

# PERSONNEL REGULATIONS MANUAL

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## SECTION 4

### ATTENDANCE AND LEAVE

#### 4.01 Scope and Purpose

This section sets forth the regulations governing the attendance and leave of employees in the State Courts System with the exception of those employees designated as personal staff to judicial officers of appellate courts and employees designated as exempt.

#### 4.02 Definitions

For the purpose of administering these regulations, the following words and terms shall have the meanings indicated:

**Administrative Leave** - Authorized leave of absence with pay not chargeable against an employee's accrued leave credits.

**Annual Leave** - Authorized leave of absence with pay granted an employee for vacation or other personal reasons.

**Continuous Service** - Uninterrupted service in a regular established position during which the employee is in pay status or on an approved leave of absence.

**County Funded Employee** – An employee on a county payroll who is, or was at one time, compensated with county funds while working under the direction of a judge or trial court administrator or in a unit under the supervision of a judge trial court administrator, or designee.

**Creditable Service** – Service credit awarded an employee for each calendar month the employee is in an established position on the payroll of a state entity or during which the employee is on authorized leave without pay from that position. This does not include time spent as a county funded employee.

**Deferred Retirement Option Program (DROP)** - The program created by Section 121.091(13), Florida Statutes, effective July 1, 1998, for eligible employees who retire and elect to defer their retirement benefits while continuing employment for up to 60 months.

**Eligible Service** - For the purpose of annual leave accrual only, this is service during which the employee is filling an authorized position on the state or county payroll of a state court, a state agency, or during which the employee is on authorized leave without pay from any of these entities.

**Excluded Position** - A position that is designated as exempt from specific provisions of the Fair Labor Standards Act and, therefore, is not eligible for overtime pay for hours worked in excess of 40 in a workweek.

**FLSA** - The Fair Labor Standards Act. This federal law sets minimum wage, overtime pay, equal pay, record-keeping, and child labor standards for employees who are covered.

**FMLA** - The Family and Medical Leave Act. This federal law sets forth conditions under which an employer must provide family medical leave.

**Family Medical Leave** - Leave of absence granted to an employee at the time of a serious health condition affecting the employee or family member.

**Grandfathered Service** - Service during which time an employee occupied a position funded by a county or municipality prior to transfer to an authorized state funded position due to the 1972 revision of Article V.

**Health Care Provider** - For the purposes of the FMLA a doctor of medicine or osteopathy who is authorized to practice medicine or surgery by the state in which the doctor practices, or any other person determined by the Secretary of the U.S. Labor Department to be capable of providing health care services.

**Immediate Family** - Immediate family is defined as the spouse, grandparents, parents, brothers, sisters, children and grandchildren of both the employee and the spouse.

**Included Position** - A position that is subject to the provisions of the Fair Labor Standards Act and, therefore, entitled to compensation for all hours worked in excess of 40 in a workweek.

**Leave of Absence Without Pay** - Authorized leave of absence granted an employee for which the employee receives no pay.

**Officer** - The Clerk and Marshal of the Supreme Court and the Clerks and Marshals of the five District Courts of Appeal.

**Parental Leave** - Leave of absence with or without pay granted to a father or a mother for the birth of or placement of a child.

**Regular Compensatory Leave Credits** - Leave credits granted to an excluded employee on an hour for hour basis for actual hours worked in excess of 40 in a workweek.

**Regular Hourly Rate of Pay** - Annual salary including competitive area differentials, shift differentials, and lead worker pay, divided by 2080 hours.

**Serious Illness** - An illness, injury, impairment, or physical or mental condition that involves in-patient care in a hospital, hospice, or residential medical care facility, or continuing treatment by a health care provider.

**Sick Leave** - Authorized leave of absence with pay granted an employee for illness or injury of the employee or a member of the employee's immediate family.

**Son or Daughter** - For parental and family leave purposes is a biological, adopted, or foster child, a step-child, a legal ward, or a child of a person standing in place of a parent (loco parentis) who is under 18 years of age. If the child is incapable of self-care because of a mental or physical disability the age requirement does not apply.

**Special Compensatory Leave Credits** - Leave credits granted to an included employee at a rate of one and one half hours of compensatory time for each hour in excess of 40 worked in the workweek.

**State Agency** - Any organization or entity in the executive or legislative branch of Florida state government, including the State University System.

**Unauthorized Leave** - Any leave of absence taken without the approval of the proper authority.

#### 4.03 Statements of Policy

1. No court shall operate on less than a 40-hour workweek, except as provided in Section 4.07 which authorizes specific holidays and other activities within the workweek.
2. The workweek for each full-time employee shall be 40 hours during a given 7-day period.
3. Employees in positions included under the Fair Labor Standards Act (FLSA) shall receive compensation for all actual hours of work in excess of 40 in a workweek. Employees in FLSA included positions shall not be required or permitted by their supervisors to work overtime except in emergency situations. Emergency situations are defined as:
  - A. Where an established post of duty must be covered 24 hours per day, and an employee is not available to cover that post on a given shift;
  - B. When danger to the life, health, or well-being of the public, employees, patients, inmates or other persons could occur if an employee is not required to be on duty, or where danger to property is imminent;
  - C. Other situations where the chief judge and/or administrator determines that the direct or indirect statutory responsibility prescribed for the court cannot be accomplished, unless overtime work is authorized.
4. Supervisors are responsible for complying with the provisions of the Fair Labor Standards Act and shall not require or permit included employees to work hours

in excess of 40 in a workweek without compensation. Supervisors are responsible for adjusting the workweek for an included employee to avoid overtime when possible.

5. For FLSA excluded positions, hours worked in excess of 40 in a workweek may be compensated for by granting regular compensatory leave.
6. The granting of any leave of absence with or without pay shall be approved by the proper authority within the court, circuit, or support office. An employee who is granted a leave of absence without pay shall be an employee of the State Courts System while on said leave, and shall be returned to the same position or a different position in the same class and same work location upon termination of the approved leave of absence, unless the employer and the employee agree in writing to other conditions and terms under which such leave is to be granted.
7. Any leave of absence with or without pay must be approved prior to the leave being taken, except in the case of an emergency where the employee must be absent prior to receiving approval from the proper authority for the absence.

When prior approval cannot be obtained by the employee due to such emergencies, the employer shall take one of the following actions:

- A. Grant the employee leave with pay provided the employee has sufficient accrued leave credits to cover the absence;
  - B. Place the employee on leave without pay for the absence.
8. Regardless of the amount of leave originally approved, including administrative leave, the employee will only be charged with or granted the amount of leave necessary to bring the employee's hours up to 40 for the workweek.

#### 4.04 Hours of Work

1. Forty hours shall constitute a workweek. A 40-hour workweek will normally consist of five days of eight hours each with an unpaid lunch period. Work schedules of other than five eight hour days may be approved by the chief judge or his or her designee; however, all full-time employees must account for 40 hours each workweek. The workweek begins at 12:01 a.m. each Friday and ends at 12:00 midnight the following Thursday.
2. An employee filling an FLSA included position must be compensated for all actual hours worked. Hours worked include:
  - A. the time an employee is required to perform principal activities related to the job on the employer's premises or at the prescribed work place, and

- B. the time an employee performs work with the knowledge of the employer even if no order to work has been given.
- 3. Employees who are filling FLSA excluded positions are compensated based on the assumption that extended work days and/or workweeks may be required in accomplishing the normal assignments of the position. However, these employees shall be eligible to accrue regular compensatory leave on an hour-for-hour basis for each hour worked in excess of 40 in a given workweek up to a maximum of 240 hours.
- 4. Full-time employees shall be required to be present on their assigned job for the total hours in the established work day and workweek unless absence from duty is authorized by the appropriate authority in accordance with the provisions of this section.
- 5. Part-time employees shall be required to be present on their assigned jobs for the total number of hours for which they are being compensated unless absence from duty is authorized by the appropriate authority in accordance with the provisions of this section.
- 6. Required attendance at job related training courses, conferences, or other meetings shall be considered as hours worked.
- 7. Travel to and from an employee's home to an employee's regularly assigned headquarters shall not be counted as hours worked.
- 8. If an employee is called back to the work location beyond the employee's scheduled hours of work for that day, the employee shall be credited for actual time worked, including travel time, or a minimum of two hours of work, whichever is greater.
- 9. When an employee is on official business, travel time which occurs during the employee's normal hours of work or regular days off shall be considered as hours worked. Time spent in travel beyond the normal work day on the first and last day of such travel shall be considered as hours worked.

#### 4.05 Record-Keeping

- 1. All records of hours worked and leave taken must be in accordance with the provisions of the Fair Labor Standards Act and the Family and Medical Leave Act.
- 2. Each supervisor is required to keep an accurate record of all hours worked and all leave taken for each included employee under his or her supervision. Each included employee is required to record all hours worked and leave taken using the State Courts System Attendance and Leave Report form or a form approved by the Office of Personnel Services.

3. Each excluded employee is required to keep a record which must be approved by the supervisor, of all hours of work for which they are due compensation and an accurate record of leave taken.
4. The responsibility for the proper maintenance of all attendance and leave records rests with the chief judge or designee. All such records must be retained for a minimum of 3 years and may be disposed of after that period of time, provided applicable audits have been released.

#### 4.06 Overtime: Accrual and Payment

1. Overtime is defined as the hours of actual work, excluding holidays and leave with pay, in excess of 40 hours during the established workweek.
2. In applying the overtime provisions of this section, every employee must be designated as filling either a "FLSA included position" or "FLSA excluded position." This determination shall be based on the designation of the employee's class made by the Office of the State Courts Administrator.
3. Overtime worked by an employee filling an FLSA included position shall be compensated in accordance with the following provisions:
  - A. Full-time employees shall be compensated at one-and-one-half times the employee's regular hourly rate of pay for all hours in excess of 40 in the workweek.
  - B. The employee may receive, in lieu of overtime compensation, special compensatory time at a rate not less than one-and-one-half hours for each hour worked in excess of 40 hours in the workweek. If the employee elects to accept special compensatory time, an agreement or understanding between the employee and the supervisor must be arrived at in writing before the performance of the work. The employee shall be permitted to use special compensatory time within a reasonable period after making the request if the use of the special compensatory time off does not unduly disrupt the operations of the office.
  - C. Part-time employees shall be compensated at their hourly rate for all hours worked above their regularly scheduled hours in a month with the following exception: all hours worked by an included employee in excess of 40 in a workweek shall be compensated in accordance with 4.06(3)(A) or (B).
4. Overtime worked by an employee filling a FLSA excluded position shall be compensated in accordance with the following provisions:

- A. Full-time employees shall be compensated with regular compensatory credits on an hour-for-hour basis for all hours in excess of 40 in a workweek.
  - B. Part-time employees shall be compensated at their hourly rate for all hours worked above their regularly scheduled hours in a month with the following exception: all hours worked by an excluded employee in excess of 40 in a workweek shall be compensated in accordance with 4.06(4)(A).
5. No employee shall be allowed to accrue more than 240 hours of either regular or special compensatory leave credits.
  6. Cash payment for overtime worked shall be made no later than the pay period immediately following the pay period during which the overtime was worked and must be made from authorized funds for salaries.
  7. Upon enrollment in the DROP, an employee may request payment of any unused special compensatory leave that was earned within 11 months prior to entry into the DROP.
  8. Upon the separation of a State Courts System employee, unused compensatory leave shall be handled as follows:
    - A. An employee filling an FLSA included position shall be paid for all unused special compensatory leave credits by the separating court or support office at the employee's regular hourly rate of pay at the time of termination.
    - B. An employee filling an FLSA excluded position shall forfeit all unused regular compensatory leave credits at the time of separation.

#### 4.07 Holidays

1. The following holidays shall be observed by all courts, circuits, or support offices:

New Year's Day	Independence Day
Veterans Day	Christmas Day
Martin Luther King's Birthday	Labor Day
Thanksgiving Day	
Memorial Day	
Friday after Thanksgiving	

- A. Memorial Day shall be observed on the last Monday of May; Labor Day shall be observed on the first Monday in September; and Martin Luther King, Jr.'s birthday shall be observed on the third Monday in January.
  - B. If any of these holidays fall on Saturday, the preceding Friday shall be observed as a holiday; if any of these holidays fall on Sunday, the following Monday shall be observed as a holiday.
2. The Chief Justice may designate any other one workday as a holiday for Supreme Court employees, and each chief judge may designate any other one workday as a holiday for employees under their jurisdiction.
  3. The Chief Justice and each chief judge is authorized to designate Rosh Hashanah, Yom Kippur, and Good Friday as legal holidays for the courts within their jurisdiction. If the holidays are so designated, courts may remain closed and those days will be holidays for persons employed by the court.
  4. Each employee shall be given all holidays designated if the workload of the court or support office is such that the employee's work can be discontinued. However:
    - A. If the holiday falls on the employee's regular work day and the employee is required to work, the employee shall be credited with annual leave equal to the time worked on the holiday not to exceed the number of hours in the employee's regular workday.
    - B. If the holiday is observed on the employee's regular day off and the employee is not required to work, the employee shall be credited with annual leave equal to the number of hours in the employee's regular workday not to exceed 8 hours.
    - C. If the holiday is observed on the employee's regular day off and the employee is required to work, the number of hours worked on the holiday shall be counted as hours worked and the employee shall also be credited with annual leave equal to the number of hours in the employee's regular workday not to exceed 8 hours.
  5. Employees who are on approved leave with pay when holidays occur shall not have such days charged against their accrued leave credits.
  6. In order for an employee to receive compensation for a holiday from the State Courts System, he or she must be in a pay status with the State Courts System the workday immediately prior to the observance of the holiday.
  7. Each employee occupying a regular full-time established position with at least six months of continuous state service shall be eligible for one eight-hour

personal leave day each fiscal year (July 1 - June 30). The personal holiday must be used by June 30 each year, or forfeited.

#### 4.08 Annual Leave

##### 1. Method of Earning Annual Leave:

- A. All employees who are covered by these regulations shall earn annual leave as follows:

**Table 1 - Annual Leave Earned**

Eligible Hours of Leave	
Service	Earned per Month
Up to 5 Years (through 60 months)	8 hours, 40 minutes (8.667 hours)
5 to 10 Years	10 hours, 50 minutes (10.833 hours)
Over 10 Years	13 Hours

- B. In applying the above table, it shall be determined that the employee has sufficient eligible service before the higher annual leave credits are granted.
- C. The employee shall earn higher leave credits beginning with the first day of the pay period during which the employee completes 5 or 10 years of eligible service.
- D. Regular part-time employees shall earn annual leave credits proportionate to the FTE of their position. Full-time employees who work less than a full month shall also earn leave in accordance with the following chart.

**Table 2 - Earned Leave**

Hours Actually Worked	0 to 5 Years	5 to 10 Years	Over 10 Years
Less than 36	0	0	0
36 to 70	2.167	2.708	3.250
71 to 103	4.333	5.417	6.500
104 to 138	6.500	8.125	9.750
139 or more	8.667	10.833	13.000

- E. Annual leave earned during any pay period shall be credited to the employee on the last day of that pay period or, in the case of separation, on the last day the employee is on the payroll.
- F. During leaves of absence with pay, an employee shall continue to earn annual leave credits except in the case where an employee is granted educational leave with pay.
- G. Each supervisor should make every effort to ensure that earned annual leave is used on a current yearly basis in order to provide employees with vacation opportunities. By following this practice, employees will not normally accrue annual leave in excess of that earned each year.
- H. Any unused annual leave in excess of 360 hours shall be canceled as of the close of business on December 31. On January 1 of each year, the canceled annual leave credits shall be converted to sick leave credits on an hour-for-hour basis and added to the employee's sick leave balance.
- I. DROP participants shall accrue annual leave in the same manner and at the same rate as prior to entering the DROP.

2. Use of Earned Annual Leave

- A. Annual leave should be used to provide periodic vacations; however, earned annual leave credits may be used for any other purpose when authorized by the supervisor.
- B. Use of annual leave shall not be authorized prior to the time it is earned and credited to the employee and shall only be used with the approval of the supervisor.
- C. An employee who has accrued regular compensatory leave credits shall be required to use such leave before using accrued annual leave credits.
- D. An employee who uses annual leave in an amount of time which is less than a full hour shall be charged with such leave to the closest quarter of an hour based on the chart below:

**Table 3- Annual Leave Time Charged**

Minutes Used	Time Charged	
	Minutes	Quarter Hour
0 to 7	0	0
8 to 22	15	.25

	Time Charged	
23 to 37	30	.50
38 to 52	45	.75
53 to 60	60	1.00

- E. Upon reasonable notice, a supervisor may require any employee to use any part of the employee's accrued annual or compensatory leave at any time the supervisor deems it advisable.

### 3. Transfer of Earned Annual Leave

- A. An employee who moves from one leave accruing position in the State Courts System to another leave accruing position in the State Courts System shall be credited with the employee's unused annual leave by the receiving court, circuit, or support office.
- B. An employee who moves from a position in state government outside the State Courts System to a leave accruing position within the State Courts System shall be credited by the receiving court or support office with all unused and unpaid annual leave. Such employees shall be eligible for annual leave credits as provided in Section 4.08(1)(A) provided the receiving court/support office determines that the employee has sufficient eligible service.
- C. An employee who moves from a position on the county payroll of a state court may be credited with up to 80 hours of documented unused annual leave by the receiving court.
- D. An employee who moves from a leave accruing or non leave accruing position in the State Courts System to a position in state government outside the State Courts System shall have all unused annual leave transferred to the receiving agency. If the agency disapproves the transfer of unused annual leave credits in writing, the employee shall then be eligible for lump sum payment of annual leave credits in accordance with the provisions of Section 4.08(4).
- E. An employee who moves from a leave-accruing position to a non leave accruing position, within the State Courts System, shall have the option of receiving payment for any unused annual leave or having the leave held in abeyance by the terminating court until separation from the state or transfer to a position that accrues leave. In the event of payment by a court, such payment shall be based upon the employee's last rate of pay while in a position that accrued leave.

- F. An employee within the State Courts System who is appointed to a position as an officer shall be paid for all unused annual leave credits at the time of appointment.
- G. An employee who moves from a position in state government outside the State Courts System to a non leave accruing position, including a position as an officer, in the State Courts System may not be credited by the receiving court or support office with unused annual leave. The employee shall request payment from the separating agency.

#### 4. Payment for Earned Annual Leave

- A. An employee can be paid for unused annual leave not to exceed 360 hours after 6 months of satisfactory and continuous eligible service upon separation from state government, or as outlined in Section 4.08(4)(D) and (E). Such payment shall be made at the employee's current rate of pay by the court, circuit, or support office from which the employee terminates.
- B. In case of the death of an employee, payment for all unused annual leave at the time of death shall be made to the employee's beneficiary, estate, or as provided by law. Such payments shall be made at the rate of pay at the time of death and by the court, circuit or support office in which the employee was last employed.
- C. Annual leave payments due an employee must be supported by full documentation of unused leave balances.
- D. Annual leave payments due employees shall be computed as follows:
  - 1. Determine the current hourly rate by multiplying the monthly salary (including applicable competitive area differentials) by 12 and dividing by 2080 hours.
  - 2. Multiply the number of unused annual leave hours rounded to the nearest quarter hour times the current hourly rate.
- E. All such payment for accrued annual leave shall be made in lump sum, and the employee shall not be carried on the payroll beyond the last day of actual work.
- F. Payment of unused annual leave for DROP Participants:
  - 1. Employees electing to participate in DROP may request payment of up to 360 hours of accrued annual leave at the time of their enrollment in the DROP. Hours in excess of 360 hours will be carried forward. However, employees electing payment of this leave are not eligible for any accrued annual leave payment upon separation from service, except to the extent the

employee has earned additional annual leave which combined with the hours of the original payment does not exceed 360 hours.

2. Employees electing to defer their payment of annual leave until separation from service will be paid for any accumulated annual leave up to 360 hours.

#### 4.09 Sick Leave

##### 1. Method of Earning Sick Leave

- A. All full-time employees covered by these regulations shall earn 8 hours and 40 minutes (8.667 hours) of sick leave for each full calendar month of employment.
- B. Regular part-time employees shall earn sick leave credits proportionate to the FTE of their position. Full-time employees who work less than a full month shall also earn leave in accordance with the chart below.

**Table 4 – Sick Leave Earned**

<b>Hours Actually Worked</b>	<b>Hours Earned</b>
Less than 36	0
36 to 70	2.167
71 to 103	4.333
104 to 138	6.500
139 or more	8.667

- C. During a leave of absence with pay, an employee shall continue to earn sick leave credits except when an employee is granted educational leave with pay.
- D. Sick leave earned during any pay period shall be credited to the employee on the last day of that pay period or, in the case of separation, on the last day the employee is on the payroll.
- E. There shall be no limit to the number of hours of unused sick leave an employee may accrue.
- F. DROP participants shall accrue sick leave in the same manner and at the same rate as prior to entering the DROP.

## 2. Use of Earned Sick Leave

- A. Use of sick leave shall not be authorized prior to the time it is earned and credited to the employee and shall only be used with the approval of the supervisor.
- B. When using sick leave the employee shall be required to first use any sick leave credits accrued prior to October 1, 1973.
- C. Sick leave shall be authorized only for the following purposes:
  - 1. The illness, including the exposure to a contagious disease, or injury, of the employee or a member of the employee's immediate family;
  - 2. The appointments with a doctor, dentist, or other recognized practitioner of the employee or a member of the employee's immediate family;
  - 3. In conjunction with parental leave as provided in Section 4.14(1)(D).
- D. Notification of the required use of sick leave shall be given to the appropriate supervisor by the employee or the employee's representative as soon as possible on the first day of absence.
- E. Prior to authorizing an employee to use sick leave credits, the employee's supervisor may require the employee to provide doctor's certification that the absence was for reasons as outlined in Section 4.09 (2)(C). An employee who fails to provide appropriate certification shall not be eligible to use accrued sick leave credits, and any absence from work shall be treated as leave without pay or covered by annual leave credits at the discretion of the supervisor.
- F. While on approved annual leave should an employee become ill, sick leave credits may be used to cover the period of illness subject to the provisions of Section 4.09(2)(C). An employee who is on any other type of leave with or without pay shall not be allowed to use sick leave credits while on such leave, except that an employee on parental leave may use sick leave credits for any reason as provided in Section 4.14(1)(D).
- G. An employee who has accrued compensatory leave credits may be allowed, at the discretion of the employer, to use such leave before using accrued sick leave credits.
- H. An employee who uses sick leave in an amount of time which is less than a full hour shall be charged with such leave to the closest quarter of an hour based on the chart below:

**Table 5 - Sick Leave Time Charged**

<b>Minutes Used</b>	<b>Time Charged</b>	
	<b>Minutes</b>	<b>Quarter Hour</b>
0 to 7	0	0
8 to 22	15	.25
23 to 37	30	.50
38 to 52	45	.75
53 to 60	60	1.00

**3. Donation of Sick Leave**

- A. An employee may donate a portion of his or her sick leave to another employee of the State Courts System who is unable to work due to serious illness or accident and who has exhausted all annual, sick, and compensatory leave.
- B. Each request to receive donated sick leave shall be made to the Chief Judge of the employee's court. The Chief Judge may then notify other employees of the request for donors. Employees are under no obligation to donate sick leave to other employees. No employee shall solicit a donation of sick leave directly from another employee.
- C. The total number of hours contributed to the affected employee by any one individual is at the discretion of the donating individual. However, the total number of hours contributed to the affected employee may not exceed 480 hours without the approval of the Chief Justice.
- D. An employee shall not be allowed to donate unused or unpaid sick leave from his or her sick leave balance at the time of retirement or termination from state government.
- E. Donation of sick leave must be approved by the Chief Judge or Chief Justice at his or her discretion in accordance with the provisions of this Section. Records of any approved donation shall be maintained by the Chief Judge or designee.

**4. Transfer of Unused Sick Leave**

- A. An employee who moves from one leave-accruing position to another leave-accruing position within the State Courts System or who moves from a leave-accruing position in state government outside the courts system to a leave-accruing position in the courts system, shall be credited with unused sick leave by the receiving court.

- B. An employee who is appointed to the State Courts System from a position on the county payroll of a state court may be credited with up to 320 hours of documented unused sick leave.
- C. When an employee moves from a leave-accruing or non leave-accruing position in the State Courts System to a position in state government outside the State Courts System, sick leave credits shall be transferred in accordance with the receiving agency's rule governing sick leave.
- D. Any employee of a municipal or county court who was grandfathered in as a state employee as a result of the 1972 revision of Article V of the State Constitution shall be given credit for all documented unused sick leave balances earned while employed with such county or municipal court except to the extent that these balances exceed that which would have been accrued as an employee of the State Courts System in accordance with Section 4.09(1).
- E. An employee who moves from a leave-accruing position to a non leave-accruing position within the State Courts System, shall have all unused sick leave held in abeyance until termination from state government or transfer to a position that accrues leave.
- F. An employee who moves from a leave-accruing position in state government outside the State Courts System to a non leave-accruing position, excluding a position as an officer, shall have all unused sick leave held in abeyance by the receiving court until termination or transfer to a position that accrues leave.
- G. An employee within the State Courts System who is appointed to a position as an officer shall be paid for all unused sick leave credits at the time of appointment, provided the employee has completed 10 or more years of eligible state service.
- H. An employee who moves from a position in state government outside the State Courts System to a position as an officer of the court may not be credited by the receiving court with unused sick leave and shall request payment from the separating agency.

#### 5. Forfeiture of Unused Sick Leave

- A. An employee who has less than 10 years of creditable service and separates from state government shall forfeit all unused sick leave credits.
- B. An employee shall forfeit all rights to benefits under Section 4.09(6) if, prior to retirement, termination from state government, or death, the employee:

1. Is found guilty in a court of competent jurisdiction of committing, aiding, or abetting any embezzlement, or theft from the employee's employer, or bribery in connection with state employment;
2. Has admitted to committing, aiding, or abetting any embezzlement, theft, or bribery in connection with state government;
3. Is found guilty by a court of competent jurisdiction of having violated any state law against strikes by public employees.

#### 6. Payment for Unused Sick Leave

- A. An employee who separates from state government with a total of 10 or more years of creditable service in an authorized position on the payroll of a state court, state agency, or during which the employee is on authorized leave without pay shall be paid for any unused sick leave credits in accordance with Section 4.09(6)(D). Creditable service can be continuous or intermittent. Such service shall also include grandfathered service under the 1972 revision to Article V of the Florida Constitution. A re-employed retiree must accumulate a new total of (10) ten years of creditable state service to be eligible for sick leave payment upon termination.
- B. If employment is terminated as a result of any act defined in Section 4.09(5)(B), the employee shall not be paid for any unused sick leave credits even though the employee has completed 10 years of creditable state service.
- C. The only conditions under which an employee shall be paid for unused sick leave credits are when the employee:
  1. Has completed 10 or more years of creditable service as described in Section 4.09(6)(A), and has separated from state government or has been appointed as an officer; or
  2. Separates from state government because of retirement for reasons other than disability, or termination, or death. In the case of death, payment for accrued unused sick leave credits shall be made to the employee's beneficiary, estate, or as otherwise provided by law.
- D. An employee who is eligible for payment for unused sick leave credits shall be compensated at the employee's current hourly rate of pay for:
  1. One-eighth of all unused sick leave credits accrued prior to October 1, 1973, rounded to the nearest quarter hour; plus

2. One-fourth of all unused sick leave credits not to exceed 480 hours accrued after October 1, 1973, rounded to the nearest quarter hour.
- E. All such payments for unused sick leave shall be lump sum payments, and the employee shall not be carried on the payroll beyond the last official day of employment.

#### 4.10 Disability Leave

##### 1. Disability Leave with Pay

- A. An employee who sustains a job-connected disability that is compensable under the Worker's Compensation Law shall be carried in full pay status for a period not to exceed the seven calendar days immediately following the injury, or for a maximum of 40 work hours if taken intermittently, without being required to use accrued leave credits. If the employee receives Worker's Compensation salary benefits for this period of leave with pay, the employee shall reimburse the agency in that amount. Such reimbursement shall not include payments for medical, surgical, hospital, nursing, or related expenses, or lump sum or scheduled payments of disability losses.
- B. If, as a result of a job connected disability, the employee is unable to resume work at the end of the period provided in paragraph (a) of this subsection:
1. The employee may elect to use accrued sick, compensatory, or annual leave in an amount necessary to receive salary payment that will increase the Worker's Compensation payments to the total gross salary being received prior to the occurrence of the disability. In no case shall the employee's salary and Worker's Compensation benefits exceed the amount of the employee's regular gross salary payments;
  2. If the employee elects not to use accrued leave or after the employee has exhausted all earned leave in accordance with the paragraph above, the employee shall be placed on leave without pay and shall revert to normal Worker's Compensation benefits; or
  3. The employee's case may be reviewed by a physician appointed and paid by the court, circuit, or support office, and the agency shall determine the action it wishes to take regarding the matter. If the decision of the employer is to carry the employee with no loss of pay, the employee shall continue to receive salary payments to supplement the Worker's Compensation received to equal leave with full pay.

- C. The employee shall continue to earn and accrue full leave credits as long as the employee is carried in pay status under Sections 4.10(1)(B)1. or while receiving Worker's Compensation payments as provided in Section 4.10(1)(B)3.

#### 4.11 Administrative Leave

##### 1. Use of Administrative Leave

Administrative leave shall only be used as authorized in this section. Administrative leave shall not be granted except on an employee's regular workday and shall not exceed the number of hours in the employee's normal workday. Hours granted as administrative leave shall not be included as hours worked for the purpose of computing overtime.

##### 2. Court

- D. An employee who is summoned as a member of a jury panel shall be granted administrative leave with pay for all hours required for such duty not to exceed the number of hours in the employee's normal workday. If the jury duty does not require the employee's absence for the entire day, the employee shall return to work immediately upon release by the court. If the employee's court attendance does not coincide with the employee's regular work schedule, the employee shall be granted administrative leave based on the total hours served on jury duty, not to exceed the number of hours in the employee's regular workday. Such leave shall be granted on the employee's next scheduled work shift. Any jury fees shall be retained by the employee. The state shall not reimburse the employee for meals, lodging, and travel expenses incurred while serving as a juror.
- E. An employee subpoenaed as a witness in a court or an administrative hearing, not involving personal litigation or service as a paid expert witness, shall be granted administrative leave with pay, and any witness fees shall be retained by the employee. The state shall not reimburse the employee for meals, lodging, and travel expenses incurred while serving as a witness.
- F. An employee subpoenaed in the line of duty to represent the state as a witness or defendant shall not be granted administrative leave, and appearance in such cases shall be considered as hours worked. The employee shall be paid per diem and travel expenses and shall be required to turn over to the state any fees received from the court.
- G. In no case shall administrative leave with pay be granted for court attendance when an employee is engaged in personal litigation or service as a paid expert witness; however, an employee may be granted annual leave in such cases with the approval of the supervisor.

### 3. Elections

An employee who lives at such distance from the assigned work location as to preclude voting outside of working hours may be authorized a maximum of two hours of administrative leave with pay for this purpose. Any other employee may be granted one hour of administrative leave with pay for the purpose of voting during normal working hours. An employee shall not be granted administrative leave to work at the polls during elections.

### 4. Death in Immediate Family

An employee, upon request, shall be granted 3 days of administrative leave with pay plus reasonable travel time on the death of any member of the employee's immediate family.

### 5. Natural Disasters and Temporary Hazardous Conditions

While each court, circuit, or support office has the authority and responsibility to close offices in an area affected by natural disasters such as hurricanes, tornadoes, and floods, or other temporary hazardous conditions, those employees who work in the affected area and are in offices that are affected by such conditions shall not be eligible for administrative leave unless approved by the Chief Judge or Chief Justice.

In cases determined to be warranted by the Chief Judge or Chief Justice, all employees affected shall be granted administrative leave, and any employees who were required to work to provide essential services shall be allowed to earn annual leave credits in addition to being compensated for hours actually worked.

### 6. Civil Disorder or Disaster

Employees who are members of a volunteer fire department, police auxiliary or reserve, civil defense unit, or law enforcement organization may be granted administrative leave upon approval by the Chief Judge or Chief Justice when such employees are called on as members of these organizations to perform duties in times of civil disturbances, riots and natural disorders.

### 7. Conferences, Seminars and Meetings

An employee who requests to attend a conference, seminar, or meeting at his or her own expense may be granted administrative leave if such conference, seminar or meeting is deemed to be beneficial to the court.

### 8. Job Interviews

An employee may be granted administrative leave for the purpose of interviewing for a position within the State Courts System or another state government entity.

## 9. Florida Bar Exam

Trial Court Law Clerks shall be granted up to a maximum of 40 hours of administrative leave for the purpose of attending one Bar Review Course. Administrative leave with pay shall also be granted for the time spent in completing the Florida Bar Exam.

## 10. School Activities

- A. Each employee may be granted one hour of administrative leave each month to participate in the following activities:
  - 1. Participation in local school activities from preschool through high school, including but not limited to tutoring assignments, guest speaking, assisting in career day activities, helping in an after school homework center program, or participation in the Partners for Excellence Program.
  - 2. Participation in activities for children in child care centers.
- B. If an employee does not use administrative leave as authorized in this section, the employee shall not accrue or be paid for such unused leave.

## 11. Other Administrative Leave

The Chief Justice, Chief Judge, or their designee may grant administrative leave to an employee for any other purpose for which there is reasonable justification, including the following:

- A. Volunteering as a mentor. Employees may be granted up to one hour per week not to exceed five hours per calendar month to participate in an established mentoring program serving a school district, or to participate in community service programs that meet the needs of children or the elderly, such as Big Brother/Big Sister, Adult Literacy, or Senior Corps.
- B. Periods of hardship or during emergencies;
- C. Performance of the employee's civic duty.

## 4.12 Military Leave

### 1. Active Duty

- A. An employee, except an employee who is in a temporary position or employed on a temporary basis, who is drafted, who volunteers for active military service, or who is ordered to active duty, (not active duty training as outlined in (2) and (3) below), shall be granted leave

beginning with the date of induction and ending up to one year after the date of separation from military service, or from hospitalization continuing after discharge. Active military service includes active duty with any branch of the U.S. armed services, including the Air Force, the Navy, the Marine Corps, the Coast Guard, National Guard, or other service as provided in Section 115.08 and Section 115.09, Florida Statutes. Such leave of absence shall be verified by official orders or appropriate military certification, and shall be filed in the employee's personnel file.

- B. Upon presentation of a copy of the official orders or appropriate military certification, the first 30 calendar days of such leave shall be with full pay and the remainder without pay or supplemental pay as provided in Chapter 115.09 and 115.14, Florida Statutes. Leave payment of this type shall be made only upon receipt of evidence from appropriate military authority that 30 days of military service have been completed.
- C. During such leaves of absence the employee shall be entitled to retain the same rights and privileges as an employee granted leave without pay in accordance with this section.
- D. All unused leave benefits shall be retained by the employee, who shall have the same credited to the employee's record upon return to an assigned position.
- E. When an employee is granted military leave in accordance with this section, the employee's position may be filled on a temporary basis and in accordance with Section 7.10. Upon separation from the military service, the employee shall be eligible to return to the former position held or a different position in the same class in the same geographic location within the period provided in Section 4.12(1)(A).
- F. If the employee volunteers for an additional consecutive tour of military duty, the employee shall forfeit the right to return to the position.

## 2. Short Term Military Training

- A. An employee who is a member of the United States Armed Forces Reserve or the National Guard, shall, upon presentation of a copy of the employee's official orders, be entitled to military training leave without loss of pay, time or efficiency rating during periods in which the employee is ordered to active or inactive duty for training. Such leave with pay shall not exceed 17 work days in any one annual period beginning on October 1 and ending September 30 of the following year. A copy of the official orders or appropriate military certification shall be filed in the employee's personnel file.

- B. Any absence in excess of 17 work days may, upon request by the employee and approval by the appropriate supervisor, be covered by accrued annual leave credits or accrued compensatory leave credits. If not requested by the employee or approved by the appropriate supervisor as annual or compensatory leave, such absences in excess of 17 work days shall be approved as leave without pay; however, such leave shall be without loss of time or efficiency rating.

### 3. National Guard State Service

- A. An employee who is a member of the Florida National Guard shall, upon presentation of a copy of the employee's official orders issued pursuant to Chapter 250, Florida Statutes, be granted administrative leave during periods in which the employee is ordered to active state service by the Governor of Florida pursuant to Chapter 250, Florida Statutes. Such leave with pay shall not exceed 17 work days at any one time.
- B. A copy of the official orders shall be filed in the employee's personnel file.
- C. Any absence in excess of 17 work days may, upon request by the employee and approval by the appropriate supervisor, be covered by accrued annual leave credits or accrued compensatory leave credits. If not requested by the employee or approved by the supervisor as annual or compensatory leave, such absences in excess of 17 work days shall be approved as leave without pay.

### 4.13 Educational Leave With Pay

- 1. Educational leave with pay is leave granted an employee to attend a college, university, or training academy for one or more full academic periods for the purpose of receiving training that is of clearly foreseeable benefit to the State Courts System. Educational leave with pay may be granted by the Chief Justice or Chief Judge. Employees on educational leave shall not be eligible for overtime.
- 2. Enrollment in short courses, seminars, conferences, or less than full time at a college, university, or training academy which is required as part of an employee's job shall not be considered educational leave but shall be considered part of the employee's work assignment.
- 3. When an employee requests leave for the purpose of continuing education and when such leave does not conform to the provisions of this section, such leave shall not be considered educational leave with pay. In these cases, the employee may be granted annual or compensatory leave, or leave without pay not to exceed 12 calendar months, at the discretion of the Chief Judge or Chief

Justice, or the employee shall be required to work extra hours in an amount equal to the time absent, including travel to and from classes.

4. Employees who are granted educational leave with pay shall not earn or be charged annual or sick leave credits. Such employees shall be eligible for salary advancement, and shall be granted any pay adjustments in the same amount at the same time as are granted all other employees in the same class.

#### 4.14 Leaves of Absence Without Pay

##### 1. Parental Leave

- A. An employee who is pregnant or an employee whose spouse is pregnant shall, upon written request, be granted a leave of absence without pay for parental leave. An employee who adopts a child or becomes a foster parent shall also, upon written request, be granted a leave of absence without pay. The period of parental leave shall not exceed 6 calendar months.
- B. The employer shall notify the employee in writing as to the period of parental leave to be granted, clearly specifying the date the employee will return to work and that the employee will return to the same position unless agreement has been reached to return the employee to a different position.
- C. While parental leave is leave without pay, the employee, upon being granted parental leave, may request and, if approved by the employer, be placed on annual leave with pay for any part of the employee's parental leave. However, if the employee requests that annual leave not be used during the leave period, the employer shall permit the employee to retain the annual leave credits and place the employee immediately on leave without pay.
- D. While on parental leave any illness caused or contributed to by pregnancy, childbirth and recovery there from shall be treated as temporary disability and the employee shall be allowed to use accrued sick leave credits when certified by a physician.
- E. An employee on parental leave with or without pay shall continue to have state contributions for state health and life insurance paid on his or her behalf.

##### 2. Family Medical Leave

- A. An employee may, upon request, take up to 12 weeks of intermittent or continuous family medical leave during any calendar year. Leave shall be authorized for the following reasons:

1. To care for the employee's spouse, son, daughter, or parent, if that family member has a serious health condition; or
  2. For the employee's own serious health condition that makes him or her unable to perform the functions of the employee's job.
- B. A supervisor may require, or an employee may elect to use accrued leave for any portion of the 12 weeks of family medical leave.
  - C. A supervisor may require that an employee's request for family medical leave be supported by a certification of need provided by a health care provider, as defined in the FMLA.
  - D. An employee on family medical leave with or without pay shall continue to have state contributions for state health and life insurance paid on his or her behalf.

### 3. Other Leave Without Pay

- A. An employee may, upon request, be granted leave without pay for reasons other than those provided in Section 4.14 for a period not exceeding 6 calendar months, provided the employer deems such leave to be justified and not detrimental to the operations of the court, circuit, or support office. Leave without pay may be authorized for the following reasons:
  1. Caring for aging parent
  2. Involvement in settling parents' estate upon their death
  3. Relocating dependent children into schools
  4. Visiting family members in places which require extensive travel time
  5. For other reasons as authorized by the Chief Justice or Chief Judge.
- B. In exceptional cases, such leave may be extended with the approval of the Chief Justice.

### 4. Limitations of Leave Without Pay

- A. An employee shall not earn annual or sick leave credits while on any type of leave without pay.
- B. An employee who has been placed on leave of absence without pay and is therefore in non-pay status for the entire day before a holiday

shall not be eligible to receive payment for such holiday or any other holiday which occurs while the employee is on such leave.