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Gerina D. Whethers
SECRETARY

MEMORANDUM

PERSONNEL MEMO 22-18

To: Constitutional Officers
Cabinet Secretaries
Agency Heads
Human Resource (HR) Administrators

From: Gerina D. Whethers, Secretary

Date: December 19, 2022

Re: **Adverse Weather Leave**

It is the policy of state government that state offices remain open during inclement weather. Only the Governor has the authority to close a state office or send employees home early. Employees who are scheduled to work are, nevertheless, eligible to use Adverse Weather Leave to take time off in inclement weather, and may, in consultation with their supervisors, make up missed time within 123 days of the absence.

The regulations pertaining to Adverse Weather Leave are 101 KAR 2:102, Section 11 (classified employees), and 101 KAR 3:015, Section 11 (unclassified employees). These regulations describe how to handle situations in which employees, come to work late, leave work early, or do not come to work at all because of adverse weather. The regulations provide as follows:

Absences Due to Adverse Weather:

- (1) An employee, who is not designated for mandatory operations and chooses not to report to work or chooses to leave early if there are adverse weather conditions, such as tornado, flood, blizzard, or ice storm, shall have the time of the absence reported as:
 - (a) Charged to annual or compensatory leave;
 - (b) Taken as leave without pay, if annual and compensatory leave has been exhausted; or
 - (c) Deferred in accordance with subsections (4) and (5) of this section.
- (2) An employee who is on prearranged annual, compensatory, or sick leave shall charge leave as originally requested.

- (3) An employee who is approved to telecommute shall not be eligible for adverse weather leave unless his or her telecommuting equipment is not operational or cannot be accessed during scheduled telecommuting hours due to adverse weather conditions.
- (4) If operational needs allow, except for an employee in mandatory operations, management shall make every reasonable effort to arrange schedules whereby an employee shall be given an opportunity to make up time not worked rather than charging it to leave.
- (5) An employee shall not make up work if the work would result in the employee working more than forty (40) hours in a workweek.
 - (a) Time lost shall be made up within 123 calendar days of the occurrence of the absence. If it is not made up within 123 calendar days, leave shall be deducted from compensatory leave, followed by annual leave, and if no compensatory or annual leave is available, time lost shall be charged to leave without pay and deducted from an employee's wages.
 - (b) If an employee transfers or separates from employment before the leave is made up, the leave shall be charged to annual or compensatory leave or deducted from the final paycheck.
- (6) If catastrophic, life-threatening weather conditions occur, as created by a tornado, flood, ice storm, or blizzard, and it becomes necessary for authorities to order evacuation or shut-down of the place of employment, the provisions established in paragraphs (a) and (b) of this subsection shall apply.
 - (a) An employee who is required to evacuate or who would report to a location that has been shutdown shall not be required to make up the time that is lost from work during the period officially declared hazardous to life and safety.
 - (b) An employee who is required to work in an emergency situation shall be compensated pursuant to the provisions of Section 5 of this administrative regulation and the Fair Labor Standards Act, 29 U.S.C. Chapter 8.

Questions concerning this matter should be directed to Mary Elizabeth Bailey, Commissioner, Department of Human Resources Administration at MaryE.Bailey@ky.gov.