APA-4
Revised 1/2018

CERTIFICATION OF EMERGENCY RULES
FILED WITH LEGISLATIVE SERVICES AGENCY
OTHNI LATHRAM, DIRECTOR

Pursuant to Code of Alabama 1975, §§41-22-5(b) and 41-22-6(c)(2)a. and b.

I certify that the attached emergency (amendment, new rule, new chapter, repeal or adoption by reference) is a correct copy as promulgated and adopted on the 30th day of March, 2020.

AGENCY NAME: Alabama State Personnel Department

RULE NO. AND TITLE: 670-X-14-.01 ER Sick Leave

EFFECTIVE DATE OF RULE: March 30, 2020

EXPIRATION DATE (If less than 120 days):

NATURE OF EMERGENCY: This emergency rule is due to the State and National Emergency for the COVID-19 pandemic.

STATUTORY AUTHORITY: *Ala. Code* § 36-26-9

SUBJECT OF RULE TO BE ADOPTED ON PERMANENT BASIS ___YES _X_NO

NAME, ADDRESS, AND TELEPHONE NUMBER OF PERSON TO CONTACT FOR COPY OF RULE:

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REC'D & FILED
MAR 30 2020
LEGISLATIVE SVC AGENCY

Signature of officer authorized to promulgate and adopt rules and regulations or his or her deputy

FILING DATE
(For APA Use Only)

ALABAMA STATE PERSONNEL BOARD
ALABAMA STATE PERSONNEL DEPARTMENT
ADMINISTRATIVE CODE

670-X-14-.01 ER Sick Leave.

(1) An allowance of four hours and twenty minutes for each semi-monthly period of service shall be made for sick leave. Unused portions of such allowance may accumulate but not ~~to exceed a maximum of~~ more than 1200 hours may be carried over beyond the end of the calendar year; provided that, where an employee suffers extended illness or disability lasting more than 1200 hours and requiring the employee to have exhausted all accumulated leave, the State Personnel Board may, on the recommendation of the appointing authority, approve the restoration and use of any sick leave which he might have earned in excess of this maximum. An employee who retires shall be entitled to be paid for fifty percent of his accumulated sick leave at the time of his retirement up to a maximum of 600 hours in his career. Such payment constitutes liquidation of the sick leave balance of the employee.

(a) Neither annual nor sick leave shall accrue except when an employee is actually working or on authorized leave with pay, and in no case shall leave accrue subsequent to actual separation from the service.

(b) Sick leave is hereby defined to mean the absence from duty of an employee because of: (1) illness; (2) bodily injury not incurred in line of duty, or bodily injury or occupational illness incurred in line of duty; (3) attendance upon members of the immediate family whose illness requires the care of such employee; (4) death in the immediate family of the employee.

Immediate family is hereby defined to include spouse children as defined by the Family and Medical Leave Act, grandchildren, parents or grandparents, sister or brother, mother-in-law, father-in-law, daughter-in-law and son-in-law. Where unusually strong personal ties exist, due to an employee's having been supported or educated by a person of some relationship other than those listed, this relationship may be recognized for leave purposes. In each such case, the employee concerned shall file with his appointing authority a written statement of the circumstances which justify an exception to the general rule.

(c) Sick leave with pay is not a right for which employees may make demand, but a privilege granted in accordance with prescribed rules and regulations, to which the Board may make exceptions as the best interest of the service demand. At the discretion of the appointing authority, employees may be

required to maintain a minimum number of sick leave hours.

(d) Either the appointing authority or the Board may require at any time a claim for a sick leave be supported by adequate evidence; and any unjustified or fraudulent claim for sick leave may be punished by loss of pay, loss of accumulated leave, suspension and/or dismissal.

(e) Employees shall not be compensated for accumulated sick leave when they are separated from the state service, except in the case of retirement or death. However, if they leave the service in good standing and are reemployed within a period of four years from date of separation, sick leave accumulated during previous employment or any part thereof may be restored upon recommendation by the appointing authority and approval by the Director. Under no circumstance can an employee use sick leave to engage in any other employment during his scheduled working hours.

(f) In case of serious disability or illness, sick leave may be advanced to any permanent employee under the following conditions: (1) All accrued leave (sick and annual) must be exhausted before a request for an advance is made. (2) No advance shall be made to any employee unless the absence from duty because of disability is for a period of five days or more. (3) Each application for an advance shall be supported by a certificate from a health care provider. (4) The total of advances of sick leave shall not at any time exceed 24 work days.

(g) Employees shall file requests for advance of sick leave with the appointing authority of the department in which they are employed, on forms to be provided by the State Personnel Department. After making such investigations as he deems advisable, the appointing authority shall either approve or disapprove such applications.

(h) Advances of sick leave shall be charged against such leave subsequently accumulating. In the case of separation from the state service of an employee to whom sick leave has been advanced in an amount in excess of that subsequently accumulated, the employee shall be liable for the period of such excess, and a deduction therefor shall be made from any salary due him on the basis of the salary rate obtained during the period of advanced sick leave. If no salary is due such employee from which deductions may be made, or the salary due is insufficient to cover the amount due the state, a written request shall be filed with him asking that the amount due be paid into the state funds from which it was drawn. If he refuses to comply with this request the amount due may be recovered by suit to be filed upon request of the Director. No such employee shall be readmitted to the state service unless he shall first satisfy any or all outstanding claims or liabilities which have accrued against him under the foregoing provisions of this rule.

(i) Transfer of Sick Leave into State Merit System. Persons entering the state merit system may not transfer into the state merit system sick leave accumulated outside the state merit system with the following exceptions:

1. Individuals employed by a non-merit system State entity or agency who maintain asick leave system in accordance with the procedures established by the Rules of the State Personnel Board may transfer their accumulated sick leave into the state merit system provided the appointing authority approves the acceptance of the leave. The non-merit system state agency or entity must certify the amount of sick leave the employee has accumulated and further certify that the accumulation of sick leave is in accordance with procedures established by the Rules of the State Personnel Board. This provision does not apply to public schools or public postsecondary institutions.

2. Those persons entering the state merit system from the public schools or public postsecondary institutions of the State of Alabama may, upon the approval of the appointing authority, retain a record of accumulated sick leave that may be used only in the case of illness and only at such times that all state merit system sick and annual leave has been exhausted.

Author: Jackie B. Graham, State Personnel Director
Statutory Authority: Code of Ala. 1975, §§36-6-1(d); 36-26-9; 36-26-36.
History: Filed September 29, 1981. **Amended:** Filed May 24, 1985. **Amended:** Filed October 3, 1995; effective November 7, 1995. **Amended:** Filed August 13, 2001; effective September 17, 2001. **Amended:** Filed May 22, 2006; effective June 26, 2006. **Amended:** Filed May 20, 2015; effective June 24, 2015. **Emergency:** Filed March 30, 2020; effective March 30, 2020.