

**THE COMMONWEALTH OF MASSACHUSETTS  
HUMAN RESOURCES DIVISION**

**RULES GOVERNING PAID LEAVE AND OTHER BENEFITS FOR  
MANAGERS AND CONFIDENTIAL EMPLOYEES**

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**As authorized by Massachusetts General Laws, Chapter 7, Section 28**

**HUMAN RESOURCES DIVISION**

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CONFIDENTIAL EMPLOYEES**

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## **1.00 GENERAL**

### **1.01 Authority**

These rules are issued by the Personnel Administrator in accordance with M.G.L. Chapter 7, §28. The Personnel Administrator shall resolve all questions arising out of the operation of these rules.

### **1.02 Purpose**

These rules regulate the awarding of vacation leave, sick leave, and other leave with pay; overtime compensation; payments in lieu of any of the preceding; travel and meals for persons traveling within and outside of Massachusetts; charges to state employees; prevention of accidents and occupational diseases; and other miscellaneous benefits.

### **1.03 Effective Date**

These rules are effective January 1, 2021. Any previous rules or policies of the Personnel Administrator or the Secretary of Administration and Finance governing vacation leave, sick leave, travel, court leave, military leave, other leave with pay, hours of employment and overtime, or charges to persons are hereby revoked, but no rule shall reduce the vacation, personal or sick leave allowances to which a person was entitled on the effective date of these rules.

### **1.04 Applicability**

With the exception mentioned below, these rules shall apply to all employees and managers employed in the Executive Branch of the Commonwealth whose positions are classified by the Personnel Administrator in accordance with M.G.L. Chapter 30, §45, except those employees covered by collective bargaining agreements based upon M.G.L. Chapter 150E, or whose compensation or expenses while performing their duties is expressly provided for by law in a manner other than that provided by these rules.

The rules concerning meal reimbursement while traveling on state business apply to all persons employed by offices, departments, boards, commissions and other agencies receiving state appropriations, as stated in M.G.L. Chapter 7, §28.

### **1.05 Appeal**

Any person subject to these rules or any Appointing Authority, if aggrieved, may appeal in accordance with the procedure set out in M.G.L. Chapter 30, §§53 to 57.

### **1.06 Attendance Records**

All Appointing Authorities having employees who are subject to these rules shall maintain attendance records in a format as directed by the Personnel Administrator. Attendance records will incorporate reasons for any absences from scheduled work periods. Such records shall be

open to inspection by the Secretary of Administration and Finance, the Personnel Administrator, and the State Auditor as well as the affected employee.

If an employee subject to these rules is absent for reasons other than those authorized by these rules or by special approval of the Appointing Authority, such absence from scheduled work shall be charged off in same manner as described for sick leave charges in Rule 4.05.

## **1.07 Definitions of Terms**

The definitions here listed are intended for use only with the rules contained herein. In construing these rules, the following words shall have the meaning herein given, unless a contrary intention clearly appears in the rule:

**ABSENCE WITHOUT PAY:** Any unauthorized absence from scheduled work.

**APPOINTING AUTHORITY:** A person, board or commission with the power to appoint or employ personnel; or their designee.

**CABINET SECRETARY:** The head of an executive office, as defined in M.G.L. Chapter 6A.

**CALENDAR MONTH:** The month of January, the month of February, etc., and is synonymous to the word “month.”

**COMPENSATED TIME:** Time during which compensation for regularly scheduled work is paid.

**CREDITABLE SERVICE:** A period of service or experience related to a particular benefit, as defined within Rule 2.00.

**DAY:** When used in overtime rules it will mean work day, a period of 24 consecutive hours from the start of a “tour of duty,” and therefore the word “day” need not be identical to a calendar day. For the purpose of all leave benefits and holidays, the term “day” with respect to employees who work an irregular work day or whose regular work day is longer than the normal seven and a half or eight hours shall mean seven and one-half or eight hours, whichever is appropriate.

**DEPARTMENT:** Office, department, division, board or commission.

**EMPLOYEE:** An employee or manager to whom these rules apply, pursuant to Rule 1.04.

**FISCAL YEAR:** Fiscal Year for pay purposes as determined by the various Appropriation Acts.

**HUMAN RESOURCES DIVISION:** The central human resources agency for Executive Branch departments, as authorized by Chapter 151 of the Acts of 1996.

**INTERMITTENT EMPLOYEE:** An employee who is expected to work less than fifty-percent (50%) of the hours in a work week of a regular full-time employee in the same title, or who is

expected to work less than fifty-percent (50%) of a work year of a full-time employee (compare to REGULAR PART-TIME EMPLOYEE).

**LEAVE OF ABSENCE WITH PAY:** Any authorized absence with pay from scheduled work, synonymous with “Leave with Pay.”

**LEAVE OF ABSENCE WITHOUT PAY:** Any authorized absence from scheduled work but without pay.

**NOTICE OF AUTHORIZATION:** Monthly premiums report - direct payment of insurance premiums to State Employees’ Group Insurance Commission as provided by statute.

**PERSONNEL ADMINISTRATOR:** The head of the Human Resources Division as defined in M.G.L. Chapter 7, §4A, or their designee.

**POLITICAL SUBDIVISION OF THE COMMONWEALTH:** All branches and agencies of state, local and county government, including the legislative and judicial branches, municipalities, state and local authorities, constitutional offices, state colleges and universities, and district attorneys. Does not include the federal government or its agencies.

**REGULAR PART-TIME EMPLOYEE:** An employee who is expected to work fifty-percent (50%) or more of the hours in a work week of a regular full-time employee in the same title (e.g., at least 18.75 hours for a 37.5 hour weekly tour of duty), and who is employed for at least fifty-percent (50%) of a work year.

**RULES:** These rules, as mandated by M.G.L. Chapter 7, §28, unless the connotation is expressly otherwise.

**SERVICE:** Service in any position in the Commonwealth covered by these rules, unless otherwise indicated. Service shall also include any approved paid leave of absence as described in these rules, and industrial accident leave.

**TRANSITION YEAR:** Fiscal year in which an employee becomes eligible for additional vacation leave credits, based on years of creditable service.

**VACATION ALLOWANCE:** Vacation credits earned during any year.

**VACATION CREDITS:** The number of days of vacation earned and available under the rules in Section 2.00, not necessarily limited to a year.

**VACATION STATUS:** The amount of vacation credits that can be earned in a year.

**VETERAN:** As defined in M.G.L. Chapter 4, §7, clause 43.

WEEK: For the purpose of vacation rules, will mean five days, excluding holidays; for the rules pertaining to overtime, it will mean a “calendar week” i.e., a week extending from Sunday to Saturday inclusive.

## **2.00 VACATION LEAVE**

### **2.01 Accrual of Vacation Leave**

The vacation year shall be the first full pay period in January through the last full pay period inclusive of December 31<sup>st</sup> of the same calendar year.

Vacation leave with pay shall be credited to full-time employees employed by the Commonwealth at the end of each pay period as follows:

<b><u>Total Years of Service</u></b>	<b><u>Scheduled hours</u></b>	<b><u>Accrued Credit Bi-Weekly</u></b>
Less than 9.5 years	7.5 8.0	4.326975 hours 4.61544 hours
9.5 years but less than 19.5 years	7.5 8.0	5.7693 hours 6.15392 hours
19.5 years or more	7.5 8.0	7.21155 hours 7.69232 hours

Employees will be credited with the next higher level of accrual status during the pay period that includes July 1 of the fiscal year that the employee reaches the higher accrual status. On July 1<sup>st</sup> of a transition year, the higher standard monthly accrual rate will begin. Example: If an employee reaches 9.5 or 19.5 years of creditable service in December, the higher accrual rate will begin the preceding July.

Vacation credits shall not accumulate for service in excess of either 37.5 or 40 hours a week as determined by Rule 10.01.

### **2.02 Part-Time Employees**

Regular part-time employees shall accumulate vacation credits in the same proportion that their part-time service bears to full-time service.

Intermittent employees are not eligible for paid vacation.

### **2.03 Vacation Status and Creditable Service**

All service beginning on the first working day in a state agency and all service thereafter is considered toward “total years of service,” or “creditable service.”

Creditable service, for the purpose of vacation status only, shall include prior relevant employment experience in all employment sectors, including work for all private and public employers. Such experience must be full-time and will be credited on the basis of one year of experience for one year of creditable service. At the time of hire or promotion from a bargaining

unit position, employees shall begin to accrue vacation credits at a rate commensurate with their creditable service, as described in this paragraph. Agencies shall take into consideration the requirements of the Massachusetts Equal Pay Act when determining vacation placement. Requests for a vacation status accrual rate that exceeds an individual's creditable service are subject to the approval of the Personnel Administrator. Requests for adjustments to vacation status at any time other than the time of hire or promotion are subject to the approval of the Personnel Administrator. The provisions of this section are subject to G.L. c. 7, § 28.

## **2.04 Reductions to Vacation Status**

A full-time employee on leave without pay and/or absent without pay during the pay period shall earn vacation leave credits based on the hours paid within the bi-weekly pay period.

## **2.05 Conversion of Vacation Credits During Receipt of Workers' Compensation Benefits**

If an employee who is receiving workers' compensation benefits has available vacation credits which have not been used and if they, because of the two (2) year rule against carryover of vacation, would lose such vacation credits, the Appointing Authority shall convert such vacation credits to sick leave credits in the new calendar year beginning with the first full pay period in January of the year in which such vacation credits would be lost if not taken. Such additional sick leave shall be added to any sick leave the employee may have accumulated.

## **2.06 Annual Crediting of Accumulated Vacation**

On a bi-weekly basis, vacation leave shall be credited the first full pay period in January of every year through the last full pay period inclusive of December 31<sup>st</sup> of the same calendar year.

## **2.07 Approval of Vacation Leave**

Appointing authorities will grant vacation leave at such times during the vacation year as will best serve the public interest. Preference should be given to employees on the basis of years of employment by the Commonwealth.

## **2.08 Carryover of Vacation Accrual**

The Appointing Authority will grant vacation leave in the year in which it becomes available, unless in its opinion it is impossible or impractical to do so because of work schedules or other emergencies. Unused vacation leave earned during the previous two years can be carried over to the new calendar year beginning with the first full pay period in January. Annual earned vacation leave credit not used by the last full pay period inclusive of December 31<sup>st</sup> of the second year it was earned will be forfeited. The Appointing Authority is charged with the responsibility of ensuring that vacation is taken in the succeeding years so that the employee may not lose vacation credits; except as provided in rule 2.05. In extraordinary circumstances, an agency head may request the Personnel Administrator to permit an employee to carry over more than two (2) years of vacation credits. The approval of such a request shall be at the discretion of the Personnel Administrator.

## **2.09 Use of Vacation Credits for Sick Leave Purposes**

Absences due to illness in excess of those authorized under the rules thereof for personal reasons not provided for under sick leave rules may, at the discretion of the Appointing Authority, be charged to vacation leave.

## **2.10 Payment of Unused Vacation Credits Upon Death of Employee**

Upon the death of an employee, payment will be made in an amount equal to no more than two (2) years of unused earned vacation leave provided that no monetary or other allowance has already been made therefor. The Personnel Administrator may, upon request of the Appointing Authority of the deceased person, authorize the payment of such compensation upon the establishment of a valid claim, in the following order of precedence:

First: To the surviving beneficiary or beneficiaries, if any, lawfully designated by the person under the state employees' retirement system

Second: If there is no such designated beneficiary, to the estate of the deceased. (M.G.L. Chapter 29, §31A).

## **2.11 Cash Out of Unused Vacation Credits Upon Termination**

Employees whose services terminated by resignation, by dismissal through no fault or delinquency of their own, by retirement, or by entrance into the defense forces, shall be paid an amount equal to the vacation leave which has been credited but not used by the employee up to the time of separation, provided that no monetary or other allowance has already been made therefor.

## **2.12 (Repealed 1/1/21)**

## **2.13 Transfer of Vacation Leave Credits from other State Agencies**

Employees who enter positions covered by these rules from other state agencies not covered by these rules (including the judicial or legislative branches of state government, institutions of higher education, the Constitutional Offices, certain sheriffs' departments, the district attorneys, and other state agencies, but excluding state authorities and all other political subdivisions), and who had unused accumulated vacation credits at the time of their termination from such other state agencies, may be allowed to transfer such unused accumulated vacation leave credits upon approval in writing by the Appointing Authority and the Personnel Administrator.

This transfer of credits will be allowed provided that there has been less than a three (3) year break in service from the date of termination of the employment in such other state agency, and provided that the employee has not already been compensated for such credits by the previous employer.

The amount of credits to be transferred will be limited to the amount allowed for creditable service under rule 2.01 and limited by the two (2) year carryover rule (2.08). For example, an employee who was previously employed for one year by a district attorney and who earned 15 days of

vacation credits in that year would only be able to transfer twelve (12) days of such credits upon entering a position covered by these rules.

#### **2.14 Advanced Vacation for New Employees**

Subject to the approval of the Personnel Administrator, newly hired employees who have completed one (1) month of state service have the option to request an advance of no more than five (5) vacation days. Employees who opt to receive an advance of vacation leave shall not accrue additional vacation credits until sufficient time has passed to offset the amount of vacation credits that were advanced. Employees may exercise the option to advance vacation credits only once during the first twelve (12) months of employment. In the event that an employee who exercises this option separates from the employment of the Commonwealth with a deficit of vacation credits, said employee's final pay remittance will be reduced by an amount corresponding to the negative balance of vacation credits.

#### **2.15 School Employees in Non-Teaching Positions**

Employees in non-teaching positions in any school within any department, whose regular service is rendered between September 1<sup>st</sup> and June 30<sup>th</sup>, may be granted the vacation leave to which they are entitled either during the period of their regular service, or after the expiration of said period, as is determined by the Appointing Authority. Such employees shall be credited with 10/12 of vacation allowance per school year.

## **3.00 PERSONAL LEAVE**

### **3.01 Accrual of Personal Leave**

During the first full pay period in January employees will be credited annually with three (3) days of personal leave credits which may be taken by the last Saturday prior to the first full pay period in January of the next year. Full-time employees, beginning state service on or after the first day of the calendar year, shall be credited with paid personal leave as follows:

Date of Employment	Personal Leave Granted
January 1 through March 31	3 days
April 1 through June 30	2 days
July 1 through September 30	1 day
October 1 through December 31	0 day

### **3.02 Use of Personal Leave**

Personal leave may be taken during the calendar year when its use is requested by an employee and upon approval by their Appointing Authority. Any personal time not taken by the last Saturday prior to the first full pay period in January of the next year will be forfeited by the employee. An employee who cannot utilize personal leave in the months of November and December, due to the operational needs of the agency, shall be permitted to carry over one (1) day of personal leave not utilized to the next calendar year.

### **3.03 Part-Time Employees**

Regular part-time employees shall accumulate personal leave credits in the same proportion that their part-time service bears to full-time service.

Intermittent employees are not eligible for paid personal leave.

## **4.00 SICK LEAVE**

### **4.01 Accrual of Sick Leave**

A full-time employee shall accumulate sick leave with pay credits at the following rate for each bi-weekly pay period of employment:

<u>Scheduled Hours</u>	<u>Sick Leave Accrued</u>
75 hours bi-weekly	4.326975 hours
80 hours bi-weekly	4.61544 hours

Any employee on any leave with pay or who is receiving workers' compensation benefits shall accumulate sick leave credits. There shall be no limit to the number of unused sick leave credits which an employee may accumulate.

### **4.02 Reductions/Limits to Sick Leave Credits**

A full-time employee shall not accrue full sick leave credits for any bi-weekly pay period in which they were on leave without pay or absent without pay. Instead the employee shall earn sick leave credits based on the hours paid within the bi-weekly pay period.

Sick leave shall not accumulate for service in excess of either 37.5 or 40 hours a week as determined by Rule 10.01.

### **4.03 Part-Time Employees**

Regular part-time employees shall accumulate sick leave credits in the same proportion that their part-time service bears to full-time service.

Intermittent employees are not eligible for paid sick leave beyond that provided by M.G.L. c. 149 § 148(C).

### **4.04 Conversion of Vacation Credits During Receipt of Workers' Compensation Benefits**

If an employee receiving workers' compensation benefits has available vacation credits which have not been used and if they, because of the two (2) year rule against carryover of vacation, would lose such vacation credits, the Appointing Authority shall convert such vacation credits to sick leave credits on December 31<sup>st</sup> of the year in which such vacation credits would be lost if not taken. Such additional sick leave shall be added to any sick leave the employee may have accumulated.

### **4.05 Limit of Paid Sick Leave**

When an employee is absent due to illness, such absence will be charged off against any sick leave credits they may have. All absences due to illness must be charged off in fifteen (15) minute increments, but in no case at less than the actual time off because of absence due to illness.

If such employee has no sick leave credits, such absence shall be charged at the discretion of their Appointing Authority to leave without pay, to absence without pay or to vacation or personal leave but shall be charged off on the same basis as above.

No employee shall be entitled to a leave of absence with pay due to illness in excess of the accumulated sick, vacation and personal leave then due.

Sick leave credits accumulated following a return to duty after leave without pay or absence without pay shall not be applied against such leave or absence.

#### **4.06 Accrual While on Paid Leave**

Employees on any type of leave with pay covered by these rules, or who are receiving workers' compensation benefits, will continue to accumulate sick leave credits while on such leave.

#### **4.07 Approved Use of Sick Leave**

Sick leave shall be granted, at the discretion of the Appointing Authority, to employees only under the following conditions:

- When they are unable to perform their duties due to illness or injury.
- When through exposure to contagious disease the presence of the employee at their work location would jeopardize the health of others.
- When appointments with licensed medical or dental professionals cannot reasonably be scheduled outside of normal working hours for purposes of preventative care, medical treatment or diagnosis of an existing medical or dental condition.
- When an employee, who is absent due to excessive use of alcohol or narcotics, becomes and continues to be an active participant in an approved counseling service program.
- An employee may use up to a maximum of sixty (60) days of sick leave per calendar year (concurrent with any FMLA entitlement used) for the purpose of:
  - Caring for an employee's seriously ill: spouse, child, foster child, step child, parent, an individual who stood in loco parentis to the employee when the employee was minor, step parent, brother, sister, grandparent, grandchild of the employee, or domestic partner.
  - Routine medical appointments with licensed medical or dental professionals that cannot reasonably be scheduled outside of normal working hours for an employee's child, spouse, parent or parent of spouse.
  - Parental leave due to the birth or adoption of a child, to be concluded within twelve (12) months of the date of the birth or adoption. Eligible employees utilizing sick leave under

this section shall not be required to submit a medical certification, unless the Appointing Authority has reason to believe that the birth or adoption claim was not genuine. This leave benefit shall be in addition to the ten (10) days of paid leave set forth in section 5.02 (A).

- Where an eligible full or part-time employee and their eligible spouse are both employees of the Commonwealth, they may be each granted a total of not more than sixty (60) days of accrued sick leave as set forth above for the care of a seriously ill parent or for parental leave due to birth or adoption.
- An employee may use up to a maximum of ten (10) days of accrued sick leave in a calendar year for the purpose of attending to necessary preparations and legal requirements related to the employee's adoption of a child, except that in no event may an employee charge more than a total of sixty (60) days in a calendar year for adoption related purposes.
  - An employee may use up to a maximum of ten (10) days of sick leave per calendar year for the purpose of attending to necessary preparations and/or legal proceedings related to foster care of DCF children, such as foster care reviews, court hearings and MAPS training for pre-adoptive parents (this is in addition to the ten (10) days of paid leave [Rule 5.02] for the initial foster placement); HRD may approve a waiver of the ten (10) day limit for difficult placements. See also 8.06, Other Leaves of Absence with Pay.

The granting of sick leave is solely at the discretion of the Appointing Authority. If an employee is granted sick leave, the provisions of this rule must be followed.

#### **4.08 Notification**

Notification of absence due to illness shall be given as early as possible on the first day of absence. If such notification is not made, such absence may, at the discretion of the Appointing Authority, be considered an absence without pay.

Appointing authorities may request medical documentation consistent with the Executive Department's Earned Sick Leave Policy. For any period of absence due to illness not otherwise covered by the Earned Sick Leave Policy, the Appointing Authority may require a physician's certificate for the necessity of such absence. If such certificate is not filed within seven (7) calendar days after a request is made, such absence may be considered, at the discretion of the Appointing Authority, to be an absence without pay. The use of sick leave for the birth, adoption or foster care placement of a child does not require a doctor's certificate.

The Personnel Administrator shall regularly review reports of sick leave usage within each Department. The Personnel Administrator may require further evidence that such leave comes within the provisions of these rules; and if, upon examination of such evidence, the Personnel Administrator is of the opinion that said leave is not in accordance with these rules, the Personnel Administrator shall so notify the Appointing Authority. Upon receipt of such notice, said leave shall be changed from sick leave to leave without pay, to absence without pay, or to vacation leave.

#### **4.09 Fitness for Duty**

Upon return to duty following extended sick leave in excess of five (5) consecutive working days, the Appointing Authority may require a physical examination to determine the employee's fitness to perform their duties. At such examination the employee, if they so desire, may be represented by a physician of their own selection.

#### **4.10 Cash out of Sick Leave Credits Upon Retirement**

Employees who retire directly from active employment and who have accumulated unused sick leave credits shall be paid an amount equal to twenty percent (20%) of the value of such credits, computed by multiplying the number of days sick leave available times the daily rate of salary received by the employee at the time of their retirement. Such payment for unused sick leave shall not affect the amount of retirement allowance available to such employee. See 4.13 for an exception to this rule.

No cash out of sick leave will be allowed for employees who defer their date of retirement.

#### **4.11 Payment of Sick Leave Credits Upon Death of Employee**

If an employee dies while actively employed, the surviving beneficiary/beneficiaries, if any, lawfully designated by the employee under the state employees' retirement system, or, if there is no such beneficiary/beneficiaries, then their estate, shall be paid twenty percent (20%) of the value of the unused sick leave credits accumulated by the employee as of the date of death.

Such payment as described within this paragraph will not change the employee's pension benefit.

#### **4.12 Crediting of Prior Service Upon Reinstatement or Reemployment**

Employees who are reinstated or who are re-employed shall be credited with the amount of sick leave credits remaining at the termination of their previous service. No credit for previous service may be allowed where reinstatement or re-employment occurs after an absence of three (3) years or more unless the Appointing Authority secures the approval of the Personnel Administrator for any of the following reasons:

- Illness of the employee and not because of illness of their immediate family.
- Termination due to layoff or dismissal through no fault or delinquency attributable solely to the employee.
- Injury while in the employment of the Commonwealth and for which such employee would be entitled to receive Workers' Compensation benefits.

#### **4.13 Sick Leave in Coordination with Workers' Compensation**

In addition to sick leave benefits provided for in these rules, employees shall be entitled to additional disability benefits provided for by law upon completion of the leave of absence with pay due to illness.

An employee who is entitled to any sick leave allowance may take such of their sick leave allowance payment as, when added to the amount of any disability compensation provided by statute, will result in the payment of their full salary (M.G.L. Chapter 152, §69). An employee who is receiving weekly benefits for total incapacity under M.G.L. Chapter 152 may not use sick leave for this purpose that has been accrued during the time of total incapacity (M.G.L. Chapter 32, §14).

If an employee is injured in the line of duty, and such injury could result in a potential claim under M.G.L. Chapter 152, they shall be paid sick leave, vacation leave and/or personal leave up to the extent of their credits until payments under the Workers' Compensation Law begin. Any adjustments due because of the effects of this rule shall be made thereafter. Any absence resulting from such injury that is in excess of available sick, vacation or personal credits shall be deemed absence without pay (M.G.L., Chapter 30, §58). Whenever an employee is given a leave of absence because of operation of this rule, the Appointing Authority shall immediately furnish the employee with a "notice of authorization" that the employee must pay to the Group Insurance Commission the appropriate full insurance premium as provided for in M.G.L. Chapter 32A.

Notwithstanding the above provision of this rule, an employee who, while in the line of duty, receives bodily injuries resulting from acts of violence of patients or prisoners in their custody, and who as a result of such injury would be entitled to benefits under M.G.L. Chapter 152, shall be paid the difference between the weekly cash benefits to which they would be entitled under M.G.L. Chapter 152 and their regular salary, without such absence being charged against available sick leave credits, even if such absence may be for less than six (6) calendar days' duration. (M.G.L. Chapter 30, §58; and Chapter 152, §69).

In computing a week's salary for purposes of refunds or adjustments in the case of Workers' Compensation, the periods being compared shall include in both cases the same calendar days used in making such adjustments, irrespective of the number of days in the regularly scheduled work week. At no time may an employee receive more than their regular salary for period in question as the result of Workers' Compensation, except in the case of vacation or overtime credits payable under M.G.L. Chapter 152, §69. An employee who is receiving weekly benefits for total incapacity under M.G.L. Chapter 152, and who subsequently retires from active service, may not consider the amount of sick leave that was accrued during the time of total incapacity for cash out purposes (M.G.L. Chapter 32, §14).

#### **4.14 Transfer of Sick Leave Credits from other Political Subdivisions.**

Employees who enter positions covered by these rules from other state agencies not covered by these rules (including the judicial or legislative branches of state government, institutions of higher education, the Constitutional Offices, certain sheriffs' departments, the district attorneys, and other state agencies, but excluding state authorities and all other political subdivisions), and who had unused accumulated sick leave credits at the time of their termination from such other state

agencies, may be allowed to transfer such unused accumulated sick leave credits upon approval in writing by the Appointing Authority and the Personnel Administrator.

This transfer of credits will be allowed provided that there has been less than a three (3)-year break in service from the date of termination of employment in such other state agency, and that the employee has not already been compensated for such credits by the previous employer.

The amount of credits to be transferred will be limited to the amount that the employee would have been eligible to accrue under Rule 4.01 and reduced by the amount of credits actually used during such previous employment. For example, a full-time employee who worked one year for a college, earned sick leave credits at the rate of two days per month for a total of 24 days and used three of those days would only be able to transfer 12 of the remaining 21 days (based on the 15 day/year accrual rate in Rule 4.01).

#### **4.15 Employee Assigned Duties of Position in Higher Grade**

Upon the vacancy of any position covered by these rules, the Appointing Authority shall, if it assigns an employee in a classification of lower grade and pay to that vacancy for a period of more than thirty (30) calendar days, request approval of the Personnel Administrator for the temporary appointment of the employee to the position. The employee so appointed shall be entitled to the compensation of the higher grade from the first day of assignment. This rule does not apply to assignment of an employee to cover a higher position when the incumbent of the higher position is absent on vacation leave, but is intended to apply only when the incumbent of the higher position is on sick leave (M.G.L. Chapter 30, §24B).

## **5.00 FAMILY AND MEDICAL LEAVE**

### **5.01 Applicability**

- A. Rules 5.01 through 5.11 are administered in accordance with regulations issued by the U.S. Department of Labor under the authority of the Family and Medical Leave Act (FMLA) of 1993, M.G.L. Chapter 175M (Paid Family Medical Leave or PFML) and any other applicable state law.
- B. The FMLA, M.G.L. Chapter 175M and this Rule provide for periods of time where an employee can be on a leave of absence for their own serious health condition, that of a family member or for another qualifying reason. Wage replacement related to these absences may be available pursuant to Rules 2.00, 3.00 and 4.00 or through an approval of a paid leave benefit under PFML from the Department of Family and Medical Leave (DFML).
- C. M.G.L. Chapter 175M defines family member as: the spouse, domestic partner, child, parent, or parent of a spouse or domestic partner of the employee; an individual who stood in loco parentis to the covered individual when the employee was a minor child; or a grandchild, grandparent or sibling of the employee.
- D. Commonwealth of Massachusetts provides employees an unpaid leave of no more than twenty-six (26) weeks in the aggregate in a benefit year with the following limitations:
  - a. Up to twenty-six (26) weeks continuous leave:
    - (i) Birth and care of the employee's child or placement for adoption or foster care of a child with the employee;
    - (ii) To care for a spouse, child, or parent who has a serious health condition; or
    - (iii) For the employee's own serious health condition.
  - b. Up to twenty (20) weeks intermittent leave:
    - (i) For the employee's own serious health condition.
  - c. Effective July 1, 2021, up to twelve (12) weeks continuous leave:
    - (i) Serious health condition of family members as defined in M.G.L. Chapter 175M, unless otherwise indicated above in subsection (a).
  - d. Up to twelve (12) weeks intermittent leave:
    - (i) To care for a spouse, child or parent of the employee with a serious health condition;
    - (ii) Effective July 1, 2021, to care for any family member with a serious health condition as defined in M.G.L. Chapter 175M, unless otherwise indicated in subsection (d)(i) above; or
    - (iii) Military exigency leave.
  - e. Up to twenty-six (26) weeks continuous or intermittent leave:

- (i) Covered service member leave.
- E. An employee is not entitled to more than twenty-six (26) weeks of family and medical leave combined in a twelve (12)-month period. All leaves taken pursuant to these Rules, the FMLA, PFML, Massachusetts Parental Leave Act and any other relevant law will run concurrently to the extent possible.
- F. In order to be eligible for this leave, the employee must meet the eligibility requirements in M.G.L. Chapter 175M or must have been employed for three (3) consecutive months, whichever is sooner.
- G. Effective until December 31, 2020, a rolling 12-month period will be used, measured backward from the date of commencement of the leave to determine an employee's entitlement for family and medical leave in a given year (benefit year). Effective on January 1, 2021, the benefit year will be forward looking; fifty-two (52) consecutive weeks beginning on the Sunday prior to the first day of job protected leave.
- H. Refer to Rule 15.00 for information on the Adoption Assistance Program.

## **5.02 Use of Family or Medical Leave**

### **A. Family Leave**

An Appointing Authority shall grant to a full-time or part-time employee who has been employed for at least three (3) consecutive months, an unpaid leave of absence for up to twenty-six (26) continuous weeks in conjunction with the birth, adoption or foster placement of a child as long as the leave concludes within twelve (12) months following the date of the birth, adoption or foster placement. During family leave taken in conjunction with the birth, adoption or foster placement of a child, an employee shall receive their regular salary for ten (10) days of said leave, at a time requested by the employee. These ten (10) days of paid leave may be used on an intermittent basis over the up to twenty-six (26) weeks of allowable family leave, except that the leave may not be charged in increments of less than one (1) day. The sixty (60) days of parental sick leave an employee may take for the birth or adoption of a child (Rule 4.07) is in addition to these ten (10) days of paid family leave.

Unless otherwise specified in the paragraph above, intermittent leave for the birth and care of the employee's child or placement for adoption or foster care of a child with an employee may be approved at the sole discretion of the Appointing Authority.

The employee shall provide proof of the birth, placement or adoption of a child upon request by the Appointing Authority.

### **B. Medical Leave – Continuous**

- a. When presented with adequate supporting healthcare certification, an Appointing Authority shall grant to a full-time or part-time employee who has been employed for at least three (3) consecutive months, an unpaid leave of absence for up to twenty-six

(26) weeks of continuous leave to care for a spouse, child or parent who has a serious health condition, to care for a family member, as defined by M.G.L. Chapter 175M, who is a covered service member who experienced an illness or injury in the line of duty or while on active duty or for a serious health condition which prevents the employee from being able to perform the function of their position.

b. Effective July 1, 2021, when presented with adequate supporting healthcare certification, an Appointing Authority shall grant to a full-time or part-time employee, an unpaid leave of absence for up to twelve (12) weeks of continuous leave to care for a family member, as defined by M.G.L. Chapter 175M who has a serious health condition and not otherwise addressed in Section B(a) above.

C. Medical Leave - Intermittent

a. When presented with adequate supporting healthcare certification, an Appointing Authority shall grant to a full-time or part-time employee, an unpaid leave of absence for up to twenty (20) weeks to be used intermittently for a serious health condition that prevents the employee from being able to fully perform the functions of their position. Employees requesting an intermittent leave shall attempt to work out a schedule for leave without unduly disrupting the Appointing Authority's operations.

b. Consistent with the effective dates in Section 5.01(D)(d)(ii), when presented with adequate supporting healthcare certification, an Appointing Authority shall grant to a full-time or part-time employee, an unpaid leave intermittent absence for up to twelve (12) weeks to be used intermittently for a serious health condition for any family member. Employees requesting an intermittent leave shall attempt to work out a schedule for leave without unduly disrupting the Appointing Authority's operations

c. When presented with adequate supporting healthcare certification, an Appointing Authority shall grant to a full-time or part-time employee, an unpaid leave of absence for up to twenty (26) weeks to be used intermittently to care for a family member, as defined by M.G.L. Chapter 175M, who is a covered service member who experienced an illness or injury in the line of duty or while on active duty. Employees requesting an intermittent leave shall attempt to work out a schedule for leave without unduly disrupting the Appointing Authority's operations.

D. Military Exigency - Intermittent

a. An Appointing Authority shall grant to a full-time or part-time employee, an unpaid intermittent leave of absence for up to twelve (12) weeks for a qualifying exigency arising out of the fact that the employee's family member has been notified of a qualifying impending call or other to active duty in the Armed Forces.

E. One-Time Catastrophic Leave

- a. Upon the submission of satisfactory medical evidence that demonstrates the employee has an existing catastrophic illness the Appointing Authority shall grant the employee, on a one-time basis, up to an additional twenty-six (26) weeks of non-intermittent, medical leave. This leave is unpaid unless the employee otherwise is eligible to utilize their accruals or other benefit.

#### **5.03 (repealed 11/7/05)**

#### **5.04 Notice Requirements for Family and Medical Leave**

At least thirty (30) days in advance of a need for leave, the employee shall submit to the Appointing Authority a written notice of their intent to take family or medical leave and the dates and expected duration of the leave. If thirty (30) days' notice is not possible, the employee shall give notice as soon as practicable.

#### **5.05 Continuation of Benefits During Family Leave**

Employees taking a leave of absence under Section 5.02(A) will accumulate sick and vacation leave benefits only for the first eight (8) weeks of such unpaid leave. The period of family leave granted under these rules shall not affect the employee's right to receive any benefits for which the employee was eligible at the start of their leave.

#### **5.06 Satisfactory Evidence for Family and Medical Leave**

Family Leave:

The employee shall provide upon request by the Appointing Authority:

- Within fifteen (15) days following the birth of their child, employees must submit proof of the date of their child's birth (e.g., hospital birth record, birth certificate).
- Documentation from the adoption or foster care agency involved with the placement. Documentation from the Department of Children and Families must confirm the foster care placement and the date of placement.

Medical Leave:

The employee shall provide upon request by the Appointing Authority, the following satisfactory healthcare certification: that includes:

- The name, address, telephone number and fax number of the health care provider and type of medical practice/specialization.
- The approximate date on which the serious health condition commenced.
- Description of the appropriate medical facts regarding the medical condition for which the FMLA leave is sought. This may include, but is not limited to, symptoms, diagnosis, hospitalizations, doctor visits, whether medication has been prescribed, any referrals or evaluations, or regime of continuing treatment.

- If employee is the patient, information sufficient to establish the employee cannot perform the essential functions of the employee's job as well as the nature of any other work restrictions and likely duration of the disability.  
If the patient is a family member, information sufficient to establish that the family member is in need of care, and an estimation of the frequency and duration of the leave required to care for the family member.
- If intermittent, information necessary to establish the medical necessity for an intermittent leave, including but not limited to the dates and duration of treatment and recovery.

If the Appointing Authority has reason to doubt the validity of the healthcare certification provided, the Appointing Authority may obtain a second opinion at its own expense. If there is a conflict between the second opinion and the original healthcare certification, the Appointing Authority and the employee may resolve the conflict by obtaining the opinion of a third medical provider, who is approved jointly by the Appointing Authority and the employee, at the Appointing Authority's expense.

## **5.07 Intermittent Leave and Modified Work Schedules**

Intermittent leave usage and modified work schedules may be granted for an employee's own serious health condition, a qualifying military exigency, when a family member, as defined by M.G.L. Chapter 175M, who is a covered service member has experienced an illness or injury in the line of duty or while on active duty, or when a family member as defined in Rule 5.01(C) or (D) has a serious medical condition and is dependent upon the employee for care. When such changes to the work schedule are medically necessary, the employee and the Appointing Authority shall attempt to work out a schedule that meets the needs of the employee without unduly disrupting the operations of the workplace.

The Appointing Authority shall maintain the ability to transfer an employee to an alternative position with no reduction of pay or benefits in order to avoid disruption of operations. Wherever practicable, an employee who transfers pursuant to this paragraph shall be given ten (10) days' notice of such transfer.

Upon the expiration of the intermittent medical leave, modified work schedule, or job assignment that was agreed upon, the employee shall be returned to the same or equivalent position with the same status, pay and length of service credit as of the date of the employee's leave.

## **5.08 Use of Paid Leave to Offset Unpaid Family or Medical Leave**

Employees may use accumulated sick, vacation or personal leave credits to offset unpaid family or medical leave, subject to any limits otherwise specified for family leave in Rules 4.07 and 5.01 through 5.11.

Employees may apply for paid leave benefits under M.G.L. Chapter 175M through the Department of Family and Medical Leave (DFML). Employees approved for paid leave from the DFML may not utilize sick, vacation, or other personal leave credits for the same absence.

## **5.09 Payment for Holiday During Family or Medical Leave**

Between periods of unpaid family or medical leave, if an employee returns to work for a period of less than two (2) weeks, and if a holiday occurs during that return to work, no holiday pay or compensatory time shall be granted for that holiday.

## **5.10 Continuation of Group Insurance Benefits During Family or Medical Leave**

Employees are entitled to the same group health insurance coverage and benefits that they received at the start of their unpaid leaves, provided the employee continues to pay the required employee share of premium while on leave, for the entire period of unpaid leave, unless prohibited by law.

If the employee fails to return from leave, the Commonwealth may recover, as provided under FMLA, the cost it incurred in maintaining insurance coverage under its group health plan for the duration of the employee's leave.

## **5.11 Reemployment Rights under Family and Medical Leave**

At the expiration of family or medical leave, the employee shall be returned to the same or equivalent position with the same status, pay and length of service credit as of the start of their leave. If during the period of the leave, employees in an equivalent position have been laid off through no fault of their own, the employee will be extended the same rights or benefits, if any, extended to employees of equal length of service in the equivalent position in the department.

## **5.12 - 5.16 (Repealed 1/1/21)**

## **5.17 Small Necessities Leave Act: Applicability**

Rules 5.17 through 5.20 are administered in accordance with Massachusetts General Law Chapter 149, Section 52D, which became effective on August 4, 1998.

## **5.18 Use of Small Necessities Leave**

An employee shall be entitled to a total of 24 hours of unpaid leave during any 12-month period, in addition to leave available under the Family and Medical Leave Act of 1993, for the following purposes:

- (1) to participate in school activities directly related to the educational advancement of a son or daughter of the employee, such as parent-teacher conferences or interviewing for a new school;
- (2) to accompany the son or daughter of the employee to routine medical or dental appointments, such as check-ups or vaccinations; and

- (3) to accompany an elderly relative of the employee to routine medical or dental appointments or appointments for other professional services related to the elder's care, such as interviewing at nursing or group homes.

#### **5.19 Use of Paid Leave to Offset Unpaid Small Necessities Leave**

If an employee has accumulated sick, personal, or vacation credits at the commencement of their small necessities leave, the employee may use such credits for which they may be eligible under the applicable rules. The Small Necessities Leave Act does not require employers to provide paid sick leave or paid medical leave in any situation where the employer would not normally provide such paid leave.

#### **5.20 Notice Requirements for Small Necessities Leave**

At least seven (7) days in advance, the employee shall submit to the Appointing Authority a written notice of their intent to take small necessities leave and the date and expected duration of the leave. If seven (7) days' notice is not possible, the employee shall give notice as soon as practicable.

## **6.00 MILITARY LEAVE**

### **6.01 Paid Military Leave**

Employees are entitled to receive their regular pay while performing certain duties as members of the armed forces of the Commonwealth or a reserve component of the armed forces of the United States. The employee's regular pay may be reduced by compensation received as base pay for military service under certain circumstances and subject to time limits that are outlined in G. L. c. 33, § 59. Employees shall present their signed, official military orders to their agency or department head.

### **6.02 Call to Active Duty from U.S. Armed Forces Reserves**

Employees who are members of a reserve component of the armed forces of the United States are entitled to receive their regular pay reduced by compensation received as base pay for military service, while called to active duty for the time periods specified in G. L. c. 33, § 59 and shall be subject to the provisions of Chapter 708 of the Acts of 1941 as amended, Chapter 805 of the Acts of 1950 as amended, or Chapter 671 of the Acts of 1966 and amendments thereto. Such employees are also subject to the provisions of 38 U.S.C. Chapter 43, §§ 4311 - 4316, as amended, and shall be entitled to all rights and benefits derived therefrom.

### **6.03 Unpaid Military Leave Due to Active Duty**

- An employee who tenders their resignation or otherwise terminates their service for the purpose of serving in the armed forces of the United States or the armed forces of the Commonwealth and who does so serve or is rejected for such service, shall be considered to be on unpaid military leave, except as otherwise provided by Chapter 708 of the Acts of 1941 as amended or 38 U.S.C. Chapter 43, §§ 4311, as amended.
- No such employee shall be considered to have resigned from employment with Commonwealth or to have terminated such service, until the expiration of two (2) years from the termination of their military or naval service in the uniformed services.

### **6.04 Part-Time Employees**

Regular part-time employees shall be entitled to all of the above military leave benefits.

### **6.05 Employees Called Up to Active Duty**

Upon returning to their state positions, employees who have been called to active military service by the United States of America shall be entitled to sick leave, vacation leave and personal leave that they would have accrued and would have been available to them had they been on the payroll during their absence for military leave.

## **7.00 COURT LEAVE**

### **7.01 Court Leave for Jury Duty**

Employees called for jury duty shall be granted court leave. Notice of service shall be filed with the Appointing Authority upon receipt of summons. This applies to both full and regular part-time employees.

### **7.02 Jury Fees**

If jury fees received by an employee from the court equal or exceed the employee's regular rate of compensation, the employee may retain the excess of such fees and shall turn over to the Appointing Authority the regular rate of compensation with a court certificate of service and shall be deemed to be on leave of absence with pay.

### **7.03 Court Leave Due to Witness Summons**

- Employees who are summoned to appear as witnesses on behalf of the Commonwealth, or any town, city, or county of the Commonwealth, or on behalf of the Federal Government, shall be granted court leave. Notice of service shall be filed with the Appointing Authority upon receipt of summons. Employees who are on court leave for this purpose and who receive witness fees for services during their regular office hours shall pay those fees to the Commonwealth.
- If an employee is summoned to appear as a witness because of the duties of an additional position with a public jurisdiction other than the Commonwealth, the employee shall not be granted court leave.

### **7.04 Court Leave Not Granted**

Court leave shall not be granted when an employee is the defendant, is summonsed as a witness for a defendant (except as in 7.03) or is engaged in personal litigation.

### **7.05 Court Leave While on Vacation**

If an employee is called for jury duty or witness service and such jury duty or witness service occurs during the employee's vacation, the employee need not pay those fees to the Commonwealth.

### **7.06 Expense Reimbursement**

Expenses reimbursed for travel, meals, room hire, etc. for the purpose of jury duty or witness service shall be retained by the employee and shall not be considered as part of the jury or witness fees.

## **7.07    Return to Work**

When an employee has been granted court leave for jury duty or witness service, and is excused by proper court authority, the employee shall report back to official place of duty whenever the interruption in jury duty or witness service will permit four (4) or more consecutive hours of employment.

## **7.08    Employment Rights**

Court leave shall not affect employment rights, opportunities or benefits.

## **8.00 OTHER LEAVE**

### **8.01 Bereavement Leave**

A. Upon evidence satisfactory to the Appointing Authority of the death of:

- Spouse
- Child
- Foster child
- Step-child living in household

An employee shall be entitled to a maximum of seven (7) days of leave without loss of pay to be used at the option of the employee within thirty (30) calendar days from the date of the death of a child and within ninety (90) calendar days from the date of the death of the employee's spouse.

B. **Upon evidence satisfactory to the Appointing Authority of the death of:**

- Parent
- Step-parent
- Brother
- Sister
- Grandparent
- Grandchild
- Person for whom the employee is legal guardian
- Parent of spouse
- Child of spouse
- Person living in household

An employee shall be entitled to a maximum of four (4) days of leave without loss of pay to be used at the option of the employee within thirty (30) calendar days from the date of said death.

C. **Upon evidence satisfactory to the Appointing Authority of the death of:**

- Grandparent in-law
- Grandchild in-law
- Brother in-law
- Sister in-law

An employee shall be granted one (1) day of leave without loss of pay to attend the funeral.

In extraordinary circumstances, at the discretion of the Appointing Authority or Personnel Administrator, bereavement leave may be used after periods of time described above.

### **8.02 Funerals of Veterans**

Veterans who are members of firing squads, color details, pallbearers, buglers or escorts shall be granted leave of absence with pay to participate in funeral services for other veterans.

### **8.03 Inoculations**

Employees shall be granted leave of absence with pay for loss of time due to prophylactic inoculation required as a result of their employment. If such leave with pay exceeds one (1) week, the Appointing Authority shall immediately initiate a Workers' Compensation claim, and paid leave because of such prophylactic inoculation shall cease.

#### **8.04 Quarantine**

Employees shall be granted leave of absence with pay for the period of absence due to quarantine because of exposure to contagious disease in the regular performance of duty.

#### **8.05 The Extended Illness Leave Bank (EILB)**

Employees who become members of the EILB are eligible for a maximum of 120 days of paid leave over a two (2)-year period in accordance with M.G.L. Chapter 7, §4P and established procedures when experiencing an extended illness or injury. Intermittent employees are not eligible to join the EILB.

#### **8.06 Other Leaves of Absence With Pay**

Full-time and regular part time employees shall be granted leave of absence with pay due to the following reasons for absence. Intermittent employees are not eligible for any of the following leaves of absence with pay:

- Employees may take up to four hours of leave of absence with pay, subject to approval by their supervisors, for the purpose of donating blood to the Massachusetts State Employee's Blood Program (MSEBP). The leave must be taken on the day that the blood donation occurs. Employees will not accrue compensatory time in lieu of such leave. This leave may be allowed for a maximum of up to five times annually, during the period of October 1 through September 30 each year. Employees invited to attend the MSEBP awards ceremonies may take 4 hours of leave for that purpose.
- Oral, written, and physical examinations for state service conducted by the Human Resources Division or the Division of Professional Licens
- Appeal hearings for state service conducted by the Human Resources Division or the Division of Professional Licensure.
- Attendance at hearings before the Department of Industrial Accidents as the injured person or as a witness. (Any witness fees received shall be refunded to the Commonwealth.)
- To render services of a voluntary nature during regular working hours to a public elementary, secondary or vocational-technical school in order to assist in the improvement of a student's or school's educational program, or to act as a mentor in a program through The Mass Mentoring Partnership, not to exceed one (1) work day a month and based upon a schedule approved by their supervisor (M.G.L. Chapter 29, §31E).

- The one (1) day a month of paid voluntary leave may be applied for necessary preparations and legal proceedings related to foster care of DCF children.
- Domestic Violence Policy: Fifteen (15) days of paid leave, forty (40) hours of earned sick leave, (and up to six (6) months of unpaid leave) for victims to attend to issues resulting from domestic violence.
- The Personnel Administrator may approve emergency paid leave for an employee as a result of a state or national emergency. An employee on a prior approved leave of absence or scheduled vacation, sick, personal, or compensatory leave during the emergency closing shall not have their leave changed to emergency leave.
- For participation in a bone marrow donor program or an organ donor transplant, a maximum of five (5) days of leave of absence with pay shall be granted to undergo the medical procedure and for associated physical recovery time.
- State employees can qualify for paid Organ Donor Leave for up to 30 days in a calendar year. It applies to leave taken by an employee to provide live organ donation to be transplanted to another individual. If foreseeable, 7 days of advanced notice should be given.
- A leave of absence with pay for the purpose of serving as an American Red Cross volunteer in specialized disaster relief services in connection with any disaster at the request of the American Red Cross for such an employee's services. The leave shall be approved at the sole discretion of the employee's supervisor and shall be limited to a total of fifteen (15) calendar days per calendar year. Authorized leaves of absence shall be limited to only those employees who are registered as certified disaster service volunteers of the American Red Cross disaster services human resources network.
- Employees may be granted a paid leave of absence in accordance with the policies of the Appointing Authority for educational purposes to attend conferences, seminars, briefing sessions or other functions of a similar nature that are intended to improve or upgrade the individual's skill or professional ability. The employee shall not suffer any loss of seniority or benefits as a result of such leave.

## **8.07 Delegates to Conventions of Veterans' Organizations**

Employees who are delegates or alternates to state or national conventions of veterans' organizations recognized by the Department of Veterans' Services shall be granted leave of absence with pay to attend those conventions.

## **8.08 Skeleton Force**

Leave with pay may be granted for so-called "Skeleton Force." Compliance with the "Skeleton Force" authorization shall only be accomplished by the Appointing Authority subject to the conditions that the work of the department or institution will not be hampered and that the statutory

requirements pertaining to office hours will be followed. Employees required to work during “Skeleton Force” shall not be granted compensatory time off or additional pay in lieu thereof.

If a Skeleton Force is authorized on a day on which an employee is not scheduled to work or if the employee had received approval, prior to the Skeleton Force authorization, to use sick, vacation or personal leave credits, the employee shall be treated the same as if a Skeleton Force had not been authorized.

## **8.09 Voting Leave**

Full-time and regular part-time employees whose hours of work preclude them from voting in a town, city, state or national election shall, upon prior written approval of the Appointing Authority, be granted a voting leave with pay not to exceed two (2) hours, for the sole purpose of voting in such election.

## **8.10 Authorized Leave of Absence Without Pay**

The Department/Agency Head, or their designee, may grant an employee a leave of absence without pay, or an extension of such a leave, upon written request of the employee. The request shall include a detailed statement of the reason for the requested leave and, if the absence is caused by illness or injury, shall be accompanied by substantiating proof of such illness or injury. A copy of the approved request shall be placed in the employee’s personnel file.

A leave of absence shall not be granted for a period in excess of three (3) months without prior approval by the Appointing Authority.

If an employee shall fail to return to their position upon completion of the period for which a leave of absence without pay has been granted, the Appointing Authority shall, within fourteen (14) days after the completion of such period, give notice that the employee is considered to be terminated.

Based on the operational needs and at the discretion of the Appointing Authority, Employees enrolled in a degree program may be granted an unpaid leave of absence(s) up to (12) twelve months for course work required by the program.

## **9.00 TRAVEL EXPENSES AND MEAL REIMBURSEMENT**

### **9.01 Out of State Travel**

No expenses for out-of-state travel, including the use of state-owned cars, shall be reimbursed unless prior approval is given by the Appointing Authority and Cabinet Secretary (M.G.L. Chapter 30, §25B).

### **9.02 Economy of Travel Expenses**

In every case the means of transportation which is least expensive to the Commonwealth and which is in the interest of economy, with proper consideration to the circumstances, should be used. Railroads or buses are preferred to transportation by plane, taxi or privately-owned automobile. Commutation and reduced-rate round trip tickets shall be used when possible. The cost of transportation shall include fares less federal taxes. Pullman charges will not be reimbursable for distances less than 100 miles; when they are used, Pullman check or voucher shall be submitted. Reference should be made to the detailed procedures for cost-effective authorized travel as issued from time to time by the Secretary of Administration and Finance.

### **9.03 Travel Between Home and Work Assignment**

- Transportation of any kind between an employee's home and permanently assigned office (official headquarters) is not reimbursable (M.G.L. Chapter 30, §25).
- If employees travel from home to temporary assignments rather than to their permanently assigned offices, transportation expenses shall be allowed either for the distance from their homes to places of temporary assignment, or from their permanently assigned offices to places of temporary assignment, whichever is nearer.
- In all instances in which the Appointing Authority assigns the employee's home as their permanent office, prior approval must be given by the Personnel Administrator before such assignment becomes valid.
- The designation of the permanently assigned office for purposes of this rule by the Appointing Authority with the approval of the Personnel Administrator shall be final unless the employee files an appeal within ten (10) days in accordance with Rule 1.05.

### **9.04 Full Travel Status**

This is defined as temporary absence from home on assignment to duty for more than twenty-four (24) hours. The following items shall be reimbursable while on full travel status:

- Reasonable charges for hotel rooms, based upon submission of receipted hotel bill.
- Reasonable tips other than those for meals.
- Reasonable work related internet connection or telephone charges

## **9.05 Unallowable Travel Expenses**

Reimbursement shall not be made for expenses incurred for the sole benefit of the traveler, such as valet service, entertainment, laundry service, etc.

## **9.06 Duration of Full Travel Status**

Full travel status, other than out-of-state travel, for any employee shall not exceed a period of thirty (30) consecutive days unless prior approval is given by the Personnel Administrator.

## **9.07 Use of State-Owned Automobiles**

- State-owned cars shall be used on official business only. They shall not be operated outside the necessary working hours (working hours to include time required to travel to and from place of authorized garaging).
- Pleasure riding or use for private purposes is absolutely forbidden.
- No operator of a state-owned motor vehicle shall transport a passenger or passengers other than those traveling on official business except with the approval of the Appointing Authority.

## **9.08 Liability When Using State-Owned Automobiles**

Operators are personally responsible for damage liabilities arising from accidents occurring during non-work related travel or involving passengers not traveling on official business. Any accident in which a state-owned vehicle is involved shall be reported immediately to the Secretary of Administration and Finance. Any such accident involving death or personal injury shall be reported immediately in writing to the Registrar of Motor Vehicles. (M.G.L. Chapter 90, §26).

## **9.09 Reimbursement of Expenses of State-Owned Automobiles**

Reimbursement shall be allowed for expenses incurred in the operation of state-owned cars, including charges for gas, oil, and reasonable charges for minor repairs, public garage and parking fees, toll charges, and reasonable charges for car washing.

## **9.10 Privately-Owned Automobiles and Mileage Rate**

When use of a person's private automobile is necessary and has been authorized by the Appointing Authority, the approved mileage rate will be allowed. In addition to the approved mileage rate, reimbursement will be allowed for reasonable charges for tolls, garaging and parking.

- From time to time, the Secretary of Administration and Finance may adjust the mileage rate up or down, depending upon current conditions.

- For each trip, the city or town visited must be reported. If several addresses are visited within a city or town, state the number visited and total mileage covered.
- Mileage reported shall be based upon actual odometer readings or computed from a recognized mileage chart.
- Private automobile mileage reimbursement shall be payable only to one of two or more employees traveling together in the same vehicle.

### **9.11 Unallowable Expenses for Automobiles**

- No reimbursement shall be allowed or obligation incurred for the private garaging of a state-owned automobile operated by an employee as transportation from the place of employment to the vicinity of residence.
- No payment shall be made or obligation incurred for the garaging of any automobile in private garages under any circumstances except upon prior approval by the Secretary of Administration and Finance.
- No charges for simonizing, polishing, or repainting will be allowed unless approved in advance by the State Purchasing Agent.

### **9.12 Meal Reimbursement**

- The rules on meal reimbursement (Rules 9.12 to 9.18) apply to all persons employed by offices, departments, boards, commissions and other agencies receiving state appropriations (see Rule 1.04 and M.G.L. Chapter 7, §28).
- Reimbursement shall be allowed for meals while on full travel status.

### **9.13 Amount of Meal Reimbursement**

Employees who are required to travel to other locations for business shall receive a per diem payment of \$30.00 for meals for each whole day during which they are on such assignment.

1. A whole day shall be a 24-hour period commencing at midnight;
2. The duration of travel shall begin from the employee's departure from their home or work location directly to the destination of the travel assignment, and shall conclude with the employee's arrival at their home or work location directly from such travel assignment.

The rates above shall apply only when meals are not included in the rate charged for lodging or otherwise included in registration or conference fees.

For travel for partial day periods (see rules 9.15 through 9.17), individual meal allowances are as follows:

Breakfast:	\$6.00
Lunch:	\$8.00
Dinner:	\$16.00

#### **9.14 Meal Reimbursement for Certain Unclassified Employees**

- Rule 9.13 shall not apply to any Cabinet Secretary or Department Director.
- Reimbursement for those persons shall be the reasonable and necessary meal expenses as may be allowed by the Appointing Authority or person designated by statute to approve expenses.

#### **9.15 When Meals May be Reimbursed**

For travel status of 24 hours or more, the following are the allowances on the first day:

- When travel status begins before 6:00 A.M., the person will be entitled to the entire per diem amount.
- When travel status begins between 6:00 A.M. and noon, the person will be entitled to midday and evening meals.
- When travel status begins between noon and evening, the person will be entitled to the evening meal.

For travel status of 24 hours or more, the following are the allowances on the final day:

- When travel status ends between 6:00 A.M., and noon, the person will be entitled to breakfast.
- When travel status ends between noon and 6:00 P.M., breakfast and midday meals will be allowed.
- When travel status ends after 6:00 P.M., the entire per diem amount will be allowed.

Breakfast at the beginning and evening meal at the end of travel status will not be allowed unless the charge is accompanied by a statement of necessity for early departure or late return.

#### **9.16 Meal Reimbursement for Travel Less Than 24 Hours in Duration**

- For travel of one (1) day's duration starting two (2) hours or more before compensated time, the person will be entitled to the breakfast allowance. Voucher must state time of departure and time compensation commenced.
- For travel of one (1) day's duration ending two hours or more after compensated time, the person will be entitled to the evening meal allowance. Voucher must state the time compensation ceases and time of arrival home.

- In no event will the midday meal be allowed for travel of less than 24 hours' duration.
- Voucher must state necessity for early departure or late return as well as a statement giving the regularly scheduled work hours.
- In computing travel under this rule, the two (2)-hour travel time must be computed from the person's permanently assigned office or home, whichever is nearer to the place of temporary assignment.

#### **9.17 Meals Reimbursement for Inmates/Patients**

Reimbursement at the rates in Rule 9.13 shall be made for meal expenses incurred by an employee who purchases a meal or meals for inmates or patients who are being transferred from one institution to another, or an employee who is assisting in the performance of official duties. In all such cases, the name or the number of the inmate or patient must be stated.

#### **9.18 Unallowable Meal Reimbursement**

Meals served by airlines at no charge to the traveler or where the price of passage includes a meal or meals shall not be reimbursable.

#### **9.19 Foreign Travel**

- Employees traveling in foreign countries shall report their expenditures by items in dollars, noting on hotel bills and other receipts submitted with vouchers the equivalent value in dollars at the then current rate of exchange.
- Supplemental expenses such as fees for passports, visas, photographs, birth and marriage certificates, and inoculations shall be reimbursable.

## **10.00 HOURS OF EMPLOYMENT AND OVERTIME**

### **10.01 Tour of Duty**

The regular hours of work of full-time employees are restricted to five (5) tours of duty in any one workweek, and to not less than 37.5 hours (except in the case of part-time employment) nor more than 40 hours, and with like hours for like tour of duty classes, as determined by the Personnel Administrator in accordance with M.G.L. Chapter 30, §45.

The tour of duty is hereby restricted to eight (8) hours, and such tour of duty shall be arranged to fall within a period not exceeding ten (10) consecutive hours.

This rule shall not apply to the following:

- Employees in functions described in M.G.L. Chapter 149, §30A.
- Employees on full travel status (see Rule 9.04).
- Employees on a pre-approved flexible schedule or alternative work schedule, consistent with agency policy.

A tour of duty is the period of time elapsing in the performance of assigned tasks and immediately preceded and followed by a period of time of non-scheduled work of at least eight (8) hours duration in both instances.

When necessary, an employee may be assigned more than one ‘tour of duty’ on the same workday provided that an interval of at least sixteen (16) hours elapsed between the start of the first tour of duty and the start of the second tour of duty. For reporting purposes, each tour of duty shall be treated separately and charged to the calendar day on which it began just as though all service in each tour of duty had been performed on the day to which charged.

### **10.02 Overtime**

Employees who perform service in excess of a tour of duty of seven and one-half (7.5) hours or eight (8) hours within a period of ten (10) consecutive hours shall receive additional compensation at the regular rate up to and including eight (8) hours in one day or total service of 40 hours per work week.

Employees who perform service in excess of eight (8) hours in any one tour of duty or 40 hours in any one workweek shall be compensated at the rate of one and one-half (1.5) times the regular hourly rate of said employee for every hour or fraction thereof of such services rendered.

Employees may only be paid overtime compensation upon the prior written approval of the Appointing Authority, and the Cabinet Secretary where applicable (M.G.L. Chapter 30, §24C).

This rule shall not apply to the following:

- Employees in functions described in M.G.L. Chapter 149, §30B.
- Employees on full travel status (see Rule 9.04).
- Managers in positions classified at M-IX and above.
- Managers in positions classified at M-V through M-VIII, unless the position has received prior approval for overtime compensation by the Personnel Administrator and Secretary of Administration and Finance.

The provisions of the U.S. Fair Labor Standards Act shall be followed where applicable.

#### **10.03 Payment of Overtime**

An Appointing Authority will make reasonable efforts to send out compensation for overtime no later than the payroll period following the payroll period of the overtime worked.

#### **10.04 Compensatory Time**

Compensatory time in lieu of overtime will not be allowed for managers. An Appointing Authority shall grant confidential employees compensatory time, in lieu of payment for overtime, in a manner consistent with the pertinent provisions of the collective bargaining agreements that would otherwise cover the employees' job titles.

An Appointing Authority has discretion to permit the use of compensatory time at the employee's request, provided the use of compensatory time does not unduly disrupt the operation of a department or agency.

Upon termination, an employee shall be paid for all unused compensatory time at the final regular rate of pay.

#### **10.05 Intermittent Employees**

Intermittent employees are hereby exempted from the five (5) tours of duty in any work week as well as the eight (8) hour tour of duty in ten (10) consecutive hours in any work day. All such employees are, however, not exempt from the provisions of the 37.5 or 40-hour work week.

#### **10.06 Curtailment of Hours and Changes in Schedule**

Curtailment of the hours of service scheduled in one tour of duty to offset excess hours of service performed in another tour of duty is prohibited.

Whenever, an Appointing Authority desires to change the work schedule of an employee under their jurisdiction, they must give any employee affected at least five (5) days' notice in writing of such contemplated change, except in cases of emergency involving the protection of the property

of the Commonwealth and the health and safety of those persons entrusted to its care and/or custody, but not for the purpose of avoiding the payment of overtime.

This section shall not apply to an employee on a pre-approved flexible schedule or alternative work schedule.

#### **10.07 Service for Overtime Purposes**

Service for overtime purposes shall include all compensated time except sick time and additional holiday compensation provided in M.G.L. Chapter 30, §24A.

Whenever a claim for meals consumed is made under the provisions of Rule 10.10, the time involved in partaking of such meals shall not be included in the time for which overtime compensation is claimed. Actual time, but not less than one-half (1/2) hour in any instance shall be excluded for this purpose.

#### **10.08 Hourly Rate**

“Hourly rate,” as used in this Rule, shall be the employee’s regular rate of compensation if the service is rendered in their salary grade.

#### **10.09 Out of Grade Overtime Work**

An employee rendering overtime service out of the grade in which they are regularly employed shall receive:

- The employee’s regular salary unless it is lower than the minimum of the grade in which overtime is served, in which case they shall be paid at the minimum rate of the grade in which service is rendered.
- The employee’s regular salary unless it is higher than the maximum of the grade in which overtime is rendered, in which case they shall be paid at the maximum rate for the grade in which service is rendered.
- The employee’s regular salary unless there is no equivalent salary rate in the grade in which overtime service is rendered, in which case they shall be paid the next higher salary rate in said grade, or
- The employee’s regular salary if the duties performed in the lower grade are, in the opinion of the Appointing Authority, essentially a part of the duties of the higher grade, in which case the employee may receive their regular rate of salary in the higher grade.

#### **10.10 Meal Expenses for Overtime Work**

Employees shall not be eligible for reimbursement for meals consumed during their regular hours of employment, except as provided for under the Travel Rules contained in Section 9.00.

Expenses incurred for authorized meals as a result of approved overtime work shall be reimbursed in addition to overtime compensation.

Reimbursement shall be allowed for actual meal expenses incurred, including tips, not to exceed the following:

Breakfast	\$5.00
Lunch (midday meal)	\$6.50
Supper (evening meal)	\$13.00
Midnight Meal	\$5.00

For the purposes of these rules, the following shall be considered as meal periods:

Breakfast period:	From 3:01 AM to 9:00 AM
Lunch period:	From 9:01 AM to 3:00 PM
Supper period:	From 3:01 PM to 9:00 PM
Midnight meal period:	From 9:01 PM to 3:00 AM

If an employee works a regular tour of duty, and, in addition, works three (3) or more hours, exclusive of meal time, they shall be entitled to reimbursement, in accordance with this Rule, for the meal covered by the period in which such additional work begins.

If an employee works a regular tour of duty, and, in addition, works seven (7) or more hours, exclusive of meal time, they shall be entitled to reimbursement, in accordance with this Rule, for two (2) meals, starting with the meal covered by the period in which such additional work begins.

If an employee works a regular tour of duty, and, in addition, works eleven (11) or more hours, exclusive of meal time, they shall be entitled to reimbursement, in accordance with this Rule, for three (3) meals, starting with the meal covered by the period in which such additional work begins.

If an employee works on a day on which they are not scheduled to work, the employee shall be entitled to reimbursement, in accordance with this Rule, for meals as follows:

Hours worked (exclusive of meal time)	Number of meals, beginning with the meal covered by the period in which such work begins
3 or more	1
7 or more	2
11 or more	3
15 or more	4

For an additional four (4) hours worked not including time for meals an additional meal shall be allowed.

## **11.00 HOLIDAYS**

### **11.01 Definition of Holidays**

The following days shall be paid holidays for employees:

New Year's Day  
Martin Luther King Jr. Day  
Presidents' Day  
Patriots' Day  
Memorial Day  
Juneteenth Independence Day  
Independence Day  
Labor Day  
Columbus Day  
Veterans' Day  
Thanksgiving Day  
Christmas Day

### **11.02 Holidays Occurring on Regularly Scheduled Workdays**

When a holiday occurs on the regularly scheduled workday of a full-time employee, the employee, if not required to work that day, shall be entitled to receive their regular day's pay for such holiday.

### **11.03 Holidays Occurring on Days Other Than Regularly Scheduled Work Days**

An employee whose usual workweek is five (5) or more days and whose regular day off falls on any of the aforementioned holidays except when such holiday occurs on Saturday, shall be allowed an additional day off or payment in lieu of one day.

Legal holidays that fall on a Saturday shall be observed on that day. All offices under the jurisdiction of any department of state government shall be open to the public for business on the Friday preceding any Saturday holiday. State Agencies may recommend that employees take off the preceding Friday or following Monday of the Saturday holiday. Employees who work both the preceding Friday and following Monday of the Saturday holiday will earn a compensatory day to be taken at a time approved by the agency head within 60 days of the Saturday holiday. This rule shall not apply to heads of departments and divisions, superintendents of institutions in the departments of Mental Health, Mental Retardation, Public Health, Corrections, Youth Services, Soldiers' Home in Massachusetts, and Soldiers' Home in Holyoke, and principal officers in correctional institutions (M.G.L. Chapter 30, §24A).

A legal holiday shall be observed the day following when said holiday shall occur on Sunday.

Except as provided above, when a holiday occurs on a day that is not an employee's regular workday, the employee, at the option of the Appointing Authority, shall receive pay for one day

at their regular rate or one compensatory day off with pay within sixty (60) days following the holiday to be taken at a time approved by the agency head.

#### **11.04 Employees Required to Work on Holidays**

An employee required to work on a holiday as defined in Section 11.01 shall receive a compensatory day off with pay within sixty (60) days following the holiday to be taken at a time approved by the agency head or if a compensatory day cannot be granted by the Appointing Authority due to a shortage of personnel or other reasons, then the employee shall be entitled to pay for one (1) day at their regular rate of pay in addition to pay for the holiday worked.

#### **11.05 Amount of Holiday Pay**

Holiday pay as provided in M.G.L. Chapter 30, §24A shall not exceed compensation paid for one tour of duty.

#### **11.06 Holiday Pay for Part-Time Employees**

A part-time employee shall earn pay for a holiday or compensatory time in the same proportion that their part-time service bears to full-time. A part-time employee who is scheduled, but not required to work on a holiday, who receives less holiday credit than the number of hours they are required to work, may use other available leave time, or upon the request of the employee and approval by the Appointing Authority, subject to operational needs, may make up the difference in hours that same workweek. The scheduling of these hours will be at a time requested by the employee and approved by the Appointing Authority, subject to operational needs.

#### **11.07 Holiday Pay for Full-Time Employees on a Compressed Workweek**

Full-time employees on a compressed workweek whose daily work schedules exceed the normal standard of seven and a half (7.5) or eight (8) hours (whichever standard applies to the position in question) shall receive holiday pay for the number of hours normally worked daily by those full-time employees who are not on a compressed work schedule. When a holiday falls on a scheduled workday, the employee may make up the difference between the allotted holiday pay and the scheduled workday by using available leave. When a holiday falls on a scheduled day off, the employee will receive seven and a half (7.5) or eight (8) hours (whatever amount applies to the position in question) of compensatory time off, to be used within sixty (60) days following the holiday.

#### **11.08 Restrictions on Holiday Pay**

- An employee who is on leave without pay or absent without pay for that part of their scheduled workday immediately preceding or immediately following a holiday that occurs on a regularly scheduled workday for which the employee is not required to work, shall not receive holiday pay for that holiday. This restriction on holiday pay will not apply to an employee who is on an unpaid status and the leave or absence is due to a furlough or other work reduction initiative relating to the mitigation of layoffs.

The above procedure may be waived by the Appointing Authority if an employee is tardy due to severe weather conditions or if an employee is tardy for not more than two (2) hours due to events beyond the control of the employee.

- An employee scheduled to work on a holiday, who fails to report for work on that day shall be deemed to be absent without pay unless the employee provides evidence of illness by a doctor's certificate. When an employee produces such evidence of illness, sick leave credits, if any, shall be charged for that day and no holiday pay shall be paid or an additional day off granted.

## **12.00 CHARGES TO STATE PERSONNEL**

### **12.01 Rental of State Facilities**

Employees may be allowed to rent living quarters in state facilities only in accordance with regulations and rental schedules issued by the Secretary of Administration and Finance as authorized by M.G.L. Chapter 7, §3B.

### **12.02 Meals at State Institutions for Employees**

Employees of state institutions may purchase meal tickets for meals consumed in institution dining rooms or cafeterias; the rates for such tickets will be determined by the Secretary of Administration and Finance in accordance with regulations authorized by M.G.L. Chapter 7, §3B.

### **12.03 Meals at State Institutions for Volunteers**

Appointing Authorities in the Departments of Mental Health, Mental Retardation, Public Health, Corrections, Education, Youth Services and the Soldiers' Homes may, where the services rendered by the individuals are, in their opinion, of material benefit to the respective institution and to the Commonwealth, allow meals free of charge to Affiliate Student Nurses, Social Service Students, Medical Students, Medical Student Interns, other student or volunteer workers, or any other persons who receive no compensation from the Commonwealth.

## **13.00 TUITION REMISSION**

### **13.01 Applicability**

Tuition remission shall apply to full-time employees who have completed at least six (6) months of service and their spouses only.

### **13.02 Tuition Remission Benefits**

- Full tuition remission shall apply to enrollment in a state-supported course or program at the undergraduate or graduate level at any Community College, State College or State University (excluding the M.D. program at the University of Massachusetts Medical School).
- Fifty-percent (50%) tuition remission shall apply to enrollment in a non-state supported course or program offered through continuing education at any Community College, State College or State University (excluding the M.D. program at the University of Massachusetts Medical School).

### **13.03 Limitations and Approval**

- Tuition remission is subject to space available and to the usual admission policies of the college or university.
- Prior approval must be granted by both the Personnel Administrator and the Board of Higher Education in accordance with their Tuition Remission policies and procedures.
- It is understood that any program of spousal eligibility developed by the Board of Higher Education in conjunction with the Human Resources Division will require the subordination of spousal eligibility rights to those remission benefit rights extended to full-time state employees.

## **14.00 PREVENTION OF ACCIDENTS AND OCCUPATIONAL DISEASES**

### **14.01 Inspections and Maintenance; Reports**

- It shall be the duty of all Appointing Authorities to provide a safe, clean, wholesome surrounding in all places of employment coming under their jurisdiction. They shall at least once every week cause the inspection of premises to maintain good housekeeping in every place of employment under their jurisdiction and shall have a written report thereof made to them at least once a month by the person or persons to whom such task is assigned.
- Appointing Authorities shall cause all places of employment maintained by their respective departments to be inspected as to lighting, floors, ceilings and walls, stairs, roof, ladders, tables, filing cabinets, lifting devices, benches, chairs, heating equipment, electric fans, storage spaces, trucks, conveyor belts, containers, packing cases, machines, tools, and any other physical property used in such place of employment. In worksites in which employees use video display terminals, the Division of Occupational Hygiene shall inspect VDT equipment.
- Appointing Authorities shall inform employees of any toxic or hazardous materials in the workplace in accordance with M.G.L. Chapter 111F (Right to Know Law).
- Appointing Authorities shall make an annual report to the Personnel Administrator within sixty (60) days after July 1<sup>st</sup> of each year in which they shall furnish information regarding the weekly inspection referred to above.
- These reports shall furnish information regarding the number of industrial accidents which occurred in such departments, showing their cause, action taken to prevent recurrence, a copy of any instructions issued to supervisors regarding unsafe equipment or methods as provided in Rule 14.02, number of lost days in each accident, the name and title of employee involved, the amount of sick leave in days and dollars used by such employee because of industrial accident, and if accident was caused by violence of prisoner or patient, the amount of salary paid and the effort made to ascertain if and when the employee would be able to return to their position, the replacement, if necessary, for such employee during the receipt of workers' compensation benefits because of this industrial accident, and the activity put into motion to prevent industrial accidents during the year.
- In the case of locations such as manholes where valves or other control devices may be located, the supervisor shall ascertain that no noxious or poisonous gases are present therein before permitting other workers to descend therein for any purpose whatsoever.
- When such noxious or poisonous gases are present, such conditions must be remedied before any worker is permitted to descend into such enclosure. The use of harnesses or other protective devices must be used where any danger is present.
- In the case of bursting water mains requiring excavation to make necessary repairs, the supervisor shall make sure that proper shoring has been provided to protect against possible "cave-in."

## **14.02 Unsafe Equipment**

Appointing Authorities shall cause instructions to be issued to all supervisors in their departments not to permit any unsafe equipment to be used nor any unsafe work methods to be used in any instance to the end that accidents will not occur because of such equipment or method.

## **14.03 Defective and Worn-out Tools**

If a tool, machine, or piece of equipment is found to be defective, worn-out or dangerous to operate because of its condition, the immediate supervisor shall be instructed not to permit its use until it is authorized by the Appointing Authority.

## **14.04 Use of Tools**

Appointing Authorities shall at all times be concerned with the safety and health of all persons under their jurisdiction. They must not permit any person who is not adequately experienced or familiar with the use of tools, machinery, or equipment to use such material until adequate experience or familiarity with such material is possessed by said person.

## **14.05 Issuance of Instructions**

Appointing Authorities shall issue instructions to supervisors to carry out the provisions of these rules to the end that accidents and industrial or occupational diseases are kept at a minimum.

## **14.06 Reports of Accidents and Diseases to the Human Resources Division**

Whenever an accident or industrial or occupational disease claim is filed with the Division of Industrial Accidents by an employee, a copy of the report form and claim shall be sent to the Human Resources Division by the Appointing Authority.

## **14.07 Division of Industrial Accidents- Hearings**

The Division of Industrial Accidents, within twenty-one (21) calendar days of receipt of such claim, shall notify the Human Resources Division whether or not it is taking jurisdiction of the claim and, if necessary, when hearing will be given to claimant.

## **14.08 Decisions of Division of Industrial Accidents - Forwarding**

The Division of Industrial Accidents shall forward to the Human Resources Division a copy of its decision in all claims filed with it by employees and referred to in Rule 14.06. Such decision shall state the approximate duration of such award, if any. If such decision is modified, amended or repealed, the Division of Industrial Accidents shall notify the Human Resources Division of such change.

#### **14.09 Reporting of Unsafe Conditions**

- Employees shall report to their immediate supervisors any condition which they believe endangers their health or creates hazard in their employment. Such immediate supervisors shall correct the conditions complained of, if within their authority to do so, or shall report such complaints to their supervisors in report referred to in Rule 14.01, above.

#### **14.10 Posting of Rules**

All Appointing Authorities shall cause to be posted in a conspicuous place in every place of employment under their jurisdiction a copy of all these rules pertaining to prevention of accidents and industrial or occupational diseases.

#### **14.11 Complaints - Forwarding to Head of Department**

- Whenever a written complaint is filed by an employee with the Personnel Administrator describing in detail and accompanied by supporting evidence of any allegedly unsafe or unsanitary condition relating to the work of such employee, the Personnel Administrator shall cause a copy of such complaint to be sent to the Appointing Authority for their immediate comments.
- The Personnel Administrator shall investigate such complaint and shall report thereon with their recommendations to the Secretary of Administration and Finance with a copy thereof to the employee filing the complaint and to the Appointing Authority involved.

#### **14.12 Rules to be Supplemental**

All the above rules do not change or alter any rules previously issued on the subject matter of reporting accidents or industrial or occupational diseases issued by any department prior to the effective date of these rules but are in addition thereto.

#### **14.13 Incorporation by Reference - Enforcement**

Rules and regulations issued by the Division of Industrial Accidents and any other rule or regulation adopted by the Department of Labor and Workforce Development governing the prevention of accidents or industrial diseases, are all hereby incorporated into these rules and regulations and shall be in full force in all departments. Appointing Authorities are hereby charged with the responsibility to enforce these rules and regulations and shall see that the rules are adhered to in all places of employment coming under their jurisdiction.

## **15.00 ADOPTION ASSISTANCE PROGRAM**

### **15.01 Eligibility**

Employees shall be eligible for the Adoption Assistance Program based upon guidelines issued by the Human Resources Division in cooperation with the Department of Children and Families and the Board of Higher Education.

The program will provide certain benefits to employees who adopt a child from the Department of Children and Families.

### **15.02 Leave Benefits**

Such employees will be eligible for the following leaves in connection with such adoption:

- Up to twenty-six (26) weeks of FMLA unpaid leave of which:
  - Up to ten (10) days of Adoptive Assistance Leave (paid leave) per adopted child may be taken (see also Rule 5.02) (under FMLA rules), and;
  - Up to sixty (60) days of accrued paid sick leave may be taken for the purpose of parental leave due to adoption under FMLA rules, to be concluded within twelve (12) months of the adoption (see also Rule 4.07).
- Up to ten (10) days of accrued paid sick leave per calendar year may be taken for the purpose of attending to necessary preparations and legal requirements related to the adoption (see Rule 4.07).

### **15.03 Educational and Other Benefits**

Other benefits include:

- For the employee: Adoption Support Services as provided by the Department of Children and Families.
- For the adopted child: College/university tuition remission at a Massachusetts State College/University or Community College (see Tuition Remission rules in section 13.00), and corporate sponsorship arranged by the Department of Children and Families.