

Rule 1-9 Excepted and Exempt Positions  
As approved by the Civil Service Commission March 27, 2003,  
effective immediately

[Text added March 27, 2003, is underlined.]

## 1-9 Excepted and Exempt Positions

### 1-9.1 Excepted Positions

Positions excepted from the state classified service are those specified in article 11, section 5, of the constitution.

### 1-9.2 Exempt Positions

- (a) **Limitations.** The head of each principal department may request that the state personnel director exempt up to five positions from the classified service, as provided in article 11, section 5, of the constitution. Four of the five positions must be policy-making positions.
- (b) **Method of establishing.** The state personnel director may exempt up to five positions within each principal department upon request. The director shall report to the civil service commission each exemption granted and shall maintain a record of all exempt positions.

### 1-9.3 Appointment to Excepted or Exempt Positions

- (a) **Leave of absence to accept appointment.** With the prior approval of the appointing authority, a classified employee may receive a leave of absence without pay from the employee's current classified position to accept an appointment to an excepted or exempt position.
  - (b) **Return to the classified service.** At the conclusion of a leave of absence to accept an appointment to an excepted or exempt position, the appointing authority shall return the employee to the classified position formerly occupied or an equivalent position. If the position was abolished during the leave of absence, the appointing authority shall return the employee in accordance with the civil service rules and regulations governing employment preference in effect when the former classified employee seeks to return to the classified service.
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- (c) **State service credit.** An employee returning from a leave of absence granted to accept appointment to an excepted or exempt position is allowed state service credit for all purposes for the period of the leave. Credit is allowed as service in the classification from which the employee was granted the leave of absence.
- (d) **New appointment; reciprocal transfers of annual and sick leave accruals.** If an appointing authority hires a person directly from an excepted or exempt position in the executive branch, the appointing authority may request that accrued annual and sick leave balances earned in the excepted or exempt executive branch position be transferred to the classified service. The state personnel director may authorize a transfer to the same extent that the department of management and budget permits classified employees appointed to an excepted or exempt executive branch position to transfer annual and sick leave balances accrued in the classified service into the unclassified service. Transfers for persons hired from elected positions, the judicial branch, the legislative branch, and state institutions of higher education are not permitted. ]

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[End of Rule 1-9, effective March 27, 2003]

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Rule 3-3 Appointments and Job Changes  
As approved by the Civil Service Commission March 27, 2003,  
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## Rule 3-3 Appointments and Job Changes

### 3-3.1 Process

All appointments, promotions, and job changes in the classified service must be made in accordance with the civil service rules and regulations. Any person appointed or promoted must be certified as qualified in accordance with and subject to the civil service rules and regulations. The state personnel director shall administer the certification of all appointments and promotions.

### 3-3.2 Demotion

- (a) **Notice.** If an appointing authority intends to involuntarily demote an employee, the appointing authority shall give prior written notice of the specific reasons for the demotion to the employee.
- (b) **Conditions.** An appointing authority may demote an employee under any of the following circumstances:
- (1) The employee is not performing satisfactorily.
  - (2) The employee's position is reclassified downward.
  - (3) The demotion is requested by the employee and approved by the appointing authority.
  - (4) The position occupied by the employee is abolished.
  - (5) The employee is displaced by the return to duty of another employee entitled to the position.
  - (6) The employee is displaced by another employee with more seniority during a reduction in force.
  - (7) The employee does not receive a satisfactory probationary service rating, as authorized in rule 3-6.3(b) [Unsatisfactory Service: Employee with Status].
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### 3-3.3 Emergency Appointment

When emergency conditions require immediate action, an appointing authority is authorized to make an emergency appointment for up to 28 calendar days. The state personnel director may approve an extension of an emergency appointment up to an additional 28 calendar days. An appointing authority cannot reappoint a person to a second consecutive emergency appointment within the same principal department, autonomous entity, or agency of convenience. An emergency appointment is authorized only when made in conformity with the civil service regulations governing emergency appointments.

### 3-3.4 Hire

An appointing authority may appoint a qualified candidate to a position in the classified service as authorized by and in accordance with the civil service rules and regulations. A candidate may be qualified for appointment in one or more of the following ways:

- (a) The candidate is listed in an appropriate civil service applicant pool.
- (b) The candidate meets the civil service qualifications for appointment to a designated classification.
- (c) The candidate is qualified after review by the department of civil service.

### 3-3.5 Lateral Job Change or Voluntary Demotion Between Departments

Any two appointing authorities may authorize a lateral job change or voluntary demotion for an employee between departments or autonomous entities. The employee may be moved to a different classification only if (1) the employee previously attained status in the classification, (2) the job change is based on the civil service preauthorized lateral job change list, or (3) the employee meets the civil service qualification requirements. A lateral job change or voluntary demotion between departments or autonomous entities requires the agreement of the employee and the approval of the department of civil service.

### 3-3.6 Lateral Job Change or Voluntary Demotion within a Department

An appointing authority may authorize a lateral job change or voluntary demotion for an employee within the employee's current department or autonomous entity. The employee may be moved to a different classification only if (1) the employee previously attained status in the classification, (2) the job change is based on the civil service preauthorized lateral job change list, or (3) the employee meets the civil service qualification requirements. A lateral job change within a department or autonomous entity does not require the agreement of the employee. However, an employee may request a lateral job change. A voluntary demotion requires the written agreement of the employee.

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### 3-3.7 Promotion

An appointing authority may appoint a qualified employee candidate to another position at a higher classification level as authorized by and in accordance with the civil service rules and regulations. A candidate may be qualified for appointment in one or more of the following ways:

- (a) The candidate is listed in an appropriate civil service applicant pool.
- (b) The candidate meets the civil service qualifications for appointment to a designated classification.
- (c) The candidate is qualified after review by the department of civil service.

### 3-3.8 Recall

A person is recalled in accordance with the civil service rules and regulations in effect at the time of the recall. Unless the rules or regulations provide otherwise, appointment is first limited to persons on recall lists.

### 3-3.9 Reinstatement

A classified employee who achieved status and who is demoted or separated while in satisfactory standing is eligible for reinstatement. An appointing authority may reinstate an eligible person to (1) the classification in which the person last achieved status before the separation or demotion or (2) to a classification at the same or lower classification level for which the person is qualified. A person's eligibility for reinstatement is limited to 3 years after separation or demotion. However, the state personnel director may extend eligibility in the regulations to meet work force needs.

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[End of Rule 3-3, effective March 27, 2003]

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**Rule 5-2 Hours of Service**  
As approved by the Civil Service Commission March 27, 2003,  
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[Text added March 27, 2003, is underlined.]

## Rule 5-2 Hours of Service

### 5-2.1 Work Period

- (a) **Standard work period.** The standard biweekly work period for a full-time employee in the classified service is the equivalent of 80 hours of work.
- (b) **Alternative work periods.** The state personnel director may issue regulations that establish alternative work periods and measures of equivalent full-time service. The regulations may conform the compensation plan to the alternative periods and measures.

### 5-2.2 Service Hours toward Benefits

A career employee in the classified service earns credit for hours paid in a biweekly work period for accruing fringe benefits. An employee cannot receive credit for paid service in excess of 80 hours in a biweekly work period. A noncareer employee is not eligible for fringe benefits and cannot accrue credit hours toward benefits.

### 5-2.3 Voluntary Work Schedule Adjustment Plans

An employee may volunteer to participate in any voluntary work schedule adjustment plan authorized in this rule. The employee's appointing authority has the discretion to approve or disapprove an employee's participation in a plan. If an appointing authority approves an employee's participation, the appointing authority may later rescind or modify its approval, effective at the end of any pay period, by giving advance written notice to the employee. An employee cannot grieve a decision of an appointing authority to disapprove participation in a program or to rescind or modify previous approval.

#### **(a) Plan A: Biweekly scheduled hours reduction.**

- (1) Eligibility.** Only full-time employees who have satisfactorily completed their initial probationary period are eligible to participate in Plan A.
- (2) Operation of Plan A.** Under Plan A, an employee may reduce the number of scheduled work hours by 1 to 16 hours per pay period. Time off under Plan A counts

against leave entitlement under the federal Family and Medical Leave Act (FMLA) if the time off is for a qualifying purpose under the FMLA.

**(3) Group insurance continuation.** An employee's enrollment in state sponsored group insurance plans is unaffected by participation in Plan A.

**(4) Leave accruals and service credits.** While an employee participates in Plan A:

**(A)** The employee does not incur a break in service as a result of the reduction in hours worked.

**(B)** The employee continues to accrue annual leave and sick leave as though the employee was in approved paid status for 80 hours per pay period.

**(C)** The employee is given state service credit of 80 hours per pay period for purposes of retirement service credit, longevity pay, pay step increases, employment preference, and holiday pay.

**(b) Plan C: Leave of absence.**

**(1) Eligibility.** Only full-time and part-time employees who have satisfactorily completed their initial probationary period are eligible for Plan C. Permanent-intermittent employees are not eligible.

**(2) Operation of Plan C.** Under Plan C, an employee may elect to take one unpaid leave of absence during a fiscal year. The length of a Plan C leave of absence must be at least 2 weeks and at most 3 months. Time off under Plan C counts against leave entitlement under the federal Family and Medical Leave Act (FMLA) if the leave is for a qualifying purpose under the FMLA.

**(3) Insurance.** Except for the long-term disability income protection plan, an employee's enrollment in state sponsored group insurance plans is unaffected by participation in Plan C so long as the employee prepays the employee's share of the premiums for the entire Plan C leave of absence. Long-term disability income protection coverage is not in effect during the leave of absence, but is reinstated after the leave of absence, as provided in the regulations.

**(4) Leave accruals and service credits.** While an employee is on a Plan C leave of absence:

**(A)** The employee does not incur a break in service as a result of the Plan C leave of absence but no state service is granted for any purpose for the period of the leave.

**(B)** The employee's accumulated annual leave and sick leave balances are frozen during a Plan C leave of absence. The employee does not accrue any further leave credits during the period of the leave of absence.