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MEMORANDUM

PERSONNEL MEMO 13-22

TO: Cabinet Secretaries
Agency Heads
Constitutional Officers
HR Administrators

FROM: Tim Longmeyer, Secretary *TML*

DATE: September 9, 2013

SUBJECT: Personnel Cabinet Regulation Amendments
101 KAR 2:076; 101 KAR 2:095; 101 KAR 2:102; 101 KAR 3:015; and 101 KAR 3:050

Several amendments to the following Personnel Cabinet regulations went into effect September 6, 2013. This memorandum will highlight the essential features of the amendments. Your compliance and assistance with the implementation of these changes is appreciated.

101 KAR 2:076. Vacancies, detail to special duty and temporary overlap.

- **Section 3. Temporary Overlap.** The time period allowable for two employees to occupy one position (temporary overlap) is extended from sixty (60) to ninety (90) days. A ninety (90) day time period is consistent with the time that a register "exists" to fill a merit position. It is also appropriate in light of decreased staffing and the need to cross-train during the time that a position is vacant. Positions are vacant for extended periods of time due to extended sick leave and military leave, as examples.

101 KAR 2:095. Classified service general requirements. (Note: Formerly titled "Classified service administrative regulations.")

- **Section 5. Notice of Resignation and Retirement.** This section is amended to require considerations prior to the forfeiture of annual leave when an employee fails to provide notice at least fourteen (14) calendar days prior to resignation or retirement. Specifically, before annual leave is forfeited, an appointing authority is required to consider whether the fourteen (14) day notice requirement was complied with, practicable under the circumstances, and appropriate for the situation. Further, the section now expressly provides that an appointing authority and employee may agree the employee will retain the annual leave for payout

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purposes even if the effective date is within fourteen (14) days of the notice of retirement or resignation.

- Section 10. Issuance of Pay to State Employees. References to “pay check” are amended to “pay” to account for the use of direct deposit, as well as other methods of payment in the future.

101 KAR 2:102. Classified leave general requirements. (Note: Formerly titled “Classified leave administrative regulations.”)

- Section 1. Annual Leave. This regulation provides that an individual must have “worked or been on paid leave” a portion of the previous pay period in order to qualify for the employer portion of health insurance. This amendment clarifies that the receipt of holiday pay alone does not qualify an employee for the employer portion of health insurance. Similarly, an individual must have “worked or been on paid leave” a portion of the previous month in order to qualify for the employer portion of life insurance. The amendment also clarifies that the receipt of holiday pay alone does not qualify an employee to receive the employer portion of life insurance.
- Section 2. Sick Leave. Sick leave without pay provisions are clarified and simplified. Specifically, the regulation is amended to clarify that unpaid sick leave by personnel action shall commence after the employee has been on unpaid sick leave for thirty (30) calendar days. Thereafter, an employee is entitled to remain in unpaid sick leave by personnel action status for an additional calendar year from the date the sick leave by personnel action is initiated.
- Section 5. Compensatory Leave and Overtime. This section is amended to provide employees the opportunity to change the election to receive compensatory leave in lieu of overtime pay every three (3) months as opposed to the previous six (6) month limitation. The Overtime Compensation Form (which is incorporated by reference) is also amended to reflect this change.
- Section 6. Military Leave. This section is amended to refer directly to the statute addressing military leave for state employees, KRS 61.373. That statute provides that during a “time of war or national or state emergency” an applicable employee is entitled to leave for military purposes for a period of time “longer than the duration of the war or national or state emergency plus six (6) months.” This period of time could potentially be longer than the six (6) year time limitation that was previously included in the regulation.

101 KAR 3:015. Leave requirements for unclassified service. (Note: Formerly titled “Leave administrative regulations for the unclassified service.”)

- The leave provisions applicable to the unclassified service were also amended for the same reasons as the classified leave regulation (see 101 KAR 2:102 above). For easy reference, the provisions which were impacted are as follows:
 - Section 1. Annual Leave.
 - Section 2. Sick Leave.
 - Section 5. Compensatory Leave and Overtime.
 - Section 6. Military Leave.

101 KAR 3:050. Unclassified service; promotion, transfer, and disciplinary actions.

- The service provisions applicable to the unclassified service were also amended for the same reasons as the classified service regulations (see 101 KAR 2:076 and 2:095 above). For easy reference, the provisions which were impacted are as follows:
 - Section 6. Temporary Overlap.
 - Section 7. Separations. Language regarding notice of resignation or retirement is amended for the reasons stated in 101 KAR 2:095.

If you have any questions about the content of this Memorandum, please contact Dinah T. Bevington, Personnel Cabinet, Executive Director, Office of Legal Services at (502) 564-7430 or dinaht.bevington@ky.gov.