

2 AAC 08.050 is amended by adding new subsections to read:

(e) A state employee who is eligible for family and health leave under AS 39.20.305 may take leave due to a serious health condition of a same-sex partner if the employee and same sex partner meet the requirements under(f) of this section.

(f) In order to take family and health leave under AS 39.20.305 due to a serious health condition of a same-sex partner, the eligible employee shall file with the Department of Administration, Division of Personnel and Labor Relations, or the appropriate administrative unit of the Judicial or Legislative Branch, an affidavit executed by the employee and same-sex partner declaring under penalty of perjury that they

- (1) are at least 18 years old and are each competent to enter into a contract;
- (2) have been in an exclusive, committed and intimate relationship with each other for the last consecutive 12 months and intend to continue that relationship indefinitely;
- (3) have resided together at a common primary residence for the last 12 consecutive months and intend to reside together indefinitely;
- (4) consider themselves to be members of each other's immediate family;
- (5) are not related to each other to a degree of closeness that would preclude them from marrying each other in this state if they were of the opposite sex from each other;
- (6) are neither one of them legally married to anyone else;
- (7) have not executed an affidavit affirming same-sex partner status with anyone else within the last 12 months;
- (8) are each other's sole domestic partner and are each responsible for the common welfare of the other; and

(9) share financial obligations, including joint responsibility for basic living expenses and health care costs.

(g) In order to be eligible to take family leave under AS 39.20.305 due to a serious health condition of a same-sex partner and upon the request of the Department of Administration, Division of Personnel and Labor Relations, or the appropriate administrative unit of the Judicial or Legislative Branch, the eligible employee shall provide documentation establishing that the employee and same-sex partner meet at least five of the following criteria:

(1) joint interest in real property, as evidenced by title or mortgage, lease, or rental agreement, by the employee and the same-sex partner;

(2) joint ownership or purchase of a motor vehicle by the employee and the same-sex partner;

(3) joint ownership of a checking, savings, or investment account or joint liability for a loan or credit account by the employee and the same-sex partner;

(4) the same-sex partner is named as primary beneficiary for a life insurance policy of the employee;

(5) the same-sex partner is named as primary beneficiary for the employee's pension or annuity plan benefits, deferred compensation plan, Individual Retirement Arrangement or Account, 401 (k) plan, Keogh plan, or other tax-deferred or taxable plan;

(6) the same-sex partner is named as primary beneficiary in the employee's will;

(7) the same-sex partner has authority to deal with property owned by the employee under a valid written power of attorney;

(8) the employee has given the same-sex partner written authority to make decisions concerning the employee's health and well being if the employee is unable to do so.

(h) An employee who submits an affidavit under this section must agree that, if the employee and same-sex partner no longer meet the requirements of this section, the employee will file with the Department of Administration, Division of Personnel and Labor Relations, or the appropriate administrative unit of the Judicial or Legislative Branch, a written statement of termination of eligibility within 30 days of the date that eligibility ends. Eligibility terminates on midnight of the date that eligibility ends as declared in writing by the employee or when the Division of Personnel and Labor Relations or the appropriate administrative unit of the Judicial or Legislative Branch, determines that the employee no longer qualifies under the criterion set forth in subsections (f) and (g).

(i) In this section, "resided together at a common primary residence" requires the employee and the employee's same-sex partner to share the same domicile. The common primary residence can change during the 12-month period set out in (f)(3) of this section. Once an employee and same-sex partner have begun to reside together at a common primary residence, absence by the employee or the same-sex partner required for employment that requires periodic absence from the common primary residence, education, medical reasons, military service, or other reasons determined by the Department of Administration, Division of Personnel and Labor Relations, or the appropriate administrative unit of the Judicial or Legislative Branch, will not result in a break in eligibility, as long as the absent employee or same-sex partners intends to return to the common primary residence.

(Eff. 6/28/94, Register 91; am 7/25/94, Register 137; am 8/29/96, Register 143; am __/__/2013, Register _____)

Authority: AS 39.20.225 AS 39.20.305 AS 39.20.320

2 AAC 08.999(c) is amended to read:

(c) For purposes of AS 39.20.225, "immediate family" means husband, wife, **same-sex partners that meet the requirements under 2 AAC 08.050 (e)**, child, father, mother, sister, brother, father-in-law, and mother-in-law.

(In effect before 6/28/84, am 6/28/84, Register 91; am 10/16/87, Register 107; am 5/16/90, Register 132; am 10/18/90, Register 137; am __/__/2013, Register ____)

Authority: AS 39.20.320

2 AAC 08.060(a) is amended to read:

(a) At least **10** [FIVE] days of personal leave must be used each leave year. Employees and supervisors will be advised by the employee's payroll office on or before **October** [NOVEMBER] 16 of each year how many days of **personal** leave must be used to fulfill the **10-day** [FIVE-DAY] minimum requirement **under AS 39.20.225, this section and 2 AAC 08.062.** For the purpose of this subsection, "personal leave" means paid **personal** leave or authorized leave without pay; it does not include disciplinary leave without pay and unauthorized leave without pay.

2 AAC 08.060(b) is amended to read:

(b) If the employee does not schedule the mandatory **10** [FIVE] days' **of personal** leave or remainder of it, the employee's supervisor may direct **the employee to use** [THAT] the appropriate amount of **personal** leave [BE USED] to satisfy the **10-day** [FIVE-DAY] requirement.

2 AAC 08.060(c) is amended to read:

(c) If at the end of the leave year the employee has failed to use the **10** [FIVE] days of **personal** leave required, the difference between **10** [FIVE] days and the amount of personal leave actually used and its cash value will be deducted from the **employee's personal** leave account and cash value balances. No payment will be made to the employee for the **personal** leave that was deducted.

2 AAC 08.060(d) is amended to read:

(d) Notwithstanding the provisions of (c) of this section, the unused portion of the mandatory **10-days'** [FIVE-DAYS'] **personal** leave will not be deducted from the **personal** leave account and cash value balances if the employee's department or agency head certifies in writing that the employee was denied the opportunity to use mandatory **personal** leave.

2 AAC 08.060(h) is repealed and readopted to read:

(h) [UP TO] Five **or fewer** days of **personal** leave cashed-in under 2 AAC 08.065 may be applied to the employee's mandatory **personal** leave requirement **under AS 39.20.225, this section, and 2 AAC 08.062.** (Eff. 6/28/84, Register 91; am 10/16/87, Register 107; am 8/29/96, Register 143; am __/__/__, Register ____)

Authority: AS 39.20.200 AS 39.20.225 AS 39.20.320

2 AAC 08 is amended by adding a new section to read:

2 AAC 08.062. Accumulation of personal leave. (a) Except as provided in AS 39.20.240, this section, and 2 AAC 08.060, personal leave that is not taken by an employee during the leave year accumulates for the employee's use in succeeding leave years.

(b) Except as provided in (d), (e) and (f) of this section, an employee may not accumulate more than 1,000 hours of personal leave at the end of each leave year.

(c) If an employee's personal leave balance is projected to exceed 1000 hours at the end of the leave year, the employee and supervisor will be notified by the employee's payroll office by May 1 of each year, and the employee must submit a plan to use the personal leave to the employee's supervisor for written approval by June 1 of each year. The supervisor will approve the plan so long as the plan does not significantly disrupt business operations. If the employee's plan is not approved, the supervisor will suggest an alternative plan. If the employee

fails to submit a plan, adhere to an approved plan, or the employee and the employee's supervisor fail to agree on a plan, the employee's division director or equivalent will order the employee to take sufficient personal leave to reduce the employee's balance or potential leave balance at the end of the leave year below the accumulation maximum. The agreed upon plan may be amended with mutual agreement of the employee and supervisor.

(d) An employee may be approved to carry over more than 1000 hours of accrued personal leave to succeeding leave years if the department or agency head certifies in writing that the employee was unable to reduce the employee's accrued hours because the employee was denied the opportunity to use the personal leave due to

- (1) fire, flood, or other emergency affecting the employer's operation; or
- (2) the assignment of work of a priority nature over a substantial period of the

leave year.

(e) If on December 16th of the leave year, an employee has an accumulated balance of more than 1000 hours, the difference between the employee's personal leave balance and 1000 hours shall be deducted from the employee's personal leave account and paid to the employee at the cash value except that the requirements of 2 AAC 08.060(c) continue to apply.

(f) This subsection only applies to an employee who has a balance of accumulated personal leave in excess of 400 hours on December 16, 2013. Each such employee shall, until that balance becomes 400 hours or less on December 16 of any subsequent leave year,

- (1) be exempt from the limitation under (b) of this section; and
- (2) take at least 15 days of personal leave during each leave year in place of

the 10 days under 2 AAC 08.060. (Eff. __/__/____, Register ____)

Authority: AS 39.20.200 AS 39.20.225 AS 39.20.320

2 AAC 08.065(a) is amended to read:

(a) An employee covered by this chapter who has at least five days of accrued **personal** leave may cash in personal leave **six or fewer times in a leave year**. The employee's **personal** leave account and cash value balances will be reduced by the number of days and cash value of personal leave cashed in. **A** Leave cash-in must not reduce an employee's leave balance to less than five days.

(Eff. 4/6/86, Register 102; am 10/16/87, Register 107; am 7/25/94, Register 137; am 8/29/96, Register 143; am 7/4/2010, Register 196; am __/__/__, Register __)

Authority: **AS 39.20.200** **AS 39.20.225** AS 39.20.320

2 AAC 08.070(c) is amended to read:

(c) Leave donated under the authority of this chapter or a collective bargaining agreement does not reduce the [FIVE-DAY] mandatory leave requirement **under AS 39.20.225, AS 39.20.240, 2 AAC 08.060 and 2 AAC 08.062**. (Eff. 6/28/84, Register 91; am 4/6/86, Register 102; am 8/29/96, Register 143; am __/__/__, Register __)

Authority: AS 39.20.200 AS 39.20.245 AS 39.20.320

2 AAC 08.999(4) is amended to read:

(4) "leave year" means the period from the 16th of December through the 15th of December of the following year **and includes the 12-month period described in AS 39.20.295;**

(In effect before 6/28/84; am 6/28/84, Register 91; am 10/16/87, Register 107; am 5/16/90, Register 132; am 10/18/90, Register 137; am __/__/__, Register __)

Authority: **AS 39.20.295** AS 39.20.320