

1 EDUCATION AND LABOR CABINET

2 Kentucky Board of Education

3 Department of Education

4 (Amendment)

5 780 KAR 3:072. Attendance, compensatory time, and leave for certified and equivalent service.

6 RELATES TO: KRS 156.808, Chapter 337, 29 C.F.R. 825, 29 U.S.C. 201-219

7 STATUTORY AUTHORITY: KRS 156.808(3)(g)

8 NECESSITY, FUNCTION, AND CONFORMITY: KRS 156.808 requires the Kentucky Board

9 of Education to promulgate administrative regulations establishing personnel policies and

10 procedures for all certified and equivalent staff, including administrative, teaching, and

11 supervisory staff in the Office of Career and Technical Education central office and state-

12 operated area technology centers~~[consistent with the provisions of KRS 156.800 to 156.860].~~

13 KRS 156.808(3)(g) requires the Kentucky Board of Education to promulgate administrative

14 regulations for the certified and equivalent staff of state-operated area technology centers

15 governing attendance, including hours of work, compensatory time, and annual, court, military,

16 sick, voting, and special leaves of absence. The Family and Medical Leave Act of 1993, 29

17 U.S.C. 2601 et seq., as implemented by 29 C.F.R. Part 825, requires the granting of family and

18 medical leave to eligible employees. This administrative regulation establishes those leave

19 requirements.

20 Section 1. Attendance.

1 (1) A full-time employee shall be required to work thirty-seven and one-half (37.5) hours per
2 week for any positions unless otherwise specified by the appointing authority.

3 (2) A full-time employee shall fulfill a daily work obligation of seven and one-half (7.5) hours.
4 Exceptions to the schedule may be granted on a temporary basis with the supervisor's
5 authorization or on a permanent basis with the approval of the appointing authority.

6 (3[2]) The normal work day for a school-based employee shall coincide with the appropriate
7 school schedule as recommended by the principal and approved by the associate commissioner
8 for career and technical education.

9 (4[3]) The associate commissioner for career and technical education may require an employee
10 to work hours and work days other than the normal schedule including an inclement weather
11 schedule if it is in the best interest of the agency.

12 (5[4]) An employee who works within a division which requires more than one (1) shift per day,
13 or seven (7) days a week operation, may be reassigned from one (1) shift to another and from
14 one (1) post to another or alternate days to meet staffing requirements, or to maintain or provide
15 essential services of the agency, or to meet scheduling needs of students. An employee shall be
16 given as much advance notice as possible when schedules are changed.

17 (6[5]) The employee shall give timely[reasonable] notice to the employees' immediate supervisor
18 in advance of absence from a work station with the exception of emergencies.

19 ~~[(6) An employee may be allowed up to two (2) professional days for the purpose of continuing~~
20 ~~staff development or participation in professional organization workshops and meetings without~~
21 ~~loss of pay.]~~

22 Section 2. Compensatory Leave~~[-and Overtime].~~

23 (1) Accrual of compensatory leave~~[-and overtime].~~

1 (a) An appointing authority shall comply with the overtime and compensatory leave provisions
2 of the Fair Labor Standards Act (FLSA), 29 U.S.C. Chapter 8.

3 (b) An employee, except teachers and principals, who is directed to, or who requests and is
4 authorized to, work in excess of the prescribed hours of duty shall be granted compensatory
5 leave~~[-or paid overtime]~~ subject to the provisions of the Fair Labor Standards Act, the Kentucky
6 Revised Statutes and this administrative regulation.

7 (c) An employee, except teachers and principals, deemed to be "exempt" under the provisions of
8 the FLSA shall accumulate compensatory time on an hour-for-hour basis for hours actually
9 worked in excess of the regular work schedule. Teachers and principals shall not accumulate
10 compensatory time.

11 ~~[(d) An employee deemed to be "nonexempt" by the provisions of the FLSA shall be paid for all
12 hours worked in excess of forty (40) hours per week.]~~

13 ~~(e) Compensatory leave shall be accumulated or taken off in one quarter (1/4) hour increments.~~

14 ~~(f) The maximum amount of compensatory leave that may be carried forward from one (1) pay
15 period to another shall be 200 hours.]~~

16 (d~~[g]~~) An employee who is transferred or otherwise moved from the jurisdiction of one (1)
17 agency to another shall retain the compensatory leave in the receiving agency. The compensatory
18 leave balance shall be frozen until such a time the employee leaves the teaching or principal
19 position.

20 (2) Reductions in compensatory leave balances.

21 (a) An appointing authority may require an employee who has a balance of at least 100 hours
22 compensatory leave to use compensatory leave before annual leave, unless the employee's annual
23 leave balance exceeds the maximum number of hours that may be carried forward under Section

1 3(2)(f) of this administrative regulation, and shall otherwise allow the use of compensatory leave
2 if it shall not unduly disrupt the operations of the agency.

3 (b) If an employee's prescribed hours of duty are normally less than forty (40) hours per week,
4 the employee shall receive compensatory leave for the number of hours worked that:

- 5 1. Exceed the number of normally prescribed hours of duty; and
- 6 2. Do not exceed the maximum amount of 200 compensatory hours.

7 (c) Upon separation from state service, an employee shall be paid for all unused compensatory
8 leave at the greater of the:

- 9 1. Regular hourly rate of pay; or
- 10 2. Average regular rate of pay for the final three (3) years of employment.

11 ~~[(d) Any school-based employee who has accumulated compensatory leave shall be permitted to
12 take time off when school is not in session.]~~

13 ~~[(e) All certified and equivalent employees shall be permitted to use accumulated compensatory
14 time when practicable and requested in advance and if approved by the respective supervisor.]~~

15 Section 3. Annual and Personal Leave.

16 (1) Accrual of annual leave.

17 (a) Each full-time employee, except teachers and principals, shall accumulate annual leave at the
18 following rate:

Months of Service	Annual Leave Days
0-59 months	1 day per month
60-119 months	1 1/4 days per month
120-179 months	1 1/2 days per month
180-239 months	1 3/4 days per month

240 months & over	2 days per month
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1 (b) A full-time employee shall have worked, or been on paid leave, other than educational leave
2 with pay, for 100 or more regular hours per month to accrue annual leave.

3 (c) Annual leave shall be accumulated only in the months in which the employee is hired to
4 work.

5 ~~[(d) Beginning in the 2018-2019 school year, teachers and principals shall be entitled to twenty-~~
6 ~~two and one-half hours (22.5) of personal leave. Personal leave shall accumulate at the beginning~~
7 ~~of each school year. Any unused personal leave in accordance with this section shall be~~
8 ~~converted to sick leave at the end of each school year.]~~

9 (d[e]) Accrued leave shall be credited on the first day of the month following the month in which
10 the annual leave is earned.

11 (e[f]) In computing months of total service for the purpose of earning annual leave, only the
12 months for which an employee earned annual leave shall be counted.

13 (f[g]) An employee, who retired from a position covered by a state-administered retirement
14 system, who is receiving retirement benefits and who returns to state service, shall not receive
15 credit for annual months of service prior to retirement.

16 (g[h]) A former employee who is appointed, reinstated, or re-employed, other than a former
17 employee receiving benefits under a state-administered retirement system, shall receive credit for
18 prior annual months of service.

19 (h[i]) An employee dismissed for cause who has been reinstated to state service shall receive
20 credit for annual months of service prior to dismissal, except if the dismissal resulted from a
21 violation of KRS 156.838.

22 (i[j]) Part-time, temporary, or seasonal employees shall not be entitled to annual leave.

1 (2) Personal Leave

2 (a) Teachers and principals shall be entitled to twenty-two and one-half hours (22.5) of personal
3 leave annually. Personal leave shall be credited at the beginning of each school year. Any unused
4 personal leave in accordance with this section shall be converted to sick leave at the end of each
5 school year.

6 (b) Part-time, temporary, or seasonal employees shall not be entitled to annual leave.

7 (c) Personal leave shall be prorated for employees that are employed after the first day of the
8 calendar year based on the number of contract days they will have in the remainder of the calendar
9 year.

10 (3[2]) Use and retention of annual and personal leave.

11 (a) Annual leave shall be used in increments of hours or of one-quarter (1/4) hours,[-] except for
12 [+]teachers and principals, who shall use personal leave in three and three-quarter hour (3.75)
13 increments.

14 (b) Except as provided in paragraph (c) of this subsection, an employee who makes a timely
15 request for annual or personal leave shall be granted annual or personal leave by the appointing
16 authority, up to at least the amount of time earned that year, if the operating requirements of the
17 agency permit.

18 (c) An appointing authority may require an employee who has a balance of at least 100 hours of
19 compensatory leave to use compensatory leave before the employee's request to use annual leave
20 is granted, unless the employee's annual leave balance exceeds the maximum number of hours
21 that may be carried forward under Section 3(2)(f) of this administrative regulation.

22 (d) Absence due to sickness, injury, or disability in excess of the amount available for those
23 purposes shall, at the request of the employee, be charged against annual leave or personal leave.

1 (e) An employee who is transferred or otherwise moved from the jurisdiction of one (1) agency
2 to another shall retain his accumulated annual leave in the receiving agency.

3 (f) Annual leave may be carried from one (1) calendar year to the next as provided in this
4 paragraph:

Months of Service	Maximum Amount
0-59 months	Thirty (30) workdays
60-119 months	Thirty-seven (37) workdays
120-179 months	Forty-five (45) workdays
180-239 months	Fifty-two (52) workdays
240 months and over	Sixty (60) workdays

5 (g) Annual l[e]ave in excess of the maximum amounts specified in paragraph (f) of this
6 subsection shall be converted to sick leave at the end of the calendar year or upon retirement,
7 whichever comes first.

8 (h) The amount of annual leave that may be carried forward and the amount of annual leave that
9 may be converted to sick leave shall be determined by computing months of service as provided
10 by subsection (1)(e) of this section.

11 (4[3]) Annual and personal leave on separation.

12 (a) As set forth in KRS 161.780, a[A]n employee who is separated by proper resignation or
13 retirement shall be paid in a lump sum for accumulated annual leave not to exceed the amounts
14 established by subsection (2)(f) of this section. Following payment of annual leave at
15 resignation, leave remaining after the payment of the maximum provided shall be removed from
16 the balance. A teacher or principal who is separated by proper resignation or retirement shall be

1 paid in a lump sum for accumulated personal leave not to exceed twenty-two and one-half hours
2 (22.5).

3 (b) An employee who is laid off shall be paid in a lump sum for all accumulated annual, or
4 personal, or annual and personal leave. Payment for personal leave shall not exceed twenty-two
5 and one-half hours (22.5).

6 (c) An employee in the unclassified service who resigns or terminates one (1) workday and
7 returns to certified and equivalent service the next workday shall retain accumulated annual
8 leave in the receiving agency.

9 (d) An employee who has been dismissed for cause related to misconduct or who has failed,
10 without proper excuse, to give proper notice of resignation or retirement shall not be paid for
11 accumulated annual or personal leave.

12 (e) Notice of separation by resignation must be submitted to the supervisor in written form and
13 forwarded to the Personnel/Payroll Officer.

14 (f) Certified and equivalent employees seeking to resign or terminate contracts in force shall do so
15 in compliance with KRS 161.780.

16 (~~g~~) Upon the death of an employee, the employee's estate shall be entitled to receive pay for
17 the unused portion of the employee's accumulated annual, or personal, or annual and personal
18 leave. Payment for personal leave shall not exceed twenty-two and one-half hours (22.5).

19 (~~h~~) An employee may request in writing that accumulated annual leave not be paid upon
20 resignation, and that all or part of the amount of his accumulated annual leave that does not
21 exceed the amount established by subsection (2)(f) of this section be waived, if:

1 1. The employee resigns, or is laid off because of an approved plan of privatization of the services he
2 performed; and

3 2. The successor employer has agreed to credit the employee with an equal amount of annual leave.

4 Section 4. Sick Leave.

5 (1) Accrual of sick leave.

6 (a) An employee, except teachers, principals, and part-time employees, shall accumulate sick leave with
7 pay at the rate of one (1) working day per month.

8 (b) An employee, except teachers and principals, shall have worked or been on paid leave, other than
9 educational leave, for 100 or more regular hours in a month to accrue sick leave.

10 (c) An employee, except teachers and principals, shall be credited with additional sick leave ~~up~~ on the
11 first day of the month following the month in which the sick leave is earned.

12 (d) ~~[Beginning in the 2018-2019 school year,]~~ ~~T~~~~t~~eachers and principals shall be credited with seventy-
13 five (75) hours of sick leave at the beginning of each school year.

14 (e) A full-time employee, except teachers and principals, who completes 120 months of total service
15 with the state shall be credited with ten (10) additional days of sick leave upon the first day of the month
16 following the completion of 120 months of service. A teacher or principal who completes ten (10) years
17 of total service with the state shall be credited with ten (10) additional days of sick leave upon the first
18 day of the following school year.

19 (f) A full-time employee, except teachers and principals, who completes 240 months of total service with
20 the state shall be credited with ten (10) additional days of sick leave upon the first day of the month
21 following the completion of 240 months of service. A teacher or principal who completes twenty (20)
22 years of total service with the state shall be credited with ten (10) additional days of sick leave upon the
23 first day of the following school year.

- 1 (g) In computing months of total service for the purpose of crediting sick leave, only the months for
2 which an employee earned sick leave shall be counted.
- 3 (h) The total service shall be verified before the leave is credited to the employee's record.
- 4 (i) An employee, who retired from a position covered by a state-administered retirement system, who is
5 receiving retirement benefits and who returns to state service, shall not receive credit for sick months of
6 service prior to retirement.
- 7 (j) A former employee who is appointed, reinstated, or re-employed, other than a former employee
8 receiving benefits under a state-administered retirement system, shall receive credit for the unused sick
9 leave balance credited upon the separation and shall receive credit for prior sick months of service.
- 10 (k) An employee dismissed for cause who has been rehired to state service shall receive credit for sick
11 months of service prior to the dismissal, unless the dismissal resulted from a violation of KRS 156.838.
- 12 (l) Sick leave may be accumulated with no maximum.
- 13 (2) Use and retention of sick leave with pay.
- 14 (a) The appointing authority or his designee shall grant or may require the use of accrued sick leave with
15 pay if an employee:
- 16 1. Is unable to work due to medical, dental, or optical examination or treatment;
 - 17 2. Is disabled by illness or injury. The appointing authority or his designee may require the employee to
18 provide a doctor's statement certifying the employee's inability to perform his duties for the days or
19 hours sick leave is requested;
 - 20 3. Is required to care for or transport a member of the immediate family in need of medical attention for
21 a reasonable period of time. The appointing authority or his designee may require the employee to
22 provide a doctor's statement certifying the employee's need to care for a family member;
 - 23 4. Would jeopardize the health of himself or others at the work station because of a contagious disease or
24 demonstration of behavior that might endanger the employee or others;

1 5. Has lost by death a spouse, parent, grandparent, child, brother or sister, or the spouse of any of them,
2 or, if granted by the appointing authority, another relative of close association. Leave under this
3 subparagraph shall be limited to five (5) [~~three (3)~~] days; or

4 6. Requires leave for the birth, placement, or adoption of a child.

5 (b) At the termination of sick leave with pay, the appointing authority shall return the employee to his
6 former position.

7 (c) Employees, except teachers and principals, shall use sick leave [~~Sick leave shall be used~~] in
8 increments [~~of hours or increments~~] of one-quarter (1/4) hours.

9 (d) An employee who is transferred or otherwise moved from the jurisdiction of one (1) agency to
10 another shall retain accumulated sick leave in the receiving agency.

11 (e) An employee shall be credited for accumulated sick leave if separated by proper resignation, layoff,
12 or retirement as provided in KRS 161.780.

13 (3) Sick leave without pay.

14 (a) The appointing authority or his designee shall grant sick leave without pay for the duration of an
15 employee's impairment by injury or illness, if:

16 1. The total continuous leave does not exceed one (1) year; and

17 2. The employee has used or been paid for all accumulated annual, compensatory and sick leave, unless
18 he has requested to retain up to ten (10) days of accumulated sick leave.

19 (b) For continuous leave without pay in excess of thirty (30) working days, excluding holidays, the
20 appointing authority or his designee shall notify the employee in writing of the leave without pay status.

21 (c) The appointing authority or his designee may require a periodic doctor's statement during the period
22 of leave without pay [~~year~~] attesting to the employee's continued inability to perform essential functions
23 of his duties with or without reasonable accommodation.

1 (d) The appointing authority or his designee may grant sick leave without pay to an employee who does
2 not qualify for family and medical leave provided in Section 5 of this regulation due to lack of service
3 time and who has exhausted all accumulated paid leave if the employee is required to care for a member
4 of the immediate family for a period not to exceed thirty (30) working days.

5 (e) If an employee has given notice of his ability to resume his duties following sick leave without pay,
6 the appointing authority or his designee shall return the employee to the original position or to a position
7 for which he is qualified and which resembles his former position as closely as circumstances permit.

8 (f) If reasonable accommodation to the employees' duties is requested, the employee shall:

- 9 1. Inform the employer; and
- 10 2. Upon request, provide supportive documentation from a certified professional.

11 (g) An employee shall be considered to have resigned if he:

- 12 1. Has been on one (1) year continuous sick leave without pay;
- 13 2. Has been requested by the appointing authority or his designee in writing to return to work ~~[at least ten~~
14 ~~(10) days prior to the expiration of sick leave];~~
- 15 3. Is unable to return to his former position;
- 16 4. Has been given priority consideration by the appointing authority or his designee for a vacant,
17 budgeted position with the same agency, for which he qualified and is capable of performing its essential
18 functions with or without reasonable accommodation; and
- 19 5. Has not been placed by the appointing authority or his designee in a vacant position.

20 (h) Sick leave granted under this subsection shall not be renewable after the employee has been
21 medically certified as able to return to work.

22 (i) An employee who has been resigned under paragraph (g) of this subsection shall retain reinstatement
23 privileges.

24 (4) Workers' compensation.

- 1 (a) If an absence is due to illness or injury for which workers' compensation benefits are received,
2 accumulated sick leave may be used to maintain regular full salary.
- 3 (b) If paid sick leave is used to maintain regular full salary, workers' compensation pay benefits shall be
4 assigned to the state for the period of time the employee received paid sick leave.
- 5 (c) The employee's sick leave shall be immediately reinstated to the extent that workers' compensation
6 benefits are assigned.
- 7 (5) Application for sick leave and supporting documentation.
- 8 (a) An employee shall file a written application for sick leave with or without pay within a reasonable
9 time.
- 10 (b) Except for an emergency illness, an employee shall request advance approval for sick leave for
11 medical, dental or optical examinations, and for sick leave without pay.
- 12 (c) If the employee is too ill to work, an employee shall notify the immediate supervisor or the designee.
13 Failure, without good cause, to do so in a reasonable period of time shall be cause for denial of sick
14 leave for the period of absence.
- 15 (d) The appointing authority or his designee may, for good cause and on notice, require an employee to
16 supply supporting evidence in order to receive sick leave.
- 17 (e) A medical certificate may be required, signed by a licensed practitioner and certifying to the
18 employee's incapacity, examination, or treatment.
- 19 (f) The appointing authority or his designee shall grant sick leave if the application is supported by
20 acceptable evidence but may require confirmation if there is reasonable cause to question the
21 authenticity of the certificate or its contents.

22 Section 5. Family and Medical Leave.

1 (1) The appointing authority or his designee shall comply with the requirements of the Family and
2 Medical Leave Act (FMLA) of 1993, 29 U.S.C. 2601, et seq., and the federal regulations implementing
3 the Act, 29 C.F.R. Part 825.

4 ~~(2) An employee in state service shall qualify for twelve (12) weeks of unpaid family and medical leave
5 if the employee has:~~

6 ~~(a) Completed twelve (12) months of service; and~~

7 ~~(b) Worked or been on paid leave at least 1,250 hours in the twelve (12) months immediately preceding
8 the first day of family and medical leave.~~

9 ~~(3) Family and medical leave shall be awarded on a calendar year basis.~~

10 ~~(4) An employee shall be entitled to a maximum of twelve (12) weeks of accumulated annual or sick
11 leave, unpaid family and medical leave, or a combination thereof, for the birth, placement, or adoption
12 of a child.~~

13 ~~(5) While an employee is on unpaid family and medical leave, the state contribution for health and life
14 insurance shall be maintained by the employer.~~

15 ~~(6) If the employee would qualify for family and medical leave, but has an annual, compensatory or sick
16 leave balance, the agency shall not designate the leave as FMLA leave until:~~

17 ~~(a) The employee's leave balance has been exhausted; or~~

18 ~~(b) The employee requests to reserve ten (10) days of accumulated sick leave and be placed on unpaid
19 FMLA leave.]~~

20 Section 6. Court Leave.

21 (1) An employee shall be entitled to court leave during his scheduled working hours without loss of time
22 or pay for the amount of time necessary to:

23 (a) Comply with a subpoena by a court, administrative agency, body of the federal or state government,
24 or any political subdivision thereof; or

1 (b) Serve as a juror or a witness, unless the employee or a member of his family is a party to the
2 proceeding.

3 (2) Court leave shall include necessary travel time.

4 (3) If relieved from duty as a juror or witness during normal working hours, the employee shall return to
5 work or use annual or compensatory leave.

6 (4) An employee shall not be required to report as court leave attendance at a proceeding that is part of
7 his assigned duties.

8 Section 7. Military Leave.

9 (1) Upon request, an employee who is an active member of the United States Army Reserve, the United
10 States Air Force Reserve, the United States Naval Reserve, the United States Marine Corps Reserve, the
11 United States Coast Guard Reserve, the United States Public Health Service Reserve, or the Kentucky
12 National Guard shall be relieved from the civil duties, to serve under order or training duty without loss
13 of the regular compensation for a period not to exceed the number of working days specified in KRS
14 61.394 for a federal fiscal year.

15 (2) The absence shall not be charged against accumulated~~[to]~~ leave.

16 (3) Absence that exceeds the number of working days specified in KRS 61.394 for a federal fiscal year
17 shall be charged to annual leave, personal leave, compensatory leave, or leave without pay.

18 (4) The employee shall provide ~~[appointing authority or his designee may require]~~ a copy of the orders
19 requiring the attendance of the employee before ~~[granting]~~ military leave is granted.

20 (5) The appointing authority or his designee shall grant an employee entering military duty a leave of
21 absence without pay for a period of the duty not to exceed six (6) years. Upon receiving military duty
22 leave of absence, all accumulated annual, personal, and compensatory leave shall be paid in a lump sum,
23 if requested by the employee.

24 Section 8. Voting and Election Leave.

1 (1) An employee, except teachers and principals, who is eligible and registered to vote shall be allowed,
2 upon prior request and approval, four (4) hours, for the purpose of voting. Teachers and principals shall
3 not be eligible for leave for the purpose of voting.

4 (2) An election officer shall receive additional leave if the total for election day does not exceed a
5 regular workday.

6 (3) The absence shall not be charged against leave.

7 (4) A central office employee who is permitted or required to work during the employee's regular work
8 hours, in lieu of voting leave, shall be granted compensatory leave on an hour-for-hour basis for the
9 hours during the time the polls are open, up to a maximum of four (4) hours. [~~School-based employees~~
10 ~~shall receive time off to vote.~~]

11 Section 9. Special Leave of Absence.

12 (1) If approved by the associate commissioner for career and technical education, the appointing
13 authority or their designee may grant a leave of absence for continuing education or training.

14 (a) Leave may be granted for a period not to exceed twenty-four (24) months.

15 (b) If granted, leave shall be with pay if the employee enters into a service commitment contract, or
16 without pay in the absence of a service commitment contract.

17 (c) Leave shall be restricted to attendance at a college, university, vocational or business school for
18 training in subjects that relate to the employee's work and will benefit the state.

19 (2) The appointing authority or his designee [~~with approval of the secretary,~~] may grant an employee a
20 leave of absence without pay for a period not to exceed one (1) year for purposes other than specified in
21 this administrative regulation that are of tangible benefit to the state.

22 (3) The appointing authority or his designee may place an employee on special leave with pay for
23 investigative purposes for a period of time not to exceed sixty (60) working days pending an
24 investigation into allegations of employee misconduct.

1 (a) The employee shall be notified in writing by the appointing authority or his designee that he is being
2 placed on special leave for investigative purposes, and the reasons for being placed on leave.

3 (b) If the investigation reveals no misconduct on behalf of the employee, all records relating to the
4 investigation shall be purged from the Office of Career and Technical Education.

5 (c) The appointing authority or his designee shall notify the employee, in writing, of the completion of
6 the investigation and the action taken. This notification shall be made to the employee, whether the
7 employee has remained in state service, or has voluntarily resigned in the interim.

8 Section 10. Absence Without Leave.

9 (1) An employee who is absent from duty without prior approval shall report the reason for the absence
10 to the supervisor immediately.

11 (2) Unauthorized or unreported absence shall:

12 (a) Be considered absence without leave;

13 (b) Be treated as leave without pay for an employee covered by the provision of the Fair Labor
14 Standards Act; and

15 (c) Constitute grounds for disciplinary action.

16 (3) An employee who has been absent without leave or notice to the supervisor for a period of five
17 ~~(5)~~~~ten~~~~(10)~~ working days shall be considered to have resigned the employment.

18 Section 11. Absences Due to Adverse Weather.

19 (1) An employee, who is not designated for mandatory operations, and who chooses not to report to
20 work or chooses to leave early in the event of adverse weather conditions, shall have the time of the
21 absence reported as:

22 (a) Charged to annual, personal, or compensatory leave;

23 (b) Taken as leave without pay, if annual and compensatory leave has been exhausted; or

24 (c) Deferred in accordance with subsections (3) and (4) of this section.

1 (2) An employee who is on prearranged annual, personal, emergency, compensatory or sick leave shall
2 charge leave as originally requested.

3 (3) If operational needs allow, except for an employee in mandatory operations, management shall make
4 every reasonable effort to arrange schedules whereby an employee shall be given an opportunity to make
5 up time not worked rather than charging it to leave.

6 (4) An employee shall not make up work if the work would result in the employee working more than
7 forty (40) hours in a workweek.

8 (a) Except as provided in this paragraph, time lost shall be made up within one hundred and twenty-three
9 (123) days~~[four (4) months]~~ of the occurrence of the absence. If it is not made up within one hundred
10 and twenty-three (123) days ~~[four (4) months]~~, annual, personal, or compensatory leave shall be
11 deducted to cover the absence, or leave without pay shall be charged if no annual or compensatory leave
12 is available.

13 (b) If an employee transfers or separates from employment before the leave is made up, the leave shall
14 be charged to annual, personal, or compensatory leave or deducted from the final paycheck.

15 (5) If adverse weather conditions occur, and it becomes necessary for authorities to order evacuation or
16 shut down the place of employment, the provisions established in this subsection shall apply.

17 (a) An employee who is required to evacuate or who would report to a location that has been shut down
18 shall not be required to make up the time that is lost from work during the period officially declared
19 hazardous due to adverse weather conditions.

20 (b) An employee who is required to work in an emergency situation shall be compensated pursuant to
21 the provisions of Section 2 of this administrative regulation and the Fair Labor Standards Act as
22 amended.

1 (6) Adverse weather leave shall not be used by school-based employees when school is in session.

2 Adverse weather leave may be used by school-based employees under extraordinary circumstances, as
3 determined by the associate commissioner for career and technical education.

4 Section 12. Blood Donation Leave.

5 (1) An employee who, during regular working hours, donates blood at a licensed blood center certified
6 by the Food and Drug Administration shall receive four (4) hours leave time, with pay, for the purpose
7 of donating and recuperating from the donation.

8 (2) Leave granted under this section shall be used at the time of the donation unless circumstances as
9 specified by the supervisor require the employee to return to work. If the employee returns to work, the
10 unused portion of the leave time shall be credited as compensatory leave.

11 (3) An employee shall request leave in advance to qualify for blood donation leave.

12 (4) An employee who is deferred from donating blood shall not:

13 (a) Be charged leave time for the time spent in the attempted donation; and

14 (b) Qualify for the remainder of the blood donation leave.

15 (5) School-based employees shall not receive blood donation leave.

16 Section 13. Emergency Leave.

17 ~~Beginning in the 2018-2019 school year,~~ T[t]eachers and principals shall be entitled to twenty-two and
18 one-half (22.5) hours of emergency leave. (1) Emergency leave shall be credited ~~[accumulate]~~ at the
19 beginning of each school year. Any unused emergency leave in accordance with this section shall expire
20 at the end of each school year. Remaining emergency leave balances shall not be paid out upon
21 separation of an employee.

22 (a) Emergency leave shall be prorated for employees that are employed after the first day of the calendar
23 year based on the number of contract days they will have in the remainder of the calendar year.

1 (2) Emergency leave may be used due to death, illness, injury, or certain other urgent matters. Teachers
2 and principals shall give as much advance notice as possible to their supervisor prior to using emergency
3 leave.

4 (3) Emergency leave shall be used in three and three-quarter hour (3.75) increments [~~when possible~~].

5 Section 14. Eligibility for State-paid Health and Life Insurance Benefits.

6 (1) A twelve (12) month employee [~~who~~] is eligible for state-paid life insurance benefits under the
7 provisions of KRS Chapter 156 if they [~~shall~~] have worked or been on paid leave or family and medical
8 leave, other than educational leave, during any part of the previous month.

9 (2) A twelve (12) month employee [~~who~~] is eligible for state-paid health insurance benefits under the
10 provisions of KRS Chapter 156 if they [~~shall~~] have worked or been on paid leave or family and medical
11 leave, other than educational leave, during any part of the previous pay period.

12 (3) A teacher or principal [~~who~~] is eligible for state-paid life insurance benefits under the provisions of
13 KRS Chapter 156 if they [~~shall~~] have worked or been on paid leave or family and medical leave, other
14 than educational leave, during any part of the previous month, except between the last day of school of
15 the previous year and first day of school of the following year.

16 (4) A teacher or principal [~~who~~] is eligible for state-paid health benefits under the provisions of KRS
17 Chapter 156 if they [~~shall~~] have worked or been on paid leave or family and medical leave, other than
18 educational leave, during any part of the previous pay period, except between the last day of school of
19 the previous year and first day of school of the following year.

20 (5) A teacher or principal [~~who~~] is eligible for state-paid health and life insurance benefits under the
21 provisions of KRS Chapter 156 and shall be entitled to state-paid health and life insurance benefits
22 between the last day of school of the previous year and first day of school of the following year.

23 (6) If an employee is unable to work and uses paid leave to qualify for state-paid health and life
24 insurance benefits, the employee shall use paid leave days consecutively.

- 1 (26 Ky.R. 2158; Am. 27 Ky.R. 102; eff. 7-17-2000; 35 Ky.R. 1858; 2230; eff. 5-1-2009; 36 Ky.R. 928;
- 2 1-4-2010; 44 Ky.R. 672, 929; eff. 12-1-2017.)

This is to certify that the chief state school officer has reviewed and recommended this administrative regulation prior to its adoption by the Kentucky Board of Education, as required by KRS 156.070(5).

(Date)

Robbie Fletcher, Ed. D.
Commissioner of Education

(Date)

Sharon Porter Robinson
Kentucky Board of Education Chairperson

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on XX, 2024 at 10:00 a.m. Eastern Time, in the State Board Room, Fifth Floor, 300 Sower Boulevard, Frankfort, Kentucky 40601. Individuals interested in being heard at this meeting shall notify this agency in writing by five workdays prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be canceled. This hearing is open to the public. Any person who wishes to be heard will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may want to submit written comments on the proposed administrative regulation. Written comments shall be accepted through XX, 2024. Send written notification of intent to be heard at the public hearing or written comments on the proposed administrative regulation to the contact person.

Contact person: Todd G. Allen, General Counsel, Kentucky Department of Education, 300 Sower Boulevard, 5th Floor, Frankfort, Kentucky 40601, phone 502-564-4474, fax 502-564-9321, email regcomments@education.ky.gov

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

780 KAR 3:072

Contact Person: Todd Allen

Phone: 502-564-4474

Email: todd.allen@education.ky.gov

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation establishes the requirements governing attendance, compensatory time, and annual, personal, court, military, sick, voting and special leaves of absence for certified and equivalent staff of state-operated area technology centers.

(b) The necessity of this administrative regulation: KRS 156.808 requires the Kentucky Board of Education to promulgate personnel policies and procedures for all certified and equivalent staff, including administrative, teaching, and supervisory staff in the Office of Career and Technical Education central office and state-operated area technology centers.

(c) How this administrative regulation conforms to the content of the authorizing statutes: This administrative regulation provides that policies and procedures for all certified and equivalent staff, including administrative, teaching, and supervisory staff in the Office of Career and Technical Education central office and state-operated area technology centers shall be provided by the Kentucky Board of Education.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation establishes the policies and procedures for attendance, compensatory time, and annual, personal, court, military, sick, voting and special leaves of absence for certified and equivalent staff of state-operated area technology centers.

(2) If this is an amendment to an existing administrative regulation, provide a brief summary of:

(a) How the amendment will change this existing administrative regulation: This amendment will update the existing regulation to parallel the statute and will clarify the specific policies and procedures of the Kentucky Board of Education to govern the state-operated area technology centers.

(b) The necessity of the amendment to this administrative regulation: Changes were made to KRS 156.808; consequently, the administrative regulation should be updated as well. Additionally, this regulation has not been updated in many years and needs to be revised, from the attendance practices to how the Office of Career and Technical Education handles compensatory, personal, and emergency leave for certified and equivalent employees.

(c) How the amendment conforms to the content of the authorizing statutes: This amendment provides conformity with the authorizing statute, KRS 156.808 by aligning to the policies and procedures implemented for area technology center certified and equivalent staff.

(d) How the amendment will assist in the effective administration of the statutes: This administrative regulation amendment aligns details in the regulation to statute language.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: All certified and equivalent staff in the Office of Career and Technical Education state-operated area technology centers will be affected by this administrative regulation.

(4) Provide an analysis of how the entities identified in question (3) will be impacted by either the implementation of this administrative regulation, if new, or by the change, if it is an amendment, including:

(a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment: There will be no additional action needed from any certified or equivalent staff from the Office of Career and Technical Education state-operated area technology centers to comply with this administrative regulation. Amendments reflect current operations within the Department of Education.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): This change to the administrative regulation requires no additional direct costs to any certified or equivalent staff from the Office of Career and Technical Education state-operated area technology centers.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): As a result of compliance, all certified and equivalent staff of the Office of Career and Technical Education will benefit by having access to pertinent information regarding annual, personal, and emergency leave provisions.

(5) Provide an estimate of how much it will cost the administrative body to implement this administrative regulation:

(a) Initially: This amendment requires no additional cost.

(b) On a continuing basis: This amendment requires no additional cost.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: State generated funds.

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment: No increased fees or funding are anticipated as a result of this regulation amendment.

(8) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees: No increased fees or funding are anticipated as a result of this regulation amendment.

(9) TIERING: Is tiering applied? (Explain why or why not) Tiering was not appropriate in this administrative regulation because the administrative regulation applies equally to the Office of Career and Technical Education and all state-operated area technology centers.

FISCAL IMPACT STATEMENT

780 KAR 3:072

Contact Person: Todd Allen

Phone: 502-564-4474

Email: todd.allen@education.ky.gov

(1) Identify each state statute, federal statute, or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 156.808

(2) Identify the promulgating agency and any other affected state units, parts, or divisions: The Department of Education, secondary state-operated area technology centers

(a) Estimate the following for the first year:

Expenditures: \$0

Revenues: \$0

Cost Savings: \$0

(b) How will expenditures, revenues, or cost savings differ in subsequent years? The amendment to this regulation does not result in any new expenditures, revenues, or cost savings.

(3) Identify affected local entities (for example: cities, counties, fire departments, school districts): none

(a) Estimate the following for the first year:

Expenditures: \$0

Revenues: \$0

Cost Savings: \$0

(b) How will expenditures, revenues, or cost savings differ in subsequent years? The amendment to this regulation does not result in any new expenditures, revenues, or cost savings.

(4) Identify additional regulated entities not listed in questions (2) or (3): The amendment to this regulation does not impact any additional regulated entities.

(a) Estimate the following for the first year:

Expenditures: \$0

Revenues: \$0

Cost Savings: \$0

(b) How will expenditures, revenues, or cost savings differ in subsequent years? The amendment to this regulation does not result in any new expenditures, revenues, or cost savings.

(5) Provide a narrative to explain the:

(a) Fiscal impact of this administrative regulation: The amendment to this regulation does not result in any new expenditures, revenues, or cost savings.

(b) Methodology and resources used to determine the fiscal impact: The amendment to this regulation does not result in any new expenditures, revenues, or cost savings.

(6) Explain:

(a) Whether this administrative regulation will have an overall negative or adverse major economic impact to the entities identified in questions (2) - (4). (\$500,000 or more, in aggregate) The amendment to this regulation will not have an overall negative or adverse economic impact on any identified entities.

(b) The methodology and resources used to reach this conclusion: The amendment to this regulation will not have an overall negative or adverse economic impact on any identified entities.