

## DIVISION OF HUMAN RESOURCES

### 4.4 POLICY ON LEAVE

#### (a) Purpose and Scope

##### (1) Purpose

The purpose of this policy is to establish uniform practices for the administration of paid and unpaid absences from work for employees.

##### (2) Scope

(A) This policy applies to:

- (i) employees who are paid through the Central Payroll Bureau of the Comptroller; and
- (ii) employees of the State Board of Law Examiners, the Thurgood Marshall State Law Library, the Commission on Judicial Disabilities, and the Supreme Court of Maryland Standing Committee on Rules of Practice and Procedure.

(B) This policy does not apply to:

- (i) locally funded employees in the circuit courts;
- (ii) employees of the Attorney Grievance Commission and the Client Protection Fund;
- (iii) employees of the Register of Wills or the Orphans' Court; and
- (iv) justices, judges, Clerks of Court (except for accrual of sick leave), and, except as specified in District Court policies, commissioners.

#### (b) Definitions

##### (1) Administrative Head:

- (A) For the Supreme Court of Maryland, the Clerk of the Court for all employees under the Clerk's supervision and the Chief Justice for all other employees of that Court;
- (B) For the Appellate Court of Maryland, the Clerk of the Court for all employees under the Clerk's supervision and the Chief Judge for all other employees of that Court;
- (C) For the circuit courts, the Clerk of the Court for all employees under the Clerk's supervision and the County Administrative Judge for all state employees under their supervision;
- (D) For the District Court, the Chief Judge of the District Court for employees of that Court and the Chief Clerk or the Administrative Clerk for all employees under their supervision;
- (E) For the Administrative Office of the Courts (AOC), the State Court Administrator;
- (F) For any units, the head of the unit where the employee works; or,
- (G) Any person who serves as the authorized designee, by express written designation, of any of the foregoing persons.

**(2) Alternative Work Schedule** – A work schedule that allows an employee to work a compressed workweek or flexible work hours as defined by this policy.

**(3) Chargeable Sick Leave Occurrence** – All sick leave usage (or other leave used in lieu of sick leave) other than:

- (A) A prescheduled pre-approved absence for a medical appointment; and,
- (B) An absence protected by the Family and Medical Leave Act (FMLA), that is granted as an accommodation under the Americans with Disabilities Act (ADA), or is taken as sick and safe leave under the Maryland Healthy Working Families Act (MHWFA).

- (4) **Child** – Biological child, adopted child, foster child, stepchild, or child of a person standing in loco parentis.
- (5) **Commute Time** – The time it normally takes for an employee to travel from their residence to their main worksite.
- (6) **Contractual Employee** – An employee whose condition of employment and compensation are specified in a personal services contract.
- (7) **Exempt Employee** – An employee who is exempt from the overtime provisions of the Fair Labor Standards Act (FLSA).
- (8) **Full-Time** – Having a work schedule of 80 hours in a pay period.
- (9) **Health Care Provider**
  - (A) A doctor of medicine or osteopathy who is authorized to practice medicine or surgery (as appropriate) by the State in which the doctor practices; or
  - (B) Any other person determined by the State Court Administrator to be capable of providing health care services.
  - (C) Others capable of providing health care services include only:
    - (i) Podiatrists, dentists, clinical psychologists, licensed clinical professional counselors, optometrists, and chiropractors (limited to treatment consisting of manual manipulation of the spine to correct a subluxation as demonstrated by X-ray to exist) authorized to practice in the State and performing within the scope of their practice as defined under State law;
    - (ii) Nurse practitioners, nurse-midwives, clinical social workers and physician assistants who are authorized to practice under State law and who are performing within the scope of their practice as defined under State law;
    - (iii) Christian Science Practitioners listed with the First Church of Christ, Scientist in Boston, Massachusetts. Where an employee or family member is receiving treatment from a Christian Science practitioner, an employee may not object to any requirement that the employee or family member submit to examination (though not treatment) to obtain a second or third certification from a health care provider other than a Christian Science practitioner except as otherwise provided under applicable State or local law;
    - (iv) Any health care provider from whom a group health plan's benefits manager will accept certification of the existence of a serious health condition to substantiate a claim for benefits; and
    - (v) A health care provider listed above who practices in a country other than the United States, who is authorized to practice in accordance with the law of that country, and who is performing within the scope of his or her practice as defined under such law.
  - (D) The phrase authorized to practice in the State as used in this section means that the provider must be authorized to diagnose and treat physical or mental health conditions.
- (10) **Immediate Family Member:**
  - (A) The legal spouse of the employee;
  - (B) A child of the employee or spouse;
  - (C) A parent of the employee or spouse;
  - (D) A family member for whom the employee or the employee's spouse is the legal guardian or serves in loco parentis; and

- (E) A family member living as a domestic partner or other member of the employee's household.
- (11) In Loco Parentis** – To serve in the place of a parent, and to have and exercise the rights and responsibilities of a parent, including the day-to-day responsibilities of caring for and financially supporting a child.
- (12) Judiciary Human Resources Division (JHRD)** – The division within the AOC that is responsible for, but not limited to, the following functions for state employees in the Maryland Judiciary: human resources policy development, administration, and interpretation; talent acquisition; employment and orientation services; employee benefits; position classification and compensation administration, employer-employee relations; and judicial services and information privacy.
- (13) Leave Year** – A period beginning with the first day of the first complete pay period of a calendar year and ending with the last day of the pay period that includes December 31 of that calendar year.
- (14) Liberal Leave** – A work status declared for the employee's main worksite because of inclement weather or other reasons.
- (15) Main Worksite** – The normal place of business for an employee.
- (16) Maryland Healthy Working Families Act (MHWFA)** – The Maryland Healthy Working Families Act (MHWFA – often referred to as "Sick and Safe Leave") took effect February 11, 2018. The MHWFA requires all employers with employees whose primary work location is in Maryland to provide earned sick and safe leave, regardless of where the employer is located.
- (17) Medical Care** – Medical appointments, medical treatment, or hospitalization.
- (18) Military Caregiver Leave** – Leave allowing a covered spouse, child, parent, or nearest blood relative of a current service member in the Regular Armed Forces, National Guard or Reserves, or a veteran, to use up to 26 weeks to care for the current service member who has incurred a serious injury or illness in the line of duty while on active duty, or to care for a veteran who is undergoing medical treatment, recuperation or therapy for a serious injury or illness that was incurred or aggravated in the line of duty while on active duty at any time during the five years preceding the date of treatment and that manifested itself before or after the member became a veteran.
- (19) Military Exigency Leave** – Leave allowing a covered spouse, parent, or child of an active-duty service member or current member of the National Guard or Reserves to take up to 12 weeks of leave due to a qualifying exigency resulting from the covered family member's active military duty or federal call to active-duty status in support of a contingency operation. It includes non-medical, non-routine activities such as:
- (A) Short-notice deployment activities;
  - (B) Military events and related activities;
  - (C) Childcare and school activities;
  - (D) Financial and legal arrangements;
  - (E) Counseling;
  - (F) Rest and recuperation;
  - (G) Post-deployment activities; and,
  - (H) Additional activities.
- (20) Non-Exempt Employee** – An employee who is covered by the overtime provisions of the Fair Labor Standards Act (FLSA).

## **(21) Overtime**

- (A) Non-exempt Employee. Hours worked that exceed an employee's normal workday, as pre-approved by the Administrative Head, provided total hours worked (to include paid leave) for the workweek exceed 40. Hours exceeding 40 are compensated at the rate of time and one-half. When an employee takes leave for any part of the day, no overtime accrues on that day until the hours worked beyond the employee's normal workday exceed the leave hours that were taken. *See the definition of workday.*
- (B) Exempt Employee. An exempt employee may be required by their Administrative Head to work hours that are beyond the employee's normal workday. The hours worked are not eligible for a cash overtime payment. The employee will accrue compensatory leave at the straight time rate, provided the total hours worked (to include paid leave) for the week exceed 40. When an employee takes leave for any part of the day, no compensatory leave accrues until the hours worked beyond the employee's normal workday exceed the leave hours that were taken. See Section (e)(4) of this policy and the Policy on Classification and Compensation, Section (c)(17)(B), for more information on compensatory leave for exempt employees.

**(22) Parent** – Biological parent, adoptive parent, foster parent, stepparent, or person standing in loco parentis to a child.

**(23) Part-Time** – Having a work schedule of less than 80 hours per pay period.

**(24) Prior Approval** – A request to use leave submitted by the employee no later than the close of business on the business day preceding the need for the leave, or if submitted on the same day of its need, at least **four hours** prior to its intended use, and the request was approved by the supervisor prior to the leave being used. If circumstances do not allow for prior approval in the JHRD information system, then oral approval is acceptable until it can be approved in the system. The Administrative Head may relax the four-hour requirement based on the circumstances of the request or if there is an extraordinary situation or emergency that prevents the employee from requesting the leave four hours in advance of its need.

**(25) Regular Employee** – For purposes of this policy, an employee holding a position funded under an approved budget, paid through the Central Payroll Bureau of the Comptroller, and having an assigned position identification number (PIN). This does not include justices, judges, Clerks of the Circuit Courts, commissioners, contractual and temporary employees, and limited-term law clerks.

**(26) Reinstatement (or Reinstated)** – The re-employment within three years of an individual who separated in good standing from employment with the State of Maryland and the restoration of leave benefits.

**(27) Remote Worksite** – An approved worksite other than the employee's main worksite with appropriate equipment and confidentiality conducive to the work being performed.

**(28) Scheduled Leave** – Leave that was used with prior approval as defined in this policy.

**(29) Sick Leave Abuse** – The wrongful or improper use of sick leave, to include but not be limited to, using sick leave under false pretenses (such as calling in sick when the employee or immediate family member is not sick, or otherwise attempting to use sick leave in lieu of other leave when the absence is not covered by sick leave), excessive use of sick leave that is not protected by the FMLA, ADA, or MHWFA or a pattern of usage that could be considered suspect (such as using sick leave excessively or on the workday before and/or the workday after holidays or weekends).

- (30) Sick Occurrence** – A period of absence, whether paid or unpaid, that is not protected by the FMLA, ADA, or MHWFA or is not for a prescheduled and preapproved medical appointment.
- (31) Temporary Employee** – An employee whose condition of employment is not governed by a personal services contract, whose position is not specifically budgeted, and whose period of employment is not to exceed one year from the date of hire.
- (32) Uniformed Services** – See 38 U.S.C. § 4303 and 20 C.F.R. § 1002.5(o).
- (33) Unit** – The State Board of Law Examiners, the Thurgood Marshall State Law Library, the Commission on Judicial Disabilities, the Supreme Court of Maryland Standing Committee on Rules of Practice and Procedure.
- (34) Unscheduled Leave** – Leave that was used without prior approval as defined in this policy.
- (35) Workday** – An employee’s normally scheduled days and hours of work.
- (36) Work Time** – Time during which an employee:
- (A) Is on duty, whether at the employee’s main worksite, remote worksite, or at an alternate worksite.
  - (B) Is on paid leave for determining payment of wages and leave earnings, except for Workers’ Compensation purposes and for overtime purposes as defined in this policy; and,
  - (C) With the requisite approval, participates in training activities, conferences, conventions, and seminars as a job requirement, to include travel to and from such events when occurring outside the employee’s normal workday.
- (37) Workweek** – A workweek is Wednesday through Tuesday.

### **(c) Policy Statement and General Provision**

The Maryland Judicial Branch recognizes its employees may, on occasion, need to be absent from work for various reasons. The Judiciary, therefore, provides certain types and amounts of paid leave and unpaid leave which may be used for these absences. This policy explains the types and amounts of leave earned or granted and the requirements for requesting and using such leave.

Pursuant to State Personnel and Pensions Article (SPPA) § 2-301, a state employee who transfers to a position in any unit of state government, regardless of the personnel system governing the position, shall do so without a loss of leave earned or service credit for employment in other units of state government. County or Baltimore City employees who work in a circuit court and who transfer directly to a state Judiciary position as a regular employee shall do so without a loss of service credit for leave earning purposes, pursuant to this policy.

The need for adequate staffing for the prompt and effective disposition of Judiciary business is a paramount consideration in scheduling any absence. This policy is intended to ensure that absences do not interfere unduly with the conduct of Judiciary business or burden judicial resources, and to make scheduling of such absences predictable. Therefore, employees should schedule absences in advance and avoid unscheduled absences whenever possible.

## (d) Absence as an Accommodation

### (1) Religious Accommodation

An employee seeking an absence as a religious accommodation is required to follow the procedures set forth in the Judiciary's Policy on Religious Accommodation.

### (2) Disability Accommodation

An employee seeking an absence as an accommodation for a disability is required to follow the procedures set forth in the Judiciary's Policy on Accommodations of Disabilities.

### (3) Pregnant Workers' Fairness Act (PWFA) Accommodation

An employee seeking an absence as an accommodation under the PWFA is required to follow procedures set forth in the Judiciary's Policy on Pregnant Workers' Fairness Act.

## (e) Types of Leave and Administrative Procedures

### (1) Accident Leave

Leave that may be granted to a regular employee to cover an absence due to a job-related compensable injury or occupational disease. Contractual and temporary employees are not eligible for accident leave but may be eligible for temporary total disability benefits (TTD) from the Injured Workers Insurance Fund (IWIF).

- (A) Eligibility begins on the initial date of a job-related accidental personal injury or occupational disease sustained by the employee that is ruled to be compensable by IWIF or the Workers' Compensation Commission (WCC). Paid accident leave equates to two-thirds of the employee's pay.
- (B) Accident leave ends when a medical provider certifies in writing the employee is medically released to return to work, or at six months from the date of the initial date of injury or occupational disease, or when IWIF or WCC determines it is to be rescinded, or when the employment relationship is terminated, whichever first occurs. At that time, unless the employment is terminated, the employee may be required to return to work. If the employee's absence continues, then the employee must use their own leave.
- (C) If an employee is absent due to a compensable workplace injury or occupational disease and is eligible to use accident leave, then the employee must use accident leave to cover that absence in lieu of using accrued leave.
- (D) An absence due to a workplace injury or occupational disease, whether or not the employee is eligible for accident leave, may be covered by the FMLA and may be designated by JHRD.

### (2) Administrative Leave

Leave that may be granted to a regular employee (*unless otherwise indicated*) for the following purposes:

- (A) **Delayed Opening, Early Release, or Administrative Closing** (Includes law clerks and contractual and temporary employees)
  - (i) Delayed Opening
    - (I) An employee who is scheduled to work during the opening hours and who reports to work at the time the main worksite is open, will be granted administrative leave for the period of work time missed due to the delayed opening.

- (II) An employee who reports to the main worksite later than the delayed opening without prior approval will be required to use unscheduled personal leave for the time missed (time of delayed opening to actual arrival time) or, with supervisory approval, may make up the time missed by working beyond the employee’s normal schedule.
  - (III) An employee who fails to report to work after the main worksite is open, without prior approval, will be required to use unscheduled personal leave for the entire workday, or leave-without-pay if personal leave is not available.
  - (IV) An employee who is expected to report to a location other than the main worksite, is expected to follow the procedures for that location. The conditions described in the items above would apply, unless the employee’s supervisor notifies the employee otherwise. The employee must consult with the supervisor if this situation occurs.
  - (V) An employee who is scheduled to work at a remote worksite when a delayed opening is declared, will be expected to continue to work at the remote worksite on that workday, if possible. If the employee is incapable of performing work at the remote worksite due to the cause of the delayed opening of the employee’s main worksite, then the employee may be granted administrative leave upon the request of the employee and the approval of the Administrative Head.
  - (VI) If liberal leave is declared, an employee may use leave pursuant to Section (g) of this policy.
  - (VII) Law clerks will be eligible to work at a remote worksite when a delayed opening is declared or be paid for the time the main worksite is closed for the above reasons, provided they reported for work when the main worksite opened.
  - (VIII) Contractual and temporary employees will be paid for the time the main worksite is closed for the above reasons, provided they were scheduled to work during the time the main worksite was closed, and they reported for work when the main worksite opened.
- (ii) Early Release for Holidays
- (I) Pursuant to the August 7, 1998 Administrative Order, entitled “Early Release for Holidays” the Supreme Court of Maryland, the Appellate Court of Maryland, the circuit courts, the District Court, the Orphans’ Courts, the offices of the Clerks of Court, the Administrative Office of the Courts, and units shall remain open with at least minimal staff after 2:00 p.m. for normal business hours in the afternoon preceding the day observed for December 25<sup>th</sup> and January 1<sup>st</sup> or, if those holidays are observed on Monday, after 2:00 p.m. in the afternoon of the preceding Friday. An employee dismissed at 2:00 p.m. on those days will receive administrative leave for the remainder of the employee’s workday.
  - (II) Staff must work at least four hours on a day of early release to be eligible for administrative leave. Also refer to the Fact Sheet entitled “Leave Accounting Procedures for Early Release for Holidays” on the JHRD page of the Judiciary’s website.
  - (III) Minimal office or court coverage must be maintained.
  - (IV) A regular employee who remains at the main worksite following the early release with the approval of the Administrative Head will earn compensatory leave at the rate of time and one-half. A contractual or temporary employee who remains at the main

worksite with the approval of the Administrative Head will be paid at the rate of time and one-half.

- (V) A regular employee who teleworks at a remote site following the early release with the approval of the Administrative Head will earn compensatory leave at the rate of time and one-half. A contractual or temporary employee who teleworks at a remote site following the early release will be paid time and one-half.

**(iii) Early Release for Other Reasons**

The following applies when a Judiciary location closes its operation earlier than the regular closing time:

- (I) An employee who is at work, and who is scheduled to work until the end of the employee's regular workday, will be granted administrative leave for the period of work time missed due to the early closing.
- (II) An employee who, with approval, leaves work before an announcement is made about closing, will be charged with leave for the remainder of the employee's workday.
- (III) An employee who, with approval, leaves work after the announcement is made but prior to the closing time, will be charged with leave until the time of closing. The employee will receive administrative leave from the time of closing to the end of the employee's workday.
- (IV) An employee who is working at a location other than the main worksite shall follow the early release procedures for that location.
- (V) An employee may be required to telework by the Administrative Head for any reason during a main worksite closing.
- (VI) An employee teleworking from a remote worksite on a workday when an early release is declared, will be expected to continue to work and complete their workday. If the employee is incapable of performing work at the remote worksite due to the cause of the early release/closing, then the employee may be granted administrative leave upon the request of the employee and the approval of the Administrative Head.
- (VII) Law clerks will be eligible to work at a remote worksite when an early release is declared or be paid for the time the main worksite is closed.
- (VIII) Contractual and temporary employees will be paid for the time the main worksite is closed for an early release, provided they were scheduled to work during the time the main worksite was closed.
- (IX) If liberal leave is declared, an employee may use leave pursuant to Section (g) of this policy.

**(iv) Full-Day Administrative Closing**

- (I) An employee may be required to telework by the Administrative Head for any reason during a main worksite closing.
- (II) Administrative leave will be granted to an employee for a full day closing if the employee is scheduled to work the full day at the main worksite and not required to telework by the Administrative Head. An employee on an alternative work schedule with a workday of more than eight hours, will be granted a maximum of eight hours of administrative leave for a full-day closing. The employee will be required to use accrued leave (annual, compensatory, or personal) to make up the difference.



- (III) An employee scheduled to work at a location other than the main worksite will follow the closing procedure for that location. The employee may be required to telework at a remote worksite or report to work at the employee's main worksite.
- (IV) An employee teleworking from a remote worksite when their main worksite is closed, will be expected to continue to work and complete their workday. If the employee is incapable of performing work from home due to the cause for the main worksite closing, then the employee may be granted administrative leave with the approval of the Administrative Head.

(v) **Not Eligible for Administrative Leave if on Scheduled Leave**

An employee who is scheduled to be on leave the day a delayed opening, early release, or full-day closing occurs shall remain on that leave. An employee cannot rescind a leave request that is in submitted or approved status for that day once the delayed opening, early release, or full-day closing is announced, and will not be eligible for administrative leave for the time of the requested absence.

(B) **Jury Service** (Includes law clerks and contractual employees)

- (i) An employee who is selected for jury service shall notify their supervisor without delay and provide the supervisor with a copy of the jury service notice.
- (ii) An employee is eligible for administrative leave for jury service only when the service occurs on a workday and the employee provides documentation confirming the date and time of service on that workday.
- (iii) An employee shall return to work at their main worksite or remote worksite, if scheduled to telework, when the employee is dismissed from jury service for the day, time permitting, as determined by the employee's Administrative Head. In the alternative, the employee may request leave for the remainder of the workday. The employee may request annual, personal, or compensatory leave; or furlough or administrative leave (if such leave is available pursuant to an administrative order for salary reductions and furloughs). The request will be approved or denied at the discretion of the Administrative Head. This use of leave will not be considered unscheduled leave.
- (iv) An employee may use administrative leave for the remainder of the workday with approval of the Administrative Head if time does not permit the employee to return to work after being dismissed.
- (v) If an employee is summoned and appears for jury service for four or more hours, including travel time, the employee is not required to work a shift that begins on or after 5:00 p.m. on the day of the employee's appearance for jury service, or before 3:00 a.m. on the day following the appearance for jury service. An employee must use leave if they choose not to report to work. The employee may use annual, personal, compensatory, furlough, or administrative leave (if such leave is available pursuant to an administrative order for salary reductions and furloughs). This use of leave will not be considered unscheduled leave.

(C) **Legal Action** (Includes law clerks and contractual employees)

Administrative leave may be granted when the employee or the employee's child under the age of 18 is subpoenaed to appear in a state or federal court, grand jury, or administrative agency

proceeding as a witness, provided the employee or the child is not a party to the action or a paid witness. Documentation and prior approval are required.

**(D) State Employment Test or State Employment Interview**

Up to four hours of administrative leave may be used for each occurrence, for the travel time to and from the examination or interview, and the time spent at the examination or interview. Documentation and prior approval are required. An employee must use accrued leave to cover any additional time off that is needed.

**(E) State Retirement and Pension System Related Seminars**

- (i) Up to eight hours of administrative leave may be granted to attend a seminar in a leave year, if the employee is within five years of retirement by either age or years of service.
- (ii) Employees must use their own leave for any other retirement meetings during the workday.

**(F) Serving as an Election Judge**

A Judiciary employee who serves as an election judge for a statewide or special primary or general election during the hours the employee is otherwise scheduled to work for the Judiciary may use one hour of administrative leave for each hour of service as an election judge, up to a total of eight hours for the primary election and up to eight hours for the general election. The leave must be used in one block of time for each occurrence. An employee is not granted administrative leave for training to serve as an election judge. Documentation and prior approval are required.

**(G) Uniformed Services**

- (i) An employee may be entitled to administrative leave for uniformed services training or active uniformed services duty in a reserve unit of the armed forces or in the organized militia and for other related reasons pursuant to SPPA § 9-1107.
- (ii) An employee may use up to 30 workdays of administrative leave per leave year as needed for uniformed services activities as described in subsection (2)(G)(i).
- (iii) The employee should provide documentation and advanced notice when possible. Reinstatement to employment after uniformed service is covered by the Uniformed Services Employment and Reemployment Rights Act.

**(H) Disaster Service (Includes law clerks, and contractual and temporary employees)**

- (i) An employee may be entitled to administrative leave for disaster service pursuant to SPPA § 9-1102 if:
  - (I) The employee is certified by the American Red Cross as a disaster service volunteer; and the American Red Cross requests the service of the employee during a disaster that is designated at Level II or above in the regulations and procedures of the National Office of the American Red Cross; or
  - (II) The employee is a member of the Civil Air Patrol; the United States Coast Guard Auxiliary; Maryland Voluntary Organizations Active in Disaster; a volunteer emergency medical services department; a volunteer fire department; a volunteer rescue company or volunteer rescue squad; or a Community Emergency Response Team.
- (ii) An employee may use up to 30 workdays of administrative leave for disaster service in any 12-month period only after obtaining approval from the employee's Administrative Head.

- (iii) During a prolonged or recurrent disaster, an employee must request a waiver to Section (e)(2)(H)(i) and Section(e)(2)(H)(ii) of this policy with documentation to the Administrative Head. The Administrative Head may approve and notify the JHRD of the length of the approved disaster service, if waiving the requirements is in the best interest of the citizens of the state.
- (iv) For purposes of workers' compensation and the Maryland Tort Claims Act, while an employee is using administrative leave for disaster service, the employee is deemed not to be a Maryland Judicial Branch employee.
- (I) **Organ Donation** (Includes law clerks, and contractual and temporary employees. For justices and judges, see the Policy on Judicial Absences from Court)
  - (i) An employee may be entitled to administrative leave with pay for organ donation;
  - (ii) An employee may use up to seven workdays of administrative leave for organ donation in any 12-month period to serve as a bone marrow donor;
  - (iii) An employee may use up to 30 workdays of administrative leave for organ donation in any 12-month period to serve as an organ donor;
  - (iv) An employee may use administrative leave for organ donation only after providing the required documentation and obtaining approval from the employee's Administrative Head prior to using the leave.
  - (v) The JHRD may require documentation to support requests for this type of leave, and prior approval is required unless circumstances prevent such approval.
- (J) **Bereavement**
  - (i) Unless the situation is covered by (K) below, a regular employee may use 24 hours or, if overnight travel is required, 40 hours of administrative leave within 60 days, after the death of the following family members:
    - (I) Immediate family members as defined in this policy;
    - (II) Biological, adoptive, foster, and step sibling of the employee or spouse, and the sibling's spouse;
    - (III) Grandparents or grandchildren (including great-grandparents or great-grandchildren) of the employee or spouse; and,
    - (IV) Current sons-in-law or current daughters-in-law of the employee or spouse.
  - (ii) An employee may use eight hours of administrative leave after the death of an aunt, uncle, nephew, or niece of the employee or employee's spouse.
  - (iii) Nothing in this subsection is to prevent an employee from requesting, and being granted, in accordance with this policy, annual, personal, or compensatory leave (or leave-without-pay if paid leave is not available) to be used after the death of any family member listed above.
  - (iv) The supervisor is responsible for approving the use of administrative leave for bereavement and checking to ensure the proper leave code is recorded on the employee's time report.
  - (v) An employee may be required to provide documentation that is sufficient to confirm the death and the employee's relationship to the deceased, which may include, but not be limited to, a published obituary or documentation from the funeral service provider.

**(K) Parental Bereavement**

- (i) For the purposes of this subsection, the following definitions apply:
  - (I) Child – An adopted, biological, or foster child, a stepchild, or a legal ward, who is at least six months old and under the age of 27 years.
  - (II) Infant – An adopted, biological, or foster child, a stepchild, or a legal ward, who is under the age of six months.
- (ii) An employee, including a temporary or contractual employee, may use up to 10 workdays of administrative leave for parental bereavement within 60 days after the death of the employee’s child.
- (iii) An employee, including a temporary or contractual employee, may use up to 60 workdays of administrative leave for parental bereavement within 12 weeks after the following:
  - (I) the employee experiences a stillbirth; or
  - (II) the death of the employee’s infant.
- (iv) An employee may use administrative leave for parental bereavement only after notifying the employee’s Administrative Head of the employee’s intention to use the leave.
- (v) An Administrative Head may not require an employee who is entitled to administrative leave for parental bereavement to use any other paid leave available to the employee.
- (vi) The supervisor is responsible for approving the use of administrative leave for bereavement and checking to ensure the proper leave code is recorded on the employee’s time report.

**(L) Other Reasons**

Administrative leave may be granted for other reasons deemed necessary by the Chief Justice of the Supreme Court of Maryland or the State Court Administrator.

**(3) Annual Leave**

Leave earned by a regular employee when in a paid status, at a rate determined by the employee’s length of state and local Judiciary service and part-time or full-time status. (Pay period earning rates may vary if the employee had leave-without-pay within the pay period. Part-time regular employees whose percentage of employment is 50% or greater will earn annual leave on a prorated schedule based on their percentage of employment.

- (A) Annual leave earned per year, based on years of service:
  - (i) Less than five years: 80 hours (3.08 hours per pay period);
  - (ii) At least five but less than 10 years: 120 hours (4.62 hours per pay period);
  - (iii) At least 10 but less than 20 years: 160 hours (6.17 hours per pay period); and
  - (iv) 20 or more years: 200 hours (7.68 hours per pay period).
  - (v) Annual leave accrual may be reduced if leave-without-pay is recorded in the pay period.
- (B) A Maryland Judicial Branch employee new to state service, or who transfers from another unit of state government, or from a locally funded Judiciary position, may not be eligible to use annual leave until the employee has completed six months of service and successfully completed the initial probationary period (if one is required), including any extension of the initial probationary period.

- (i) An exception may be made to use annual leave during the first six months of service or in the initial probationary period (if one is required), including any extension of the initial probationary period, if approved by the Administrative Head.
- (C) A Maryland Judicial Branch employee who is serving a probationary period as a result of a promotion, demotion, transfer, or reinstatement, may use annual leave if the employee properly requests such leave in accordance with this policy and with the approval of the employee's supervisor pursuant to (D) below.
- (D) Annual leave shall be used only with prior approval and will be approved or denied at the discretion of the supervisor, except in instances when liberal leave is declared, the employee is using annual leave in lieu of sick leave, when the employee is entitled to such leave by law, or when the Administrative Head makes an exception to the requirement for prior approval.
  - (i) Annual leave may be used in lieu of sick leave pursuant to Section (e)(9) of this policy, including for an absence covered by the FMLA. Annual leave used in lieu of sick leave, except for absences covered by the FMLA and the MHWFA, (sick and safe leave), shall be treated as an occurrence of sick leave in accordance with this policy.
  - (ii) Annual leave may be used for sick and safe leave purposes that are not covered by sick leave under Section (e)(9). Sick and safe leave specifics can be found in Section (e)(10).
- (E) An employee may accumulate unused annual leave and may carry over from one leave year to the next a maximum of 600 hours of unused annual leave.
- (F) Any accumulated and unused annual leave that exceeds 600 hours shall be forfeited to the Judiciary Leave Bank at the beginning of the next leave year.
- (G) An employee separated from state service, except for reasons stated in paragraphs (H) and (I) below, will be compensated for all unused annual leave upon separation.
- (H) An employee whose Maryland Judicial Branch employment is terminated with prejudice for a cause involving moral turpitude (which may include, but is not limited to, theft, perjury, bribery, forgery, and vice crimes) forfeits all unused annual leave and all compensation for unused annual leave. Annual leave forfeited for this reason will be placed in the Judiciary Leave Bank.
- (I) An employee who leaves Judiciary service within six months after the employee's initial appointment with the Judiciary, and prior to completing the initial probationary period (if one is required), is not eligible to be compensated for unused annual leave, except for any unused annual leave transferred from another unit of state government.

#### **(4) Compensatory Leave**

Leave accrued by an employee (excluding magistrates, law clerks, and contractual and temporary employees) when working beyond the employee's normal workday as required by business necessity and approved by the Administrative Head, or for other reasons described below.

##### **(A) Reasons for Earning Compensatory Leave:**

- (i) When working on a Judiciary holiday;
- (ii) When working before a delayed opening, if directed to do so by the Administrative Head;
- (iii) When working after an early or emergency release or closing, if directed to do so by the Administrative Head;
- (iv) When, under the employee's alternative work schedule, the employee's scheduled day off falls on a paid holiday (a maximum of eight hours);

- (v) For exempt employees, and in some instances for non-exempt employees, when working beyond the employee’s normal workday that is required and has been approved in advance by the Administrative Head, provided total hours worked (to include paid leave) for the workweek exceed 40;
  - (vi) For part-time regular exempt employees, when working beyond the number of hours equivalent to their percentage of employment. For example, if an employee is a 50% employee, meaning they work 40 hours per pay period, then any hours worked beyond 40 will be compensated with compensatory leave at the straight time rate; or,
  - (vii) When the Chief Justice of the Supreme Court of Maryland, the Chief Judge of the District Court, or the State Court Administrator, based on budgetary constraints or in unusual situations, determines compensation for hours worked beyond the employee’s normal workday shall be offered only as compensatory leave and the employee is notified of such prior to working those hours.
- (B) **Regular Exempt Employees (not cash overtime eligible).**
- (i) **Regular exempt employees hired prior to January 10, 2024.** Compensatory leave balances will be frozen as of January 9, 2024. Compensatory leave that was earned prior to January 10, 2024, will hereafter be referred to as Reserved Compensatory Leave (RCL) and will not be subject to further accruals. Exempt employees will be allowed to use RCL for future absences with the approval of the employee’s supervisor. Any unused RCL remaining at the time of separation from employment with the Maryland Judicial Branch will be paid out at the employee’s rate of pay in effect on January 9, 2024.
  - (ii) A regular exempt employee authorized to work beyond the employee’s normal workday will accrue compensatory leave for the additional time worked. Compensatory leave will begin to accrue only after the employee has worked beyond the employee’s normal workday.
  - (iii) Exempt employees accrue compensatory leave at the straight time rate for authorized hours worked beyond the employee’s normal workday, provided total hours worked (to include paid leave) for the workweek exceed 40. When an employee takes leave for any part of the day, no compensatory leave accrues on that day until the hours worked beyond the employee’s normal workday exceed the leave hours that were taken.
  - (iv) There is no maximum amount of compensatory leave a regular exempt employee may accumulate in a leave year.
  - (v) Compensatory leave must be used within one year from the date in which it was earned. Compensatory leave not used within that time frame will be forfeited to the Judiciary Leave Bank.
  - (vi) A regular exempt employee may transfer up to 80 hours of unused compensatory leave upon transfer of employment:
    - (I) To the State Judiciary from another unit of state government; or,
    - (II) From the Judiciary to another unit of state government.
    - (III) Compensatory leave in excess of 80 hours will be forfeited to the Judiciary Leave Bank.

- (vii) Except for the RCL referenced above, an exempt employee will not be paid for unused compensatory leave upon separation from employment with the Maryland Judicial Branch. All such leave will be forfeited to the Judiciary Leave Bank.

**(C) Regular Non-Exempt Employees (cash overtime eligible)**

- (i) Regular non-exempt employees normally are paid cash overtime at the rate of time and one-half for all overtime hours worked except in the circumstances described in this section. The employee must have prior approval to work overtime. When an employee takes leave for any part of the day, no overtime or compensatory leave accrues on that day until the hours worked beyond the employee's normal workday exceed the leave hours that were taken.
- (ii) If the employee requests and the Administrative Head so permits, or if there is a business necessity as determined by the Chief Justice of the Supreme Court of Maryland or the State Court Administrator, then the employee may be compensated with compensatory leave at the rate of time and one half for overtime hours worked. In such instances, the employee shall receive advanced notice that the employee's compensation will take the form of compensatory leave rather than cash overtime.
- (iii) Regular non-exempt employees who, with supervisory approval, work during a Judiciary holiday, delayed opening or an early/emergency release or closing will earn compensatory leave at the rate of time and one-half. This is in addition to holiday or administrative leave granted to the employee for the closing of the employee's main worksite for such an event. An employee shall not work on these occasions unless they have supervisory approval to do so.
- (iv) Regular non-exempt employees may accumulate a maximum of 240 hours of compensatory leave. Any additional hours will be paid in cash.
- (v) Payment for Unused Compensatory Leave
  - (I) Unused compensatory leave will be paid out only upon leaving state service or when a regular non-exempt employee becomes an exempt employee.
  - (II) A regular non-exempt employee may transfer all unused compensatory leave upon transfer of employment from another unit of state government to a state-paid Judiciary position, or from a state-paid Judiciary position to another unit of state government.

**(D) Contractual and Temporary Employees**

- (i) Contractual and temporary employees do not earn compensatory leave and are compensated in cash for all overtime hours worked. The Chief Justice of the Supreme Court of Maryland, the Chief Judge of the District Court, the State Court Administrator, or other Administrative Head may make an exception based on budgetary constraints or in an unusual situation and may determine with notice to the employee that compensation for overtime worked shall be offered only as compensatory leave.
  - (I) This exception generally will apply only in extraordinary circumstances as determined by those listed above. The employee's supervisor shall keep track of compensatory leave earned and used by a contractual or temporary employee.

- (ii) Non-exempt contractual and temporary employees are compensated at the rate of time and one half for overtime hours worked.
- (iii) Exempt contractual and temporary employees are compensated at the straight time rate for authorized overtime hours worked.
- (iv) If, with supervisory approval, a contractual or temporary non-exempt employee works during a Judiciary holiday, delayed opening, or an early/emergency release, then the employee will be paid at the rate of time and one half for the time worked. This is in addition to holiday or administrative leave to which the employee may be eligible for such an event.
- (v) A contractual or temporary exempt employee who works during a Judiciary holiday, delayed opening, or an early/emergency release will be paid at the straight time rate.

**(E) Law Clerks**

Limited term and senior law clerks, whether in a regular, contractual, or temporary position, are not eligible for cash overtime, do not earn compensatory leave, and are not compensated in any manner for hours worked beyond the employee’s normal workday, nor do they receive additional compensation for working during a Judiciary holiday, delayed opening, or an early/emergency release.

**(F) Permission**

The use of compensatory leave, including RCL, requires prior approval and will be approved or denied at the discretion of the supervisor, except

- (i) in instances when liberal leave is declared,
- (ii) the employee is using compensatory leave in lieu of sick leave, or
- (iii) when the Administrative Head makes an exception to the requirement for prior approval.

**(G) In Lieu of Sick Leave**

Compensatory leave may be used in lieu of sick leave, including for absences covered by the FMLA. If it is used in lieu of sick leave, then it shall be treated as sick leave when counting sick occurrences in accordance with this policy.

**(H) Requirement to Work Beyond the Employee’s Normal Schedule**

An employee may be required to work hours that are beyond the employee’s normal schedule regardless of FLSA status. The employee will be compensated in accordance with this policy.

**(I) Travel**

An employee must make every effort to travel during the normal workday. When an employee is required to work beyond the employee’s normal workday when traveling to or from a work location other than the employee’s main worksite, the employee’s normal commute time to and from their main worksite will not be included when calculating the amount of compensatory leave earned for that day.

**(5) Holiday Leave**

Paid leave granted to an employee (excluding a contractual or temporary employee) for a Judiciary holiday. To be eligible, the employee must be in fully paid status for the workdays immediately before and after the holiday. The leave is prorated based on percentage of employment.

- (A) Full-time employees are granted 12 Judiciary holidays, with pay, per calendar year, or 13 during the year of a general election. Occasionally, additional days may be declared holidays. An employee who is scheduled to be on accrued leave for the day on which an additional



holiday is declared will be allowed to cancel the scheduled leave and use holiday leave for that day. Employees who, with supervisory approval, work on any of these holidays will be credited with compensatory leave at the rate of time and one-half in addition to the holiday pay.

- (B) Part-time employees are granted holiday leave on a prorated schedule based on their percentage of employment.
- (C) Employees on alternative work schedules are granted a maximum of eight hours of holiday leave per holiday. The employee must use another form of leave (annual, compensatory, or personal) for any additional hours.

#### **(6) Leave-Without-Pay**

An absence for which a regular employee is not paid.

- (A) The need for adequate staffing for the prompt and effective disposition of Judiciary business is a paramount consideration in scheduling any absence. Paid leave should be managed by the employee and their management team.
- (B) The granting of an employee's request for leave-without-pay should not be routine and should only be used in situations with extenuating circumstances or when the employee is entitled to the absence by law.
- (C) When all paid leave has been exhausted, an employee may request leave-without-pay if the employee is entitled to such leave by law, such as for purposes of active uniformed duty, for absences protected by the FMLA, or as an accommodation. This requirement may be waived when the employee is receiving Temporary Total Disability (TTD) benefits by order of the Workers' Compensation Commission, or in cases involving a uniformed service leave of absence.
- (D) A request for leave-without-pay shall be submitted to the Administrative Head. Decisions on continuous leave-without-pay absence is at the discretion of the Administrative Head, in consultation with the Assistant State Court Administrator of JHRD.
- (E) An employee shall be placed in leave-without-pay status when the employee is absent and is ineligible to use paid leave or when the employee is absent without approval.
- (F) An employee may be placed on leave-without-pay by the Administrative Head as a result of a disciplinary suspension.
- (G) An employee does not accrue annual and sick leave while in leave-without-pay status, nor does the employee receive payment for holidays. Therefore, leave accruals will be less in a pay period when there is leave-without-pay.
- (H) An employee is responsible to pay for their share of the costs for health and other benefits when on leave-without-pay. If the employee is on a FMLA protected absence, the state continues to bear its share of the employee's health plan costs. However, if an employee is in leave-without-pay status and the absence is not protected by FMLA, the state is not responsible for its share of the costs. In that event, the employee is responsible for the employee's and the state's share of the health plan costs. Leave-without-pay within a pay period may impact the employee's ability to pay for benefits and may require the employee to pay these costs out-of-pocket, or risk losing the benefit.

#### **(7) Parental Leave**

See the Policy on Parental Leave.

## **(8) Personal Leave**

Regular employees are granted up to 48 hours of personal leave in a leave year and up to 56 hours in a leap year. For personal leave, the leave year is divided into halves. An employee will be granted 24 hours of personal leave for each half of the year. Personal leave granted in the first half of the leave year that is not used will carry over to the second half of the leave year.

- (A) For employees in regular positions at the beginning of the leave year, personal leave will be granted as follows:
  - (i) First pay period in the new leave year: 24 hours.
  - (ii) The pay period that includes July 1: an additional 24 hours.
- (B) For new employees hired into regular positions during the leave year, personal leave will be granted as follows:
  - (i) Hired from the beginning of the leave year to February 28: 24 hrs.
  - (ii) Hired from March 1 to April 30: 16 hrs.
  - (iii) Hired from May 1 to June 30: 8 hrs.
  - (iv) Hired from July 1 to August 31: 24 hrs.
  - (v) Hired from September 1 to October 31: 16 hrs.
  - (vi) Hired November 1 or later: 8 hrs. (An employee beginning employment on or after this date may not be allowed to use personal leave due to numerous holidays and staffing issues typical for this period, unless the employee is legally entitled to the absence, such as for ADA, FMLA, MHWFA, or religious accommodation purposes. However, managers should allow the use of personal leave if possible.)
  - (vii) In a leap year, the amounts will increase to 28 hours at the beginning of the leave year and be prorated based on percentage of employment.
- (C) An employee who transfers to the Judiciary from another unit of state government shall do so without a loss of unused personal leave, but the employee shall not be granted additional personal leave for the leave year in which the employee transfers. Even though an employee may transfer to the Judiciary in the first half of the leave year with more than 24 hours, they may only use up to 24 hours prior to the pay period that includes July 1.
- (D) Employees are encouraged to carefully manage their use of personal leave so they will have leave to use if an emergency requires them to be absent unexpectedly.

### **(E) Unscheduled Personal Leave**

Personal leave may be used for any purpose without prior approval a maximum of six times within a leave year.

- (i) Use of unscheduled personal leave must meet the following conditions:
  - (I) The employee notifies the immediate supervisor no later than 15 minutes after the normal reporting time that the employee intends to use personal leave. For proper notification, the employee must speak with the employee's supervisor or the supervisor's designee, unless the Administrative Head determines otherwise. The Administrative Head may waive a late notification if the employee provides an adequate reason for why the employee was unable to provide timely notification as determined by the Administrative Head.
  - (II) The employee's absence does not create a shortage of staff in the employee's main worksite.

- (ii) An Administrative Head may make an exception to the six occurrences limitation only in extraordinary circumstances. The employee's supervisor is responsible for tracking occurrences of unscheduled personal leave.
- (iii) Unless an exception is granted by the Administrative Head, an unscheduled absence that exceeds the six occurrences of unscheduled leave shall be charged to leave-without-pay unless it is covered by sick leave, is a result of liberal leave being declared, or the employee is entitled to the absence by law, in which case, it will not count as an unscheduled absence. An unscheduled absence may be cause for a disciplinary action.
- (iv) Unscheduled personal leave may be used for sick and safe leave purposes that are not covered by sick leave under Section (e)(9). Sick and safe leave specifics can be found in Section (e)(10).

**(F) Scheduled Personal Leave**

For the use of personal leave to be considered scheduled leave, the employee must have prior approval. A request for personal leave may be denied if the approval would create a shortage of staff unless the employee is entitled to the absence by law.

- (i) Personal leave may be used as sick leave pursuant to Section (e)(9), including for an absence covered by the FMLA. Personal leave used as sick leave that is not covered by the FMLA shall be treated as sick leave when counting sick occurrences.
  - (ii) Scheduled personal leave may be used for sick and safe leave purposes that are not covered by sick leave under Section (e)(9). Sick and safe leave specifics can be found in Section (e)(10).
- (G) Personal leave may be used for a religious belief observance or practice. If the employee has exhausted the six occurrences of unscheduled personal leave, then the employee must have prior approval to use such leave.
- (H) Personal leave is non-accruing and, therefore, unused personal leave cannot be carried over from one leave year to the next. No adjustment to personal leave balances can be made after the close of the leave year. Any personal leave not used by the close of the leave year will be forfeited to the Judiciary Leave Bank. Unused personal leave is not paid out upon separation from state service.

**(9) Sick Leave**

**(A) Accrual**

Regular employees and Clerks of the Circuit Courts begin earning sick leave from the first day of employment with the Judiciary. Regular full-time employees and Clerks of Court in paid status accrue a maximum of 120 hours of sick leave per leave year at the rate of 4.62 hours per pay period. A part-time regular employee whose percentage of employment is 50% or greater will earn sick leave on a prorated schedule based on the percentage of employment. An employee does not accrue sick leave when in leave-without-pay status.

**(B) Carryover**

Unused sick leave may be carried over from one leave year to the next with unlimited accumulation.

**(C) Permissible Uses**

Sick leave may only be used for:

- (i) An illness, disability or medical care of the employee or an immediate family member as defined in this policy;
  - (ii) Following the birth of the employee's child. (See the Policy on Parental Leave)
  - (iii) When a child is placed with the employee for adoption or foster care. (See the Policy on Parental Leave)
- (D) Denial of Sick Leave or Other Leave Used as Sick Leave**
- (i) The use of sick leave or other leave used as sick leave may be denied when medical documentation is not produced as required.
  - (ii) Unless the employee is entitled to the absence by law, the absence may be denied if it will create a critical shortage of staff in the employee's main worksite as determined by the supervisor, notwithstanding whether the employee has paid leave available.
- (E) Sick Leave Not to be Used as Other Paid Leave**
- Sick leave is not to be used for reasons other than as allowed by this section.
- (F) Unused Sick Leave Added to Years of Service**
- Upon retirement eligibility, unused sick leave is credited towards an employee's state service at a rate of one month of creditable service for every 22 days of sick leave. Unused sick leave cannot be used to reach retirement eligibility.
- (G) Unused Sick Leave upon Separation and Reinstatement**
- Unused sick leave is not paid out upon separation. If an employee is reinstated as a regular employee within three years of departure from state service, the employee's sick leave balance will be restored. However, if the employee is reinstated after they have retired from state service and the unused sick leave was counted toward years of service for retirement purposes, then the sick leave is not restored. Unused sick leave that was not credited towards an employee's years of service for retirement purposes will be placed in the Judiciary Leave Bank.
- (H) Documentation**
- (i) Documentation may be required for the ADA or the FMLA or if the supervisor reasonably questions the employee's ability to return to work safely (for example, after a lengthy post-surgical convalescence or a serious contagious illness), or when there is a suspicion of sick leave abuse, and for other reasons determined by the Administrative Head.
  - (ii) If medical documentation is required, then documentation should be provided to the supervisor immediately upon the employee's return to work, unless the delay is due to factors beyond the employee's control. If the documentation is not provided within the same pay period, then the employee's absence shall be charged to leave-without-pay until the employee is able to provide the documentation. The employee may be subject to a disciplinary action for not complying with this requirement within a reasonable time frame.
  - (iii) The Judiciary may verify the authenticity of medical documentation. Documentation will be rejected if it is not authentic. An employee who submits inauthentic medical documentation shall be subject to termination of employment.
- (I) Prescheduled and Pre-Approved Medical Appointments**
- (i) For it not to be a chargeable sick leave occurrence, the use of sick leave for a prescheduled medical appointment of an employee or immediate family member must have prior approval.

- (ii) A supervisor may choose to require documentation of a prescheduled medical appointment if the supervisor is concerned the employee's use of sick leave for this purpose might be illegitimate, inappropriate, or constitute sick leave abuse.

**(J) An Illness of Unknown Duration**

An employee diagnosed with an illness of unknown duration is expected to contact their supervisor at least once per week, or, at least once per pay period if allowed by the Administrative Head. The report should include any changes in the employee's current condition and anticipated return to work.

**(K) Illness During Annual, Personal, or Compensatory Leave**

If an illness occurs during a period of annual, personal, or compensatory leave, an employee may request that the leave be changed to sick leave for the period of illness. The employee will be required to provide medical documentation pursuant to Section (e)(9)(H) of this policy.

**(L) Other Leave Used in-Lieu-of Sick Leave**

An employee may use other paid leave in lieu of sick leave. If paid leave is not available, and the employee is entitled to the absence by law, the employee may use leave-without-pay. Other leave used in lieu of sick leave, whether paid or unpaid, will be treated as sick leave for purposes of tracking chargeable sick leave occurrences unless the absence is protected by law.

**(M) Employee Responsibility**

An employee is expected to conserve and manage their leave to be as prepared as possible for emergencies and extended illnesses. An employee is expected to become familiar with and abide by the provisions of this policy, and not to abuse their sick leave privileges.

- (i) An employee is expected to make every effort to schedule medical appointments to avoid as much as possible a disruption to Judiciary operations. When this is not possible, it is the employee's responsibility to coordinate with the supervisor to schedule the absence at a mutually beneficial time.
- (ii) An employee calling in sick for the workday is required to contact their supervisor within 15 minutes of the employee's normal reporting time. The Administrative Head will determine the required method by which the employee is to contact their supervisor. The Administrative Head may waive a late notification if the employee provides a sufficient reason as determined by the Administrative Head. For an absence of more than one workday, the employee shall follow the call-in procedures required for the employee's main worksite for such absences.
- (iii) When requested, it is the employee's responsibility to provide medical documentation pursuant to Section (e)(9)(H) of this policy.
- (iv) Employees are expected to track their leave balances including FMLA, Leave Bank, sick and safe leave, and other leave types.

**(N) Management Responsibility**

- (i) When an employee requests sick leave for a medical appointment, the supervisor should cooperate with the employee to resolve any scheduling conflicts. Unless the employee is entitled to the absence by law, the supervisor may deny the request if the absence would create a hardship on operations. At that point, the supervisor should work with the employee to schedule the absence at a mutually beneficial time.

- (ii) Supervisors and managers must notify the JHRD when an employee's absence may be covered by the FMLA. They also must ensure that the employee's time sheet is coded correctly if the absence is determined to be a FMLA qualifying absence.
- (iii) Supervisors shall preserve the confidentiality of any medical information and documentation given to them by employees and ensure that such information and documentation are retained and secured in a confidential manner. Documentation must be provided to JHRD or other appropriate parties upon request.
- (iv) The supervisor shall consider all chargeable sick leave occurrences, and the number, frequency, and basis of them when evaluating an employee's sick leave usage and implementing attendance management measures.
- (v) The supervisor is responsible for regularly monitoring employees' sick leave usage to as an integral part of the management process. This policy has been developed to assist the supervisor in fulfilling that responsibility. The success of this policy in managing sick leave usage depends on a consistent application and use of good judgment.
- (vi) The JHRD can assist in the review of sick leave occurrences by providing leave accounting reports upon request.

**(O) Sick Leave Counseling**

- (i) The supervisor shall counsel an employee having five or more chargeable sick leave occurrences within a "rolling" calendar year.
- (ii) The purpose of the counseling session is to:
  - (I) Identify the causes of the employee's absences;
  - (II) Determine if absences may qualify for the FMLA; and,
  - (III) Determine if there is sick leave abuse.
- (iii) The supervisor may require the employee to submit medical documentation for any period of illness and for any medical appointment (including illnesses and medical appointments of an employee's family member) until the employee's attendance has significantly improved for at least six consecutive months.
- (iv) If the supervisor suspects an absence might be for a qualifying FMLA condition, then the supervisor must notify the Administrative Head and the JHRD.
- (v) If there is evidence of sick leave abuse, then the employee will be subject to a disciplinary action up to and including the termination of employment.

**(P) Exhaustion of Leave**

The AOC Office of Payroll Services, in conjunction with the JHRD, shall notify the Administrative Head when an employee has exhausted all paid leave and/or FMLA protections (if eligible) and the employee's absence continues. The Administrative Head shall cooperate with the JHRD to develop an appropriate strategy to address the situation. This does not relieve the employee from tracking their leave balances including FMLA, Leave Bank, sick and safe leave, and other leave types.

**(Q) Independent Medical Evaluation**

At the discretion of the JHRD, in consultation with the Administrative Head, an employee may be referred to the State Medical Director or other appropriate medical service for an independent medical evaluation. Good cause for such a referral includes, but is not limited to, determining whether the employee can perform the essential functions (including attendance requirements)

of the employee's position, whether the employee poses a threat to the workplace, whether the employee is in violation of the Judiciary's Substance Use and Misuse Policy, or for other sufficient reasons as determined by the Judiciary.

**(R) Simultaneous Payment of Leave and Temporary Total Disability (TTD) Benefits Prohibited**

An employee may not collect payment for sick leave or other leave and receive payment for TTD benefits simultaneously. If an employee is collecting TTD benefits, then the employee is prohibited from collecting payment for leave. If it is found an employee has collected payment for leave while also receiving TTD benefits, then the employee must repay to the Judiciary the money received for the leave.

**(10) Sick and Safe Leave**

In addition to the use of sick leave allowed for reasons stated in Section (e)(9) of this policy, an employee may use annual, personal, or sick leave for sick and safe purposes that are allowed pursuant to the MHWFA. Such reasons are specified below:

- (A) In addition to the family members covered under Section (e)(9) for sick leave usage, an employee may use annual, personal, or sick leave to care for or to obtain treatment for a mental or physical illness, injury or condition for the following family members:
  - (i) A biological, adopted, foster, or step grandparent of the employee;
  - (ii) A biological, adopted, foster, or step grandchild of the employee; or
  - (iii) A biological, adopted, foster, or step sibling of the employee.
- (B) An employee may use annual, personal, or sick leave if the absence is covered by Section (e)(9), if the absence from work is necessary due to domestic violence, sexual assault, or stalking committed against the employee or family members identified in Section (e)(9) and (10) and the leave is being used by the employee to obtain for the employee or family member:
  - (i) Medical or mental health attention related to the domestic violence, sexual assault, or stalking;
  - (ii) Services from a victim services organization related to the domestic violence, sexual assault, or stalking;
  - (iii) Legal services or proceedings related to or resulting from domestic violence, sexual assault, or stalking; or
  - (iv) During the time that the employee has temporarily relocated due to the above reasons.
- (C) An employee is not permitted to use sick and safe leave during the first 106 calendar days of their employment.
- (D) An employee may use up to 64 hours of annual, personal, and sick leave combined for sick and safe leave purposes in a leave year. An employee must use a minimum of four (4) hours when requesting leave for a sick and safe purpose and may be required to provide documentation that the leave was used appropriately.
- (E) This policy provides access to adequate paid leave to be used for sick and safe leave purposes. However, an employee must use leave pursuant to the requirements in this policy. An employee should refer to the section of this policy that pertains to the type of leave the employee wishes to use.

### **(11) Time and Leave Reporting**

The employee is responsible for entering the correct hours worked and leave codes on the employee's time report. The employee's supervisor is responsible for checking the report to ensure its accuracy. The Office of Payroll Services will consult with the Administrative Head or supervisor before making an adjustment to leave codes on an employee's time report.

### **(12) Lunch**

Lunch breaks are considered time not worked and, therefore, time not paid.

- (A) Employees must take a lunch break unless precluded by business necessity or under extraordinary circumstances as determined by the Administrative Head.
- (B) The Administrative Head has the discretion to allow either a ½-hour or a 1-hour lunch break. All employees, regardless of the length of the lunch break, must work 8 hours a day, unless the employee works part-time or works an alternative work schedule. A lunch break is not to be used in lieu of leave to come to work late, leave early, or to otherwise shorten the workday, unless it is approved by the Administrative Head in extraordinary circumstances.
- (C) Exempt employees will not earn compensatory leave for working through the lunch period unless specifically required to do so by the Administrative Head.

### **(13) Other Leave for Contractual and Temporary Employees**

In addition to the information in this policy:

- (A) Contractual employees should refer to their contractual agreement for leave information.
- (B) Temporary employees should refer to the leave information provided to them when hired or as updated thereafter.

### **(14) Required Notice Procedures**

Employees are expected to adhere to the notice provisions described in this policy as well as notice provisions required at their location. An employee who fails to follow the notice procedures required for the applicable form of leave may be denied leave or be subject to a disciplinary action or a determination of job abandonment.

## **(f) Uniformed Services Leave of Absence**

- (1)** A uniformed services leave of absence without pay may be granted to an employee who has been called to active duty or voluntarily entered the uniformed services. The employee cannot be required to use accrued leave while on active duty. The employee may, however, choose to use accrued leave. In that case, the leave of absence will not begin until the employee has exhausted accrued leave, or the employee decides to discontinue using such leave. In accordance with SPPA § 9-1107, the employee may be entitled to state-paid uniformed services administrative leave while serving on active duty. Also refer to the Federal Uniformed Services Employment and Reemployment Rights Act for information on employment rights associated with uniformed services.
- (2)** An employee must be a member of the uniformed services and have orders for a tour of duty. These orders may be in writing or oral, however, the employee should provide the orders in writing when possible.
- (3)** For information on Administrative Leave for Uniformed Services Activity see Section (e)(2)(D).



## **(g) Liberal Leave**

- (1)** Employees should be aware that a media announcement that liberal leave has been declared for “state” offices may not apply to Maryland Judicial Branch operations. When the Chief Justice of the Supreme Court of Maryland or the authorized administrative judge declares liberal leave for a specific court or Judiciary office, an employee of that court or main worksite may choose to report to work or to take leave. (Those employees identified by the Administrative Head as essential employees may be required to report to work when liberal leave is declared.)
- (2)** The employee shall advise the supervisor of the employee’s decision to use leave and which of the following types of leave the employee wishes to use:
  - (A) Annual leave;
  - (B) Compensatory leave;
  - (C) Personal leave;
  - (D) Furlough leave or administrative leave, if such leave is available pursuant to an Administrative Order issued by the Chief Justice of the Supreme Court of Maryland;
  - (E) Sick leave, if used for the employee’s illness or that of an immediate family member (although the employee will be charged with a chargeable sick leave occurrence if appropriate); or,
  - (F) Leave-without-pay if all paid leave is exhausted.
- (3)** An employee previously scheduled to be on leave for the workday or part of the workday on which liberal leave is declared shall remain on that leave. An employee cannot rescind a leave request that is in submitted or approved status for the day on which liberal leave is declared. If liberal leave has not been declared and an employee wishes to be off on that day, then the employee must request leave pursuant to whatever leave request requirements are applicable for that work location.

## **(h) Denial of Leave Not Subject to a Grievance**

The decision to deny a request for leave or leave-without-pay cannot be the subject of a grievance action unless the employee is entitled to the absence by a federal or state statute or duly enacted federal or state regulation.

## **(i) Leave Pay-Out**

- (1)** The Chief Justice or State Court Administrator, due to special circumstances or workload demands, can waive the maximum limits on annual leave accumulation and carry-over.
- (2)** An employee who separates from service may receive a lump sum payment for the total accrued annual leave pursuant to Section (e)(3)(G), and/or Reserved Compensatory Leave (RCL) as of the date of separation, less any indebtedness to the Judiciary. The annual leave payment will be made at the employee’s current rate of pay. The RCL payment will be made at the employee’s rate of pay effective on January 9, 2024.
- (3)** The Chief Justice of the Supreme Court of Maryland or State Court Administrator may determine annually, based upon budget limitations and the availability of funds in each operating budget, whether to allow eligible employees to cash out any annual leave carried over from one leave year to the next that exceeds that allowed by this policy.

**(j) Exceptions**

The Chief Justice of the Supreme Court of Maryland or the State Court Administrator may make exceptions to any provision of this policy.

**(k) Interpretive Authority**

The JHRD is responsible for the interpretation of this policy.

**(l) Not a Contract**

This policy does not constitute or create an express or implied contract. It is not intended to, and does not, create contractual obligations with respect to any matter it covers.