

Kansas Administrative Regulations

Department of Administration

Article 9.—Hours; Leaves; Employee-Management Relations

1-9-23. Shared leave.

(a)(1) Any employee in a classified, regular position or in an unclassified position that is eligible for benefits may be eligible to receive or donate shared leave as provided in this regulation.

(2) Except as provided in paragraph (d)(1)(D), shared leave may be granted to an employee if all of the following conditions are met and if the employee meets the criteria specified in paragraph (b)(1):

(A) The employee or a family member of the employee, as defined in K.A.R. 1-9-5(e)(2), is experiencing a serious, extreme, or life-threatening illness, injury, impairment, or physical or mental condition.

(B) The illness, injury, impairment, or condition of the employee or the family member has caused or is likely to cause the employee to take leave without pay or terminate employment.

(C) The illness, injury, impairment, or condition of the employee or the family member keeps the employee from performing regular work duties.

(b)(1) Each employee who meets the requirements of paragraph (a)(2) shall be eligible to receive shared leave if both of these conditions are met:

(A) The employee has exhausted all paid leave available for use, including vacation leave, sick leave, compensatory time, holiday compensatory time, and the employee's discretionary holiday.

(B) The employee has at least six continuous months of service, pursuant to K.A.R. 1-2-46.

(2)(A) An employee shall be eligible to donate vacation leave or sick leave to another employee if these conditions are met:

(i) The donation of vacation leave does not cause the accumulated vacation leave balance of the donating employee to be less than 80 hours, unless the employee donates vacation leave at the time of separation from state service.

(ii) The donation of sick leave does not cause the accumulated sick leave balance of the donating employee to be less than 480 hours, unless the employee donates sick leave at the time of separation from state service.

(B) If the employee is retiring from state service and receiving compensation for sick leave upon retirement, the donated sick leave consists only of the accumulated sick leave in excess of the applicable minimum accumulation amount required for eligibility for a sick leave payout pursuant to K.S.A. 75-5517, and amendments thereto.

(c)(1)(A) When requesting shared leave, an employee shall be required to provide a statement from a licensed health care provider or other medical evidence necessary to adequately establish that the illness, injury, impairment, or physical or mental condition of the employee or family member is serious, extreme, or life-threatening and keeps the employee from performing regular work duties. If the employee fails to provide the required evidence, the use of shared leave shall be denied.

(B) At any time during the use of shared leave, the appointing authority may require the employee to provide a statement from a licensed health care provider or other medical evidence necessary to establish that the illness, injury, impairment, or physical or mental condition of the employee or family member continues to be serious, extreme, or life-threatening or to establish when the employee will be able to return to work. If the employee fails to provide the required evidence, the use of shared leave may be terminated by the appointing authority.

(2)(A) The appointing authority shall determine whether an employee meets the initial eligibility requirements in paragraph (b)(1) and, if applicable, whether the employee would be caring for an individual who meets the definition of a family member.

(B) Shared leave may be denied if the appointing authority determines that the requesting employee has a history of leave abuse.

(C) An employee who currently is receiving workers compensation for the illness, injury, impairment, or physical or mental condition that is the basis of the shared leave

request or has submitted an application to the division of workers compensation for this illness, injury, impairment, or condition shall not be eligible to receive shared leave.

(d)(1)(A) A shared leave committee shall be established and coordinated by the director. The shared leave committee shall consist of three current employees in the executive branch who, in the director's judgment, have experience in making determinations regarding leave and who will be fair and impartial in discharging their responsibilities.

(B) Except as provided by paragraph (d)(2), once the appointing authority determines that an employee meets the eligibility requirements specified in paragraph (c)(2), the shared leave committee shall determine whether the illness, injury, impairment, or physical or mental condition of the employee or the employee's family member meets the conditions established in paragraph (a)(2).

(C) If the shared leave committee determines that the illness, injury, impairment, or physical or mental condition meets the requirements of paragraph (a)(2), the appointing authority shall grant all or a portion of the time requested.

(D) An appointing authority may approve an employee's request for shared leave regardless of the determination of the shared leave committee if the appointing authority determines that such a decision would be in the best interests of the state. Before approving the request, the appointing authority shall consult with the director about the factors that the appointing authority is relying upon in making the determination that approval of the shared leave is in the best interests of the state.

(2) If the appointing authority is an elected official, the appointing authority may determine whether the illness, injury, impairment, or physical or mental condition of the employee or the employee's family member meets the conditions established in paragraph (a)(2) or may submit the shared leave request to the shared leave committee for determination as provided in paragraph (d)(1).

(e) Employees shall not be notified of the need for shared leave donations until the request for shared leave has been approved as provided in subsection (d). No employee shall be coerced, threatened, or intimidated into donating leave or financially induced to donate leave for purposes of the shared leave program.

(f) The records of all shared leave donations shall remain confidential.

(g)(1) Shared leave may be used only for the duration of the serious, extreme, or life-threatening illness, injury, impairment, or physical or mental condition for which the shared leave donation was collected. The maximum number of hours of shared leave that may be used by an employee shall be the total number of hours that the employee would regularly be scheduled to work during a six-month period.

(2) No employee shall be eligible to use shared leave after meeting the eligibility requirements for disability benefits under the Kansas public employees retirement system.

(3) Employees shall use shared leave in accordance with their regular work schedules.

(4) Exempt employees shall use shared leave only in half-day or full-day increments.

(h)(1) Shared leave may be applied retroactively for a maximum of two pay periods preceding the date the employee signed the shared leave request form.

(2) The employee shall no longer be eligible to receive shared leave for a particular occurrence if any of these conditions is met:

(A) The illness, injury, impairment, or condition of the employee or the employee's family member improves so that it is no longer serious, extreme, or life-threatening, and the employee is no longer prevented from performing regular work duties.

(B) The employee terminates or retires.

(C) The employee returns to work and works the employee's regular work schedule for at least 20 continuous working days.

(3) Any unused portion of the shared leave shall be prorated among all donating employees based on the original amount and type of donated leave and returned to those employees within two pay periods of the date on which it is determined that the employee receiving the donated leave is no longer eligible for shared leave. Shared leave shall not be returned to donating employees in increments of less than one full hour or to any person who has left state service.

(i)(1) Shared leave shall be paid according to the receiving employee's regular rate of pay by the receiving employee's agency. The rate of pay of the donating employee shall not be used in figuring the amount of shared leave that the requesting employee receives.

(2) Shared leave shall be donated in full-hour increments.

(j) Each decision to approve or deny a request for shared leave and any other determination regarding the extension or termination of shared leave shall be final and shall not be subject to appeal to the civil service board.

(Authorized by K.S.A. 75-3706, K.S.A. 2016 Supp. 75-3747, and K.S.A. 75-5549; implementing K.S.A. 75-3707, 75-3746, and 75-5549; effective, T-1-7-23-92, July 23, 1992; effective Sept. 14, 1992; amended July 26, 1993; amended, T-1-9-19-94, Sept. 19, 1994; amended Nov. 21, 1994; amended Dec. 17, 1995; amended May 31, 1996; amended Sept. 18, 1998; amended, T-1-2-17-00, Feb. 17, 2000; amended June 16, 2000; amended June 5, 2005; amended Jan. 6, 2017.)

***** Authenticated Kansas Administrative Regulation *****