward 12-month period.
  4. If spouses who work for the State are both eligible for FMLA coverage, they shall be treated as individuals for the purposes of FMLA and shall each be entitled to full coverage and leave benefits for conditions covered by the Act.
  5. Employees may be eligible to use up to 12 weeks of FMLA per year starting with the first covered FMLA event. All subsequent FMLA covered events will not extend the FMLA period beyond 12 weeks.
  6. An eligible employee is entitled to 26 workweeks of leave to care for a covered service member with a serious injury or illness during a single 12-month period.

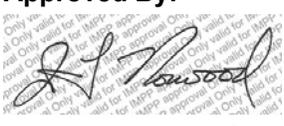


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Secretary of Corrections

Date: 07/31/18

# KANSAS DEPARTMENT OF CORRECTIONS

	<b>INTERNAL MANAGEMENT POLICY AND PROCEDURE</b>	SECTION NUMBER	PAGE NUMBER
		02-114D	1 of 22
		SUBJECT:	
		HUMAN RESOURCES: <b>Employee Leave and Absences</b>	
<b>Approved By:</b>  Secretary of Corrections		Original Date Issued:	06-30-15
		Replaces Version Issued:	06-30-15
		<b>CURRENT VERSION EFFECTIVE:</b>	<b>11-22-16</b>

<b>APPLICABILITY:</b>	<input type="checkbox"/> ADULT Operations Only	<input type="checkbox"/> JUVENILE Operations Only	<input checked="" type="checkbox"/> DEPARTMENT-WIDE
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## POLICY STATEMENT

The Kansas Department of Corrections (KDOC) shall administer leave and absences in accordance with applicable Kansas Administrative Regulations in a lawful, fair and nondiscriminatory manner.

Employees covered by an adopted Memorandum of Agreement (MOA) shall follow the provisions set forth therein whenever there is a conflict between this policy and the MOA.

## DEFINITIONS

Administrative Leave: Leave with pay authorized by the appointing authority for one of the following reasons:

- Pending the outcome of an investigation of an employee under K.A.R. 1-9-19 K.S.A. 75-2949(i);
- For an emergency or other situation that creates dangerous or unsafe work conditions or for other circumstances that necessitate the closing of an office or building pursuant to K.A.R. 1-2-74; or
- Time away from regularly assigned duties which is granted to an employee for purposes of receiving training, on site or off site, required by Department policy or approved by the employee's appointing authority.

Appointing Authority: The person designated pursuant to IMPP 02-109D for each respective division or facility of the department.

Close Relative: Includes:

- Spouse;
- Child (including step, adoptive, and foster);
- Parent (including step-parent; father/mother-in-law);
- Legal guardian (current or former) or any person who filled the role of de facto parent with respect to the employee;
- Brother (including half-brother, step-brother and brother-in-law);
- Sister (including half-sister, step-sister and sister-in-law);
- Daughter-in-law and son-in-law;
- Grandparent/Spouse Grandparent;
- Grandchild/Spouse Grandchild.

Compensatory Leave: Time off, accrued at the rate of time and half, credited to an eligible employee, in lieu of monetary payment for overtime worked pursuant to K.A.R. 1-5-24 and IMPP 02-113D.

Designee: A person designated by the appointing authority to assume certain delegated responsibilities allowed the appointing authority pursuant to K.A.R. 1-2-9.

Discretionary Day: A day designated by the Governor to allow each employee with six or more months of service in a permanent position to observe a holiday or other special day, with pay, without closing State service.

Domestic Violence: Abuse as defined in K.S.A. 60-3102, and amendments thereto.

Emergency Call-Back: A sudden, generally unexpected occurrence or set of circumstances requiring an off-duty employee to report to a work site to handle a situation demanding immediate action. For maintenance, trades and/or engineering personnel the following constitute emergencies for the purpose of call-back: flood, tornado or other destructive acts of nature, fire, electrical outage or other situations beyond routine maintenance problems, that the appointing authority or designated duty officer has determined cannot be deferred until the next business day or handled by an inmate worker. For uniformed, unit team and support personnel, an emergency includes the conditions listed for maintenance, trades, and/or engineering personnel as well as a disturbance or riot, escape, fire, inmate work stoppage or other severe public safety issue excluding routine staffing shortage, medical transport or unexpected or unscheduled escorting of inmates.

Exempt Position: Positions within State service, which do not meet the criteria for earning overtime compensation under the Fair Labor Standards Act of 1938, as amended.

Fair Labor Standards Act (FLSA): A federal law that regulates minimum wage rates, maximum work hours, overtime payment requirements, equal pay standards and age discrimination restrictions for covered employers and employees.

Family Medical Leave: Leave of up to 12 weeks in a 12-month period granted to an eligible employee during which time certain employment conditions are guaranteed by the agency, pursuant to the Family Medical Leave Act (FMLA) of 1993 and amendments thereto for:

- A serious health condition of the employee;
- Birth or placement of a child in the employee's home;
- To care for an employee's spouse, child or parent with a serious health condition;
- Because of a qualifying exigency arising out of the fact that your spouse, child, or parent who is on active duty or call to active duty status in support of a contingency operation as a member of the National Guard or Reserves; or
- Because you are the spouse, child, parent, or next-of-kin of a covered service member with a serious injury or illness.

Family Medical Leave Act – Covered Leave Period: On and after January 1, 2011, the term means the 12-month period beginning on the first day that the employee takes approved FMLA leave. From that day forward, the employee has 12 months to take a maximum of 12 weeks of FMLA leave (or 26-weeks, if taking FMLA leave to care for a covered service member), regardless of the number of qualifying events that occur. The next 12-month period begins when approved FMLA leave is next taken after the initial 12-month leave year ends.

For Example: If an employee begins approved FMLA leave on February 15, 2011, the employee would have until February 14, 2012 to use up the 12 weeks of leave. If the employee again requested and was approved for FMLA leave beginning June 20, 2012, the clock would start over.

Family Member: For the purposes of this policy, this term refers to persons related to the employee by blood, marriage or adoption; and minors residing in the employee's residence as a result of a court proceeding pursuant to the Kansas Code for Care of Children or the Kansas Juvenile Offenders Code.

Funeral or Bereavement Leave: Leave with pay following the death of a close relative granted to employees in accordance with K.A.R. 1-9-12. This type of leave is separate and distinct from other types of leave, but may be taken in conjunction with vacation or compensatory leave.

Holiday: A day defined as a legal holiday in K.A.R. 1-9-2, including:

- New Year's day;
- Martin Luther King day;
- Memorial day;

- Independence day;
- Labor day;
- Veterans day;
- Thanksgiving day; and
- Christmas day, or
- The preceding Friday if any of those days falls on a Saturday, or the following Monday if any of those days falls on a Sunday; and
- Any additional day which the Governor may designate as a day on which State offices are to be closed in observance of a holiday or a holiday season.

Holiday Call Back: A request to an employee to report to work on a holiday when response to such call-back constitutes an extra day of work within a given workweek.

Holiday Credits: Compensable work credits arising from scheduled days off coinciding with observed holidays.

Holiday Work: Regularly scheduled assignment requiring the employee to be present for duty on an observed holiday, or hours actually worked by an employee on a legal holiday, which is paid at the rate of one and one half times the annualized hourly rate of pay for actual hours worked.

Inclement Weather Leave: Leave provided to non-essential personnel for the purpose of closing non-essential services to provide for the safety of state employees and to enhance the safety of highway travel by allowing for the efficient and effective clearing of roads, and to facilitate law enforcement and emergency vehicles. Inclement weather may only be declared by the Governor for facilities and offices located in Shawnee County and by the appointing authority, with the approval of the Secretary of Corrections, for facilities and offices outside of Shawnee County.

Job Injury Leave: Time away from the job due to a qualifying job injury as determined by the appointing authority for which an employee is eligible in accordance with K.A.R. 1-9-22.

Jury/Court Leave: Leave with pay granted to employees for required jury duty or to comply with a subpoena as a witness in accordance with K.A.R. 1-9-8.

Leave Without Pay: Time away from the job without pay taken voluntarily which has been approved by the appointing authority in accordance with K.A.R. 1-9-6, or time away from the job without pay due to the application of provisions of the Family and Medical Leave Act.

Military Leave With Pay: Leave with pay, for a maximum of 15 working days per calendar year, granted to members of a reserve component of the military service of the United States for active duty for training purposes, pursuant to K.A.R. 1-9-7b or leave with pay granted to a member of any state or national guard unit for the duration of any official call to state emergency duty pursuant to K.A.R. 1-9-7c.

Military Leave Without Pay: Leave without pay granted to employees who enlist or are drafted into the armed forces of the United States, including reservists and members of the national guard who are activated to military duty, in accordance with K.A.R.s 1-9-7a and 1-9-7c, and subject to the requirements and limitations of Title 38, U.S. Code, Chapter 43.

Non-Exempt Position: Positions within State service, which meet the criteria for earning overtime compensation under the Fair Labor Standards Act of 1938, as amended.

Official Absence From Work: A paid absence from work authorized by the appointing authority in order that an employee may attend an official meeting, or conference, or engage in any other officially sanctioned task which requires the employee to be away from his or her assigned work location and which is not ordinarily a part of that employee's duties.

Overtime: Work that is performed by an employee in a non-exempt position at the time and a half rate and which exceeds 40 hours actually worked in any given workweek. For certain designated positions, "overtime" means work that is performed by an employee in a non-exempt position at the time and a half rate and which exceeds 84 hours actually worked in any given pay period as established by the State of Kansas for payroll purposes. Time not worked, but in other pay status, shall not be counted as hours worked.

Regular Days Off: The two (2) or more days out of seven, which serve as the employee's days off in conjunction with a 40-hour workweek. These days are not always Saturday and Sunday, but instead may be any two or more days out of the workweek, depending upon the employee's regular workdays. For employees who work within an established 84-hour work schedule; regular days off may vary.

Relief From Duty With Pay: Compensated time away from work that is mandated by the appointing authority in the case of a situation in which the possibility of proposing formal disciplinary action is indicated, but where the appointing authority needs time to conduct an investigation before proposing such action, or in a situation where immediate removal of an employee is needed to avoid disruption of work, or for the protection of persons or property.

Relief From Duty Without Pay: Time away from work mandated by the appointing authority, and for which the employee receives no compensation, in the case of a situation where an employee has been formally suspended from work without pay, or pending the effective date of a proposed dismissal as a formal disciplinary action.

Sexual Assault: Any crime defined in K.S.A. 2015 Supp. 21-5503 (rape), 2015 Supp. 21-5506(a) (indecent liberties with a child), 2015 Supp. 21-5506(b) (aggravated indecent liberties with a child), 2015 Supp. 21-5504(a) (criminal sodomy), 2015 Supp. 21-5504(b) (aggravated criminal sodomy), 2015 Supp. 21-5604(a) (incest), or 2015 Supp. 21-5604(b) (aggravated incest), and amendments thereto.

Sick leave: Time away from work due to the employee's illness or off the job injury, appointments for medical, dental or mental health examinations or treatments, or due to the employee's family illness or disability, credited to, accumulated and used by employees in accordance with K.A.R. 1-9-5.

Transitional Employment: Work that is necessary for the efficient operation of the office/facility, that can be performed for up to nine (9) months by an employee who is unable to perform his or her usual duties due to accidental job related injury/illness, and is at the same or a lower pay grade than the employee's pre-injury/illness position. Transitional employment status may be approved beyond the nine (9) month period by the appointing authority and the KDOC Human Resources Director.

Unauthorized Absence: Leave that is not requested or approved in accordance with K.A.R. 1-9-3 and this policy.

Vacation Leave: Leave with pay, which is earned and accumulated in accordance with K.A.R. 1-9-4.

Victim: The person who is the primary victim of the domestic violence or sexual assault, or the parent or guardian of the primary victim.

Workweek: 12:01 a.m. Sunday to midnight the following Saturday.

## **PROCEDURES**

### **I. Requesting Leave**

- A. Each employee shall work the regular work schedule established for his or her position, in accordance with IMPP 02-113D, unless leave has been granted to that employee in accordance with this policy.
- B. Unless otherwise specified in this policy or established by Memoranda(um) of Agreement, each employee requesting leave for any of the reasons specified in this policy shall do so in a timely manner, giving his or her supervisor as much notice as possible.
  1. Unless exempted by the appointing authority, an employee who will be late for or absent from work due to an emergency or to the illness of the employee or of a member of the employee's family, shall notify the immediate supervisor at least one (1) hour before the beginning of the employee's scheduled work day.

- a. Persons employed in parole offices, Central Office, KCI, or any other location where a one-hour reporting requirement may not be possible shall notify the immediate supervisor as soon as possible prior to the beginning of the scheduled workday.
  2. An employee whose position is non-exempt from overtime standards under the provisions of the FLSA, shall submit time and leave documents in a timely manner that accurately report his or her work and leave hours each pay period.
- C. Requests for leave shall be made on the KDOC Request for Leave, Overtime, or Premium Pay Hours (Attachment A) or through the use of the official KDOC electronic leave form located on the KDOC intranet website under the Human Resources section where available.
1. Whenever possible, the written/electronic request shall be made in advance of taking the leave.
    - a. If an employee is not able to make a written/electronic request in advance, the employee shall make a verbal request in advance of any leave being granted unless extraordinary circumstances prevent him or her from doing so.
    - b. If an employee is not able to request leave in writing or electronically in advance of the leave, the written/electronic request shall be submitted and entered into the time and labor system by the employee's supervisor and verified/signed by the employee upon his or her return to work.
    - c. Appointing authorities may approve alternate methods of leave notification based on operational needs or organizational structure, however, all leave should be documented on an official leave form prior to the end of the pay period in which the leave was taken.
  2. Non-exempt employees shall report leave time in quarter (0.25) hour increments;
  3. Exempt employees shall report leave time in four (4) or eight (8) hour increments.
  4. Falsifying or deliberately reporting an inaccurate accounting of leave usages or balances may subject the employee to formal disciplinary action, up to and including dismissal.
- D. Insubstantial or insignificant periods of time outside the scheduled working hours may be disregarded in recording time. This rule applies to only those times when the work involved is limited to a few seconds or minutes that cannot as a practical administrative matter be precisely recorded for payroll purposes. Such time is considered "*de minimis*," i.e., minor or trivial. Time for non-exempt employees shall be recorded in quarter hours (i.e., 15 minute or 0.25 increments). If an employee works greater than seven (7) minutes, the employee shall report that period of time as time worked.
- E. Per K.A.R. 1-11-1, and amendments, an appointing authority may consider any unauthorized absence from work for a period of five consecutive working days for which the employee does not provide a satisfactory explanation to be abandonment of the job and a presumed resignation.

## II. Vacation Leave

- A. Vacation leave with pay shall be earned, credited, and accumulated pursuant to K.A.R. 1-9-4.
- B. Vacation leave shall be scheduled and considered for approval pursuant to policies and procedures promulgated by the appointing authority, which shall provide a fair and equitable method for:
  1. The submission of leave requests by employees;

2. Consideration of the employee's leave request by the employee's immediate supervisor; and,
3. Notification to the employee of the decision regarding the leave request within a reasonable period of time.

### III. Sick Leave

- A. Unless otherwise specified, the provisions of this section are not intended to be used for any absence covered by the Family Medical Leave Act (FMLA). See Section XIII FMLA covered leave;
- B. Sick leave shall be credited, accumulated, and used pursuant to K.A.R. 1-9-5.
  1. Planned use of sick leave shall be requested as soon as the employee knows of the need for such leave.
  2. An employee who will be absent from work due to the unexpected illness of the employee or of a member of the employee's family, shall make every effort to notify the immediate supervisor one (1) hour before the beginning of the employee's scheduled work day. Persons employed in parole offices, Central Office, KCI, or any other location where a one (1) hour reporting requirement may not be possible, shall notify the immediate supervisor as soon as possible prior to the beginning of the scheduled workday.
    - a. The appointing authority may modify and/or waive the daily one (1) hour call-in requirement based on individual circumstances.
  3. If an employee or the employee's family member is sick for three (3) or more consecutive days, the employee shall notify the supervisor of the employee's expected return date.
    - a. The employee may be required by the supervisor to report in daily until the employee notifies his/her supervisor of a date he/she will return to duty.
    - b. The appointing authority or designee shall waive the daily call-in requirement upon receipt of a doctor's note indicating an expected date of return.
      - (1) The employee may be required to call in weekly during extended leaves of absence.
        - (a) An employee may designate a family member or other person to report in on his/her behalf only when the employee is physically unable to do so.
        - (b) The appointing authority or designee shall waive the report in requirement for an incapacitated employee during the period of incapacitation.
    - c. The supervisor will notify Human Resources of any absence lasting three (3) or more days in order to assure that FMLA paperwork is sent the employee in a timely manner.
  4. If an employee is sick for three (3) or more consecutive days, the appointing authority may require the employee to provide a release from an attending physician indicating the employee is able to return to work. A release may be required for a time period of less than three (3) days if the employee has a documented history of sick leave abuse. Any employee having a surgical procedure requiring absence from work for three (3) days or more shall be required to provide a doctors release to return to work.

- a. The employee may be required to provide the release directly to the supervisor, if it contains no specific medical information, and the supervisor shall immediately forward the release to the human resource office.
  - b. Under no circumstances shall an employee be required to provide a supervisor with any specific written or oral information about the medical or emotional condition necessitating the sick leave.
  - c. Documents containing such information shall be submitted directly to the Human Resource Office.
5. Per the provisions of K.A.R. 1-9-5(d) and IMPP 02-125D, if there is a reasonable suspicion that the employee is abusing or misusing sick leave, an appointing authority may require an employee to provide a statement from a health care provider verifying that the employee is entitled to use sick leave.
6. An employee may be required to provide evidence necessary to establish the employee is entitled to use sick leave under the circumstances of the request when:
- a. An employee has a consistent pattern of maintaining a zero or near zero sick leave balance without documentation of the need for such relatively high utilization;
  - b. When an employee has an unreasonable number of occurrences of undocumented sick leave within a given period;
  - c. When an employee establishes a pattern of utilizing sick leave in conjunction with days off or holidays;
  - d. When the employer needs to determine whether Family Medical Leave Act obligations apply or are implicated; or
  - e. When the employer has a reasonable basis to believe the employee is misusing sick leave.
7. Prior to imposing a prospective requirement on an employee that documentation will need to be submitted for sick leave requests to be approved, the employer shall counsel the employee about the employee's use of sick leave which may include issues such as:
- a. Future maintenance of a zero or near zero sick leave balance without documentation of the need for such relatively high utilization;
  - b. Use of an unreasonable number of occurrences of undocumented sick leave within a given period,
  - c. A continued pattern of utilizing sick leave in conjunction with days off or holidays, or
  - d. Misusing sick leave:
    - (1) The misuse of sick leave may trigger a requirement for documentation of future instances of sick leave.
    - (2) Any such requirement imposed shall not exceed six (6) months in duration.
    - (3) At the conclusion of the six (6) months, the documentation requirement will be rescinded provided the employee has complied with the requirement.

- (4) If the employee has not complied with the documentation requirement, the documentation period may be extended and the employee may be subject to disciplinary action.
8. If an employee is relieved of duty pending a determination of whether he or she can perform the essential functions of his or her position because of illness or disability, per provisions of K.A.R. 1-9-5(f), the employee shall be required to use accumulated sick leave.
  - a. Upon the exhaustion of the employee's sick leave, the employee may be required to use any accumulated vacation leave or choose to use compensatory credits.
  - b. If the employee has exhausted all accumulated leave and compensatory credits or elects to not use compensatory credits, the appointing authority may grant the employee leave without pay in compliance with section XII of this policy.
9. Disciplinary action related to leave abuse:
  - a. The appointing authority may take appropriate disciplinary action against an employee for:
    - (1) Using sick leave for purposes other than described in this policy which may be demonstrated through a consistent pattern of maintaining a zero or near zero sick leave balance without documentation of the need for such relatively high utilization, and/or an unreasonable number of occurrences of undocumented sick leave within a given period, pattern of utilizing sick leave in conjunction with days off or holidays;
    - (2) Failing to properly notify his/her appointing authority of the use of sick leave; or
    - (3) Failing to provide appropriate documentation when properly required to do so.
  - b. The appointing authority may address an employee's misuse of sick leave through:
    - (1) The disciplinary procedures process in accordance with IMPP 02-120D, Employee
    - (2) Disciplinary Procedures and Formal Actions; and
    - (3) The performance evaluations in accordance with IMPP 02-107D, Probationary Periods and Performance Reviews.

#### **IV. Holiday Leave, Work, Credits and Call Back**

- A. All employees except those who have a regularly scheduled work assignment or authorized special assignment requires them to be present shall be given time off from work for all legal holidays.
- B. Holiday Work
  1. Employees in both exempt and non-exempt positions who have a regularly scheduled work assignment requiring them to be present for duty on a holiday shall receive monetary compensation in accordance with K.A.R. 1-9-2.
    - a. Employees not scheduled to work on a holiday shall obtain the permission of his or her supervisor prior to working any hours on the legal holiday.

2. Employees who work both the legal and officially observed holiday shall receive holiday compensation or holiday leave credit for only one (1) of the two (2) days worked.
3. In no case shall an employee's regularly scheduled work hours exceed 40 hours in a workweek when combined with time off for a declared legal holiday. For employees in non-exempt positions who are assigned to a bi-weekly schedule, scheduled work hours and time off hours for a declared legal holiday shall not exceed 84 hours in a payroll period.
  - a. During any week containing a declared legal holiday, a non-exempt or hourly employee whose regular schedule includes approved flex time or an adjusted work schedule of more than eight (8) hours in a work day in compliance with IMPP 02-117D, shall have his or her work schedule adjusted to allow for payment of no more than 40 hours during that week.
    - (1) Employees assigned to positions which are covered by a memorandum of agreement will follow the provisions of the agreement.
    - (2) Any other exceptions to this provision must be approved in advance by the appointing authority based on a determination that the nature of the employee's duties makes it impossible to adjust his or her hours of work during that time period.
  - b. Exempt or salaried employees working a flex schedule of more than eight (8) hours a day will be required to revert back to five (5) eight (8) hour days for any 40-hour week that contains a holiday.
    - (1) Example: If the 4<sup>th</sup> of July holiday falls on Friday, an exempt employee who normally works 10-hour days Monday through Thursday (40 hours), and does not work on Friday, the holiday week would work eight (8) hour days Monday through Thursday (32 hours), would not work on Friday (the holiday), and would be paid eight (8) hours for the holiday for a total of 40 hours in the work week.
  - c. Any other exceptions to this provision must be approved in advance by the appointing authority based on a determination that the nature of the employee's duties makes it impossible to adjust his or her hours of work during that time period.

C. Holiday Credits

1. An employee who is not required to be present for duty on a legally designated holiday and for whom the legal holiday falls on his or her regularly scheduled day off, shall receive monetary compensation for the holiday at the rate of a full day's pay in addition to his or her regular salary for the pay period.

D. Holiday Call Back

1. Except when an appointing authority or designee has approved the implementation of an Emergency call-back or in response to minimum staffing requirements, employees in non-exempt positions shall not be called back to work on a holiday or during the work week in which a holiday occurs when response to such call-back status constitutes an extra work day within that work week.
2. An employee who is called back to work on a holiday, whether due to an emergency call-back situation or as a result of a staffing shortage, when response to such call-back constitutes an extra work day within a given workweek, in accordance with K.A.R. 1-9-2, shall:

- a. Receive holiday compensation; and,
- b. Receive overtime compensation or compensatory time at the half-time rate, if the actual hours worked by an employee in a non-exempt position exceeds 40 hours in the workweek.

## **V. Discretionary Day**

- A. If authorized by the Governor, each full-time employee with six (6) months or more of service in a probationary or permanent position is permitted one (1) discretionary day during the calendar year in addition to all officially designated holidays to be taken at the employee's discretion on a day agreed upon between the employee and his or her supervisor.
  1. Each employee in a regular position working less than full-time shall receive a proportional number of hours.
- B. Employees shall request the discretionary day in the same manner in which vacation leave is requested.
  1. All hours for a discretionary day shall be taken on the same day.
  2. Discretionary leave must be taken prior to certain pay period dates that occur during the last part of December or the first part of January as published by the Kansas Department of Administration (KDOA) and cannot be carried over to the following year.
  3. An employee may not be paid for the discretionary day, in lieu of taking the time off.
  4. An employee shall not be required to use his or her discretionary in lieu of other leave whether with or without pay unless the employee has been granted shared leave.

## **VI. Funeral or Bereavement Leave**

- A. Employees requesting leave due to the death of a close relative shall initiate such requests through their immediate supervisor.
  1. When possible, the employee shall request such leave in writing.
  2. If the employee is not at the employee's workstation, the employee shall request such leave by telephone.
    - a. Telephone requests shall be made through the employee's immediate supervisor.
    - b. The employee's immediate supervisor shall note the request for leave for the requesting employee.
- B. Requests for funeral or bereavement leave shall be immediately forwarded to the appointing authority.
- C. Unless otherwise stated, the appointing authority shall be responsible for approving or disapproving all requests for funeral or bereavement leave and the duration of approved requests.
  1. In determining the duration of such leave, the appointing authority shall consider:
    - a. The employee's relationship to the deceased;
    - b. The distance to be traveled and mode of transportation; and/or,
    - c. Other special circumstances which would justify additional days.

2. Under no circumstance shall authorized funeral or bereavement leave exceed six (6) working days per incident.
  - a. An employee may combine funeral or bereavement leave with other leave for a combined absence in excess of six (6) working days, with the approval of his or her supervisor.
3. The appointing authority may require the employee to provide proof of relationship to the deceased if deemed necessary.
4. The immediate supervisor shall notify the requesting employee whether the request is approved or disapproved.

## **VII. Jury/Court Leave**

- A. Permanent and probationary employees in permanent positions in the classified service shall be granted leave with pay for jury duty or to comply with a subpoena in accordance with K.A.R. 1-9-8.
  1. An employee granted leave under this section who receives pay or fees for a required appearance, except jury duty, shall turn over to the State such pay or fees in excess of \$50 in accordance with K.A.R. 1-9-8(d).
  2. An employee shall not be entitled to a leave of absence with pay in circumstances where the employee is called as a witness on the employee's own behalf in an action in which the employee is a party.
- B. The appointing authority shall have the discretion to determine whether to:
  1. Grant the employee leave with pay for a court, legislative committee or other public body appearance if in the best interest of the State pursuant to K.A.R. 1-9-8(b); and,
  2. Permit the employee to travel in a State vehicle for a required appearance pursuant to K.A.R. 1-9-8(c).
    - a. If an employee travels in a State vehicle, he or she shall turn over to the State any mileage expense payment received.
- C. Evening and night shift workers returning to work after taking jury/court leave shall, whenever possible, be permitted to readjust their normal day off so as to provide adequate rest prior to their return.

## **VIII. Military Leave**

- A. Except as noted in Section VIII. B, any eligible employee who provides notice that he or she has been activated to military duty, other than for training purposes, shall be granted military leave without pay, in accordance with K.A.R. 1-9-7a.
  1. The employee who has been activated to military duty for other than training purposes shall provide his or her supervisor with a copy of the orders received activating him or her to military duty.
- B. Any eligible employee who is a member of a reserve component of the military service of the United States shall be granted a maximum of 15 working days of military leave with pay for active duty within each 12-month period beginning October 1 and ending September 30 of the following year, in accordance with K.A.R. 1-9-7b.
  1. Any active duty in excess of 15 working days in a calendar year shall be charged to military leave without pay or, at the employee's request, to accrued vacation leave, pursuant to K.A.R. 1-9-7b(b)

2. Requests for military leave shall be made to the appointing authority with as much notice as possible under the circumstances of the order. An appropriate military order or duty document shall be received by the appointing authority before military leave is granted.
- C. Each employee in a regular position shall be granted military leave without pay or, at the employee's request, accrued leave for the purpose of induction, entrance, or examination for entrance into a reserve component.
- D. Any eligible employee who is a member of a state or national guard unit shall be granted military leave with pay for the duration of any official call to state emergency duty in accordance with K.A.R. 1-9-7c.
  1. An employee responding to state emergency duty shall not be charged time against the annual paid military leave granted an employee, in accordance with K.A.R. 1-9-7b.

**IX. Official Absence from Work**

- A. The appointing authority shall determine when it is in the best interest of the Department to allow an official absence from work with pay for attendance at an official meeting, conference, training, interview, or other officially sanctioned function.
- B. For time and labor purposes, any time away from normally assigned duties while on an approved official absence from work shall be recorded as time worked.
- C. An official absence from work granted for employment interviews shall be as follows:
  1. Each employee shall be allowed an official absence from work on up to two (2) separate occasions in a 12-month period:
    - a. The official absence from work must be requested in sufficient time to allow for schedule adjustments;
    - b. An official absence from work will not be granted, nor time credited, for scheduled days off;
    - c. Only reasonable travel and interview time will be allowed; and,
    - d. An official absence from work will not be granted for any hours over eight (8) on any given workday.
  2. An official absence from work will be granted only for interviews within the Kansas Department of Corrections.
  3. Interview schedules may be verified by the employee's supervisor.
  4. State vehicles will not be used for the purpose of traveling to an interview site, nor will mileage be reimbursed for personal automobiles.

**X. Job Injury Leave**

- A. Any eligible employee who sustains a qualifying job injury, as defined by K.A.R. 1-9-22(b)(1), shall be eligible for job injury leave in accordance with K.A.R. 1-9-22.
- B. Job injury leave shall not exceed six (6) months following the qualifying job injury.
  1. While an employee is on an approved job injury leave, the employee shall continue to receive his or her regular compensation.

- a. If the employee is awarded worker's compensation, the employee shall receive compensation in an amount which, together with the worker's compensation pay, equals the regular salary of the employee.
2. The employee shall not lose accrued sick leave or vacation leave credits during the period of approved job injury leave.
  - a. The employee shall continue to earn sick leave and vacation leave during the period of approved job injury leave.
- C. The employee may be required to work in a transitional employment assignment (per IMPP 02-108D) if the employee is physically able to perform the duty of his or her assigned position or a position in which accommodations are being made.
  1. Transitional assignments shall not exceed nine (9) months.
  2. If, after nine (9) months, the employee is unable to return to full duty, the appointing authority shall take such action as deemed in the best interest of the operation and management of the facility, region, or office.
    - a. If the appointing authority determines it to be in the best interest of the facility, region, or office to extend a limited duty assignment beyond the nine (9) months allowed for job injury leave, the employee shall be removed from job injury status and placed on a temporary limited duty assignment under the provisions of IMPP 02-106D. However, in no circumstance shall an employee work in a transitional employment assignment for more than 12 months in any 24-month period.
- D. The employee may be required to be examined by a physician selected by the Department during the period of approved job injury leave to determine the employee's capability to return to full or transitional employment assignment.
- E. An employee on approved job injury leave is prohibited from being gainfully employed by any other employer.
- F. In the event that an employee sustains an injury during the course of performing the employee's regular job duties and the injury does not qualify for job injury leave pursuant to K.A.R. 1-9-22, the Secretary may approve administrative leave under the following conditions:
  1. The injury meets the criteria for worker's compensation benefits and the employee is approved for worker's compensation benefits;
  2. The injury prevents the employee from performing the employee's regular job duties;
  3. The employee has not yet been approved or cleared for participation in the return to work program;
  4. The injury was not sustained as a result of intentional actions of a co-worker;
  5. The injury was not sustained as a result of illegal or abusive conduct on the part of the employee, nor was it the result of conduct that would subject the employee to disciplinary action; and,
  6. The administrative leave, if granted, may be terminated if the employee is no longer approved for worker's compensation benefits or is offered participation in the return to work program.

**XI. Training Leave**

- A. All employees shall be relieved from their normal duties to attend training as mandated by IMPP 03-104D and such other training as approved by the appointing authority.
  - 1. It shall be at the discretion of the appointing authority whether to grant official leave or require the employee to use vacation leave for non-mandatory training.
- B. The training staff of each office, facility, or parole region shall work and communicate closely with supervisors to schedule training in a manner consistent with scheduling needs.

**XII. Non-Disciplinary Leave Without Pay**

- A. Any employee who has achieved permanent status or who is on probation due to promotion may be granted leave without pay for a reasonable period of time, not to exceed one (1) year, consistent with the effective fulfillment of the agency's duties.
  - 1. Any employee who is serving on probationary status due to an original appointment may be granted leave without pay for a period not to exceed 60 calendar days.
  - 2. Leave without pay may be granted for:
    - a. Childbearing;
    - b. Illness;
    - c. Temporary disabilities;
    - d. Birth of the employee's child;
    - e. Adoption of a child by the employee;
    - f. Initial placement of a foster child in the home of the employee;
    - g. The provision of care for a family member who has a serious health condition; or,
    - h. Other good and sufficient reason when the appointing authority deems such leave to be in the best interest of the service.
- B. Any employee eligible under the Family and Medical Leave Act (FMLA) of 1993 may receive leave without pay in accordance with that Act, and Section XIII. of this policy.
  - 1. Any eligible employee who receives leave without pay pursuant to Section XIII. shall not be entitled to additional leave without pay for a reason covered by the FMLA, and shall be limited to the concurrent use of leave available under Section XIII. and the Family and Medical Leave Act.
- C. As soon as possible after receiving a leave request for leave without pay, the employee's immediate supervisor shall:
  - 1. Make a recommendation regarding the request; and,
  - 2. Forward the request and the supervisor's recommendation to the appointing authority or designee.
- D. The circumstances regarding the request may be verified prior to approval of the request.
- E. The employee may be required to use accumulated vacation leave, sick leave, if appropriate, and/or compensatory time credit prior to approval of leave without pay.

- F. Prior to notifying an employee in writing that leave without pay exceeding 30 days will be approved, the appointing authority must receive pre-approval of the letter from the Human Resources Director or a designee.
- G. Leave without pay exceeding 30 calendar days shall be reported to the Department of Administration, Division of Personnel Services.
- H. Leave without pay for employees in positions exempted from the Fair Labor Standards Act.
  - 1. The Fair Labor Standards Act (FLSA) requires that employees in exempt positions be compensated on a “salary basis” as promulgated by the U.S. Department of Labor.
    - a. The salary of an employee in an exempt position cannot be based on the quality or quantity of work performed during a specified period of work time and, except as noted below, cannot be reduced proportionately for failure to achieve such a standard.
    - b. No salary is to be paid for any workweek when no work is performed unless the time off is covered by a form of paid leave as defined in IMPP 02-114D and Article 9 of the Kansas Administrative Regulations.
  - 2. Salaries of employees in positions that are exempt under the Fair Labor Standards Act (FLSA) shall not be reduced due to leave without pay in less than seven (7) calendar day increments except in the following instances:
    - a. Absences from work for one (1) or more *full* days for personal reasons, other than sickness or disability, when the employee has insufficient paid leave available to cover the time off, and the absence is requested by the employee. Leave without pay cannot be charged in less than full days under this option;
    - b. Absences from work for one (1) or more *full* days due to sickness or disability if deductions are made under the State's sick leave plan. Leave without pay cannot be charged in less than full days under this option;
    - c. Penalties imposed in good faith for violating safety rules of “major significance”;
    - d. Deductions due to a court order or for the purposes of repaying federal taxes;
    - e. Unpaid disciplinary suspension of one (1) or more *full* days imposed in good faith for violations of workplace conduct rules;
    - f. Proportionate part of an employee's *full* salary may be paid for time actually worked in the first and last weeks of employment;
    - g. Absences from work for one (1) or more *full* days for unpaid leave taken pursuant to the Family Medical Leave Act. Leave without pay cannot be charged in less than full days under this option; or
    - h. Deductions in the salary of exempt employees' salary due to a budgetary required furlough.
  - 3. None of these exceptions affect the requirement that employees in exempt positions use sick leave, shared leave, vacation leave or holiday compensatory time in half or full-day increments.
  - 4. Complaint Process
    - a. If an employee in an exempt position believes that his or her salary has been reduced improperly and if the matter cannot be resolved at the office/facility level,

he or she may file a complaint regarding the alleged improper reduction with KDOC Human Resources Division by writing or e-mailing details of the complaint to:

Jan Clausing  
Director, Human Resources  
Jayhawk Walk  
714 SW Jackson, Suite 300  
Topeka, Kansas 66603  
Email: [Jan.Clausing@doc.ks.gov](mailto:Jan.Clausing@doc.ks.gov)

- b. Staff from KDOC Human Resources will work with the employee, representatives from the office/facility, and the Department of Administration's Office of Personnel Services to reach final resolution to the complaint.
  - c. The employing office/facility will reimburse employees for deductions that are found to be improper and take action to ensure that such deductions do not occur again.
5. The Department's policy and procedures concerning the Reduction in Salary of Exempt Employees shall be posted on all official bulletin boards and/or on the official electronic agency/facility/department bulletin boards. (Attachment B)
- I. If approved by the appointing authority, any permanent employee may be granted leave of absence without pay to enable the employee to take an appointive position in the unclassified service.
    1. The initial leave granted for this purpose shall not exceed one (1) year. One (1) or more extensions of up to one (1) additional year each may be granted by the appointing authority or designee.
  - J. If the interest of the service is best served, the appointing authority may terminate a leave of absence without pay by providing a written notice to the employee, pursuant to K.A.R. 1-9-6.

### **XIII. Family Medical Leave**

- A. Family medical leave may be granted to an eligible employee in accordance with the Family and Medical Leave Act (FMLA) of 1993 and amendments.
  1. An employee taking leave pursuant to the FMLA shall be required to use accumulated sick leave and vacation leave prior to being placed on a leave without pay status.
  2. All time away from work for an FMLA covered condition shall count toward the allowed FMLA leave whether on leave with or without pay.
  3. FMLA leave eligibility (including re-certifications) shall be calculated using a counting forward 12-month period.
  4. If spouses who work for the State are both eligible for FMLA coverage, they shall be treated as individuals for the purposes of FMLA and shall each be entitled to full coverage and leave benefits for conditions covered by the Act.
  5. Employees may be eligible to use up to 12 weeks of FMLA per year starting with the first covered FMLA event. All subsequent FMLA covered events will not extend the FMLA period beyond 12 weeks.
- B. If an employee is entitled to worker's compensation leave due to an injury that is also covered by the FMLA as a serious health condition, the leave under the FMLA shall run concurrent with workers' compensation leave.

- C. If an employee determines during the period of Family and Medical Leave that he or she is not going to return to employment with the Department, the employee shall immediately notify the Department of this decision.
  - 1. Upon notification to the Department that an employee will not be returning to employment with the Department, this notice shall be documented by human resources staff, including:
    - a. Written confirmation to the employee;
    - b. Written notice to the employee that FMLA coverage terminated and that the period during which the employee may be entitled to continuing health insurance, pursuant to the Consolidated Omnibus Budget Reconciliation Act (COBRA) of 1986 and amendments thereto, started on the date the Department learned that the employee would not return to employment; and,
    - c. Documentation in the employee's medical file of the date on which the employee determined that he or she would not return to employment with the Department.
- D. Employees on unpaid Family and Medical Leave shall not continue to accumulate sick leave or vacation leave.
  - 1. An employee may request to use shared leave, earned compensatory time, or an unused Discretionary Day; however, the employee shall not be required to do so.
- E. An employee taking leave pursuant to the FMLA shall be responsible for his or her share of the insurance premium that he or she was responsible for before the leave period began.
  - 1. If an employee chooses to not return to work after expiration of FMLA leave for reasons unrelated to the condition(s) for which Family Medical Leave was approved, the employee shall repay to the State the portion of the insurance premium paid by the employer during the period of Family and Medical Leave.
    - a. If the Department determines that the employee is unable to return to work, due to the continuation of a covered condition, repayment of the insurance premium paid by the employer will not be required.
- F. Prior to granting approval for unpaid Family and Medical Leave for a serious health condition of the employee or employee's family member, the appointing authority may require the employee to provide a medical certification, at the employee's expense, in the form of the Department of Labor's Certification of Health Care Provider form. The form may be obtained from any KDOC Human Resource Office or on the United States Department of Labor's web site.
  - 1. The appointing authority may require a second certification at agency expense when the validity of the first certification is in doubt.
  - 2. A third certification may be required at agency expense when the first and second certifications differ.
    - a. The third certification shall be final and binding.
  - 3. The appointing authority may require the employee to provide one recertification opinion every 30 calendar days, at the employee's expense.
    - a. With prior approval from the Director, KDOC Human Resources Division, the appointing authority may require the employee to provide recertification before the end of 30 days if circumstances described by the previous medical certification have changed significantly or the agency receives information that casts doubt upon the employee's reason for the absence.

4. If, at any time during the process, the Department advises the employee, verbally or in writing, that the leave is or will be covered by FMLA and later determines that the absence does not involve a covered condition, that period of leave will be covered by FMLA. However, subsequent leave periods for the same condition and about which the employee had not been previously advised, will not be covered.
  5. If the Department receives information that indicates an employee's absence may meet the eligibility requirements for Family and Medical Leave, the employee shall be notified that his or her leave time may be covered by FMLA.
    - a. If the Department becomes aware of an employee's covered absence more than three working days after it began, FMLA eligibility may be applied retroactively to the first day of the absence only if done so within two working days of the employee's return to the job.
  6. Except as specified in section F.5. of this policy, if, after notification and receipt of a medical certification or other relevant information, the Department determines that the employee or the employee's family member does not have a covered condition, the employee's absence will not be credited to time used under the FMLA. However, if the employee's situation is determined to meet the eligibility requirements, all eligible absences from work related to that situation shall be counted toward the employee's available 12 weeks of FMLA coverage.
- G. A request for Family and Medical Leave shall be forwarded by the employee to the appropriate Human Resources office for action, with at a least 30-day notice, or as much notice as feasible. Failure to provide timely advance notice may result in disapproval of a request for Family and Medical Leave.
- H. The appointing authority or designee shall review the request and:
1. Approve the request if the employee meets the eligibility requirements; or,
  2. Deny the request if:
    - a. The employee does not meet the eligibility requirement as stated above;
    - b. The employee has failed to provide timely advance notice; or,
    - c. Required medical certification has not been provided.
  3. If the employee's request for FMLA leave is disapproved, the employee shall have the right to request a review by the Human Resources Director.
    - a. The employee shall make this request within five (5) days of being notified of the decision to disapprove the leave.
  4. The determination by the Human Resources Director shall be the Department's final decision regarding a request for Family and Medical Leave.
- I. The Department shall endeavor to communicate and work with the employee to ensure that the leave of the employee is done with the least disruption to the Department and in the manner, which best ensures that the employee's needs are met.
- J. Each employee of the Department shall be notified by Human Resources staff of his or her rights and responsibilities under the FMLA.
1. Notification shall be done by the following:

- a. Each employee, current and new, shall be provided a copy of Employee Rights and Responsibilities Under the Family and Medical Leave Act (Attachment C).
    - (1) This notice shall also be posted at each work site of the Department.
  - b. Each employee shall be provided an opportunity to review this policy.
  - c. Each employee shall be provided with an opportunity to ask any questions necessary regarding the Family and Medical Leave Act of 1993 and amendments thereto (FMLA).
2. Each employee shall confirm, in writing, that he or she has been notified of his or her rights under the FMLA of 1993 and amendments thereto.
    - a. This confirmation shall be in the form of the Kansas Department of Corrections Employee Acknowledgements (Attachment B of IMPP 02-118D).

#### **XIV. Administrative Leave**

- A. Administrative leave shall be granted in accordance with K.A.R. 1-2-74, Administrative leave.
- B. An emergency or other situation that creates dangerous or unsafe working conditions may be declared by the Governor for facilities and offices located in Shawnee County and by the appointing authority, with the approval of the Secretary of Corrections, for facilities and offices outside of Shawnee County.
- C. With the approval of the Secretary, an appointing authority may authorize administrative leave at any location when an emergency or unsafe condition necessitates the closing of an office or building.

#### **XV. Inclement Weather Leave**

- A. Inclement weather may be declared by the Governor for facilities and offices located in Shawnee County and by the appointing authority, with the approval of the Secretary of Corrections, for facilities and offices outside of Shawnee County.
  1. Notification of Inclement weather will be posted on the KDOC websites, announced through local media, or available by phoning the facility/office.
  2. Notifications approved by the Secretary of Corrections should be forwarded via email to the Director of Human Resources for payroll validation with the Department of Administration.
- B. Essential employees are expected to be at work during regularly scheduled hours regardless of weather conditions.
  1. Essential employees who fail to report to work will be required to use vacation leave, compensatory time accrued or leave without pay equal to the number of regular scheduled hours on that day.
  2. Essential employees who have had vacation days approved prior to the declaration of inclement weather will be charged vacation leave for time away from work and may not amend their vacation request after inclement weather has been declared.
  3. Exempt and non-exempt employees may be paid in quarter hour increments for the purposes of inclement weather leave.
- C. Non-essential employees are expected to remain away from the office and will be granted inclement weather leave.

1. Non-essential employees who report to work without knowledge of inclement weather and elect to remain at work should contact their supervisor for approval.
    - a. If approved the employee will document regularly scheduled work hours on the time sheet.
    - b. If not approved, the employee will return home and document inclement weather leave on the timesheet.
  2. Non-essential employees who have previously scheduled and approved vacation hours that occur during a period of inclement weather will be charged vacation leave not inclement weather leave.
- D. Each Department and Facility shall identify the job classes considered to be Essential and Non-Essential and have the responsibility of notifying staff of their status upon employment, transfer and when facility changes are made to the list of job classifications on either list.

#### **XVI. Unauthorized Absence**

- A. Any absence, which is not approved in accordance with this policy, shall be considered an unauthorized absence and shall be recorded as such.
- B. The appointing authority shall have the discretion to determine:
  1. Whether the employee will be allowed to use accumulated leave credits for the unauthorized absence;
  2. Whether the employee should be granted leave without pay;
  3. Whether to consider it a presumed resignation, in accordance with K.A.R. 1-11-1(c), if the unauthorized absence is more than five (5) consecutive workdays and the employee is unavailable to provide an explanation; or,
  4. Whether any disciplinary action should be taken.

#### **XVII. Victim of Domestic Violence or Sexual Assault Leave**

- A. Employees who are victims of either domestic violence or sexual assault shall not be discharged, discriminated or retaliated against in any way for taking time off work to:
  1. Obtain or attempt to obtain any relief, including, but not limited to, a temporary restraining order, restraining order or any other injunctive relief to help insure the health, safety or welfare of the victim or the victim's child or children;
  2. Seek medical attention for injuries caused by domestic violence or sexual assault;
  3. Obtain services from a domestic violence shelter, domestic violence program or rape crisis center as a result of domestic violence or sexual assault; or
  4. Make court appearances in the aftermath of domestic violence or sexual assault.
- B. An employee may use any accrued leave for the purpose specific in Section XVII. A.1.-3. If accrued leave with pay is unavailable to the employee, leave without pay, not to exceed a total of eight (8) days per calendar year for the purpose specified in Section XVII. A.1.-3. may be used. The entitlement of any employee pursuant to this provision shall not be diminished by any collective bargaining agreement term or condition, but the limit of eight (8) days per calendar year may be increased pursuant to a collective bargaining agreement

- C. As a condition of taking time off pursuant to Section XVII. A.1.–3., employees shall give reasonable advance notice of their intention to take time off whenever such advance notice is feasible.
- D. Within 48 hours after returning from time off requested pursuant to Section XVII. A.1.–3., employees shall provide information supporting their request for leave to their office/facility human resource section. Such information may include, but is not limited to:
  - 1. A police report indicating that the employee was a victim of domestic violence or sexual assault;
  - 2. A court order protecting or separating the employee from the perpetrator of an act of domestic violence or sexual assault, or other evidence from the court or prosecuting attorney that the employee has appeared in court; or
  - 3. Documentation from a medical professional, domestic violence advocate or advocate for victims of sexual assault, health care provider or counselor that the employee was undergoing treatment for physical or mental injuries or abuse resulting in victimization from an act of domestic violence or sexual assault.
- E. KDOC employees shall exercise the maximum amount of effort to maintain the confidentiality of the employee requesting leave pursuant to Section XVII. A.1.–3., as well as the confidentiality of any supporting documentation provided by the employee in support of a request for leave, that is consistent with effort and staff involvement to process the leave request.

#### **XVIII. Mentoring Leave**

- A. All full-time, classified and unclassified employees are eligible to spend up to 90 minutes of regularly scheduled work time per pay period for the purpose of working with any program which is part of the Kansas Mentors Gold Star program.
  - 1. Prior approval of mentoring leave shall be obtained by the employee from the employee's supervisor and documented on Attachment A.
  - 2. An employee's hours worked and leave time taken shall not exceed 40 hours in any workweek in which the employee uses mentoring leave.

**NOTE:** The policy and procedures set forth herein are intended to establish directives and guidelines for staff and offenders and those entities that are contractually bound to adhere to them. They are not intended to establish State created liberty interests for employees or offenders, or an independent duty owed by the Department of Corrections to employees, offenders, or third parties. Similarly, those references to the standards of various accrediting entities as may be contained within this document are included solely to manifest the commonality of purpose and direction as shared by the content of the document and the content of the referenced standards. Any such references within this document neither imply accredited status by a Departmental facility or organizational unit, nor indicate compliance with the standards so cited. The policy and procedures contained within this document are intended to be compliant with all applicable statutes and/or regulatory requirements of the Federal Government and the state of Kansas. This policy and procedure is not intended to establish or create new constitutional rights or to enlarge or expand upon existing constitutional rights or duties.

#### **REPORTS REQUIRED**

None.

#### **REFERENCES**

Fair Labor Standards Act of 1938, as amended  
Family and Medical Leave Act of 1993 and Amendments  
K.S.A. 2015 Supp. 21-5503, 2015 Supp. 21-5504, 2015 Supp. 21-5506, 2015 Supp. 21-5604; 44-1132

K.A.R. 1-2-9, 1-2-25, 1-5-24, 1-5-26, 1-9-1 through 1-9-8, 1-9-12, 1-9-22, 1-11-1  
IMPP 02-106D, 02-107D, 02-108D, 02-109D, 02-113D, 02-117D, 02-118D, 02-120D, 02-125D, 03-104D  
ACO 2-1C-01  
ACI 4-4048

**ATTACHMENTS**

<b>Attachment</b>	<b>Title of Attachment</b>	<b>Page Total</b>
A	Request for Leave, Overtime or Premium Pay Hours	1 page
B	Employee Rights and Responsibilities Under the FMLA	1 page
C	Policy on Reductions in Salary of Exempt Employees	1 page

Canary – Employee  
Pink – Supervisor  
White – Time Sheet

**KANSAS DEPARTMENT OF CORRECTIONS  
REQUEST FOR LEAVE, OVERTIME OR PREMIUM PAY HOURS**

NAME: \_\_\_\_\_ Employee ID#: \_\_\_\_\_ Division/Section: \_\_\_\_\_

LEAVE: From: \_\_\_\_\_ To: \_\_\_\_\_ Total Hours Requested: \_\_\_\_\_  
(Time) (Date) (Time) (Date)

Type of Leave Requested:

- VAC-Vacation
- SCK –Sick Leave
- CMT-Compensatory Time
- MAC/MAE – Meet & Confer
- DON/DNE – Donor Leave
- ADM/ADE – Administrative Leave
- LWP – Without Pay\*
- DDY – Discretionary Day
- JRY/JRE – Jury Duty
- KOS/KOE-Union Business
- FOP/FOPE-Union Business
- MIL/MIE – Military Leave with Pay
- MWP – Military Leave without Pay
- FNL-Funeral or Bereavement Leave\*
- KMP/KME – Mentoring Leave
- Disaster Service Volunteer Leave
- Other (an explanation shall be provided to HR)

Are you requesting leave under the Family Medical Leave Act of 1993 for any or all of this leave?  Yes  No  
If requesting funeral or bereavement leave, indicate relationship to deceased: \_\_\_\_\_

ADDITIONAL OR PREMIUM PAY HOURS:

From \_\_\_\_\_ To: \_\_\_\_\_ Total Hours Earned: \_\_\_\_\_  
(Time) (Date) (Time) (Date)

- Overtime
- Comp Time
- Holiday
- Worked

Reason for Leave and/or Additional or Premium Pay Hours: \_\_\_\_\_

\_\_\_\_\_  
(Employee Signature) (Date) (Supervisor's Signature) (Date) (\*Appointing Authority's Signature) (Date)

\*Must be approved by the Appointing Authority

# EMPLOYEE RIGHTS AND RESPONSIBILITIES UNDER THE FAMILY AND MEDICAL LEAVE ACT

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## Basic Leave Entitlement

FMLA requires covered employers to provide up to 12 weeks of unpaid, job-protected leave to eligible employees for the following reasons:

- for incapacity due to pregnancy, prenatal medical care or child birth;
- to care for the employee's child after birth, or placement for adoption or foster care;
- to care for the employee's spouse, son, daughter or parent, who has a serious health condition; or
- for a serious health condition that makes the employee unable to perform the employee's job.

## Military Family Leave Entitlements

Eligible employees whose spouse, son, daughter or parent is on covered active duty or call to covered active duty status may use their 12-week leave entitlement to address certain qualifying exigencies. Qualifying exigencies may include attending certain military events, arranging for alternative childcare, addressing certain financial and legal arrangements, attending certain counseling sessions, and attending post-deployment reintegration briefings.

FMLA also includes a special leave entitlement that permits eligible employees to take up to 26 weeks of leave to care for a covered service-member during a single 12-month period. A covered servicemember is: (1) a current member of the Armed Forces, including a member of the National Guard or Reserves, who is undergoing medical treatment, recuperation or therapy, is otherwise in outpatient status, or is otherwise on the temporary disability retired list, for a serious injury or illness\*; or (2) a veteran who was discharged or released under conditions other than dishonorable at any time during the five-year period prior to the first date the eligible employee takes FMLA leave to care for the covered veteran, and who is undergoing medical treatment, recuperation, or therapy for a serious injury or illness.\*

**\*The FMLA definitions of "serious injury or illness" for current servicemembers and veterans are distinct from the FMLA definition of "serious health condition".**

## Benefits and Protections

During FMLA leave, the employer must maintain the employee's health coverage under any "group health plan" on the same terms as if the employee had continued to work. Upon return from FMLA leave, most employees must be restored to their original or equivalent positions with equivalent pay, benefits, and other employment terms.

Use of FMLA leave cannot result in the loss of any employment benefit that accrued prior to the start of an employee's leave.

## Eligibility Requirements

Employees are eligible if they have worked for a covered employer for at least 12 months, have 1,250 hours of service in the previous 12 months\*, and if at least 50 employees are employed by the employer within 75 miles.

**\*Special hours of service eligibility requirements apply to airline flight crew employees.**

## Definition of Serious Health Condition

A serious health condition is an illness, injury, impairment, or physical or mental condition that involves either an overnight stay in a medical care facility, or continuing treatment by a health care provider for a condition that either prevents the employee from performing the functions of the employee's job, or prevents the qualified family member from participating in school or other daily activities.

Subject to certain conditions, the continuing treatment requirement may be met by a period of incapacity of more than 3 consecutive calendar days combined with at least two visits to a health care provider or one visit and a regimen of continuing treatment, or incapacity due to pregnancy, or incapacity due to a chronic condition. Other conditions may meet the definition of continuing treatment.

## Use of Leave

An employee does not need to use this leave entitlement in one block. Leave can be taken intermittently or on a reduced leave schedule when medically necessary. Employees must make reasonable efforts to schedule leave for planned medical treatment so as not to unduly disrupt the employer's operations. Leave due to qualifying exigencies may also be taken on an intermittent basis.

## Substitution of Paid Leave for Unpaid Leave

Employees may choose or employers may require use of accrued paid leave while taking FMLA leave. In order to use paid leave for FMLA leave, employees must comply with the employer's normal paid leave policies.

## Employee Responsibilities

Employees must provide 30 days advance notice of the need to take FMLA leave when the need is foreseeable. When 30 days notice is not possible, the employee must provide notice as soon as practicable and generally must comply with an employer's normal call-in procedures.

Employees must provide sufficient information for the employer to determine if the leave may qualify for FMLA protection and the anticipated timing and duration of the leave. Sufficient information may include that the employee is unable to perform job functions, the family member is unable to perform daily activities, the need for hospitalization or continuing treatment by a health care provider, or circumstances supporting the need for military family leave. Employees also must inform the employer if the requested leave is for a reason for which FMLA leave was previously taken or certified. Employees also may be required to provide a certification and periodic recertification supporting the need for leave.

## Employer Responsibilities

Covered employers must inform employees requesting leave whether they are eligible under FMLA. If they are, the notice must specify any additional information required as well as the employees' rights and responsibilities. If they are not eligible, the employer must provide a reason for the ineligibility.

Covered employers must inform employees if leave will be designated as FMLA-protected and the amount of leave counted against the employee's leave entitlement. If the employer determines that the leave is not FMLA-protected, the employer must notify the employee.

## Unlawful Acts by Employers

FMLA makes it unlawful for any employer to:

- interfere with, restrain, or deny the exercise of any right provided under FMLA; and
- discharge or discriminate against any person for opposing any practice made unlawful by FMLA or for involvement in any proceeding under or relating to FMLA.

## Enforcement

An employee may file a complaint with the U.S. Department of Labor or may bring a private lawsuit against an employer.

FMLA does not affect any Federal or State law prohibiting discrimination, or supersede any State or local law or collective bargaining agreement which provides greater family or medical leave rights.

**FMLA section 109 (29 U.S.C. § 2619) requires FMLA covered employers to post the text of this notice. Regulation 29 C.F.R. § 825.300(a) may require additional disclosures.**

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**For additional information:**  
1-866-4US-WAGE (1-866-487-9243) TTY: 1-877-889-5627  
[WWW.WAGEHOUR.DOL.GOV](http://WWW.WAGEHOUR.DOL.GOV)

U.S. Department of Labor | Wage and Hour Division

## Kansas Department of Corrections

### Policy on Reduction in Salary of Exempt Employees

#### Limitations on the Reduction of the Salary of an Exempt Employee:

The Fair Labor Standards Act (FLSA) requires that employees in exempt positions be compensated on a "salary basis" as promulgated by the U.S. Department of Labor. The salary of an employee in an exempt position cannot be based on the quality or quantity of work performed during a specified period of work time and, except as noted below, cannot be reduced proportionately for failure to achieve such a standard. No salary is to be paid for any workweek when no work is performed unless the time off is covered by a form of paid leave as defined in IMPP 02-114D and Article 9 of the Kansas Administrative Regulations.

#### Reductions in the Salary of an Employee in an Exempt Position is Limited to the Following Situations:

1. Absences from work for one or more *full* days for personal reasons, other than sickness or disability, when the employee has insufficient paid leave available to cover the time off, and the absence is requested by the employee. Leave without pay cannot be charged in less than full days under this option;
2. Absences from work for one or more *full* days due to sickness or disability if deductions are made under the State's sick leave plan. Leave without pay cannot be charged in less than full days under this option;
3. Penalties imposed in good faith for violating safety rules of "major significance";
4. Deductions due to a court order or for the purposes of repaying federal taxes;
5. Unpaid disciplinary suspension of one or more *full* days imposed in good faith for violations of workplace conduct rules;
6. Proportionate part of an employee's *full* salary may be paid for time actually worked in the first and last weeks of employment;
7. Absences from work for one or more *full* days for unpaid leave taken pursuant to the Family Medical Leave Act. Leave without pay cannot be charged in less than full days under this option; or
8. Deductions in the salary of exempt employees' salary due to a budgetary required furlough.

None of these exceptions affect the requirement that employees in exempt positions use sick leave, shared leave, vacation leave or holiday compensatory time in half or full-day increments.

#### Complaint Process:

If an employee in an exempt position believes that his or her salary has been reduced improperly and if the matter cannot be resolved at the office/facility level, he or she may file a complaint regarding the alleged improper reduction with KDOC Human Resources Division by writing or e-mailing details of the complaint to:

KDOC Human Resources  
Director, Human Resources  
Jayhawk Walk  
714 SW Jackson  
Topeka, Kansas 66603  
Email: [Jan.Clausing@doc.ks.gov](mailto:Jan.Clausing@doc.ks.gov)

Staff from KDOC Human Resources Division will work with the employee, representatives from the office/facility, and the Department of Administration's Division of Personnel Services to reach final resolution to the complaint.

The employing office/facility will reimburse employees for deductions that are found to be improper and take action to ensure that such deductions do not occur again.