

## TITLE 31 STATE PERSONNEL DEPARTMENT

### ARTICLE 1. NON-MERIT EMPLOYEES

#### Rule 1. Definitions

##### 31 IAC 1-1-1 Definitions

Authority: IC 4-15-1.8-6; IC 4-15-1.8-7

Affected: IC 4-15-1.8; IC 4-15-2

Sec. 1. As used in 31 IAC 1, unless the context requires another meaning, the following terms shall have meaning as indicated:

"Act" means the State Personnel Department Act of 1981, IC 4-15-1.8, and any amendments thereto.

"Allocation" means the assignment of an individual position to a class.

"Appointing authority" means the head of an agency, department, division, board, person or group of persons who has the power by law or by lawfully delegated authority to make appointments to positions in the non-merit service.

"Class" or "class of positions" means a group of positions in the non-merit service sufficiently alike in duties, authority and responsibility that the same qualifications may reasonably be required for, and the same schedule of pay can be equitably applied to, all positions in the group.

"Classified service" means all offices and positions of trust and employment in the state service except those placed in the unclassified service by the state personnel act IC 4-15-2.

"Day" means calendar day except where otherwise specified in a rule.

"Demotion" means the change of an employee from one (1) class to another class having a lower maximum salary.

"Director" means the state personnel director.

"Dismissal" see 31 IAC 1-10-2.

"Intermittent appointment" means an appointment to a position which requires performance on an irregular or "as needed" basis. This type of appointment is limited to 180 working days in a twelve (12) month period unless an exception is allowed in accordance with 31 IAC 1-6-4(b).

"Non-merit service" means all public services in all offices and employments, except members of boards and commissions, of all persons in the executive department of state government under the jurisdiction and direction of the governor and the department of personnel pursuant to IC 4-15-1.8-1 as amended, and except those included in the state service as defined by the state personnel act IC 4-15-2.

"Part-time appointment" means an appointment to a position which does not require full-time performance but does require performance on a regular basis, that is, a predetermined amount of time per day or per week. A part-time employee is paid a percentage of the bi-weekly salary received by comparably classified full-time employees.

"Pay period" means a time period, standardized for payroll purposes, used to compute compensation due an employee.

"Position" means a group of current duties and responsibilities, assigned or delegated by competent authority, and approved by the state personnel division, requiring the full-time or part-time employment of one (1) person.

"Promotion" means a change of an employee from one (1) class to another class having a higher maximum salary.

"Reclassification" means a change of an individual position by raising it to a higher class, reducing it to a lower class, or moving it to another class in the same pay level on the basis of significant changes in the kind of work, difficulty, or responsibility of the work performed in such position. It does not involve the change of an employee from one (1) position to another.

"Suspension" see 31 IAC 1-10-2.

"Temporary appointment" means an appointment to a position for a maximum period of ninety (90) working days.

"Transfer" means the change of an employee from one (1) position to another in the same class or similar class with essentially the same basic qualifications and same maximum salary.

"Legal quarantine" means quarantine established pursuant to IC 18-1-1.5-7 [IC 18-1 was repealed by Acts 1982, P.L.127, SECTION 2(b)], IC 16-1-13-2 [IC 16-1-13 was repealed by P.L.4-1988, SECTION 13, effective July 1, 1988.], IC 16-1-3-7 [IC 16-1 was repealed by P.L.2-1993, SECTION 209, effective April 30, 1993.], or IC 16-1-10-9 [IC 16-1-10 was repealed by P.L.123-1988, SECTION 31, effective July 1, 1988.].

"Hourly employee" means an employee appointed to a position requiring less than half-time performance and for which the employee is paid on an hourly basis.

*(State Personnel Department; Non-Merit Agency Personnel Rule 1, Sec 1; filed Feb 15, 1978, 3:25 pm; Rules and Regs. 1979, p.*

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24; filed Jan 26, 1979, 2:50 pm: 2 IR 296; filed Aug 17, 1982, 3:41 pm: 5 IR 2101; filed Nov 1, 1983, 4:00 pm: 7 IR 9, eff Jan 1, 1984; readopted filed May 4, 2001, 4:29 p.m.: 24 IR 2895; readopted filed Nov 15, 2007, 3:58 p.m.: 20071212-IR-031070660RFA) NOTE: Transferred from the Indiana Department of Administration (25 IAC 3) to the State Personnel Department (31 IAC 1) by Acts 1981, P.L.30, SECTION 3 (IC 4-15-1.8-8). Effective July 1, 1981.

**Rule 2. Administration of Personnel Policies**

**31 IAC 1-2-1 Purpose of rules**

Authority: IC 4-15-1.8-6; IC 4-15-1.8-7

Affected: IC 4-15-1.8

Sec. 1. It is the purpose of 31 IAC 1 to establish and administer uniform personnel policies within the non-merit service to the full extent of the authority vested in the State Personnel Department through the provisions of IC 4-15-1.8. (*State Personnel Department; Non-Merit Agency Personnel Rule 2, Sec 1; filed Feb 15, 1978, 3:25 pm: Rules and Regs. 1979, p. 26; filed Aug 17, 1982, 3:41 pm: 5 IR 2101; readopted filed May 4, 2001, 4:29 p.m.: 24 IR 2895; readopted filed Nov 15, 2007, 3:58 p.m.: 20071212-IR-031070660RFA*) NOTE: Transferred from the Indiana Department of Administration (25 IAC 3) to the State Personnel Department (31 IAC 1) by Acts 1981, P.L.30, SECTION 3 (IC 4-15-1.8-8). Effective July 1, 1981.

**31 IAC 1-2-2 New agencies; applicability of rules**

Authority: IC 4-15-1.8-6; IC 4-15-1.8-7

Affected: IC 4-13-1; IC 4-15-2

Sec. 2. Additional Agencies-Coverage. Any state agencies not currently in existence, but which upon creation are subject to the Act [IC 4-13-1] and are not included in the state service as defined by the State Personnel Act [IC 4-15-2] shall, upon such creation be included in the definition of non-merit service and shall be subject to these rules [31 IAC 1]. (*State Personnel Department; Non-Merit Agency Personnel Rule 2, Sec 2; filed Feb 15, 1978, 3:25 pm: Rules and Regs. 1979, p. 26; readopted filed May 4, 2001, 4:29 p.m.: 24 IR 2895; readopted filed Nov 15, 2007, 3:58 p.m.: 20071212-IR-031070660RFA*) NOTE: Transferred from the Indiana Department of Administration (25 IAC 3) to the State Personnel Department (31 IAC 1) by Acts 1981, P.L.30, SECTION 3 (IC 4-15-1.8-8). Effective July 1, 1981.

**31 IAC 1-2-3 Powers of director**

Authority: IC 4-15-1.8-6; IC 4-15-1.8-7

Affected: IC 4-13-1

Sec. 3. Authority of the Director. The Director is authorized to establish and enforce any administrative policies necessary for the implementation of these rules [31 IAC 1] or to prescribe and enforce any personnel policies and procedures authorized by the Act [IC 4-13-1] which are not inconsistent with these rules [31 IAC 1]. (*State Personnel Department; Non-Merit Agency Personnel Rule 2, Sec 3; filed Feb 15, 1978, 3:25 pm: Rules and Regs. 1979, p. 26; readopted filed May 4, 2001, 4:29 p.m.: 24 IR 2895; readopted filed Nov 15, 2007, 3:58 p.m.: 20071212-IR-031070660RFA*) NOTE: Transferred from the Indiana Department of Administration (25 IAC 3) to the State Personnel Department (31 IAC 1) by Acts 1981, P.L.30, SECTION 3 (IC 4-15-1.8-8). Effective July 1, 1981.

**Rule 3. The Classification Plan**

**31 IAC 1-3-1 Revision of classes**

Authority: IC 4-15-1.8-6; IC 4-15-1.8-7

Affected: IC 4-15-1.8-8

Sec. 1. Class Revision. Whenever the creation, abolition, subdivision, or consolidation of classes appears necessary due to the creation of a new position, change in organization, or change in functions or duties of an individual position, the Director, after conferring with the appointing authority or authorities, shall prepare class specifications for the classes affected. Affected agencies

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and institutions shall be notified of the proposed revision. (*State Personnel Department; Non-Merit Agency Personnel Rule 3, Sec 1; filed Feb 15, 1978, 3:25 pm: Rules and Regs. 1979, p. 26; readopted filed May 4, 2001, 4:29 p.m.: 24 IR 2895; readopted filed Nov 15, 2007, 3:58 p.m.: 20071212-IR-031070660RFA*) NOTE: Transferred from the Indiana Department of Administration (25 IAC 3) to the State Personnel Department (31 IAC 1) by Acts 1981, P.L.30, SECTION 3 (IC 4-15-1.8-8). Effective July 1, 1981.

**31 IAC 1-3-2 Allocation of new position**

Authority: IC 4-15-1.8-6; IC 4-15-1.8-7

Affected: IC 4-15-1.8-8

Sec. 2. Position Allocation. When a new position is contemplated, the appointing authority shall request establishment of the position before it may be filled and, except as otherwise provided by these rules [31 IAC 1], no person shall be appointed to or employed in a position until the position has been allocated to a class and approved by the Director or until the classification plan has been amended to provide therefor. (*State Personnel Department; Non-Merit Agency Personnel Rule 3, Sec 2; filed Feb 15, 1978, 3:25 pm: Rules and Regs. 1979, p. 26; readopted filed May 4, 2001, 4:29 p.m.: 24 IR 2895; readopted filed Nov 15, 2007, 3:58 p.m.: 20071212-IR-031070660RFA*) NOTE: Transferred from the Indiana Department of Administration (25 IAC 3) to the State Personnel Department (31 IAC 1) by Acts 1981, P.L.30, SECTION 3 (IC 4-15-1.8-8). Effective July 1, 1981.

**31 IAC 1-3-3 Reallocation of positions**

Authority: IC 4-15-1.8-6; IC 4-15-1.8-7

Affected: IC 4-15-1.8-8

Sec. 3. Position Reallocation. When the duties of a position or positions are changed substantially, the Director may order a review of the position of positions involved. Upon completing the review, he may order that the position or positions be allocated to a more appropriate established class. Reallocations shall not be used to avoid restrictions pertaining to lay-offs, suspension, dismissals, demotions, and promotions. (*State Personnel Department; Non-Merit Agency Personnel Rule 3, Sec 3; filed Feb 15, 1978, 3:25 pm: Rules and Regs. 1979, p. 26; readopted filed May 4, 2001, 4:29 p.m.: 24 IR 2895; readopted filed Nov 15, 2007, 3:58 p.m.: 20071212-IR-031070660RFA*) NOTE: Transferred from the Indiana Department of Administration (25 IAC 3) to the State Personnel Department (31 IAC 1) by Acts 1981, P.L.30, SECTION 3 (IC 4-15-1.8-8). Effective July 1, 1981.

**31 IAC 1-3-4 Effect of reallocation**

Authority: IC 4-15-1.8-6; IC 4-15-1.8-7

Affected: IC 4-15-1.8-8

Sec. 4. Effect of Reallocation. The incumbent shall be continued in the position unless he is not eligible for appointment in the new class. Whenever a position is reallocated to a class in a lower pay grade, the employee holding the position at the time of the reallocation shall be paid within the established salary range for the class to which the position is reallocated provided said employee is eligible to fill the position in the new class. The Director shall determine the step within the range that the employee shall be paid. (*State Personnel Department; Non-Merit Agency Personnel Rule 3, Sec 4; filed Feb 15, 1978, 3:25 pm: Rules and Regs. 1979, p. 27; readopted filed May 4, 2001, 4:29 p.m.: 24 IR 2895; readopted filed Nov 15, 2007, 3:58 p.m.: 20071212-IR-031070660RFA*) NOTE: Transferred from the Indiana Department of Administration (25 IAC 3) to the State Personnel Department (31 IAC 1) by Acts 1981, P.L.30, SECTION 3 (IC 4-15-1.8-8). Effective July 1, 1981.

**Rule 4. The Pay Plan**

**31 IAC 1-4-1 Revision of pay plan; approval**

Authority: IC 4-15-1.8-6; IC 4-15-1.8-7

Affected: IC 4-15-1.8-8

Sec. 1. Whenever, as a result of changes in classes, living costs, availability of labor supply, prevailing rates of pay, or the financial policy of the State, a revision of the pay plan appears desirable, the Director after consultation with the Budget Agency shall prepare revisions to the salary schedule. The revision in pay rates are subject to approval by the State Budget Agency and the

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Governor, and shall be effective on the date or dates designated by the Director and the State Budget Agency. (*State Personnel Department; Non-Merit Agency Personnel Rule 4, Sec 1; filed Feb 15, 1978, 3:25 pm: Rules and Regs. 1979, p. 27; filed Aug 17, 1982, 3:41 pm: 5 IR 2102; readopted filed May 4, 2001, 4:29 p.m.: 24 IR 2895; readopted filed Nov 15, 2007, 3:58 p.m.: 20071212-IR-031070660RFA*) NOTE: Transferred from the Indiana Department of Administration (25 IAC 3) to the State Personnel Department (31 IAC 1) by Acts 1981, P.L.30, SECTION 3 (IC 4-15-1.8-8). Effective July 1, 1981.

**31 IAC 1-4-2 Minimum salary; advancement; change in status**

Authority: IC 4-15-1.8-6; IC 4-15-1.8-7

Affected: IC 4-15-1.8

Sec. 2. (a) The established minimum salary for a class normally shall be paid upon appointment to the class. However, employment at a salary above the established rate may be approved by the director and the state budget agency. If a former employee is reemployed, the appointing authority shall make appointment at the same rate of pay the employee had been receiving when the employee was last in that class or a class of the same salary range or at the nearest higher dollar amount to the salary received before separation which is within the current salary range for the class.

(b) If an employee is changed to a class in a higher salary range, the starting salary for which is less than the salary he or she receives, no change need be made in his or her existing rate, unless an adjustment is necessary to place the salary in the new range or unless a salary increase is approved by the appointing authority and the director. If an employee is changed to a class in a lower salary range, he or she shall remain at his or her current salary only if it does not exceed the maximum of the new range and the director determines that salary reduction within the new range is not required.

(c) Salary advancement within the established range shall be dependent upon specific written recommendation and shall be based upon meritorious service as indicated by service ratings and other pertinent data. Whenever an employee transfers from a position under the jurisdiction of one (1) appointing authority to a position in the same class under the jurisdiction of a different appointing authority, the beginning rate of pay in the new position shall not be more than the rate of pay the employee was receiving in the position from which he or she is being transferred. Salary increases granted to employees in the non-merit service shall be made on the basis of the approved increment plan and must be approved by the director and the state budget agency.

(d) Each change in status and each salary increase shall be submitted on a prescribed form for the approval of the director. Such changes may be made as of the requested effective date only if they are received in the offices of the state personnel department prior to the effective date.

(e) Any salary paid to an employee shall represent the total remuneration for the employee, not including reimbursements for official travel.

(f) Charges for subsistence or maintenance received shall be deducted from the total salary.

(g) Whenever an employee works for a period less than the regularly established number of hours a day, days a week, or days a month, the amount paid shall be governed by the rate of full-time work and shall be proportionate to the time actually employed.

(h) The payment of a separate salary from two (2) or more agencies for duties performed in each of such employments is permissible if the salaries received are in proper proportion to the percentage of full-time worked in each agency.

(i) No employee in the non-merit service shall supplement any state salary through activities, engaged in on state property, such as:

- (1) collecting commissions;
- (2) owning and operating concessions; or
- (3) rendering personal or other service to patients, inmates, clients, wards, or the public.

(j) No employee shall supplement any state salary through activities, engaged in or on state property, during working hours, such as:

- (1) collecting commissions;
- (2) owning and operating concessions; or
- (3) rendering personal or other services to other employees.

(k) Employees whose substitution on unrelated positions does not involve working more than the normal number of hours shall not be paid additional compensation for the additional duties. No such substitution shall exceed four (4) consecutive calendar weeks. (*State Personnel Department; Non-Merit Agency Personnel Rule 4, Sec 2; filed Feb 15, 1978, 3:25 p.m.: Rules and Regs. 1979, p. 27; filed Aug 17, 1982, 3:41 p.m.: 5 IR 2102; filed May 10, 1983, 3:05 p.m.: 6 IR 1008, eff Jul 1, 1983; filed Dec 1, 1997, 4:30 p.m.: 21 IR 1250, eff Jan 1, 1998; readopted filed May 4, 2001, 4:29 p.m.: 24 IR 2895; readopted filed Nov 15, 2007, 3:58 p.m.:*

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20071212-IR-031070660RFA) NOTE: Transferred from the Indiana Department of Administration (25 IAC 3) to the State Personnel Department (31 IAC 1) by Acts 1981, P.L.30, SECTION 3 (IC 4-15-1.8-8). Effective July 1, 1981.

**31 IAC 1-4-3 Payroll and attendance records**

Authority: IC 4-15-1.8-6; IC 4-15-1.8-7

Affected: IC 4-15-1.8-7

Sec. 3. (A) Each appointing authority shall maintain an attendance record for each employee, which record shall be subject to audit by the State Personnel Department at any time.

(B) Payroll accounts bearing the name and class title or corresponding code number and the amount to be paid every employee in the classified service shall be submitted to the State Personnel Department for certification immediately following the pay period covered. (*State Personnel Department; Non-Merit Agency Personnel Rule 4, Sec 3; filed Feb 15, 1978, 3:25 pm: Rules and Regs. 1979, p. 28; filed Aug 17, 1982, 3:41 pm: 5 IR 2103; readopted filed May 4, 2001, 4:29 p.m.: 24 IR 2895; readopted filed Nov 15, 2007, 3:58 p.m.: 20071212-IR-031070660RFA*) NOTE: Transferred from the Indiana Department of Administration (25 IAC 3) to the State Personnel Department (31 IAC 1) by Acts 1981, P.L.30, SECTION 3 (IC 4-15-1.8-8). Effective July 1, 1981.

**Rule 5. Applications**

**31 IAC 1-5-1 Applications for appointment; documentation of training**

Authority: IC 4-15-1.8-6; IC 4-15-1.8-7

Affected: IC 4-15-1.8-8

Sec. 1. Form of Applications. (A) Application shall be made on forms prescribed by the Director. Such forms shall require information covering experience, training, and such other pertinent information as may be requested, and shall be signed by the applicant to signify that he certifies to the truth and accuracy of all statements made therein.

(B) Any individual claiming credit for or seeking to establish eligibility for appointment on the basis of training beyond the level of high school graduation may be required to submit prior to employment, an official transcript or other official document to the appointing authority certifying to the validity of such training. (*State Personnel Department; Non-Merit Agency Personnel Rule 5, Sec 1; filed Feb 15, 1978, 3:25 pm: Rules and Regs. 1979, p. 28; readopted filed May 4, 2001, 4:29 p.m.: 24 IR 2895; readopted filed Nov 15, 2007, 3:58 p.m.: 20071212-IR-031070660RFA*) NOTE: Transferred from the Indiana Department of Administration (25 IAC 3) to the State Personnel Department (31 IAC 1) by Acts 1981, P.L.30, SECTION 3 (IC 4-15-1.8-8). Effective July 1, 1981.

**Rule 6. Appointment**

**31 IAC 1-6-1 Anticipation of vacancies**

Authority: IC 4-15-1.8-6; IC 4-15-1.8-7

Affected: IC 4-15-1.8-8

Sec. 1. Preparation for Appointment. Insofar as practicable, vacancies should be anticipated sufficiently in advance to permit the Director to determine who may be available for appointment and whether or not the position is properly classified. (*State Personnel Department; Non-Merit Agency Personnel Rule 6, Sec 1; filed Feb 15, 1978, 3:25 pm: Rules and Regs. 1979, p. 29; readopted filed May 4, 2001, 4:29 p.m.: 24 IR 2895; readopted filed Nov 15, 2007, 3:58 p.m.: 20071212-IR-031070660RFA*) NOTE: Transferred from the Indiana Department of Administration (25 IAC 3) to the State Personnel Department (31 IAC 1) by Acts 1981, P.L.30, SECTION 3 (IC 4-15-1.8-8). Effective July 1, 1981.

**31 IAC 1-6-2 Approval of appointments**

Authority: IC 4-15-1.8-6; IC 4-15-1.8-7

Affected: IC 4-15-1.8-8

Sec. 2. Method of Appointment. All appointments to positions in the non-merit service, prior to the effective date thereof, shall be submitted to the Director on a prescribed form for his approval. No appointment shall be effective without the approval of the

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Director. (*State Personnel Department; Non-Merit Agency Personnel Rule 6, Sec 2; filed Feb 15, 1978, 3:25 pm: Rules and Regs. 1979, p. 29; readopted filed May 4, 2001, 4:29 p.m.: 24 IR 2895; readopted filed Nov 15, 2007, 3:58 p.m.: 20071212-IR-031070660RFA*) NOTE: Transferred from the Indiana Department of Administration (25 IAC 3) to the State Personnel Department (31 IAC 1) by Acts 1981, P.L.30, SECTION 3 (IC 4-15-1.8-8). Effective July 1, 1981.

**31 IAC 1-6-3 Equal offers of employment**

Authority: IC 4-15-1.8-6; IC 4-15-1.8-7

Affected: IC 4-15-1.8-8

Sec. 3. Unless otherwise authorized by these rules [31 IAC 1-6] all individuals considered for appointment to the same vacancy shall be offered appointment at the same rate of pay and working conditions. If the state personnel department ascertains that declination of offered appointment is due to unauthorized variations in offered pay rates or conditions of employment, the director may cancel such appointment. (*State Personnel Department; Non-Merit Agency Personnel Rule 6, Sec 3; filed Feb 15, 1978, 3:25 pm: Rules and Regs. 1979, p. 29; filed Aug 17, 1982, 3:41 pm: 5 IR 2103; filed May 10, 1983, 3:05 pm: 6 IR 1009, eff Jul 1, 1983; readopted filed May 4, 2001, 4:29 p.m.: 24 IR 2895; readopted filed Nov 15, 2007, 3:58 p.m.: 20071212-IR-031070660RFA*) NOTE: Transferred from the Indiana Department of Administration (25 IAC 3) to the State Personnel Department (31 IAC 1) by Acts 1981, P.L.30, SECTION 3 (IC 4-15-1.8-8). Effective July 1, 1981.

**31 IAC 1-6-4 Temporary and intermittent appointments**

Authority: IC 4-15-1.8-6; IC 4-15-1.8-7

Affected: IC 4-15-1.8-7

Sec. 4. (a) Whenever there is urgent need of an employee for a temporary period, the director may authorize a temporary appointment for a period not to exceed ninety (90) working days. Successive temporary appointments of the same person shall not be made. However, an employee may be reappointed at a later date if his total employment in a temporary position does not exceed ninety (90) working days in a twelve (12) month period.

(b) Whenever there is need for an employee on an irregular or "as needed" basis a position may be filled by an intermittent appointment. This type of appointment is limited to 180 working days in a twelve (12) month period unless an exception is requested by the appointing authority prior to the appointment and annually thereafter and approved by the state personnel department and state budget agency. (*State Personnel Department; Non-Merit Agency Personnel Rule 6, Sec 4; filed Feb 15, 1978, 3:25 pm: Rules and Regs. 1979, p. 29; filed Nov 1, 1983, 4:00 pm: 7 IR 10, eff Jan 1, 1984; readopted filed May 4, 2001, 4:29 p.m.: 24 IR 2895; readopted filed Nov 15, 2007, 3:58 p.m.: 20071212-IR-031070660RFA*) NOTE: Transferred from the Indiana Department of Administration (25 IAC 3) to the State Personnel Department (31 IAC 1) by Acts 1981, P.L.30, SECTION 3 (IC 4-15-1.8-8). Effective July 1, 1981.

**31 IAC 1-6-5 Transfer procedures**

Authority: IC 4-15-1.8-6; IC 4-15-1.8-7

Affected: IC 4-15-1.8-8

Sec. 5. Transfer. (A) An appointing authority may at any time assign an employee from one (1) position to another position in the same class under his jurisdiction.

(B) An appointing authority, with the approval of the Director, may at any time transfer an employee to another class with essentially the same basic qualifications and the same salary range.

(C) With the approval of the Director, an employee may transfer from one division of the non-merit service to another. A promotion or demotion may be simultaneous with such a transfer. The new appointing authority shall assume all vacation and sick leave credited to the transferred employee.

(D) With the approval of the Director, an employee may transfer from a department or agency in the non-merit service to the classified service, or from a department or agency in the classified service to the non-merit service without loss of any vacation leave or sick leave.

Any employee transferring from a position in the non-merit service to a position in a department or agency in the classified service must be fully qualified for the class to which he is transferred, and must be selected from an appropriate employment list.

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*(State Personnel Department; Non-Merit Agency Personnel Rule 6, Sec 5; filed Feb 15, 1978, 3:25 pm: Rules and Regs. 1979, p. 29; readopted filed May 4, 2001, 4:29 p.m.: 24 IR 2895; readopted filed Nov 15, 2007, 3:58 p.m.: 20071212-IR-031070660RFA) NOTE: Transferred from the Indiana Department of Administration (25 IAC 3) to the State Personnel Department (31 IAC 1) by Acts 1981, P.L.30, SECTION 3 (IC 4-15-1.8-8). Effective July 1, 1981.*

**31 IAC 1-6-6 Demotion**

Authority: IC 4-15-1.8-6; IC 4-15-1.8-7

Affected: IC 4-15-1.8-8

Sec. 6. Demotion. A position may be filled by demotion of an employee in accordance with Rule 10, Section 10-1 [31 IAC 1-10-1], or, in the event of a necessary reduction in personnel due to lack of work or funds, an employee may accept a voluntary demotion in preference to being laid off. *(State Personnel Department; Non-Merit Agency Personnel Rule 6, Sec 6; filed Feb 15, 1978, 3:25 pm: Rules and Regs. 1979, p. 30; readopted filed May 4, 2001, 4:29 p.m.: 24 IR 2895; readopted filed Nov 15, 2007, 3:58 p.m.: 20071212-IR-031070660RFA) NOTE: Transferred from the Indiana Department of Administration (25 IAC 3) to the State Personnel Department (31 IAC 1) by Acts 1981, P.L.30, SECTION 3 (IC 4-15-1.8-8). Effective July 1, 1981.*

**Rule 7. Service Ratings**

**31 IAC 1-7-1 Report and substantiation of service ratings**

Authority: IC 4-15-1.8-6; IC 4-15-1.8-7

Affected: IC 4-15-1.8-8

Sec. 1. The director may require each appointing authority to report at periodic intervals, service ratings for employees under his jurisdiction. The director may require that any or all ratings be substantiated, and may prescribe the manner of making such substantiation. The state personnel department shall establish procedures to assure knowledge of his rating by the employee concerned. *(State Personnel Department; Non-Merit Agency Personnel Rule 7, Sec 1; filed Feb 15, 1978, 3:25 pm: Rules and Regs. 1979, p. 30; filed Aug 17, 1982, 3:41 pm: 5 IR 2103; filed May 10, 1983, 3:05 pm: 6 IR 1009, eff Jul 1, 1983; readopted filed May 4, 2001, 4:29 p.m.: 24 IR 2895; readopted filed Nov 15, 2007, 3:58 p.m.: 20071212-IR-031070660RFA) NOTE: Transferred from the Indiana Department of Administration (25 IAC 3) to the State Personnel Department (31 IAC 1) by Acts 1981, P.L.30, SECTION 3 (IC 4-15-1.8-8). Effective July 1, 1981.*

**Rule 8. Training**

**31 IAC 1-8-1 Training programs**

Authority: IC 4-15-1.8-6; IC 4-15-1.8-7

Affected: IC 4-15-1.8-8

Sec. 1. Responsibility. Responsibility for developing training programs for employees shall be assumed jointly by the Director and the appointing authorities. Such training programs may include lectures, courses, demonstrations, assignment of reading matter, or such other devices as may be available for the purpose of improving the efficiency and broadening the knowledge of employees in the performance of their duties. The provisions of this rule shall not be considered as limiting the responsibilities or functions of the several appointing authorities for developing and carrying out continuing programs of staff development using the supervisory processes as a basic training method. *(State Personnel Department; Non-Merit Agency Personnel Rule 8, Sec 1; filed Feb 15, 1978, 3:25 pm: Rules and Regs. 1979, p. 30; readopted filed May 4, 2001, 4:29 p.m.: 24 IR 2895; readopted filed Nov 15, 2007, 3:58 p.m.: 20071212-IR-031070660RFA) NOTE: Transferred from the Indiana Department of Administration (25 IAC 3) to the State Personnel Department (31 IAC 1) by Acts 1981, P.L.30, SECTION 3 (IC 4-15-1.8-8). Effective July 1, 1981.*

**31 IAC 1-8-2 Record of completion; credit**

Authority: IC 4-15-1.8-6; IC 4-15-1.8-7

Affected: IC 4-15-1.8-8

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Sec. 2. Credit for Training. If an employee submits official documents indicating the successful completion of extension, correspondence, department in-service training, or other special training courses, to the Director, such documents shall be made a part of the employee's personnel record. (*State Personnel Department; Non-Merit Agency Personnel Rule 8, Sec 2; filed Feb 15, 1978, 3:25 pm: Rules and Regs. 1979, p. 30; readopted filed May 4, 2001, 4:29 p.m.: 24 IR 2895; readopted filed Nov 15, 2007, 3:58 p.m.: 20071212-IR-031070660RFA*) NOTE: Transferred from the Indiana Department of Administration (25 IAC 3) to the State Personnel Department (31 IAC 1) by Acts 1981, P.L.30, SECTION 3 (IC 4-15-1.8-8). Effective July 1, 1981.

**Rule 9. Hours and Leaves**

**31 IAC 1-9-1 Work week; shifts**

Authority: IC 4-15-1.8-6; IC 4-15-1.8-7

Affected: IC 4-15-1.8-8

Sec. 1. The normal minimum working week shall be thirty-seven and one-half (37½) hours except as otherwise established by statute by specific ruling of the director, or by section 2(1) of this rule. Shift hours shall be established by the appointing authority. Assignment of employees to specific shifts shall be the prerogative of the appointing authority. (*State Personnel Department; Non-Merit Agency Personnel Rule 9, Sec 1; filed Feb 15, 1978, 3:25 p.m.: Rules and Regs. 1979, p. 30; filed Aug 17, 1982, 3:41 p.m.: 5 IR 2103; filed Mar 29, 1995, 4:30 p.m.: 18 IR 1970; readopted filed May 4, 2001, 4:29 p.m.: 24 IR 2895; readopted filed Nov 15, 2007, 3:58 p.m.: 20071212-IR-031070660RFA*) NOTE: Transferred from the Indiana Department of Administration (25 IAC 3) to the State Personnel Department (31 IAC 1) by Acts 1981, P.L.30, SECTION 3 (IC 4-15-1.8-8). Effective July 1, 1981.

**31 IAC 1-9-2 Overtime and holidays; schedules and pay**

Authority: IC 4-15-1.8-7; IC 4-15-2-6

Affected: IC 4-15-2-11

Sec. 2. (a) Overtime and holiday policy shall be as follows:

(1) The non-merit service shall observe only such legal holidays as are established by statute or officially proclaimed by the governor.

(2) When any of these holidays comes on a Saturday, the Friday immediately preceding shall be the legal holiday.

(3) The first day of week, commonly called Sunday, shall not be a holiday within the meaning of this rule.

(b) Any employee who is required to work on a holiday shall be paid for such work at a straight-time rate, with the regular payment for that pay period in which the holiday occurs, or, at the option of the appointing authority, may be credited with compensatory time off. Unless otherwise authorized by the director and the state budget agency, all such compensatory time off shall be scheduled by the appointing authority and must be taken within the pay period in which the holiday occurs.

(c) Except as provided in subsections (l) and (o):

(1) overtime shall comprise hours of work, rounded to the nearest quarter of an hour, in excess of thirty-seven and one-half (37½) hours in a work week; and

(2) holidays, sick days, vacation days, personal days, leaves of absence, compensatory time off, and time spent on call or in standby status shall not constitute hours of work or hours worked for purposes of this rule.

(d) The following are requirements for employees who are eligible for overtime payment:

(1) Employees in the following job categories or classifications of the non-merit service are eligible for compensation for overtime:

(A) Professional-administrative-technological (PAT), skill level VI.

(B) Clerical-office machine operators-technician (COMOT), skill levels I through VI.

(C) Labor-trades-crafts (LTC), skill levels I through V.

(D) Supervisory and managerial-COMOT, skill levels III through VIII.

(E) Supervisory and managerial-LTC, skill levels IV through VII.

(F) Protective occupations, law enforcement (POLE) conservation. Conservation officer trainee, conservation probationary officer, conservation officer, conservation senior officer, conservation master officer, conservation corporal, and conservation sergeant.

(G) Protective occupations-law enforcement (POLE)-excise. Excise officer trainee, excise officer, excise sergeant.

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(H) Protective occupations—law enforcement (POLE), skill levels II through IV.

(I) The following PAT V level classifications:

Abstractor  
Accountant  
Administrative analyst  
Administrative assistant  
Artist illustrator  
Audit examiner  
Business administrator  
Caseworker  
Chemist  
Civil rights specialist  
Claims deputy  
Clinical associate  
Code enforce official  
Code review official  
Commodity examiner  
Correctional counselor  
Correctional release coordinator  
Criminal intelligence analyst  
Dairy farm specialist  
Dental hygienist  
Disability claims adjuster  
Disability veterans specialist  
Electronics investigator  
Employment specialist  
Engineering geologist  
Environmental engineer  
Environmental scientist  
Environmental scientist-RAD health  
Field auditor  
Geologist  
Health educator  
Hearings officer  
Highway engineer  
Historic site curator  
Historical education specialist  
Hydraulic engineer  
IOSHA inspector-construction  
IOSHA inspector-industrial  
Industrial hygienist  
Information specialist  
Internal affairs officer  
Inventory administrator  
Labor market analyst  
Legal assistant  
Librarian  
Livestock license coordinator  
Manpower specialist  
Medical records administrator  
Meteorologist

Migrant consultant  
Museum specialist  
Nosologist  
Nurse  
Occupational therapist  
Oil and gas inspector  
Parole officer  
Pension administrator  
Personnel officer  
Personnel specialist  
Photographer  
Program coordinator  
Program specialist  
Programmer  
Programmer-specialist  
Psychiatric intern  
Purchasing administrator  
Records analyst  
Recreation leader  
Recreation therapist  
Rehabilitation instructor  
Rehabilitation therapist  
Research analyst  
Right-of-way engineer  
Salesperson  
Sanitarian-food  
Sanitarian-general  
Social services specialist  
Soil scientist  
State investigator  
Statistician  
Substance abuse counselor  
Surveyor  
Telecommunication technician  
Telecommunication specialist  
Training officer  
Unclassified  
Veteran's representative  
Vital records statistics coordinator  
Vocational rehabilitation counselor  
Vocational rehabilitation counselor-deaf  
Water quality planner  
Word processing systems administrator.

(J) The following nursing classifications:

Charge nurse III  
Charge nurse supervisor V  
Nurse V  
Nurse IV  
Nurse supervisor V  
Nurse supervisor VI  
Nurse supervisor VII.

(2) Employees other than those included in subdivision (1) shall not be eligible for compensation for overtime except in the following circumstances:

(A) The state personnel director, with the approval of the state budget agency, may authorize compensation for overtime worked by employees otherwise not eligible when such overtime is worked according to prescribed policy or based on a special approval.

(B) Overtime policies for exempt employees may be established by the director and state budget agency.

(C) Special approval to compensate overtime exempt employees can only be granted by the director and state budget agency.

(e) Except as provided in subsection (g), when an eligible employee has worked overtime which is compensable under this rule, payment for such overtime shall be made with the regular payment for that period in which the overtime hours were worked as follows:

(1) Employees eligible for overtime compensation by reason of subsection (d)(2) shall be paid for overtime at a straight-time rate equal to the employee's regular hourly pay rate multiplied by the number of overtime hours worked.

(2) Eligible employees whose regularly established minimum working week is thirty-seven and one-half (37½) hours or less shall be paid for overtime at a straight-time rate equal to the employee's regular hourly pay rate multiplied by the number of overtime hours worked for all such overtime which comprises less than forty (40) total hours of work within the work week.

(3) Any overtime worked by an eligible employee, for which straight-time payment is not provided by this subsection, nor for which a different decision rule is provided by subsection (l) or (o), shall be paid at a time and a half rate equal to one and a half times the employee's regular hourly pay rate multiplied by the number of such overtime hours worked.

(f) Requirements for payment for additional hours of work other than overtime shall be as follows:

(1) All employees whose regularly established work schedule is less than full time shall be paid for hours worked or hours worked together with sick days, vacation days, personal days, holidays, compensatory time off, or leaves of absence with pay, during the pay period, which are in addition to the employee's normal work schedule but which do not exceed the total number of hours of work in the regularly established work schedules of employees working full time in comparable positions within the same agency or department. Payment for such additional hours of work shall be made with the regular payment for that pay period in which the additional hours were worked, at a straight-time rate equal to the employee's regular hourly pay rate multiplied by the number of additional hours worked.

(2) Employees who are eligible for overtime payments under subsection (d) and whose regularly established work schedule is full time, shall be paid for hours other than overtime, as defined in subsection (c), worked during the pay period which together with sick days, vacation days, personal days, holidays, compensatory time off, or leaves of absence with pay, exceeds the total number of regularly scheduled hours of work in the employee's pay period. Payment for such additional hours of work shall be made with the regular payment for that pay period in which the additional hours were worked at a straight-time rate equal to the employee's regular hourly pay rate multiplied by the number of additional hours worked.

(g) Requirements for compensatory time off shall be as follows:

(1) Rate of accrual to include the following:

(A) Employees eligible for overtime compensation under subsection (d)(1) may be granted compensatory time off in lieu of monetary payment for anticipated or earned overtime work:

(i) for overtime normally compensable under subsection (e)(3) or (l)(10)(D), compensatory time off shall be granted at a time and a half rate; and

(ii) for additional hours of work other than overtime, that is, that which is normally compensable under subsection (e)(2), (f)(2), or (l)(10)(C), compensatory time off shall be granted at a straight-time rate.

(B) Employees eligible for overtime compensation under subsection (d)(2) may be granted compensatory time off at a straight-time rate in lieu of monetary payment for anticipated or earned overtime work.

(C) Employees eligible for holiday compensation under subsection (b) may be granted compensatory time off at a straight-time rate in lieu of monetary payment for anticipated or earned holiday work.

(2) Limitation on amount of accrual to include the following:

(A) Employees eligible for overtime compensation under subsection (d)(1) and who are engaged in a public safety, emergency response, or seasonal activity may accrue no more than four hundred eighty (480) hours of compensatory time off.

(B) Employees eligible for overtime compensation under subsection (d)(1) and who are engaged in any work other than that described in clause (A) may accrue no more than two hundred forty (240) hours of compensatory time off.

(C) Compensable hours worked in excess of the limits contained in this subdivision must be compensated monetarily with the regular payment of wages for the pay period in which the time was worked.

(3) Use of compensatory time off to include the following:

(A) Employees eligible for overtime compensation under subsection (d)(1) shall be granted compensatory time off as follows:

(i) Unless otherwise approved by the director and state budget agency, all compensatory time off must be scheduled and taken off prior to the end of the calendar quarter succeeding the quarter in which the additional hours were worked.

(ii) An employee who has accrued compensatory time off authorized by this rule and who has requested the use of such compensatory time off, shall be permitted to use such time within a reasonable period after making the request if the use of the compensatory time does not unduly disrupt the operations of the public agency.

(B) Employees eligible for overtime compensation under subsection (d)(2) shall normally be given compensatory time off rather than monetary payment. If the needs of the service make the granting of compensatory time off impracticable, the appointing authority may request approval of the director and the state budget agency to compensate monetarily at the rate provided in subsection (e)(1).

(4) Monetary payment for accrued but unused compensatory time off to include the following:

(A) If monetary compensation is paid to an employee for accrued compensatory time off, such payment shall be at the regular rate earned by the employee at the time the employee receives such payment.

(B) An employee eligible for overtime compensation, by reason of subsection (d)(1), who has accrued compensatory time off as authorized by this section shall, upon termination of employment, be paid for the unused compensatory time off at the greater of:

(i) the average regular hourly rate received by such employee during the last three (3) years of the employee's employment; or

(ii) the final regular hourly rate received by such employee.

(h) (Repealed)

(i) Any payroll containing overtime payments must be accompanied, when submitted to the director by the appointing authority, by a written justification for each occurrence of overtime which is incurred.

(j) The director is authorized to establish and enforce any policies necessary for the implementation of this rule or to prescribe and enforce any policies concerning overtime or holiday compensation which are not inconsistent with this rule notwithstanding the internal policies of an agency or institution.

(k) The director of the state budget agency, in such manner as he deems necessary, may regulate the amounts of overtime to be worked in any agency or institution. Such regulation of overtime work may include a requirement that any or all overtime work, prior to its assignment, must be approved by the state budget agency.

(l) The appointing authority of an employee engaged in law enforcement activities (including security personnel in correctional institutions) may, with prior written approval of the director and state budget agency, elect to establish work periods and compensate overtime eligible employees in accordance with the following in lieu of subsection (c):

(1) The following requirements concerning definition of law enforcement activities:

(A) As used in this subsection, "any employee in law enforcement activities" refers to any employee:

(i) who is a uniformed or plainclothed member of a body of officers and subordinates who are empowered by statute or local ordinance to enforce laws designed to maintain public peace and order and to protect both life and property from accidental or willful injury and to prevent and detect crimes;

(ii) who has the power of arrest; and

(iii) who is presently undergoing or has undergone or will undergo on-the-job training and/or a course of instruction and study which typically includes:

(AA) physical training;

(BB) self-defense;

(CC) firearm proficiency;

(DD) criminal and civil law principles;

(EE) investigative and law enforcement techniques;

(FF) community relations;

(GG) medical aid; and

(HH) ethics.

Employees who meet these tests are considered to be engaged in law enforcement activities regardless of their status as trainee, probationary, or permanent employee, and regardless of their assignment to duties incidental to the performance of their law enforcement activities such as equipment maintenance, and lecturing or to support activities, whether or not such assignment is for training or familiarization purposes, or for reasons of illness, injury, or infirmity.

(B) Employees who do not meet each of the three (3) tests described in clause (A) are not engaged in law enforcement activities, as that term is used in this subsection. Such employees would include:

- (i) building inspectors;
- (ii) health inspectors;
- (iii) animal control personnel;
- (iv) sanitarians;
- (v) civilian traffic employees who direct vehicular and pedestrian traffic at specified intersections or other control points;
- (vi) civilian parking checkers who patrol assigned areas for the purpose of discovering parking violations and issuing appropriate warnings or appearance notices;
- (vii) wage and hour compliance officers;
- (viii) equal employment opportunity compliance officers;
- (ix) tax compliance officers;
- (x) coal mining inspectors; and
- (xi) building guards whose primary duty is to protect the lives and property of persons within the limited area of the building.

(C) The term "any employee in law enforcement activities" also includes security personnel in correctional institutions. A correctional institution is any government facility maintained as part of a penal system for the incarceration or detention of persons suspected or convicted of having breached the peace or committed some other crime. Such facilities include:

- (i) penitentiaries;
- (ii) prisons;
- (iii) prison farms;
- (iv) reformatories; and
- (v) other facilities operated by the department of correction.

Employees of correctional institutions who qualify as security personnel for purposes of this subsection are those who have responsibility for controlling and maintaining custody of inmates and of safeguarding them from other inmates or for supervising such functions, regardless of whether their duties are performed inside the correctional institution or outside the institution (as in the case of road gangs). These employees are considered to be engaged in law enforcement activities regardless of their status as trainee, probationary, or permanent employee, and regardless of their assignment to duties incidental to the performance of their law enforcement activities, or to support activities whether or not such assignment is for training or familiarization purposes or for reasons of illness, injury, or infirmity.

(D) Not included in the term "employee in law enforcement activities" are the so-called civilian employees of law enforcement agencies or correctional institutions who engage in such support activities as those performed by dispatcher, radio operators, apparatus and equipment maintenance and repair workers, janitors, clerks, and stenographers. Nor does the term include employees in correctional institutions who engage in building repair and maintenance, culinary services, teaching, or in psychological, medical, and paramedical services. This is so even though such employees may, when assigned to correctional institutions, come into regular contact with the inmates in the performance of their duties.

(2) Employees engaged in law enforcement activities may also engage in some nonexempt work unless it exceeds twenty percent (20%) of the total hours worked by the particular employee during the applicable work period.

(3) The attendance at a bona fide police academy or other training facility, when required by the employing public agency, does not constitute engagement in exempt activities unless the employee in question meets all of the tests described in subdivision (1)(A) in which event such training or further training would be incidental to, and thus part of, the employee's law enforcement activities. Only the time spent in actual training or retraining constitutes compensable hours of work. All other time, such as that spent in studying and other personal pursuits, is not compensable hours of work even in situations where

the employee is confined to campus or to barracks twenty-four (24) hours a day. Attendance at training facilities and schools, which is not required but which may incidentally improve the employee's performance of his or her regular tasks or prepare the employee for further advancement, need not be counted as working time even though the public agency may pay for all or part of such training.

(4) If an employee regularly engaged in exempt law enforcement activities also works for another department or agency, such employee will lose the exemption if the other work is unrelated to law enforcement activities. If, however, such employee's other job is also exempt work, the less of the two (2) exemptions should be claimed.

(5) Requirements for law enforcement volunteers shall be as follows:

(A) Individuals who volunteer to perform law enforcement activities, usually on a part-time basis and as a public service, are not considered to be employees of the public agency which receives their services. Such individuals do not lose their volunteer status because their tuition may have been paid or they may have been reimbursed for attending special classes or other training to learn about law enforcement or because they are reimbursed for approximate out-of-pocket expenses incurred incidental to answering a call or to the cost of replacing clothing or other items of equipment which may have been consumed or damaged in responding to a call. Nor is the volunteer status of such individuals lost where the only material recognition afforded them is the holding of an annual party, the furnishing of a uniform and related equipment, or their inclusion in a retirement or relief fund, a workman's compensation plan or a life or health insurance program, or the payment of a nominal sum on a per call or other basis which may either be retained, in whole or in part, by the volunteer or donated to finance various social activities conducted by or under the auspices of the agency. Payments which average two dollars and fifty cents (\$2.50) per call will be considered nominal. Payments in excess of this amount may also qualify as nominal, depending upon the distances which must be traveled and other expenses incurred by the volunteer. For purposes of this clause, it is not necessary for the agency to maintain an exact record of expenses.

(B) Where, however, individuals engaged in law enforcement activities receive more than a nominal amount of payment on a basis which does not reasonably approximate the expenses incurred by them, they are employees rather than volunteers and must be paid in accordance with this subsection.

(C) Volunteers engaged in law enforcement activities may include individuals who are employed in some other capacity by the same public agency.

(D) Police officers of one (1) jurisdiction may engage in law enforcement activities on a voluntary basis for another jurisdiction where there is no mutual aid agreement or other relationship between the two (2) jurisdictions. Such employees cannot, however, perform law enforcement activities on a voluntary basis for their own agency, although they can engage in other activities not directly related to these primary functions. For example, a police officer could volunteer to counsel young juveniles who are members of a boy's club or other similar organizations.

(6) Rules for determining the tour of duty, work period, and compensable hours of work, generally, shall be as follows:

(A) Public agency employees engaged in law enforcement activities are unique. Therefore, computation of hours worked on the basis of a work period (which can be longer than a work week) and which bases the overtime requirements on a work period concept is permitted. Where an agency properly elects this subsection, it must be used for purposes of both the overtime requirements and hourly rate determination.

(B) If, however, any public agency chooses not to claim the partial overtime exemption provided in this subsection, but elects to pay overtime compensation as defined in subsection (c), it need not concern itself with the tour of duty or work period discussion which follows or with the special rules relating to the determination of what constitutes compensable hours of work since, in that event, overtime would be payable on a work week basis and the regular method of computing hours worked would apply. Such an agency would not, however, be able to take advantage of the special provisions relating to the balancing of hours over an entire work period and trading time.

(7) As used in this subsection, "tour of duty" means the period during which an employee is on duty. It may be a scheduled or unscheduled period. Scheduled periods refer to shifts, that is, the period of time which elapses between scheduled arrival and departure times, or to scheduled periods outside the shift, as in the case of a special detail involving crowd control during a parade or other such event. Unscheduled periods refer to time spent in court by police officers, time spent handling emergency situations, or time spent after a shift in order to complete required work. When an employee actually works fewer hours than those scheduled, the employee's tour of duty is reduced accordingly. Nothing in this subsection precludes agencies from establishing new tours of duty for their employees, provided, however, that the change is intended to be permanent at the time that it is made.

(8) Compensable hours of work generally include all of that time during which an employee is on duty, on the employer's

premises, or at a prescribed workplace, as well as all other time during which the employee is suffered or permitted to work for the employer. Such hours thus include all pre-shift and post-shift activities which are an integral part of the employee's principal activity or which are closely related and to its performance such as attending roll call or writing up and completing reports. It also includes time which an employee spends in attending required training classes. Time spent away from the employer's premises under conditions so circumscribed that they restrict the employee from effectively using the time for personal pursuits also constitutes compensable hours of work. For example, a police officer who is required to remain at home until summoned to testify in a pending court case and who must be in a constant state of instant readiness is engaged in compensable hours of work. On the other hand, employees who are confined to barracks while attending police academies are not on duty during those times when they are not in class or at a training session since they are free to use such time for personal pursuits. Also, a police officer who has completed his or her tour of duty but who is given a patrol car to drive home and use on private business is not working simply because the radio must be left on so that the officer can respond to emergency calls. Of course, the time spent in responding to such calls would be compensable, except in those instances where it is miniscule and cannot, as an administrative matter, be recorded for payroll purposes.

(9) Requirements for sleeping and mealtime as compensable hours of work shall be as follows:

(A) Where the employer has elected to use this subsection, mealtime cannot be excluded from compensable hours of work unless the employee is completely relieved from duty for a bona fide meal period. It is not necessary that an employee be permitted to leave the premises if he or she is otherwise completely freed from duties during the meal period.

(B) Sleep time may be excluded in the case of law enforcement employees who are on duty for more than twenty-four (24) hours. However, sleep time shall, in no event, exceed eight (8) hours, in a twenty-four (24) hour period. If such sleep time is interrupted by a call to duty, the interruption must be counted as hours worked, and, if the period is interrupted to such an extent that the employee cannot get a reasonable night's sleep (which, for enforcement purposes, means at least five (5) hours), the entire time must be counted as hours of work.

(10) Requirements for the work period shall be as follows:

(A) As used in this subsection, "work period" refers to any established and regularly recurring period of work which cannot be less than seven (7) consecutive days nor more than twenty-eight (28) consecutive days. Except for this limitation, the work period can be of any length, and it need not coincide with the pay period or with a particular day of the week or hour of the day. Once the beginning time of an employee's work period is established, however, it remains fixed regardless of how many hours are worked within that period. The beginning of the work period may, of course, be changed, provided that the change is intended to be permanent at the time that it is made.

(B) An agency may have one (1) work period applicable to all of its employees, or different work periods for different employees or groups of employees. The agency must, however, make some notation in its records which shows the work period for each employee and which indicates the length of that period and its starting time.

(C) For those employees who have a work period of at least seven (7) but no more than twenty-eight (28) consecutive days, no overtime compensation is required unless the ratio between the number of days in the work period and the hours worked during such work period exceeds the ratio between a work period of twenty-eight (28) days and one hundred sixty (160) hours. If the ratio between the number of the days in the work period and the hours worked during such work period exceeds the ratio between a work period of twenty-eight (28) days and one hundred sixty (160) hours but is less than the ratio between twenty-eight (28) days and one hundred seventy-one (171) hours, the additional hours are paid for at the employee's regular hourly rate of pay.

(D) For those employees who have a work period of at least seven (7) but no more than twenty-eight (28) consecutive days, no overtime compensation at a premium rate is required until the ratio between the number of days in the work period and the hours worked during such work period exceeds the ratio between a work period of twenty-eight (28) days and one hundred seventy-one (171) hours at which point all additional hours are paid for at one and one-half (1½) times the employee's regular rate of pay.

(E) Accordingly, overtime compensation at the rate indicated in this clause must be paid for all hours worked in excess of the following maximum hours standards:

Work Period (Days)	Straight-time	Time and a Half
	Overtime Payable for Hours in Excess of	Payable for Hours in Excess of
28	160	171
27	154	165

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26	149	159
25	143	153
24	137	147
23	131	141
22	126	134
21	120	128
20	114	122
19	109	116
18	103	110
17	97	104
16	91	98
15	86	92
14	80	86
13	74	79
12	69	73
11	63	67
10	57	61
9	51	55
8	46	49
7	40	43

(11) Another common practice or agreement among employees engaged in law enforcement activities is that of substituting for one another on regularly scheduled tours of duty (or for some part thereof) in order to permit an employee to absent himself or herself from work to attend to purely personal pursuits. This practice is commonly referred to as trading time. The practice of trading time will be deemed to have no effect on hours of work if the following criteria are met:

- (A) The trading of time is done voluntarily by the employees participating in the program and not at the behest of the employer.
- (B) The reason for trading time is due, not to the employer's business operations, but to the employee's desire or need to attend to personal matter.
- (C) A record is maintained by the employer of all time traded by his employees.
- (D) The period during which time is traded and paid back does not exceed twelve (12) months.
- (E) The employees secure the approval of the appointing authority.

(m) (Repealed)

(n) (Repealed)

(o) Unless otherwise approved by the director and state budget agency, no overtime shall be paid to any employee who is employed by a nonprofit educational institution to serve as the parent of children:

- (1) who are orphans or one of whose natural parents is deceased; or
- (2) who are enrolled in such institution and reside in residential facilities of the institution, while such children are in residence at such institution, if such employee resides in such facilities, receives, without cost, board and lodging from the institution and is compensated on a cash basis, at an annual rate of not less than ten thousand dollars (\$10,000).

(p) The following are requirements for record keeping:

(1) Every appointing authority shall keep and preserve, for at least three (3) years, payroll or other records containing the following information and data with respect to each and every employee:

- (A) Name in full, and on the same record, the employee's identifying symbol or number if such is used in place of name on any time, work, or payroll records. This shall be the same name as that used for Social Security record purposes.
- (B) Home address, including zip code.
- (C) Date of birth, if under nineteen (19) years of age.
- (D) Sex and occupation in which employed (sex may be indicated by use of the prefixes, Mr., Mrs., or Miss).
- (E) Time of day and day of week on which the employee's work period begins. If the employee is part of a work force or employed in or by an establishment all of whose workers have a work week beginning at the same time on the same day, a single notation of the time of the day and beginning day of the work week for the whole work force or establishment will suffice. If, however, any employee or group of employees has a work week beginning and ending at a different time, a separate notation shall then be kept for that employee or group of employees.
- (F)(i) Regular hourly rate of pay for any week when overtime is worked and overtime excess compensation is due;
  - (ii) basis on which wages are paid; and
  - (iii) the amount and nature of each payment which is excluded from the regular rate (these records may be in the

form of vouchers or other payment data).

(G) Hours worked each work day and total hours worked each work week. As used in this section, "work day" means any consecutive twenty-four (24) hours.

(H) Total daily or weekly straight-time earnings or wages, that is, the total earnings or wages due for hours worked during the work day or work week, including all earnings or wages due during any overtime worked, but exclusive of overtime excess compensation.

(I) Total overtime excess compensation for the work week, that is, the excess compensation for overtime worked which amount is over and above all straight-time earnings or wages also earned during overtime worked.

(J) Total additions to or deductions from wages paid each pay period. Every employer making additions to or deductions from wages shall also maintain, in individual employee accounts, a record of the dates, amounts, and nature of the items which make up the total additions and deductions.

(K) Total wages paid each pay period.

(L) Date of payment and the pay period covered by payment.

(2) With respect to employees working on fixed schedules, an employer may maintain records showing, instead of the hours worked each day and each week, the schedule of daily and weekly hours the employee normally works, and:

(A) in weeks in which an employee adheres to this schedule, indicates by check mark, statement, or other method that such hours were in fact actually worked by him or her; and

(B) in weeks in which more or less than the scheduled hours are worked, shows the exact number of hours worked each day and each week.

(3) With respect to persons employed in job categories or classifications other than those enumerated in subsection (d)(1) and who did not work overtime that is compensable, as determined by this section, records containing all the information and data required by subdivision (1) shall be maintained and preserved except data required by subdivision (1)(F) through (1)(J) and, in addition thereto, the basis on which wages are paid in sufficient detail to permit calculation for each pay period of the employee's total remuneration for employment, including fringe benefits.

*(State Personnel Department; Non-Merit Agency Personnel Rule 9, Sec 2; filed Feb 15, 1978, 3:25 p.m.: Rules and Regs. 1979, p. 31; filed Aug 23, 1978, 3:35 p.m.: 1 IR 633; filed Apr 28, 1982, 12:55 p.m.: 5 IR 1166; filed Oct 11, 1985, 8:25 a.m.: 9 IR 162; filed Feb 28, 1986, 8:15 a.m.: 9 IR 1548; filed Mar 29, 1995, 4:30 p.m.: 18 IR 1970; errata filed Apr 4, 1995, 3:30 p.m.: 18 IR 2126; readopted filed May 4, 2001, 4:29 p.m.: 24 IR 2895; readopted filed Nov 15, 2007, 3:58 p.m.: 20071212-IR-031070660RFA) NOTE: Transferred from the Indiana Department of Administration (25 IAC 3) to the State Personnel Department (31 IAC 1) by Acts 1981, P.L.30, SECTION 3 (IC 4-15-1.8-8). Effective July 1, 1981.*

### **31 IAC 1-9-3 Vacation leave**

Authority: IC 4-15-1.8-6; IC 4-15-1.8-7

Affected: IC 4-15-1.8-7

Sec. 3. (a) Vacation leave with pay shall be earned by all full-time employees in the non-merit service at the rate of seven and one-half (7.5) hours for each full month of employment. Employees working at least half time, but no less than a full-time basis, shall earn vacation at the rate of three and three-fourths (3.75) hours a month. Vacation will not be credited to hourly, per diem, temporary, intermittent, contractual, or employees working less than half time.

(b) Eligibility for additional vacation days shall be as follows:

(1) Employees who have completed five (5) years or more of full-time employment, or ten (10) years or more of half-time employment, shall accrue twenty-two and one-half (22.5) additional hours of vacation leave with pay annually on their accrual date.

(2) Employees who have completed ten (10) years or more of full-time employment, or twenty (20) years or more of half-time employment, shall accrue thirty-seven and one-half (37.5) additional hours of vacation leave with pay (twenty-two and one-half (22.5) plus thirty-seven and one-half (37.5) for a total of sixty (60) additional hours) annually on their accrual date.

(3) Employees who have completed twenty (20) years or more of full-time employment, or forty (40) years or more of half-time employment, shall accrue thirty-seven and one-half (37.5) additional hours of vacation leave with pay (twenty-two and one-half (22.5) plus thirty-seven and one-half (37.5) plus thirty-seven and one-half (37.5) for a total of ninety-seven and one-half (97.5) additional hours) annually on their accrual date.

(4) Time spent in out-of-pay status, except for military service, shall be deducted from total service time in computing

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eligibility for additional vacation leave.

(5) Noncontinuous service prior to June 30, 1982, shall not be considered in determining eligibility for additional vacation leave.

(c) No vacation shall accrue to full-time employees during the first six (6) months of employment, or to part-time employees during the first twelve (12) months of employment, but, upon completion thereof, regular vacation leave shall be allowed for time served during such periods.

(d) Appointing authorities shall determine the time and amount of vacation which shall be taken at any one (1) time. Employees shall be limited to four (4) calendar weeks of vacation at any one (1) time unless a longer period is recommended by the appointing authority and approved by the director. Employees granted special sick leave with pay shall be entitled to all earned vacation and earned overtime.

(e) For the good of the service in arranging vacation schedules, the director may approve the request of an appointing authority for full-time employees to anticipate and take vacation leave not to exceed twenty-two and one-half (22.5) hours.

(f) Compensation for unused vacation, earned overtime, and holidays on separation shall be as follows:

(1) Except as otherwise provided in 31 IAC 1-12.1 or 31 IAC 4, upon separation from the service, in good standing, an employee shall be paid for unused vacation for a maximum of two hundred twenty-five (225) hours, plus overtime and holiday leave to the extent accumulated.

(2) Compensation for unused vacation in excess of six (6) calendar weeks is only permitted in cases involving payment of premiums for early retiree health insurance as provided in 31 IAC 1-12.1 or under the retiree flexible spending program described in 31 IAC 4.

(3) Payment for unused vacation leave, not to exceed two hundred twenty-five (225) hours, and all earned overtime and holiday leave shall be paid to beneficiaries of deceased employees.

(4) If the employee has anticipated vacation leave in accordance with subsection (e) of this section, and separated from the service before actually earning such leave, payment for leave used but unearned shall be deducted from the final payment of salary.

(5) Full-time employees who resign before they have completed six (6) months of non-merit employment, or part-time employees who resign before completing one (1) year of non-merit employment, will not be paid for any vacation leave.

(g) Charging of leave shall be as follows:

(1) Vacation leave shall be charged in fifteen (15) minute increments.

(2) Vacation shall not be charged on a legal holiday.

(h) An employee who resigns in good standing after June 30, 1982, and is subsequently rehired shall have reinstated, six (6) months after rehire, any vacation leave that was accrued but was unused and uncompensated at the time of their resignation. However, vacation leave that was compensated under 31 IAC 1-12.1 or 31 IAC 4 shall not be reinstated.

(i) In recognition of the fact that conservation officers and excise police have a standard work day of eight and one-half (8.5) hours instead of seven and one-half (7.5) hours, the references to the numbers of hours in this section shall be converted for conservation officers and excise police as follows:

Hours Stated in this Section	Hours Converted for Conservation and Excise
3.75	4.25
7.5	8.5
22.5	25.5
37.5	42.5
60.0	68.0
97.5	110.5
225.0	255.0

If an employee transfers into or out of the conservation officer or excise police job families, the employee's leave balances will be adjusted proportionately to reflect the change in the number of hours of the standard work day. (*State Personnel Department; Non-Merit Agency Personnel Rule 9, Sec 3; filed Feb 15, 1978, 3:25 p.m.: Rules and Regs. 1979, p. 34; filed Jan 26, 1979, 2:50 p.m.: 2 IR 296; filed Apr 28, 1982, 12:55 p.m.: 5 IR 1169; filed Nov 1, 1983, 4:00 p.m.: 7 IR 10, eff Jan 1, 1984; filed Dec 1, 1995, 3:00 p.m.: 19 IR 610, eff Jan 1, 1996; filed Dec 1, 1997, 4:30 p.m.: 21 IR 1251, eff Jan 1, 1998; filed May 10, 2000, 3:24 p.m.: 23 IR 2402, eff Jul 1, 2000; readopted filed May 4, 2001, 4:29 p.m.: 24 IR 2895; readopted filed Nov 15, 2007, 3:58 p.m.: 20071212-IR-031070660RFA*) NOTE: Transferred from the Indiana Department of Administration (25 IAC 3) to the State Personnel Department

(31 IAC 1) by Acts 1981, P.L.30, SECTION 3 (IC 4-15-1.8-8). Effective July 1, 1981.

**31 IAC 1-9-4 Sick leave; definition; accrual**

Authority: IC 4-15-1.8-6; IC 4-15-1.8-7

Affected: IC 4-15-1.8-7

Sec. 4. (a) Sick leave is defined as absence from duty of any employee because of personal illness, injury, or legal quarantine. Sick leave may also be used for an illness or injury in the employee's immediate family that necessitates the employee's absence from work. For this purpose, "immediate family" means spouse, child, or parent who resides with, and is dependent upon, the employee for care and support. The director or appointing authority may at any time require of an employee a medical certificate from the attending physician or a designated physician, documenting the nature and extent of the disability or fitness to return to duty. The cost of such certification from a designated physician shall be the responsibility of the appointing authority. Sick leave may be granted if accrued and shall be charged in the same manner as vacation in accordance with section 3(g) of this rule.

(b) Sick leave with pay shall accrue to full-time employees in the nonmerit service at the rate of seven and one-half (7.5) hours for every two (2) full months of employment; plus seven and one-half (7.5) additional hours for every four (4) months of full-time employment. Employees working on a part-time basis shall earn sick leave at the rate of three and three-fourths (3.75) hours for every two (2) months of employment; plus three and three-fourths (3.75) additional hours for every four (4) months of employment. Sick leave will not accrue to hourly, per diem, temporary, intermittent, or contractual employees or employees working less than half time.

(c) On separation, compensation for unused sick leave is only permitted under the retiree flexible spending program described in 31 IAC 4.

(d) An employee who resigns in good standing after June 30, 1982, and is subsequently rehired shall have reinstated any sick leave which was unused and uncompensated at the time of their resignation.

(e) In recognition of the fact that conservation officers and excise police have a standard work day of eight and one-half (8.5) hours instead of seven and one-half (7.5) hours, the references to the numbers of hours in this section shall be converted for conservation officers and excise police as follows:

Hours Stated in this Section	Hours Converted for Conservation and Excise
3.75	4.25
7.5	8.5

If an employee transfers into or out of the conservation officer or excise police job families, the employee's leave balances will be adjusted proportionately to reflect the change in the number of hours of the standard work day. (*State Personnel Department; Non-Merit Agency Personnel Rule 9, Sec 4; filed Feb 15, 1978, 3:25 p.m.: Rules and Regs. 1979, p. 35; filed Aug 23, 1978, 3:35 p.m.: 1 IR 634; filed Jan 26, 1979, 2:50 p.m.: 2 IR 296; filed Apr 28, 1982, 12:55 p.m.: 5 IR 1170; filed Aug 17, 1982, 3:41 p.m.: 5 IR 2104; filed Nov 1, 1983, 4:00 p.m.: 7 IR 11, eff Jan 1, 1984; filed Sep 8, 1992, 5:00 p.m.: 16 IR 6; filed Dec 1, 1997, 4:30 p.m.: 21 IR 1252, eff Jan 1, 1998; filed May 10, 2000, 3:24 p.m.: 23 IR 2403, eff Jul 1, 2000; readopted filed May 4, 2001, 4:29 p.m.: 24 IR 2895; readopted filed Nov 15, 2007, 3:58 p.m.: 20071212-IR-031070660RFA*) NOTE: Transferred from the Indiana Department of Administration (25 IAC 3) to the State Personnel Department (31 IAC 1) by Acts 1981, P.L.30, SECTION 3 (IC 4-15-1.8-8). Effective July 1, 1981.

**31 IAC 1-9-4.5 Personal leave**

Authority: IC 4-15-1.8-6; IC 4-15-1.8-7

Affected: IC 4-15-1.8-7

Sec. 4.5. (a) Personal leave is defined as absence from duty with pay for personal reasons.

(b) Personal leave shall accrue to full-time employees at the rate of seven and one-half (7.5) hours for every four (4) months of full-time employment and to part-time employees working at least half time at the rate of three and three-fourths (3.75) hours for every four (4) months of service. Personal leave shall not be granted to hourly, per diem, temporary, intermittent, contractual, or employees working less than half time.

(c) No employee may accrue a personal leave balance in excess of twenty-two and one-half (22.5) hours. If an employee is otherwise eligible to accrue personal leave, but the accrual thereof would increase his or her account balance beyond the twenty-two

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and one-half (22.5) hour limit, the personal leave shall be credited to the employee's accrued sick leave balance.

(d) The appointing authority may establish procedures for employees to follow in securing authorization for absence on personal leave.

(e) On separation, compensation for unused personal leave is only permitted under the retiree flexible spending program described in 31 IAC 4.

(f) An employee who resigns in good standing after June 30, 1982, and is subsequently rehired shall have reinstated, six (6) months after rehire, any personal leave that was accrued but unused and uncompensated at the time of their resignation.

(g) In recognition of the fact that conservation officers and excise police have a standard work day of eight and one-half (8.5) hours instead of seven and one-half (7.5) hours, the references to the numbers of hours in this section shall be converted for conservation officers and excise police as follows:

Hours Stated in this Section	Hours Converted for Conservation and Excise
3.75	4.25
7.5	8.5
22.5	25.5

If an employee transfers into or out of the conservation officer or excise police job families, the employee's leave balances will be adjusted proportionately to reflect the change in the number of hours of the standard work day. (*State Personnel Department; 31 IAC 1-9-4.5; filed Apr 28, 1982, 12:55 p.m.: 5 IR 1170; filed Nov 1, 1983, 4:00 p.m.: 7 IR 11, eff Jan 1, 1984; filed Dec 1, 1997, 4:30 p.m.: 21 IR 1253, eff Jan 1, 1998; filed May 10, 2000, 3:24 p.m.: 23 IR 2404, eff Jul 1, 2000; readopted filed May 4, 2001, 4:29 p.m.: 24 IR 2895; readopted filed Nov 15, 2007, 3:58 p.m.: 20071212-IR-031070660RFA*) NOTE: Transferred from the Indiana Department of Administration (25 IAC 3) to the State Personnel Department (31 IAC 1) by Acts 1981, P.L.30, SECTION 3 (IC 4-15-1.8-8). Effective July 1, 1981.

**31 IAC 1-9-5 Special sick leave (Repealed)**

Sec. 5. (*Repealed by State Personnel Department; filed Aug 7, 1989, 3:30 p.m.: 12 IR 2218, eff Jul 1, 1989*)

**31 IAC 1-9-6 Occupational disease or injury; adjustment of compensation payments**

Authority: IC 4-15-1.8-6; IC 4-15-1.8-7

Affected: IC 4-15-1.8-7

Sec. 6. In cases of occupational disease or injury suffered in line of duty in which the employee elects to use accumulated vacation, sick leave, personal leave, and/or overtime prior to the commencement of worker's compensation payments, the amount of leave charged shall be reduced in the ratio of worker's compensation payments to total salary. This applies to the seven (7) day waiting period if it is determined to be compensable. If vacation, sick leave, personal leave, and/or overtime is used concurrently with worker's compensation payments in order to pay full salary, the amount of leave charged shall be on the basis of the amount paid not covered by the worker's compensation payment. (*State Personnel Department; Non-Merit Agency Personnel Rule 9, Sec 6; filed Feb 15, 1978, 3:25 p.m.: Rules and Regs. 1979, p. 36; filed Aug 7, 1989, 3:30 p.m.: 12 IR 2210, eff Jul 1, 1989 [IC 4-22-2-36 suspends the effectiveness of a rule document for thirty (30) days after filing with the secretary of state. LSA Document #89-35(F) was filed Aug 7, 1989.]; readopted filed May 4, 2001, 4:29 p.m.: 24 IR 2895; readopted filed Nov 15, 2007, 3:58 p.m.: 20071212-IR-031070660RFA*) NOTE: Transferred from the Indiana Department of Administration (25 IAC 3) to the State Personnel Department (31 IAC 1) by Acts 1981, P.L.30, SECTION 3. Effective July 1, 1981.

**31 IAC 1-9-7 Paid leave**

Authority: IC 4-15-1.8-6; IC 4-15-1.8-7

Affected: IC 4-15-1.8-8

Sec. 7. Leave With Pay (General). (A) Subject to prior approval by the Director, an appointing authority may authorize leave with pay for a regular employee for the purpose of securing special education or training, other than departmental in-service, directly appropriate to the employee's position, and which will result in benefit to the state.

(B) The appointing authority may allow leave with pay, not to exceed the employee's next three (3) regularly scheduled work

days, in the event of the death of any relative specified in this section. The amount of time granted ordinarily will depend upon the closeness of relationship to the deceased and amount of travel necessitated by attendance at the funeral. Such leave may be granted upon the death of a husband, wife, father, mother, son, daughter, brother, sister, grandparent, grandchild, or the spouse of any of these, or a person living in the same household with the employee. For a married employees, these members of the spouse's family are included.

(C) Employees occupying positions in the non-merit service, except employees paid by the hour or day, who are lawfully required to report for jury duty, or to serve as witnesses before any body or agency having subpoena powers, shall be granted leaves of absence by their appointing authorities from their positions during the required absence for such duty. When such leaves of absence are granted for jury duty or to serve as witnesses in matters relating to employment with the State, they shall receive that portion of their regular salary from the State which will, together with the compensation for such court service, equal their total regular salary for the same period.

(D) Employees in the non-merit service who are members of the Armed Forces Reserves or the National Guard shall be entitled to a leave of absence, not to exceed fifteen (15) calendar days in any calendar year, without loss of pay or vacation time. The employee shall be required to submit a written order or official statement requiring the military duty. (*State Personnel Department; Non-Merit Agency Personnel Rule 9, Sec 7; filed Feb 15, 1978, 3:25 pm: Rules and Regs. 1979, p. 36; filed Jan 26, 1979, 2:50 pm: 2 IR 296; readopted filed May 4, 2001, 4:29 p.m.: 24 IR 2895; readopted filed Nov 15, 2007, 3:58 p.m.: 20071212-IR-031070660RFA*) NOTE: Transferred from the Indiana Department of Administration (25 IAC 3) to the State Personnel Department (3 IAC 1) by Acts 1981, P.L.30, SECTION 3 (IC 4-15-1.8-8). Effective July 1, 1981.

### **31 IAC 1-9-8 Unpaid leave**

Authority: IC 4-15-1.8-6; IC 4-15-1.8-7

Affected: IC 4-15-1.8-8

Sec. 8. Leave Without Pay (General). The appointing authority, with the approval of the Director, may grant an employee leave without pay for a period not to exceed two (2) years, whenever such leave is considered to be in the best interests of the non-merit service. Such leave shall be requested in writing by the employee and shall require written approval by the appointing authority and the Director. Except under unusual circumstances, voluntary separation from the service in order to accept employment not in the State Service shall not be considered by the Director as sufficient cause for the approval of a leave of absence without pay. Upon expiration of a regularly approved leave without pay, or sooner upon due notice if the interests of the service make it necessary, the employee shall be returned to a position in the same class as the position held at the time leave was granted. Employees on leave without pay due to personal illness, injury, or legal quarantine may be required to submit medical proof from a designated physician of fitness to return to work before resuming duties. Failure of an employee on leave to report for duty within five (5) working days after the appointing authority issues a written notice to return shall be deemed a resignation. At the time such notice is sent to the employee on leave, the appointing authority shall send a copy to the Director. (*State Personnel Department; Non-Merit Agency Personnel Rule 9, Sec 8; filed Feb 15, 1978, 3:25 pm: Rules and Regs. 1979, p. 37; filed Aug 23, 1978, 3:35 pm: 1 IR 634; readopted filed May 4, 2001, 4:29 p.m.: 24 IR 2895; readopted filed Nov 15, 2007, 3:58 p.m.: 20071212-IR-031070660RFA*) NOTE: Transferred from the Indiana Department of Administration (25 IAC 3) to the State Personnel Department (31 IAC 1) by Acts 1981, P.L.30, SECTION 3 (IC 4-15-1.8-8). Effective July 1, 1981.

### **31 IAC 1-9-9 Military leave without pay**

Authority: IC 4-15-1.8-6; IC 4-15-1.8-7

Affected: IC 4-15-1.8-7

Sec. 9. (a) Any employee, upon request, shall be granted a leave of absence without pay to cover the length of his services in the armed forces of the United States.

(b) Reinstatement from such leaves of absence will be made in accordance with the policies outlined below:

(1) An employee granted a military leave of absence will accrue his credit for length of service during his absence for promotion or for other changes in status within the service.

(2) No sick leave, personal leave, or vacation leave credits will accrue during military leave.

(c) An employee granted a military leave of absence shall be reinstated to his former class of position upon his return provided that:

(1) He was separated from the service under honorable conditions.

(2) His written application for reinstatement is made in compliance with applicable selective service provisions. The written application for reinstatement should be addressed to the appointing authority of the agency or institution in which the employee worked when leave was granted and a copy sent to the state personnel department.

(3) He is physically and mentally fit to satisfactorily perform his assigned responsibilities.

(d) An employee returning from military leave shall be reinstated in the same class as that which he held when granted the leave, unless the class has been eliminated from the state classification plan or from the organizational plan of the agency involved. The reinstatement shall be at the same or greater salary, provided that the salary is within the current range for the class. If the class has been eliminated, the appointing authority shall recommend in writing to the state personnel department reinstatement in an appropriate class in the same salary grade and employment area as the eliminated class.

If there is no vacancy in the former class and level of employment, a vacancy shall be created by demoting the employee in the appropriate class who has the least retention score. If demotion is not feasible, said employee will be laid off.

If the employee on military leave fails to make application for return from leave in compliance with applicable selective service provisions after his compulsory tour of duty or completion of his original enlistment, such failure will be considered as an automatic resignation. If the veteran was a regular employee at the time he left for military service, he shall have reemployment rights. (*State Personnel Department; Non-Merit Agency Personnel Rule 9, Sec 9; filed Feb 15, 1978, 3:25 pm: Rules and Regs. 1979, p. 37; filed Aug 17, 1982, 3:41 pm: 5 IR 2104; filed Nov 1, 1983, 4:00 pm: 7 IR 12, eff Jan 1, 1984; readopted filed May 4, 2001, 4:29 p.m.: 24 IR 2895; readopted filed Nov 15, 2007, 3:58 p.m.: 20071212-IR-031070660RFA*) NOTE: Transferred from the Indiana Department of Administration (25 IAC 3) to the State Personnel Department (31 IAC 1) by Acts 1981, P.L.30, SECTION 3 (IC 4-15-1.8-8). Effective July 1, 1981.

### **31 IAC 1-9-10 Maternity leave (Repealed)**

Sec. 10. (*Repealed by State Personnel Department; filed Mar 29, 1995, 4:30 p.m.: 18 IR 1992*)

## **Rule 10. Disciplinary Actions and Separations**

### **31 IAC 1-10-1 Demotion**

Authority: IC 4-15-1.8-6; IC 4-15-1.8-7

Affected: IC 4-15-1.8-8

Sec. 1. Demotion. An appointing authority or his designee may demote an employee by filing a statement of reasons with the Director and the employee concerned. (*State Personnel Department; Non-Merit Agency Personnel Rule 10, Sec 1; filed Feb 15, 1978, 3:25 pm: Rules and Regs. 1979, p. 39; readopted filed May 4, 2001, 4:29 p.m.: 24 IR 2895; readopted filed Nov 15, 2007, 3:58 p.m.: 20071212-IR-031070660RFA*) NOTE: Transferred from the Indiana Department of Administration (25 IAC 3) to the State Personnel Department (31 IAC 1) by Acts 1981, P.L.30, SECTION 3 (IC 4-15-1.8-8). Effective July 1, 1981.

### **31 IAC 1-10-2 Suspension**

Authority: IC 4-15-1.8-6; IC 4-15-1.8-7

Affected: IC 4-15-1.8-8

Sec. 2. (a) An appointing authority or his designee may suspend any employee without pay, for disciplinary purposes, by presenting the employee with written notice of suspension, a copy of which shall be filed with the director. If the employee is not available, written notice shall be sent to the employee's last known address via certified mail. An appointing authority or his designee may suspend an employee without pay, for disciplinary purposes, for such time as he considers appropriate, not to exceed thirty (30) days in any twelve (12) month period.

(b) With the approval of the director, an employee may be suspended for a longer period pending an investigation or trial of any charges against him.

(c) An overtime exempt employee (that is, an employee who is ineligible for premium overtime compensation) may only be suspended, under this section, in increments of one (1) or more full calendar weeks, consistent with 29 CFR 541.118(a). (*State Personnel Department; Non-Merit Agency Personnel Rule 10, Sec 2; filed Feb 15, 1978, 3:25 p.m.: Rules and Regs. 1979, p.39; filed*

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*Jul 28, 1994, 4:00 p.m.: 17 IR 2798; readopted filed May 4, 2001, 4:29 p.m.: 24 IR 2895; readopted filed Nov 15, 2007, 3:58 p.m.: 20071212-IR-031070660RFA) NOTE: Transferred from the Indiana Department of Administration (25 IAC 3) to the State Personnel Department (31 IAC 1) by Acts 1981, P.L.30, SECTION 3 (IC 4-15-1.8-8). Effective July 1, 1981.*

**31 IAC 1-10-3 Dismissal**

Authority: IC 4-15-1.8-6; IC 4-15-1.8-7  
Affected: IC 4-15-1.8-7

Sec. 3. (a) An appointing authority or his designee may dismiss an employee and terminate his employment immediately by presenting the employee with a written notice of dismissal, a copy of which shall be filed with the director. If the employee is not available, written notice shall be sent to the employee's last known address via certified mail. A dismissed employee shall forfeit all accrued sick, personal, and vacation leave.

(b) Except as provided in 31 IAC 3-1-14(b) or 31 IAC 3-1-27(c), an employee, eligible for benefits or subject to the elimination period under 31 IAC 3-1, may not be dismissed from employment due to his absence which results solely from the disability. *(State Personnel Department; Non-Merit Agency Personnel Rule 10, Sec 3; filed Feb 15, 1978, 3:25 p.m.: Rules and Regs. 1979, p. 39; filed Nov 1, 1983, 4:00 p.m.: 7 IR 13, eff Jan 1, 1984; filed Aug 7, 1989, 3:30 p.m.: 12 IR 2210, eff Jul 1, 1989 [IC 4-22-2-36 suspends the effectiveness of a rule document for thirty (30) days after filing with the secretary of state. LSA Document #89-35(F) was filed Aug 7, 1989.]; readopted filed May 4, 2001, 4:29 p.m.: 24 IR 2895; readopted filed Nov 15, 2007, 3:58 p.m.: 20071212-IR-031070660RFA) NOTE: Transferred from the Indiana Department of Administration (25 IAC 3) to the State Personnel Department (31 IAC 1) by Acts 1981, P.L.30, SECTION 3. Effective July 1, 1981.*

**31 IAC 1-10-4 Resignation**

Authority: IC 4-15-1.8-6; IC 4-15-1.8-7  
Affected: IC 4-15-1.8-8

Sec. 4. Resignation. Any employee wishing to leave the non-merit service in good standing shall give the appointing authority at least two (2) weeks written notice in advance of separation. Under unusual circumstances, less time may be considered as sufficient to permit the employee to leave the service in good standing. Failure to comply with this rule *[this section]* shall be entered on the service record of the employee, and may be the cause of denying future employment by the State. *(State Personnel Department; Non-Merit Agency Personnel Rule 10, Sec 4; filed Feb 15, 1978, 3:25 pm: Rules and Regs. 1979, p. 39; readopted filed May 4, 2001, 4:29 p.m.: 24 IR 2895; readopted filed Nov 15, 2007, 3:58 p.m.: 20071212-IR-031070660RFA) NOTE: Transferred from the Indiana Department of Administration (25 IAC 3) to the State Personnel Department (31 IAC 1) by Acts 1981, P.L.30, SECTION 3 (IC 4-15-1.8-8). Effective July 1, 1981.*

**Rule 11. Records (Repealed)**

*(Repealed by State Personnel Department; filed Oct 16, 1984, 2:22 pm: 8 IR 135)*

**Rule 12. Retirement (Repealed)**

*(Repealed by State Personnel Department; filed Mar 29, 1995, 4:30 p.m.: 18 IR 1992)*

**Rule 12.1. Early Retirement Benefit Program**

**31 IAC 1-12.1-1 Eligibility**

Authority: IC 4-15-1.8-6; IC 4-15-1.8-7  
Affected: IC 5-10-8-8

Sec. 1. (a) A full-time employee, who resigns in good standing, is entitled to convert accrued but unused vacation days, that were not compensated at separation, to the extent needed to pay insurance premiums for continuation of coverage under a state sponsored health insurance program if the individual meets all of the following criteria:

- (1) The employee must retire after June 30, 1995, but before January 1, 1997.
- (2) The employee must not be eligible for Medicare coverage as prescribed by 42 U.S.C. 1395 et seq.

(3) Before April 1, 1996, or within ninety (90) days after the employee's retirement date, whichever is later, the retiree must file a written request for insurance coverage and request to utilize this rule for the purpose of paying premiums.

(4) If the employee is a member of the public employees' retirement fund or Indiana state teachers' retirement fund, the retiring employee must be at least fifty (50) years of age and have at least fifteen (15) years of creditable service.

(5) If the employee is a member of the state excise police and conservation enforcement officers' retirement plan, the retiring employee must be at least forty-five (45) years of age and have at least fifteen (15) years of creditable service.

(b) A retired employee who is eligible for the benefits of this rule may elect to have the retiree's spouse covered under the health insurance program and use the vacation leave conversion benefit provided by this rule to pay the spouse's premium. (*State Personnel Department; 31 IAC 1-12.1-1; filed Dec 1, 1995, 3:00 p.m.: 19 IR 611, eff Jan 1, 1996; readopted filed May 4, 2001, 4:29 p.m.: 24 IR 2895; readopted filed Nov 15, 2007, 3:58 p.m.: 20071212-IR-031070660RFA*)

### **31 IAC 1-12.1-2 Conversion of vacation leave to health insurance premiums**

Authority: IC 4-15-1.8-6; IC 4-15-1.8-7

Affected: IC 5-10-8-8

Sec. 2. (a) For the purpose of paying early retiree health insurance premiums, the value of accrued but unused and uncompensated vacation is determined by dividing by ten (10) the retiree's regular biweekly salary, as reflected on the state personnel department's staffing report as of the date of separation, and multiplying the quotient by the number of vacation days that were accrued, unused, and uncompensated at the time of separation.

(b) The retiring employee has the option to receive monetary compensation for up to six (6) weeks of accrued but unused vacation leave upon separation in good standing, under 31 IAC 1-9-3(f)(1), or to forgo all or part of that monetary compensation and convert those vacation days into health insurance premium payments under this rule. The retiring employee's election under this subsection is irrevocable.

(c) For the retired employee, an amount equal to the employer's and employee's premium for an active employee covered by the state's self-insured group health insurance program will be charged against the value of the retiree's accrued but unused and uncompensated vacation days. The entire premium established by a health maintenance organization for retiree coverage will be charged against the value of accrued but unused and uncompensated vacation days of a retiree who elects coverage under a prepaid health care delivery plan.

(d) If the retired employee's spouse is covered by the state's self-insured group health insurance program, an amount equal to the employer's and employee's premium for family self-insured group health insurance coverage for an active employee will be charged against the value of the retired employee's accrued but unused and uncompensated vacation days. The entire premium established by a health maintenance organization for retiree family coverage will be charged against the value of accrued but unused and uncompensated vacation days of a retiree who elects coverage for the retiree's spouse under a prepaid health care delivery plan.

(e) Requests made under section 1(a)(3) of this rule to participate in this program will only take effect prospectively. Requests for retroactive payments under this program will not be granted. (*State Personnel Department; 31 IAC 1-12.1-2; filed Dec 1, 1995, 3:00 p.m.: 19 IR 611, eff Jan 1, 1996; readopted filed May 4, 2001, 4:29 p.m.: 24 IR 2895; readopted filed Nov 15, 2007, 3:58 p.m.: 20071212-IR-031070660RFA*)

### **31 IAC 1-12.1-3 Benefit termination**

Authority: IC 4-15-1.8-6; IC 4-15-1.8-7

Affected: IC 5-10-8-8

Sec. 3. (a) A retiree's eligibility to receive the early retiree benefit of converting accrued but unused and uncompensated vacation leave to pay health insurance premiums ends on the earliest of the following:

(1) The date the retiree becomes eligible for Medicare coverage as prescribed by 42 U.S.C. 1395 et seq.

(2) The date all accrued but unused and uncompensated vacation leave has been exhausted.

(3) The date the retiree is again employed on a full-time basis by a public employer or state educational institution.

(b) The eligibility of the retiree's spouse to receive the benefits of this rule ends on the earliest of the following:

(1) The date the spouse becomes eligible for Medicare coverage as prescribed by 42 U.S.C. 1395 et seq.

(2) The date all of the retired spouse's accrued but unused and uncompensated vacation leave has been exhausted.

(3) The date the retiree is again employed on a full-time basis by a public employer or state educational institution.

(4) Two (2) years after the date of the retiree's death.

(5) The date the spouse of a deceased retiree remarries.

*(State Personnel Department; 31 IAC 1-12.1-3; filed Dec 1, 1995, 3:00 p.m.: 19 IR 611, eff. Jan 1, 1996; errata filed Dec 1, 1995, 3:00 p.m.: 19 IR 674; readopted filed May 4, 2001, 4:29 p.m.: 24 IR 2895; readopted filed Nov 15, 2007, 3:58 p.m.: 20071212-IR-031070660RFA)*

### **31 IAC 1-12.1-4 Limitations**

Authority: IC 4-15-1.8-6; IC 4-15-1.8-7

Affected: IC 5-10-8-8

Sec. 4. This rule is not intended to create any additional rights to payment for accrued but unused vacation, other than for the payment of an early retiree's health insurance premiums as provided in this rule. Monetary payment to a former employee for accrued but unused vacation continues to be limited to six (6) weeks in accordance with 31 IAC 1-9-3(f). *(State Personnel Department; 31 IAC 1-12.1-4; filed Dec 1, 1995, 3:00 p.m.: 19 IR 612, eff. Jan 1, 1996; readopted filed May 4, 2001, 4:29 p.m.: 24 IR 2895; readopted filed Nov 15, 2007, 3:58 p.m.: 20071212-IR-031070660RFA)*

## **Rule 13. Termination Due to Governmental Reorganization**

### **31 IAC 1-13-1 Governmental reorganization; priority consideration for terminated employees**

Authority: IC 4-15-1.8-6; IC 4-15-1.8-7

Affected: IC 4-15-1.8-8

Sec. 1. (A) Any employee in the non-merit service whose employment is terminated as a direct result of state governmental reorganization shall be given priority consideration for employment in vacant positions which are of the same or similar class as that in which the employee was employed at the time his employment was terminated.

(B) "Governmental Reorganization" means merger, growth, transfer, discontinuance, or phasing out of state governmental functions. State governmental functions shall not include the maintenance of positions of employment in federally-funded public service employment. Transfer of state governmental functions shall not include intra-agency transfers of positions, but shall include the transfer of functions from one (1) state agency to another. Discontinuance or phasing out of state governmental functions shall not include the expiration of seasonal or temporary terms of employment.

(C) Priority consideration means that former employees who are eligible shall be given consideration for same or similar vacant positions to be filled in the following manner:

(1) If the agency in which the vacancy exists is the same agency from which the former employee was terminated, the appointing authority shall make reasonable effort to offer employment in such positions to eligible former employees prior to making any offers of employment to persons not eligible for priority consideration.

(2) If the agency in which the vacancy exists is not the same agency from which the former employee was terminated, the appointing authority shall make reasonable efforts to interview and consider the eligible former employees prior to the consideration of other persons.

(D) Procedures.

(1) To be eligible for priority consideration, the former employee must make written application to the State Personnel Director within thirty (30) days from the date of his termination. Upon receipt of such request, the Director shall determine if the employee is eligible for priority consideration as provided by this rule.

(2) If the Director certifies the former employee as eligible, the Personnel Division shall provide the following assistance:

(a) Provide personal consultation concerning employment opportunities in state government.

(b) Refer eligibles to available job openings in the non-merit service.

(E) Conditions of Eligibility. A former employee certified by the Director as eligible for priority consideration shall retain priority consideration for a period of one (1) year from the date of his termination. However, the eligible former employee shall be deemed to have waived eligibility if he declines appointment under such conditions as he has previously indicated he would accept. Failure to respond within five (5) working days to an inquiry of the Director or appointing authority, by letter or twenty-four (24) hours by telephone, or to accept appointment when offered, or to report for duty by the time prescribed by the appointing authority shall constitute declination. A former employee whose eligibility is waived due to declination of appointment shall, upon his request,

be returned to eligible status unless he has waived eligibility due to declination of appointment two (2) previous times. Any former employee having so waived eligibility two (2) previous times may not be returned to eligible status. It shall be the responsibility of the eligible former employee to provide the State with a current address at which he may be contacted.

(F) Determination of Same or Similar Positions. Eligibility of former employees to priority consideration is limited to those positions which are in the same or similar job classification as that in which the eligible was employed at his termination as shall be determined by the Director.

In determining which positions are same or similar, the Director shall utilize the following criteria:

Positions which are the same are those represented by identical class codes and class titles.

For a position to be considered as similar to that held by an eligible upon his termination, the class must:

(1) Have minimum qualifications which are comparable to the former employee's class held at termination or have minimum qualifications which are generally satisfied by possession of the minimum qualifications to the class held by the former employee at termination. If no minimum qualifications are adopted by the agency, the Director shall utilize the minimum qualifications required for employment in that class within the state merit service.

(2) Both classes must be in the same or a comparable job family.

(3) The skill level of the class must be the same or lower than the skill level of the class the former employee held at termination.

(G) Implementation of Governmental Reorganization.

(1) The appointing authority of an agency anticipating or undergoing a governmental reorganization shall notify the Director of all changes or anticipated changes as soon as possible.

(2) If an employee is terminated due to governmental reorganization, the appointing authority shall identify the termination as a lay-off and shall request the Director to consider the action as due to governmental reorganization. No lay-off due to governmental reorganization shall be effective without the approval of the Director.

(3) The Director, in anticipation of lay-offs due to governmental reorganization, may establish procedures for the transfer of employees who are anticipated to be laid off.

(H) Reinstatement of Service Credits. Eligible former employees, hired in the non-merit service during their period of eligibility, shall be:

(1) Credited as having continuous service except that time spent in out-of-pay status as a result of their termination due to governmental reorganization shall be deducted.

(2) Credited with all accumulated sick and vacation days which they held upon their termination due to governmental reorganization except accumulated vacation days for which payment was made as provided in Rule 9, Section 9-3 (F) 1 [31 IAC 1-9-3 (F)(1)].

(I) A former employee who is hired by a new agency or in a new work location, while the employee is eligible for priority consideration, shall be allowed relocation expenses in accordance with Budget Agency regulations. (*State Personnel Department; Non-Merit Agency Personnel Rule 13; filed Feb 15, 1978, 3:25 pm; Rules and Regs. 1979, p. 42; readopted filed May 4, 2001, 4:29 p.m.: 24 IR 2895; readopted filed Nov 15, 2007, 3:58 p.m.: 20071212-IR-031070660RFA*) NOTE: Transferred from the Indiana Department of Administration (25 IAC 3) to the State Personnel Department (31 IAC 1) by Acts 1981, P.L.30, SECTION 3 (IC 4-15-1.8-8). Effective July 1, 1981.

## **Rule 14. Employee Awards System**

### **31 IAC 1-14-1 Submission and review of suggestions**

Authority: IC 4-15-1.8-7

Affected: IC 4-15-2-6

Sec. 1. Suggestions shall be submitted to the State Personnel Department on the prescribed form. The suggestion will be reviewed by the Suggestion Committee to determine if the employee submitting the suggestion is eligible to be considered for a monetary award. If the employee is eligible for an award, the suggestion will be forwarded to any agencies it would affect for a determination as to the practicality of implementing the suggestion and a cost analysis of projected savings. The affected agencies shall return the suggestion to the Suggestion Committee, with a statement of its findings as to the viability of the suggestion, whether or not the suggestion will be implemented, and an estimate of the savings to be realized in the first year after implementation. The Suggestion Committee may then authorize payment of an award to the employee submitting the suggestion. (*State Personnel*

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STATE PERSONNEL DEPARTMENT

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*Department; 31 IAC 1-14-1; filed Aug 17, 1982, 3:41 pm: 5 IR 2107; readopted filed May 4, 2001, 4:29 p.m.: 24 IR 2895; readopted filed Nov 15, 2007, 3:58 p.m.: 20071212-IR-031070660RFA)*

**31 IAC 1-14-2 Amount of awards**

Authority: IC 4-15-1.8-7

Affected: IC 4-15-2-6

Sec. 2. (a) In determining the amount of award to be granted to an employee for a suggestion that will reduce costs, the Suggestion Committee may follow these guidelines:

(1) If the anticipated first year savings is \$100,000 or less, the maximum award allowable is 5% of the first year savings.

(2) If the anticipated first year savings is \$200,000 or less, but greater than \$100,000 the maximum award allowable is 2 1/2% of the first year savings plus 5% of \$100,000.

(3) If the anticipated first year savings is greater than \$200,000, the maximum award allowable is 1% of the first year savings plus 2 1/2% of \$200,000 plus 5% of \$100,000.

(4) No suggestion award shall exceed \$13,000.

(b) Intangible and Safety Awards—When a suggestion has no demonstrable cost-savings, the Suggestion Committee, considering such factors as importance, scope of application, and ingenuity, may make a monetary award. *(State Personnel Department; 31 IAC 1-14-2; filed Aug 17, 1982, 3:41 pm: 5 IR 2107; readopted filed May 4, 2001, 4:29 p.m.: 24 IR 2895; readopted filed Nov 15, 2007, 3:58 p.m.: 20071212-IR-031070660RFA)*

**31 IAC 1-14-3 Duplicate, joint, and agency suggestions**

Authority: IC 4-15-1.8-7

Affected: IC 4-15-2-6

Sec. 3. (a) If more than one employee submits the same suggestion, only the first received in the office of the State Personnel Department will be considered eligible for an award.

(b) If a suggestion is made jointly, by more than one employee any award granted will be divided equally among the group.

(c) If prior consideration has been given to a suggestion or if the suggestion incorporates a recommendation made by one state agency to another, it may be grounds to deny an award. *(State Personnel Department; 31 IAC 1-14-3; filed Aug 17, 1982, 3:41 pm: 5 IR 2108; readopted filed May 4, 2001, 4:29 p.m.: 24 IR 2895; readopted filed Nov 15, 2007, 3:58 p.m.: 20071212-IR-031070660RFA)*

**31 IAC 1-14-4 Finality of decisions**

Authority: IC 4-15-1.8-7

Affected: IC 4-15-2-6

Sec. 4. The decision of the Suggestion Committee is final as to the eligibility for an award or the amount of any award. *(State Personnel Department; 31 IAC 1-14-4; filed Aug 17, 1982, 3:41 pm: 5 IR 2108; readopted filed May 4, 2001, 4:29 p.m.: 24 IR 2895; readopted filed Nov 15, 2007, 3:58 p.m.: 20071212-IR-031070660RFA)*

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