

1-9-23. Shared leave. (a)(1) Each classified employee in a regular position or unclassified employee in a position eligible for benefits may be eligible to receive or donate shared leave as provided in this regulation.

(2) Shared leave may be granted to an employee if the employee or a family member as defined in K.A.R. 1-9-5(e)(2) meets these criteria and those of paragraph (b)(1):

(A) The employee or family member is experiencing a serious, extreme, or life-threatening illness, injury, impairment, or physical or mental condition ~~that has caused, or is likely to cause, the employee to take leave without pay or terminate employment.~~

(B) The illness, injury, impairment, or condition ~~keeps the employee from performing regular work duties~~ has caused, or is likely to cause the employee to take leave without pay or terminate employment.

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

(b)(1) An employee 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, and compensatory time credits.

(B) The employee has worked for the State for at least six continuous months ~~of continuous service, including time worked as a temporary employee.~~

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

(A) 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.

(B) 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.

(c)(1)(A) ~~When requesting shared leave, or at any time during the use of shared leave, any employee may~~ an employee shall be required by the appointing authority to provide a physician's 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 may shall be denied ~~or terminated by the appointing authority.~~

(B) At any time during the use of shared leave, including determinations of when the employee is able to return to work, any employee may be required by the appointing authority 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. 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 or not ~~the~~ an employee meets the initial eligibility requirements in paragraph (b)(1) and, if applicable, whether or not the employee would be caring for an individual who meets the definition of a family member. ~~The appointing authority shall then determine if the illness or injury meets the conditions set forth in paragraph (a) (2) of this regulation.~~

(B) Shared leave may be denied if it is determined that the requesting employee has a history of leave abuse.

(C) Any employee who is currently receiving, or has applied for workers compensation for the same injury or illness shall not be eligible to receive shared leave. This includes claims that have pending litigation.

(d)(1)(A) Once an employee is determined to meet the initial eligibility requirements set out in paragraph (c)(2) above, except as indicated in (d)(2) below, the determination of whether or not the illness, injury, impairment, or physical or mental condition of the employee or the employee's family member meets the conditions established in subsection (a) of this regulation shall be made by a shared leave committee established and coordinated by the director.

(B) The shared leave committee shall consist of three current employees in the executive branch who, in the director's judgment, have experience in making such determinations and will be fair and impartial discharging their responsibilities.

~~(D)~~ (C) The ~~appointing authority~~ shared leave committee may grant all or a portion of the time requested, and the decision by the ~~appointing authority~~ committee to approve or deny the request shall be final and not subject to appeal to the civil service board.

(2) In agencies where the appointing authority is an elected official, the determination whether or not the illness, injury, impairment, or physical or mental condition of the employee or the

employee's family member meets the conditions established in subsection (a) of this regulation shall either be made by the appointing authority, or by the shared leave committee established in subsection (d)(1), at the discretion of the appointing authority.

~~(d)~~ (e) Employees shall not be notified of the need for shared leave until the request for shared leave has been approved by the ~~appointing authority~~ shared leave committee. No employee shall be coerced, threatened, intimidated, or financially induced into donating leave for purposes of the shared leave program.

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

~~(e)(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 it was collected. If an employee is granted shared leave ~~due to the employee's illness or injury~~, the maximum duration of the shared leave shall be six months ~~from the date the employee began using the shared leave~~. ~~After six months if the employee does not meet the conditions for long term disability payments, shared leave may be extended for up to an additional six months.~~ If the shared leave is granted ~~due to the illness or injury of a family member~~, the maximum duration of the shared leave shall be 12 months ~~from the date the employee began using the shared leave~~. Shared leave shall not be transferable to any employee other than the employee for which it was requested and donated and shall not refresh if the employee returns to work on an intermittent basis, but continues to use shared leave.

(2) Each employee shall be eligible to receive shared leave up to the amount of hours that he or she would regularly be scheduled to work in a six month period. However, no employee shall use shared leave after meeting the eligibility requirements for disability benefits under the Kansas Public Employees Retirement System.

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

~~(2)~~ (h)(1) Shared leave may be applied retroactively for a time not to exceed two pay periods. ~~Written notification of each instance in which shared leave is applied retroactively shall be given to the director.~~

~~(3)~~ (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 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 recipient terminates or retires.

~~(C) The family member's illness, injury, impairment, or physical or mental condition is no longer serious, extreme, or life threatening, and the employee is no longer prevented from performing regular work duties.~~

~~The employee shall be determined to no longer be prevented from performing regular work duties when the physician states that the employee is able to return to work or when the employee has returned to work the employee's regular work schedule for 20 continuous working days.~~

~~(4) (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 a determination 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 the requesting employee receives.

(2) Shared leave shall be donated in full-hour increments. (Authorized by K.S.A. 75-3706, 75-3747, and 75-5549; implementing K.S.A. 75-2925, 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 P-_____.)