

State of Oregon
DEPARTMENT OF ADMINISTRATIVE SERVICES
Human Resource Services Division



Administrative Rule: 105-001-0000 Notice of Proposed Rulemaking

See HRSD Permanent Rule 105-001-0000 as published by the [Secretary of State](#).

State of Oregon
DEPARTMENT OF ADMINISTRATIVE SERVICES
Human Resource Services Division



Administrative Rule: 105-001-0005 Model Rules of Procedure

See HRSD Permanent Rule 105-001-0005 as published by the [Secretary of State](#).

SUBJECT: Definitions	NUMBER: 10.000.01
DIVISION: Human Resource Services Division	EFFECTIVE DATE: 10/08/08
APPROVED: Signature on file with Human Resource Services Division	

POLICY STATEMENT: This policy defines terms used throughout state human resource policies. Additional terms are defined within specific state human resource policies and by Oregon Administrative Rule 105-010-0000.

AUTHORITY: ORS 240.145; 240.250

APPLICABILITY: State human resource policies

ATTACHMENTS: None

DEFINITIONS:

- (1) **Abolishment/establishment:** simultaneous abolishment of a position and establishment of another position in a significantly different classification. Differs from reclassification primarily in that the new job is: (a) significantly different from the former one, usually requiring different knowledge and skills; or (b) the change is sudden and intentional, rather than the gradual evolution of a position.
- (2) **Administrator:** see HRSD Permanent Rule 105-010-0000 as published by the Secretary of State.
- (3) **Agency:** see HRSD Permanent Rule 105-010-0000 as published by the Secretary of State.
- (4) **Agency head:** see HRSD Permanent Rule 105-010-0000 as published by the Secretary of State.
- (5) **Allocation:** see HRSD Permanent Rule 105-010-0000 as published by the Secretary of State.
- (6) **Announcement:** see HRSD Permanent Rule 105-010-0000 as published by the Secretary of State.
- (7) **Appointing authority:** see HRSD Permanent Rule 105-010-0000 as published by the Secretary of State.
- (8) **Appointment:** see HRSD Permanent Rule 105-010-0000 as published by the Secretary of State.
- (9) **Base pay:** an employee's regular monthly rate of pay.
- (10) **Benchmark:** see Labor market benchmark.
- (11) **Benchmark positions:** Positions evaluated by the Central Evaluation Team which include agency heads, directors and executive secretaries of boards and commissions, and full-time board and commission members.
- (12) **Break in service:** a separation from employment of more than 15 calendar days.
- (13) **Bumping:** displacement of one employee by another qualified employee in layoff situations.
- (14) **Central Evaluation Team or CET:** the team, composed of agency and Department of Administrative Services staff, having responsibility to determine the relative value of work performed in each classification using the point factor of job evaluation method.

- (15) **Certificate of eligibles or certificate:** see HRSD Permanent Rule 105-010-0000 as published by the Secretary of State.
- (16) **Classification:** see HRSD Permanent Rule 105-010-0000 as published by the Secretary of State.
- (17) **Classification plan:** All classifications adopted by the [division](#), the classification specifications, and the procedures and policies for keeping the classifications current.
- (18) **Classification specification:** a document that specifies a class title, a general description, distinguishing features, characteristic duties, and a statement of minimum qualifications for a classification of state work.
- (19) **Classified service:** see HRSD Permanent Rule 105-010-0000 as published by the Secretary of State.
- (20) **Comparability of the [value of work](#):** see HRSD Permanent Rule 105-010-0000 as published by the Secretary of State.
- (21) **Compensation plan:** the schedule of rates of pay for the various classes and titles in state service authorized by legislative action and adopted by the Division.
- (22) **Compensatory time:** paid time off instead of cash payment for overtime worked.
- (23) **Conciliation Service Division:** the Employment Relations Board's [Conciliation Service](#).
- (24) **Confidential employee:** one who assists and acts in a confidential capacity to a person who formulates, determines, and effectuates management policies in the area of collective bargaining.
- (25) **Crossfill:** see HRSD Permanent Rule 105-010-0000 as published by the Secretary of State.
- (26) **Custodian:** see HRSD Permanent Rule 105-010-0000 as published by the Secretary of State.
- (27) **Delegate:** see HRSD Permanent Rule 105-010-0000 as published by the Secretary of State.
- (28) **Demotion:** see HRSD Permanent Rule 105-010-0000 as published by the Secretary of State.
- (29) **Department:** see HRSD Permanent Rule 105-010-0000 as published by the Secretary of State.
- (30) **Deputy:** the deputy or deputies to each executive or administrative officer specified in ORS 240.200(1) and ORS 240.205(1), (2), and (3) who are authorized to exercise that officer's authority upon his or her absence.
- (31) **Direct appointment:** see HRSD Permanent Rule 105-010-0000 as published by the Secretary of the State.
- (32) **Director:** see HRSD Permanent Rule 105-010-0000 as published by the Secretary of the State.
- (33) **Disposition code:** see HRSD Permanent Rule 105-010-0000 as published by the Secretary of State.
- (34) **Division:** see HRSD Permanent Rule 105-010-0000 as published by the Secretary of State.
- (35) **Doublefill:** see HRSD Permanent Rule 105-010-0000 as published by the Secretary of State.
- (36) **Executive service:** see HRSD Permanent Rule 105-010-0000 as published by the Secretary of State.
- (37) **Exempt employee (FLSA):** an executive, administrative or professional employee, as defined by the Fair Labor Standards Act (FLSA), who is covered by that Act.
- (38) **Exempt service:** see HRSD Permanent Rule 105-010-0000 as published by the Secretary of State.
- (39) **FLSA:** Federal Fair Labor Standards Act and implementing federal regulations.
- (40) **Flexible work schedule:** a work schedule which varies either the number of hours worked or the starting and stopping times on a daily basis, but not necessarily each day.
- (41) **Full-time:** see HRSD Permanent Rule 105-010-0000 as published by the Secretary of State.
- (42) **Grievance (classified unrepresented employee):** a complaint based upon a [personnel](#) action taken by [management](#) alleged to be arbitrary, contrary to ORS, or taken for political reason.

- (43) **Hay evaluated salary range:** a range of pay that equates to the point value assigned to a classification by the Central Evaluation Team using the Hay Method.
- (44) **Hay Method:** see HRSD Permanent Rule [105-010-0000](#) as published by the Secretary of State.
- (45) **Hay Method of Job Evaluation:** the Hay Guide Chart-Profile method of job evaluation. A quantitative method of job evaluation that utilizes a point factor approach to determine the relative value of work.
- (46) **Human resource management:** the procurement, development, utilization, and maintenance of the workforce.
- (47) **Initial appointment:** see HRSD Permanent Rule [105-010-0000](#) as published by the Secretary of State.
- (48) **Injured worker:** see HRSD Permanent Rule [105-010-0000](#) as published by the Secretary of State.
- (49) **Intermittent work schedule:** a work schedule based upon assigned work being available only on an irregular basis or a schedule that [the employer](#) has established in accordance with [HR State Policy 60.000.15](#) Family and Medical Leave.
- (50) **Irregular work schedule:** a work schedule with the same starting and stopping times such as on four 10-hour days.
- (51) **Job-sharing position:** see HRSD Permanent Rule [105-010-0000](#) as published by the Secretary of State.
- (52) **Job rotation:** performance by an employee of a different work assignment, on a nonpermanent basis, for an agreed-to-period of time.
- (53) **Labor Market Benchmark:** classifications or positions with characteristics that can be compared with jobs in the labor market. Generally they represent occupations or organizational levels important to the employer. Market benchmarks are used to assess compensation competitiveness in the appropriate labor market.
- (54) **Layoff:** see HRSD Permanent Rule [105-010-0000](#) as published by the Secretary of State.
- (55) **Leadwork:** on a recurring daily basis, an employee is assigned the following duties: (1) Prioritize and assign tasks to efficiently complete work; (2) give direction to workers concerning work procedures and performance standards; (3) review the completeness, accuracy, quality and quantity of work; and (4) provide informal feedback of employee performance to the supervisor.
- (56) **Limited classification:** an obsolete classification that [the division](#) has removed from the list of available classifications and is planned for abolishment.
- (57) **Limited-competitive appointment:** see HRSD Permanent Rule [105-010-0000](#) as published by the Secretary of State.
- (58) **List:** a statewide injured worker list, agency layoff list, statewide reemployment layoff list, statewide promotion list, agency promotion list, statewide transfer list or open competitive list containing the names of persons eligible for employment. See Administrative Rule [105-040-0010](#).
- (59) **Management service:** see HRSD Permanent Rule [105-010-0000](#) as published by the Secretary of State.
- (60) **Managerial employee:** an employee of the State of Oregon who is delegated the authority to formulate and carry out management decisions or who represents management's interest by taking or effectively recommending discretionary actions that control or implement employer policy and who has discretion in the performance of these management responsibilities beyond the routine discharge of duties. A managerial employee need not act in a supervisory capacity in relation to other employees.
- (61) **Maximum salary rate:** the top step or highest rate of pay in the salary range to which a classification is assigned.
- (62) **Merit increase:** a salary increase awarded to an employee whose performance equals or exceeds the established standards.

- (63) **Merit pay system:** allows for the orderly progression of an employee's pay from the established minimum to the maximum of the salary range based on documented meritorious performance.
- (64) **Minimum qualifications:** see HRSD Permanent Rule 105-010-0000 as published by the Secretary of State.
- (65) **Minimum salary rate:** the first step or lowest rate of pay in the salary range to which a classification is assigned.
- (66) **Misallocation:** an error in the allocation of a position, an employee, or both, to the classification system. Also see Reallocation.
- (67) **Non-exempt employee (FLSA):** employee covered by the Fair Labor Standards Act (FLSA).
- (68) **Official representative:** see HRSD Permanent Rule 105-010-0000 as published by the Secretary of State.
- (69) **Official representative:** see HRSD Permanent Rule 105-010-0000 as published by the Secretary of State.
- (70) **Part-time:** see HRSD Permanent Rule 105-010-0000 as published by the Secretary of State.
- (71) **Part-time employee:** see HRSD Permanent Rule 105-010-0000 as published by the Secretary of State.
- (72) **Performance evaluation:** a process designed to review and rate employee work performance.
- (73) **Permanent position:** see HRSD Permanent Rule 105-010-0000 as published by the Secretary of State.
- (74) **Personnel action:** any documented action taken which affects an employee or position.
- (75) **Personnel file:** the official documents and materials related to an individual employee.
- (76) **Position:** see HRSD Permanent Rule 105-010-0000 as published by the Secretary of State.
- (77) **Position description:** PD Form 122 which describes, for each position, its duties, authorities and responsibilities assigned by management, and identifies the essential functions of the job.
- (78) **Preference:** preference over all applicants for an available and suitable position in an appropriate agency of the state executive branch except for (1) other injured worker and (2) employees entitled to appointment to the position pursuant to the terms of a collective bargaining agreement entered prior to October 3, 1989.
- (79) **Principal assistant:** part of unclassified service as defined in ORS 240.205(4). See also State HR Policy 40.055.01.
- (80) **Promotion:** see HRSD Permanent Rule 105-010-0000 as published by the Secretary of State.
- (81) **Public record:** see HRSD Permanent Rule 105-010-0000 as published by the Secretary of State.
- (82) **Reallocation:** the change of a position or employee from one classification to another classification due to class plan revision.
- (83) **Reclassification:** see HRSD Permanent Rule 105-010-0000 as published by the Secretary of State.
- (84) **Reclassification downward:** the change of a position, an employee, or both, from one classification to another classification with a lower salary range.
- (85) **Reclassification equal:** the change of a position, an employee, or both, from one classification to another classification with the same salary range.
- (86) **Reclassification upward:** the change of a position, an employee, or both, from one classification to another classification with a higher salary range.
- (87) **Recognition program:** a program which provides awards or other recognition to employees based on performance or personal achievement.
- (88) **Recognized service date:** see HRSD Permanent Rule 105-010-0000 as published by the Secretary of State.
- (89) **Recruitment:** see HRSD Permanent Rule 105-010-0000 as published by the Secretary of State.

- (90) **Red-circle:** a term sometimes used to refer to a procedure in which an employee's previous rate of pay above the top step of a new salary range is retained, provided the employee remains in the reclassified position until the rate is equal to or exceeded by the top step of the new salary range.
- (91) **Reemployment:** see HRSD Permanent Rule [105-010-0000](#) as published by the Secretary of State.
- (92) **Regular employee:** an employee who completes a specified trial service period following appointment to a position in the classified unrepresented or management service.
- (93) **Regular status:** see HRSD Permanent Rule [105-010-0000](#) as published by the Secretary of State.
- (94) **Regular work schedule:** a work schedule of eight hours per day, 40 hours per week.
- (95) **Related list:** see HRSD Permanent Rule [105-010-0000](#) as published by the Secretary of State.
- (96) **Represented position:** see HRSD Permanent Rule [105-010-0000](#) as published by the Secretary of State.
- (97) **Resignation:** a voluntary separation from state service.
- (98) **Salary eligibility date:** the date an employee is eligible for consideration for a merit increase.
- (99) **Salary range:** see HRSD Permanent Rule [105-010-0000](#) as published by the Secretary of State.
- (100) **Salary range number:** see HRSD Permanent Rule [105-010-0000](#) as published by the Secretary of State.
- (101) **Salary step:** a number assigned to each rate of pay within a salary range, normally beginning with step 1 for the lowest rate and increasing in numerical sequence within the salary range.
- (102) **Seasonal position:** a position, as defined in ORS 240.425, which occurs, terminates, and recurs periodically and regularly regardless of its duration.
- (103) **Seasonal service position:** a period of service encompassing a complete season as designated by an appointing authority.
- (104) **Service credit:** a numerical computation taking into account length of service or merit rating, or combination of both, used to determine order of individual employee layoff.
- (105) **Skill code:** see HRSD Permanent Rule [105-010-0000](#) as published by the Secretary of State.
- (106) **Special salary increase:** an unscheduled salary increase awarded to employees for extraordinary performance or for other valid reasons.
- (107) **Supervisory employee:** any individual delegated the authority in the interest of the employer to hire, transfer, suspend, lay off, recall, promote, discharge, assign, reward or discipline other employees, or responsibility to direct them, or to adjust their grievances or effectively recommend such action, if the exercise of such authority is not of a merely routine or clerical nature but requires the use of independent judgment. Failure to assert supervisory status in an Employment Relations Board proceeding or in negotiations for any collective bargaining agreement shall not prevent assertion of supervisory status in any subsequent board proceeding or contract negotiation. No nurse, charge nurse or similar nursing position shall be deemed to be supervisory unless such position has traditionally been designed as supervisory.
- (108) **Team leader:** plans for the needs of a team, such as deciding methods to accomplish work, timelines, priorities, resources needed and training necessary. They coordinate schedules for team projects, develop technical standards and monitor work for compliance.
- (109) **Temporary interruption of employment:** a planned interruption of employment, not exceeding 15 continuous days, caused by lack of work, budget deficit, or other unexpected or unusual reasons or an unplanned interruption caused by environmental or other reasons.
- (110) **Temporarily restricted injured worker:** an injured worker who is reasonably expected to fully recover and is released by a health care practitioner to return to a light duty assignment prior to return to the worker's pre-injury position.
- (111) **Termination:** see HRSD Permanent Rule [105-010-0000](#) as published by the Secretary of State.

- (112) **Test:** see HRSD Permanent Rule 105-010-0000 as published by the Secretary of State.
- (113) **Transfer:** see HRSD Permanent Rule 105-010-0000 as published by the Secretary of State.
- (114) **Trial Service:** see HRSD Permanent Rule 105-010-0000 as published by the Secretary of State.
- (115) **Unclassified service:** see HRSD Permanent Rule 105-010-0000 as published by the Secretary of State.
- (116) **Underfill:** see HRSD Permanent Rule 105-010-0000 as published by the Secretary of State.
- (117) **Unrepresented position:** see HRSD Permanent Rule 105-010-0000 as published by the Secretary of State.
- (118) **Voluntary demotion:** movement of an employee to a position in a classification with a lower salary range, not necessitated by layoff circumstances and not reflecting discredit on the employee.
- (119) **Workday:** a period within 24 consecutive hours.
- (120) **Workweek:** generally, a fixed and regular recurring period of 168 hours during seven consecutive 24-hour periods, or as otherwise allowed by the FLSA.
- (121) **Work out of class:** a temporary assignment of an employee to perform essentially all of the duties, authority, and responsibilities of a position classified at a higher salary level.

State of Oregon
DEPARTMENT OF ADMINISTRATIVE SERVICES
Human Resource Services Division



Administrative Rule: 105-010-0000 Definitions Applicable Generally to Personnel Rules
and Policies

See HRSD Permanent Rule 105-010-0000 as published by the [Secretary of State](#).

State of Oregon
DEPARTMENT OF ADMINISTRATIVE SERVICES
Human Resource Services Division



Administrative Rule: 105-010-0011 Human Resource Services Division Public Records

See HRSD Permanent Rule 105-010-0011 as published by the [Secretary of State](#).

SUBJECT: Employee Personnel Records	NUMBER: 10.011.01
DIVISION: Human Resource Services Division	EFFECTIVE DATE: 1/11/08

APPROVED: Signature on file with the Human Resource Services Division

POLICY STATEMENT: An appointing authority is responsible for establishing and maintaining an official personnel file for each individual employee.

AUTHORITY: ORS 40.570; 192.105; 192.445; 192.501; 192.502; 192.505; 240.145(3); 240.250; 240.750; 652.750 and OAR 166-300-0040(9)

APPLICABILITY: Classified (unless superseded by collective bargaining agreements), management service, unclassified, and temporary employees

ATTACHMENTS: None

DEFINITIONS: See HRSD State Policy 10.000.01, Definitions; and OAR 105-010-0000

POLICY:

- (1) An appointing authority is responsible for establishing and maintaining an official personnel file for each individual employee.
 - (a) The official employee personnel file shall reside in the employee's current agency. Gaining agencies shall be responsible for requesting the official file from a transferring employee's losing agency. **Refer to DAS Statewide Policy 107-004-100, "Transporting Information Assets" and your internal agency policy on the appropriate method for transferring records.**
 - (b) If an employee works for more than one agency, each agency shall establish and maintain an official employee personnel file. The employee's complete official file, with any prior agency personnel documents, shall reside in the agency at which the employee works permanent full time. If the employee works part time for two or more agencies, the complete official personnel file shall reside in the agency which first employed the individual. If an employee separates from one agency, the agency where the employee continues to work shall request the official personnel file from the losing agency.
 - (c) The official employee personnel file shall contain the following mandatory documents which shall be retained for the number of years indicated in parentheses. The records retention schedule for personnel records is governed by the State Archivist.
 - (A) employment application for first state job (10 years after separation);
 - (B) employment application for employee's current position (10 years after separation);
 - (C) personnel actions **(PA)** (3 years for salary change PA's - 10 years after separation for all other PA's);
 - (D) performance evaluations (3 years);

- (E) employee agreements (3 years after separation);
- (F) oaths of office (10 years);
- (G) summary of record of training completed (3 years after separation);
- (H) letters of commendation and recommendation (3 years);
- (I) letters of reprimand (3 years);
- (J) notices of disciplinary action (3 years);
- (K) notices of layoff (3 years);
- (L) documentation of resignation (3 years); **and**
- (M) emergency notification forms (10 years).

(d) The following information shall not reside in the official personnel file, but in a confidential files physically separate from the official personnel file:

- (A) Equal Employment Opportunity (EEO) Self Identification Form;**
- (B) Employment Eligibility Verification Form (I-9);**
- (C) Employment Verification Inquiries (mortgages, car loans, etc.);**
- (D) Worker's Compensation claim information;**
- (E) Grievance information;**
- (F) Investigatory information;**
- (G) Position History including the position description;**
- (H) Recruitment information; and**
- (I) Medical records, as prescribed by the Americans with Disabilities Act.**

- (e) No information reflecting critically upon an employee shall be placed in the employee's personnel file unless the employee is notified.
- (f) The employee shall be entitled to prepare a written explanation/response regarding critical information believed to be incorrect or a misrepresentation of facts. The written explanation/response shall be included as part of the employee's personnel file and retained until the related critical documents are removed.
- (g) Current and former employees may submit a request to inspect or obtain a copy of their own personnel file contents, as listed in (1)(c), to their current or former human resource office. Within 45 days of the request, the agency shall provide a reasonable opportunity for the employee to inspect their personnel file, at the place of employment or place of work assigned, or provide a certified copy. If the employee's personnel file is not readily available, the employer and the employee may agree to extend the time in which the employer will provide the employee a reasonable opportunity to inspect or furnish a copy of the personnel file.**

- | **(h)** Review of and access to employee information **by the public** shall be governed by OAR 105-010-0011.
 - | **(i)** In addition to the hard copies retained in the employee's personnel file, electronic employee records are kept on the Position Personnel Data Base (PPDB) maintained by the Division.
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State of Oregon
DEPARTMENT OF ADMINISTRATIVE SERVICES
Human Resource Services Division



Administrative Rule: 105-010-0016 Public Disclosure

See HRSD Permanent Rule 105-010-0016 as published by the [Secretary of State](#).

State of Oregon
DEPARTMENT OF ADMINISTRATIVE SERVICES
Human Resource Services Division



State Policy: 10.025.01 Audit of Human Resource Management Practices

APPLICABILITY: All state agencies subject to ORS chapter 240

REFERENCE: ORS 240.311; 240.145 (3) (5); 240.250; 240.160

(1) **Policy:** The State of Oregon is committed to effective and efficient human resource management in state government. The Division will perform audits of state agencies to increase the effectiveness and efficiencies of agency human resource management practices.

(a) The Division shall:

- (A) determine the subject, scope, methodology and frequency of audits;
- (B) meet, or otherwise communicate, with appropriate state agency management to provide information on the audit subject, scope and timeframe. Minimize, where possible, the impact of the process on the day-to-day activities of state agencies;
- (C) provide preliminary findings to affected agency human resource manager and work with them to ensure all pertinent information and documentation has been taken into consideration;
- (D) provide written report of final findings, recommendations and required corrective action[s] to affected agency human resource manager and director;
- (E) provide a summary report of findings, recommendations and required corrective action[s] to the Director of the Department of Administrative Services;
- (F) maintain a copy of the final report, supporting documentation and agency action;
- (G) work with agencies as appropriate to develop and implement agency corrective action plans;
- (H) follow up with affected agency to ensure that corrective actions have been completed.

(b) State agency directors and/or appointing authorities shall:

- (A) cooperate with the Division and provide assistance and requested information to ensure an effective and efficient audit;
- (B) respond to the preliminary findings and provide appropriate documentation and rationale supporting the agency's decision or action to be considered prior to the final audit report within the timeframes specified in the audit plan;
- (C) submit any appeals of audit findings to the Division Administrator in writing within 10 working days following the date of the letter communicating the final findings to the agency;
- (D) ensure that actions that affect an employee are processed within applicable administrative rule, state policy, and collective bargaining agreement provisions;
- (E) complete required corrective action[s] within the timelines specified in the letter of final

findings, or as otherwise agreed, and provide the Division with written notification of completion; and

(F) refer any unresolved controversies between the Division and the agency to the Director of the Department of Administrative Services.

(1) **Performance Measure:** Percentage of audits completed within the audit timeframe.

Performance Standard: 100%

(2) **Performance Measure:** Percentage of required corrective actions completed by agencies within the required timeframe.

Performance Standard: 100%

SUBJECT: Support of Employee's Work and Family Needs **NUMBER:** 10.030.01
DIVISION: Human Resource Services Division **EFFECTIVE DATE:** 12/06/06

APPROVED: Signature on file with the Human Resource Services Division

POLICY STATEMENT: It is the policy of the State of Oregon that we as an employer recognize the importance of the family and the employee's need to meet their family health and dependent care obligations. The State is committed to the greatest extent possible, to responding to those needs through work and family policies and a workplace that supports efforts to achieve a balance between work and family.

AUTHORITY: ORS 240.145(3); 240.321(4)

APPLICABILITY: All employees except where collective bargaining agreement language conflicts.

ATTACHMENTS: None

DEFINITIONS: See HRSD State Policy 10.000.01, Definitions; and OAR 105-010-0000

POLICY

- (1) It is the policy of the State of Oregon that we as an employer recognize the importance of the family and the employee's need to meet their family health and dependent care obligations. The State is committed to the greatest extent possible, to responding to those needs through work and family policies and a workplace that supports efforts to achieve a balance between work and family.
 - (a) The following work and family policies support the efforts of the state to achieve a balance between work and family:
 - (A) Flexible Work Schedule-As defined in HRSD State Policy 10.000.01(40), Definitions and referred to in HRSD State Policy 20.005.20, Fair Labor Standards Act or an applicable collective bargaining agreement.
 - (B) Job Sharing-Oregon Administrative Rule 105-040-0070 or an applicable collective bargaining agreement.
 - (C) Telecommuting-HRSD State Policy 50.050.01, Telecommuting or an applicable collective bargaining agreement.
 - (D) Sick Leave-HRSD State Policy 60.000.01, Sick Leave with Pay or an applicable collective bargaining agreement.
 - (E) Personal Business Leave-HRSD State Policy 60.000.10, Special Leaves with Pay or an applicable collective bargaining agreement.

- (F) Vacation Leave-HRSD State Policy 60.000.05, Vacation Leave or an applicable collective bargaining agreement.
- (G) Special Leaves with Pay-HRSD State Policy 60.000.10 Special Leaves with Pay or an applicable collective bargaining agreement.
- (H) Federal and State Family Medical Leave-HRSD State Policy 60.000.15, Family and Medical Leave or an applicable collective bargaining agreement.
- (I) Leaves without Pay-HRSD State Policy 60.000.11, Leaves without Pay or an applicable collective bargaining agreement.
- (J) Statutorily Required Leaves with and without Pay-HRSD State Policy 60.000.12, Statutorily Required Leaves with and without Pay or an applicable collective bargaining agreement.

(K) Military Donated Leave Program-HRSD State Policy 60.020.05 or an applicable collective bargaining agreement.

(L) Donated Leave-HRSD State Policy 60.025.01

(b) The following are additional areas that the State is authorized by statute to offer to employees:

- (A) Insurance Benefits-ORS 243.105-.223.
- (B) Dependent Care Flexible Spending Account-ORS 243.105-.223.
- (C) **Health Care Flexible Spending Account-ORS 243.105-.223.**
- (D) Long Term Care Insurance-ORS 243.105-.223.
- (E) Employee Assistance Program-ORS 243.105-.223.

State of Oregon
DEPARTMENT OF ADMINISTRATIVE SERVICES
Human Resource Services Division



| **State Policy:** 10.030.02 **Impact of Rules and Policies on Families**

| **APPLICABILITY:** Management service, unclassified executive service, unclassified unrepresented, classified and temporary employees (where not in conflict with collective bargaining agreements)

| **REFERENCE:** ORS 240.145(3); 240.250; ORS 182.151

| (1) **Policy:** It is the policy of the State of Oregon that the formulation and implementation of policies and rules be assessed for their impact on family formation, maintenance, and general well-being.

(a) Each state agency shall assess its rules and policies to the extent permitted by law in light of the following considerations:

(A) If the action strengthens or erodes the stability of the family and, particularly, the marital commitment;

(B) If the action strengthens or erodes the authority and rights of the parents in the education, nurture and supervision of their children;

(C) If the action helps the family perform its functions, or if the action substitutes governmental activity for the function;

(D) If the action increases or decreases family earnings and if the proposed benefits of the action justify the impact on the family budget;

(E) If the activity can be carried out by a lower level of government or by the family itself;

(F) What message, intended or otherwise, the program sends to the public concerning the status of the family;

(G) What message the action sends to young people concerning the relationship between their behavior, their personal responsibility and the norms of our society.

(b) The legislative intent is to improve the internal management of state agencies in Oregon and is not intended to create any right or benefit, substantive or procedural, enforceable at law by a party against the State of Oregon, its agencies, its officers or any person.

DAS Statewide Policy

SUBJECT: Support of Employee Participation in Mentoring Program **NUMBER:** 10.030.03
DIVISION: Human Resource Services Division **EFFECTIVE DATE:** 11/30/04

APPROVED: Signature on file with the Human Resource Services Division

POLICY STATEMENT:

The State of Oregon recognizes the important role that children play in the State of Oregon's future and we, as an employer, support and encourage employee's participation in programs which are aimed at mentoring children and families. The State is committed to the greatest extent possible, to responding to those needs through flexible work schedules.

AUTHORITY: ORS 240.145(3)

APPLICABILITY: All employees except where collective bargaining agreement language conflicts.

ATTACHMENTS: None

DEFINITIONS: See HRSD State Policy 10.000.01, Definitions; and OAR 105-010-0000

POLICY:

- (1) The State of Oregon recognizes the important role that children play in the State of Oregon's future and we, as an employer, support and encourage employee's participation in programs which are aimed at mentoring children and families. The State is committed to the greatest extent possible, to responding to those needs through flexible work schedules.
 - (a) The following State policies and administrative rules may be used to support the efforts of State employees participating in mentoring programs for children and families:
 - (A) Flexible Work Schedule - as defined in HRSD State Policy 10.000.01(42), Definitions, and referred to in HRSD State Policy 20.005.20, Fair Labor Standards Act, or an applicable collective bargaining agreement.
 - (B) Job Sharing – OAR 105-040-0070, Alternate Methods of Filling Positions, or an applicable collective bargaining agreement.
 - (C) Personal **Business** Leave – HRSD State Policy 60.000.10, Special Leaves with Pay, or an applicable collective bargaining agreement.
 - (D) Vacation Leave – HRSD State Policy 60.000.05, Vacation Leave, or an applicable collective bargaining agreement.
 - (E) Leaves without Pay – HRSD State Policy 60.000.11, Leaves without Pay, **and HRSD State Policy 60.000.12, Statutorily Required Leaves with and without Pay**, or an applicable collective bargaining agreement.

State of Oregon
DEPARTMENT OF ADMINISTRATIVE SERVICES
Human Resource Services Division



State Policy: 20.000.01 Classification Plan Development and Maintenance

APPLICABILITY: Classified and management service employees

REFERENCE: ORS 240.015; 240.145(3); 240.190; 240.215; 240.217; 240.250; 240.321(4); 243.650 to 243.782; 292.951

(1) Policy: In an attempt to achieve an equitable relationship between the comparability of the value of work performed by employees in state service and the compensation and classification structure of the state system, the Division shall adopt and maintain a statewide classification plan. Accordingly:

- (a) The Division and agencies shall be jointly responsible to group jobs into broad, **occupationally-based** statewide classes within the plan whenever possible.
- (b) The Division and agencies shall work to reduce the total number of classes consistent with good management practices and ORS 240.190 and ORS 243.650 to 243.782.
- (c) Classes of work shall be discrete and internally consistent.
- (d) **All** class specifications shall conform to Division content and format requirements, be supported by proper documentation, **and be approved by the Division**.
- (e) An agency may request a classification **plan change** from the Division. The request **shall** include a statement of the origin of the problem, a general assessment of its scope, and recommend a solution including identifying how the proposed action will resolve the problem.
- (f) The Division and agencies shall be jointly responsible for maintaining comparability and consistency in classification matters when establishing new classes or modifying the existing class plan.**
- (g) Subject to final review and approval, the Division may delegate the revision of an existing class or series or the development of a new class or series to an agency or group of agencies. **As guided by the Division**, the agency or group of agencies **will** complete the necessary classification work.

State of Oregon
DEPARTMENT OF ADMINISTRATIVE SERVICES
Human Resource Services Division



State Policy: 20.000.05 Job Evaluation and Position Benchmarks

APPLICABILITY: All classification specifications, agency heads, board and commission directors and executive secretaries, full-time board and commission members

REFERENCE: ORS 240.145(3); 240.190; 240.235; 240.240; 240.245; 240.250; 292.951; 292.956; 292.971; Administrative Rule 105-20-001

- (1) Policy:** In an attempt to achieve an equitable relationship between the comparability of the value of work performed by employees in the Executive Branch and the compensation and classification structure of the state system, all job classifications, agency head positions, director and executive secretary of board and commission positions and, all member positions for paid full-time boards and commissions shall be evaluated by a Central Evaluation Team (CET) using the Hay Method of job evaluation. These evaluated positions, along with class specifications, shall become the framework for position allocation. Accordingly:
- (a) The Executive Branch evaluation process is established to anchor the state's internal value structure and to provide the frame work for position allocation.
 - (b) Evaluated positions shall include the following: agency heads; directors, or executive secretaries of boards and commissions; and all board member positions for paid full-time boards and commissions.
 - (c) Job evaluations shall be conducted when:
 - (A) a new classification is developed or a new position requiring evaluation is identified; or
 - (B) an existing classification or evaluated position is substantially changed; or
 - (C) the CET identifies system inconsistencies or other problems among evaluated positions or classes.
 - (d) Agency heads shall maintain accurate and up-to-date position descriptions for existing positions and seek CET re-evaluation whenever an existing evaluated position is substantially changed.
 - (e) An agency may seek a re-review of the initial evaluation within the time frame identified by the CET by explaining, in writing, why they believe the evaluation is incorrect.
 - (f) The CET shall acknowledge the request for re-review within 10 calendar days from receipt of such request by notifying the agency of the scheduled re-review date and specify that a CET decision shall be made within 15 days from the re-review date.
 - (g) Salary ranges for CET evaluated classifications and positions shall be determined by the Hay evaluated score unless an exception to this evaluation has been granted (see Policy 20.005.15).

(2) Policy Clarification:

- (a) Comparability of the value of work means the value of the work measured by the needs of the employer and the knowledge, composite skill, effort, responsibility, and working conditions

required to perform the duties within a classification of work.

- (b) The CET is composed of employees who have experience in job evaluation, state occupations, and have a statewide perspective on the comparability of the value of work performed within the Executive Branch.
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State of Oregon
DEPARTMENT OF ADMINISTRATIVE SERVICES
Human Resource Services Division



Administrative Rule: 105-020-0001 Comparability of Work

See HRSD Permanent Rule 105-020-0001 as published by the [Secretary of State](#).

State of Oregon
DEPARTMENT OF ADMINISTRATIVE SERVICES
Human Resource Services Division



State Policy: 20.005.01 General Compensation Policy

APPLICABILITY: Classified unrepresented, management service, executive service and unclassified unrepresented employees

REFERENCE: ORS 240.190; 240.235; 240.240; 240.250; 240.430; 291.371; 292.951

(1) **Policy:** The state, as one employer, shall establish and maintain a compensation plan for state employees that is intended to provide compensation that pays for the level and value of work performed, is competitive with comparable services in public and private employment, assists in recruitment and retention of qualified and competent employees, and promotes a high level of performance. Accordingly:

- (a) The state shall hold internal equity based on the comparability of the value of work as an important consideration in determining pay.
- (b) The state shall attempt to provide total compensation to employees that is competitive with compensation for comparable services in public and private employment as the overall economic and budget condition of the state permits.
- (c) The state shall establish a merit pay system to recognize, reward, and promote high levels of performance and motivate employees to achieve efficiency and effectiveness in their work by providing salary increases based on documented performance levels as described in Policy 20.005.05, Merit Pay System, and [Policy 50.035.01, Performance Management Process](#).

(2) **Policy Clarification:**

- (a) Value of work is determined by measuring the knowledge, skill, effort, responsibility, and working conditions required in the performance of work in context of the overall scope and mission of Oregon state government.
 - (b) Total compensation is the total of state payments made for salary and benefits.
 - (c) Competitive compensation is generally defined as within 5 percent of the average total compensation paid for comparable service in public and private employment. The job classification or position determines the appropriate mix of public and private employment to be used in assessing competitiveness. Both public and private sector employers, within and external to Oregon, may be included as appropriate.
 - (d) Market information on benchmark positions and classifications plus internal comparability are used to establish the state's policy pay line.
 - (e) Changes to the compensation plan are subject to prior review by a legislative review body.
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DAS Statewide Policy

SUBJECT: Merit Pay System **NUMBER:** 20.005.05
DIVISION: Human Resource Services Division **EFFECTIVE DATE:** 10/21/04

APPROVED: Signature on file with the Human Resource Services Division [See Addendum dated 6/23/14](#)

POLICY STATEMENT: The state shall establish and implement a merit pay system to encourage outstanding individual performance and organizational accomplishments. The merit pay system shall provide for monetary awards to employees based on past meritorious service and contribution to the mission and goals of the organization.

AUTHORITY: ORS 240.240; 240.250; 240.430

APPLICABILITY: Classified unrepresented, management service, unclassified executive service and unclassified unrepresented employees

ATTACHMENTS: None

DEFINITIONS: See HRSD State Policy 10.000.01, Definitions; and OAR 105-010-0000

POLICY:

- (1) The state shall establish and implement a merit pay system to encourage outstanding individual performance and organizational accomplishments. The merit pay system shall provide for monetary awards to employees based on past meritorious service and contribution to the mission and goals of the organization.
- (a) The state merit pay system, as adopted by the Division, shall be the standard. It allows for the orderly progression of an employee's pay from the established minimum to the maximum of the rate range based on documented meritorious performance. Accordingly:
- (A) Appointing authorities shall ensure that merit pay awards are based on employees' work performance and organizational accomplishments, documented, and entered into the PPDB personnel system.
- (B) Salary rates shall be administered within the salary range to which each employee's job has been assigned in the state's compensation plan.
- (C) Agency heads shall ensure merit pay awards are within budgeted salary parameters and funding and legislatively approved salary policies.

(2) **Policy Clarification:**

- (a) Increases to salaries generally advance employees one step, or the equivalent thereof, in the salary range.
- (b) Generally, eligibility for merit pay increases follows a 12 month cycle.
- (c) An appointing authority may grant a special salary increase for exceptional individual performance. A special salary

increase normally does not affect the employee's eligibility for a six month or annual merit increase.

- (d) Leave without pay resulting from job-incurred time loss or other qualifying family and medical leave covered by HRSD State Policy 60.000.15, Family and Medical Leave does not affect an employee's salary eligibility date.

Performance Measure: Percent of merit pay documented and **consistent with policy**.

Performance Standard: 100%

SUBJECT: Pay Practices	NUMBER: 20.005.10
DIVISION: Human Resource Services Division	EFFECTIVE DATE: 3/30/09

APPROVED: Signature on file with the Human Resource Services Division

POLICY STATEMENT: This policy establishes standards for the equitable and consistent administration of pay. Agency Appointing Authorities ensure that pay actions taken in their agencies meet the policy standards. Agencies maintain documentation of pay exceptions allowable under this policy.

AUTHORITY: ORS 240.145; 240.190; 240.235; 240.240; 240.245; 240.250; 240.395; 240.430

APPLICABILITY: Classified unrepresented, management service, unclassified executive service, unclassified excluded and unclassified unrepresented employees. Applies to represented employees only for the purposes of pay upon initial hire and agency documentation requirements (unless in conflict with a collective bargaining agreement).

ATTACHMENTS: None

DEFINITIONS: See State HR Policy 10.000.01, Definitions; and OAR 105-010-0000

POLICY:

(1) Pay Administration

(a) Classification Changes

For information on administration of pay on classification change, refer to State HR Policy 30.005.01 Effect of Position Classification Change on Incumbents.

(b) Demotion (voluntary or involuntary)

At the time of a demotion, the appointing authority:

- (A) Reduces the employee's pay to the top step of the new classification if the employee's current pay is above the top step of the new classification; or
- (B) Maintains the current pay if the employee's pay is within the range for the new classification. If the current pay is off-step within the new classification, increase at least one full step (to be on a step) in the new classification at the next salary eligibility date (SED), but do not exceed the top step of the new salary range; and
- (C) Maintains the SED unless the employee is at the maximum of the new salary range.

(c) General Wage Adjustment

- (A) General increase - When the Department of Administrative Services (DAS) implements a general increase (cost of living adjustment), agencies retain an employee at the same step or position in the salary range. Agencies generally retain an employee's salary eligibility date.
- (B) General compensation plan adjustment - When DAS implements a general compensation plan adjustment with no accompanying general increase, agencies retain an affected employee at the existing salary with no increase unless the employee's current salary rate is below the first step of the new salary range. In this case, the agency places the employee's salary rate at the first step of the new salary range. Employees generally retain their salary eligibility dates. General compensation plan adjustments may occur due to classification studies, Hay re-evaluations, selective salary adjustments, etc.

(d) Lump Sum Payments

- (A) An agency may give a lump sum payment to an employee at the time of hiring, promotion, or lateral transfer in difficult recruitment situations. Agencies must obtain approval from the Human Resource Services Division prior to making a lump sum payment.
- (B) Normally, lump sum payments are appropriate for higher level or specialized positions where recruitment difficulties are:
 - (i) Due to a significantly below-market salary range for a specific classification, where changing the salary range on a timely basis is impossible; or
 - (ii) Due to a position in a generic classification (e.g., Principal/Executive Manager) being extremely sensitive to market pay fluctuations; or
 - (iii) Due to the nature of the assignment (e.g., added expectations and workload for a short to medium period) which makes the position especially unattractive to potential candidates.
- (C) Agencies must retain documentation of the specifics of the payment in their recruitment and personnel files. Documentation must include prior written approval of the appointing authority and the Human Resource Services Division.
- (D) When an agency issues a lump sum payment, the agency combines that lump sum payment with the base pay for the calculation of the overtime rate of pay for the month.

(e) New Hire

- (A) Normal hiring rates:
 - (i) Steps one through five for a 10-step salary range; or
 - (ii) The first two steps of a truncated 4-step salary range; or
 - (iii) The first four steps of all other ranges.
- (B) The appointing authority may authorize payment above these steps when recruitment difficulties, exceptional qualifications of the applicant or other appropriate circumstances exist. Agencies retain the appointing authority's approval in the personnel file. Set the salary eligibility date one year from the date of hire.

(f) Promotion

Upon promotion, an agency normally gives a salary increase to the next higher step in the new salary range. The appointing authority may authorize a greater increase because of recruitment or retention problems, exceptional qualifications of the promoted employee, or other appropriate circumstances. Agencies retain the appointing authority's approval in the personnel file. Set a new salary eligibility date six months from the date of promotion.

(g) Reemployment

- (A) When a person reemploys within two years of separation (whether by direct appointment per OAR 105-040-0080 Reemployment, or selection from an open-competitive eligible list), the appointing authority:
- (i) May establish the salary at or below the rate paid at the time of separation; or
 - (ii) May authorize a higher step within that range due to recruitment difficulty, exceptional qualifications of the applicant, or other appropriate circumstances; and
 - (iii) Establishes the salary eligibility date no earlier than the former salary eligibility date but no later than 12 months following reemployment.
- (B) An employee returning from demotion or downward reclassification to a position with a salary range equal to or lower than the position held prior to demotion or downward reclassification is a reemployment, not a promotion. The appointing authority:
- (i) Establishes the salary at a rate within the range up to the rate the employee would have earned if the demotion or downward reclassification had not occurred; and
 - (ii) May authorize increases of a greater amount within the range because of recruitment or retention problems, exceptional qualifications of the employee, or other appropriate circumstances; and
 - (iii) Retains the former salary eligibility date unless the employee is at the maximum step of the range.
- (C) When an injured worker reemploys to a suitable position (see State HR Policy 50.020.03), set the salary at the closest step within the range of the new position to the salary paid in the job-at-injury.

(h) Restoration

Upon restoration under State HR Policy, 50.030.01 Restoration of Removed Management Service Employees, an agency returns the employee to the same step the employee would have reached taking into account annual merit increases had the employee not left the previous classification. Restore the former salary eligibility date.

(i) Return from Layoff

When an employee returns from layoff to the classification held prior to the layoff, the employee returns to the same step paid at the time of layoff. Upon return from layoff to a different classification, an employee normally returns to the same salary rate paid at the time of layoff, not to exceed the maximum rate in the new salary range. Restore the former salary eligibility date and adjust for breaks in service.

(j) Transfer

- (A) An employee's salary rate normally stays the same upon transfer. If retaining the employee's current salary rate places the employee off-step in the new classification, the employee's salary rate increases at least one full step to a step in the new salary range on the next salary eligibility date (SED).

- (B) The appointing authority may authorize a salary adjustment to the next higher salary rate if a corresponding salary rate in the new classification's salary range does not exist. Agencies retain the appointing authority's approval in the personnel file. Retain the salary eligibility date unless the employee is at the maximum of the new salary range.
- (C) If the employee's salary rate in the classification held prior to transfer is greater than the maximum rate of the new classification, place the employee at the top step of the new classification.

(k) Trial Service Removal

Upon removing an employee from trial service, restore the employee to the step in the salary range the employee would have reached taking into account annual merit increases had the employee not left the previous classification. Restore the former salary eligibility date.

(l) Underfill

When an agency selects an employee to fill a position in a higher classification as an underfill, the agency processes the personnel action as a demotion, new hire, promotion, , transfer or other appropriate action. (See b, e, f, j, or other appropriate section above for pay information based on the action taken.) The agency reclassifies the employee when the employee meets the minimum qualifications of the position classification. (See State HR Policy 30.005.01 Effect of Position Classification Change on Incumbent for pay information.)

(m) Work-out-of-class (WOC)

- (A) A WOC assignment is generally for a period of 10 consecutive calendar days or more. Payment for WOC is a dollar amount paid in addition to an employee's base rate of pay.
 - (i) The WOC rate of pay for temporary duties at a higher classification is either:
 - (1) Five percent of the employee's base rate of pay; or
 - (2) The difference between the employee's base rate of pay and the first step of the higher (WOC) classification's salary range, whichever is greater.
 - (ii) The WOC rate of pay for duties pending approval of a reclassification upward is either:
 - (1) The difference between the employee's base rate of pay and the first step of the higher (WOC) classification's salary range; or
 - (2) The difference between the employee's base rate of pay and the next higher rate of pay in the higher (WOC) classification's salary range, whichever is greater.
 - (iii) If the appropriate WOC pay as determined in (ii) above is less than a 2.5 percent increase above the employee's base rate of pay, the agency may use the next higher rate of pay in the higher classification's salary range to calculate WOC pay.
 - (iv) Agencies that apply WOC differentials exceeding these standards should do so only in exceptional cases, and agencies must document the reasons for the exception.
- (B) The agency HR representative must affirm that assigned duties are of a higher classification prior to authorizing WOC pay.
- (C) The employee should meet the minimum qualifications (MQ's) for the higher (WOC) classification. An appointing authority may approve the payment of WOC where an employee does not meet MQ's. The agency must maintain documentation in the personnel file including the appointing authority's approval

and supporting rationale. (Note: Advise an employee paid WOC in these circumstances that they may not qualify to compete for a position at the WOC level.)

(D) An agency maintains the following documentation to support decisions to pay WOC:

- (1) Written notice of assignment informing the employee of WOC classification title, dates of assignment, monthly differential amount and reason for the assignment; and
- (2) Position description or written description of WOC duties signed by the supervisor and appointing authority.
 - (a) Assignment of higher level duties for a limited period of time:
 - (i) Backfilling behind an employee on leave: retain a copy of the WOC position description signed by the supervisor and the appointing authority.
 - (ii) Assignment of additional duties at a higher classification: retain a current position description supporting the employee's base classification and a description of the assigned higher duties signed by the supervisor and the appointing authority.
 - (b) Employees in positions pending reclassification require a written classification analysis and an updated position description signed by the employee, supervisor, and the appointing authority.
 - (c) Employees in positions pending reallocation, in an underfill status or on developmental assignments do not qualify for WOC based on that situation or assignment alone.
 - (d) Standards for WOC duration are:
 - (i) Generally, 12 months or less
 - (ii) Generally, do not exceed the budget cycle. The duration of a WOC assignment pending reclassification of the position or resolution of budget issues is a maximum of 24 months. The agency must document any WOC assignment that exceeds these standards.
 - (iii) For a WOC assignment involving project work or other specific assignments with an identified ending date, the standard duration is the identified ending date. Agencies making WOC assignments exceeding these standards should consider alternatives to WOC.

(2) Pay Differentials

(a) Actuary Designation Differential

This differential applies to employees in the classification of Actuary (1190) in unclassified executive service and management service who are (1) designated "Associate" in the Society of Actuaries or the Casualty Actuarial Society or are (2) admitted as Fellow in the Society of Actuaries or in the Casualty Actuarial Society, or admitted to the American Academy of Actuaries.

- (A) The differential for (1) Associate in the Society of Actuaries or the Casualty Actuarial Society is 10 percent of base pay.

- (B) The differential for (2) Fellow in the Society of Actuaries or in the Casualty Actuarial Society, or admitted to the American Academy of Actuaries is 32 percent of base pay.

(b) Bilingual Skills Differential

This differential applies to employees who must use bilingual skills to perform assigned duties. "Bilingual skills" means translation to and from English, interpretation of another language or the use of sign language. The employee's supervisor must assign the interpretation and translation duties. The supervisor documents the assignment in the employee's position description. The differential is 5 percent of base pay.

(c) Board Certification Differentials

(A) Supervising Dentists in Unclassified Excluded Service

This differential applies to Supervising Dentists (Z7511, Z7512) who are Board Certified in specialties or who have special permits as required by the agency. The differential is \$115 per month.

(B) Physicians in Unclassified Excluded and Executive Service

This differential applies to Supervising Physician (Z7518), Public Health Physician 1 (Z7571) and Public Health Physician 2 (Z7572), PEM I (Z7016) acting as Chief Medical Officer at a DHS Institution, PEM J (Z7018) acting as Chief Medical Officer at a DHS Institution, PEM J (Z7018) in Public Health as Administrator, PEM J (Z7018) in Public Health as Public Health Director, and Sr. Medical Consultant (Z7539) at DHS, who are Board Certified. For the first Board certification in one specialty, the differential is 7.5 percent of base pay. For two or more Board Certification specialties, the differential is 10 percent of base pay.

(C) Physician Specialist

This differential applies to Physician Specialist (Z7517) in unclassified excluded service at the Oregon Youth Authority who are Board Certified psychiatrists. The differential is up to a maximum of 7.5 percent of base pay for one or more board certifications.

(d) Board or Commission Chair Differential

This differential applies to the chairs of the Public Utility Commission and the Workers' Compensation Board. The differential is 5 percent of base pay.

(e) Change in Reporting Time Differential (ODOT)

This differential applies to classified unrepresented employees at Department of Transportation at salary range 19 and below (except for unrepresented temporary, part-time and permanent employees working flexible shifts) whose scheduled time to report for work changes without giving the employee 24 hours advance notice. The differential for a shift change of two hours or less is a one-time payment of \$14. The differential for a shift change of more than two hours is a one-time payment of \$21.

(f) Chaplain Housing Allowance Provision

This allowance applies to full-time Chaplains who must report annually to the Superintendent of the employing agency the exact amount claimed as housing under Section 107 of the Internal Revenue Code of 1954. The allowance is 35 percent of monthly salary.

(g) Divers Differential

This differential applies to employees with current certification for use of underwater diving equipment. The work assignment requires use of self-contained underwater breathing apparatus or other sustained underwater diving equipment. The differential is \$5 per hour, or any fraction of an hour, for actual diving time.

(h) DMV Inmate Work Assignment Differential

This differential applies to Driver and Motor Vehicle Services employees assigned to work directly with inmates inside the security fences at the Coffee Creek Correctional Facility. The differential is 5 percent of base pay.

(i) Department of Justice Support Services Supervisor Differential

This differential applies to employees to Department of Justice in Support Services Supervisor 1 (X0112) positions who supervise one or more Legal Secretary (X0110) positions. The differential is 5 percent of base pay.

(j) Department of Forestry (ODF) Meal Allowance Provision

This provision applies to ODF management and unclassified executive service employees required to work two or more hours past their scheduled shift who cannot leave the job site for a meal due to the nature of their assignment (slash burns, spray projects, fires, or dispatch support to such activities). The agency provides eligible employees one meal during every six hours of work. Normally, ODF provides these meals through commercial facilities arranged in advance by the agency. If the agency fails to supply the meal, the employee will receive an allowance equivalent to the meal missed in accordance with the instate meal rate. Employees who decide not to eat the ODF meal will not receive the allowance or reimbursement for expenses they incur by eating elsewhere, unless they have a licensed physician's prescription for a medically necessary special diet. The prescription must clearly specify the special dietary need. This provision does not apply to situations described in the Statewide Travel Policy 40.10.00.PO, or to overtime situations when employees work to meet project deadlines but are able to leave the job site for a meal.

(k) DPSST Certification Differential

This differential applies to Department of Corrections' employees in Correctional Lieutenant (X6779), Correctional Captain (X6780), and Principle Executive Manager (X7000-X7018) positions with the working title of "Institution Security Manager" or "Community Corrections Supervisor." For obtaining an Intermediate DPSST Certificate, the differential is 3 percent of base pay. For obtaining an Advanced DPSST Certificate, the differential is 6 percent of base pay. The DOC does not compound these differentials.

(l) Education Differential

This differential applies to employees in positions of Mental Health Supervising Registered Nurse (X6209), Nurse Manager (X6241) and PEM in Nurse Management at DHS (as determined by the agency). The differential is not more than 4.75 percent of base pay for a relevant baccalaureate degree and not more than 9.5 percent of base pay for a relevant master's degree.

(m) Electrician-Related Differentials

This differential applies to employees in the Maintenance and Operations Supervisor (X4046) classification who must possess a Limited Maintenance Electrician License as assigned in writing by the appointing authority. The differential is 5 percent of the base pay.

(n) Flight Duty Differential

This differential applies to non-pilot employees in management service at the Department of Forestry whose work assignments involve flying grid patterns or low-altitude spotting from light fixed-wing aircraft or helicopters. Pilots or employees transported to a job site, performing normal courier duties, point-to-point travel, or similar circumstances do not qualify for this differential. The differential is \$.40 per hour for actual airtime.

(o) Geographic Area Pay Differential

This differential applies to all permanent, non-resident employees whose regular work location is outside the state of Oregon. Agencies may pay this differential only with the approval of the director of the Department of Administrative Services. An employee is not entitled to per diem expense in lieu of the differential. The differential shall not exceed 25 percent of base pay.

(p) High Work Differential

This differential applies when an employee must perform work more than 20 feet directly above the ground or water while using safety ropes, scaffolds, or other similar safety device for support. The differential is \$.75 per hour or any fraction of an hour for the elevated work time.

(q) Incident Response Assignment Pay

This assignment pay applies to FLSA-exempt management employees at the Department of Forestry who work extra hours in emergencies. To be eligible, management must relieve the employee of regular duties and assign the employee to participate as a member of an Incident Response Team or Emergency Fire Control. The assignment pay is at time and one-half of an employee's base rate for actual hours worked that exceed 40 hours in a designated workweek. [Click here](#) for an addendum relating to the Office of the State Fire Marshall.

(r) Information Systems Team Leader Differential

A 10 percent differential of base pay applies to Information Systems Specialist 1-8 (classifications 1481-1488) employees assigned in writing by management to lead a team of employees by performing substantially all of the following duties:

- (A) Plan the short-and long-term needs of the team, (technology used, user requirements, resources required, training needs, and methods to accomplish the work, multiple project timelines, and competing priorities).
- (B) Establish and coordinate multiple interrelated project schedules for all team projects.
- (C) Work directly with multiple users to identify broad user needs and requested timelines.
- (D) Provide technical and operational guidance to contractors and monitor quality assurance.
- (E) Develop technical standards and monitor team member's work for compliance.
- (F) Perform leadwork duties on a recurring daily basis as described in (2) (r) below.

An employee is not eligible for the Information Team Leader Differential while on a voluntary developmental training assignment.

(s) Leadwork Differential

- (A) This differential applies to all employees assigned to perform "leadwork" duties for 10 or more consecutive calendar days if: a) the class specifications for the employee's position do not include leadwork duties and b) the employee's position is not management service-supervisory. Management assigns leadwork duties in writing. Leadwork occurs when management assigns an employee all of the following duties: (1) Prioritize

and assign tasks to efficiently complete work; (2) give direction to workers concerning work procedures and performance standards; (3) review the completeness, accuracy, quality and quantity of work; and (4) provide informal feedback of employee performance to the supervisor.

- (B) The differential is 5 percent of base salary for the full period of the assignment. Payment is at the hourly equivalent of the adjusted base for holiday premium and does not result in "compounding" of pay.
- (C) Leadwork differential does not apply to developmental assignments that management and the employee mutually agree to.

(t) Mental Health Direct Care Differential

This differential applies when management assigns an employee in the Mental Health Supervising Registered Nurse (X6209) classification, to perform the direct care duties of a Mental Health Registered Nurse (C6208). The differential is the regular straight time rate (in addition to regular base pay).

(u) On-Call Duty Differential

This differential applies to all FLSA non-exempt employees, FLSA exempt fish hatchery managers at Oregon Department of Fish and Wildlife (ODFW) in the classifications of Fish and Wildlife Supervisor (X8343) and Fish and Wildlife Manager 1 (X8344), Supervising Registered Nurse (X6240) who are eligible for overtime compensation, and Mental Health Supervising Registered Nurse (X6209) at EOTC, EOPC, and OSH who are eligible for overtime compensation. An employee is eligible for the differential when management requires the employee to be available for work outside his or her regular working hours. The employee may use the "on-call time" effectively for her or his own use. Management does not count on-call time as time worked in the computation of overtime hours worked but includes on-call pay in the calculation of the overtime pay rate. The differential is:

- (A) For all FLSA non-exempt employees, one hour's pay at the regular straight time rate for each six hours of assigned on-call duty. Employees assigned on-call duty for less than six hours receive compensation on a prorated basis.
- (B) For all FLSA exempt fish hatchery managers in the classifications of Fish and Wildlife Supervisor and Fish and Wildlife Manager 1 at ODFW, one hour of pay or leave for each six hours of assigned on-call duty. The one-hour rate of pay is at the regular straight time rate, and the leave is on an hour-for-hour basis.
- (C) For Supervising Registered Nurses (X6240) eligible for overtime, \$10 per eight-hour shift or \$12 per eight-hour shift on a day recognized as a holiday.
- (D) For Mental Health Supervising Registered Nurses (X6209) at EOTC, EOPC, and OSH who are eligible for overtime pay, \$12 per eight-hour shift or \$14 per eight-hour shift on a holiday. The differential pay is in addition to the appropriate rate of pay for any time actually worked.

(v) Professional Surveyor's License Differential

This differential applies to employees at Department of Forestry in Forest Unit Supervisor 2 (X8232) positions who:

- (A) Possess a current Oregon Professional Surveyor's License; and
- (B) Perform Professional Surveyor duties as assigned in writing on the position description by the Department of Forestry. The differential is 5 percent of base pay.

(w) Psychiatric Work Differential

This differential applies to unclassified executive service positions of Supervising Physician (Z7518), PEM I (Z7016), or PEM J (Z7018) acting as Chief Medical Officer within a DHS Institution, and Physician Specialist

(Z7517) at Oregon Youth Authority whose position includes the performance of psychiatric duties; and positions in PEM I (Z7016) acting as an Administrator, DHS Office of Mental Health and Addiction Services. The differential is \$10,000 annually.

(x) Sales Commission Payment

This commission applies to classified unrepresented employees at Department of Geology and Mineral Industries who sell materials in DOGAMI distribution outlets. The commission payment is up to 5 percent of sales.

(y) School Activities Differentials

This differential applies to unclassified Supervising Teacher, Special Schools (Z7544, Z7547), and FLSA-exempt management service positions designated by the Department of Education to perform school-related activities that extend beyond a normal school day. The Department of Education pays employees a percentage of the annual salary established by the state's compensation plan for the Supervising Teacher, Special Schools (Z7547) in the Bachelor Degree Column, Step 1, using the following percentages:

- (A) Freshman Class Advisor 5.78 percent
- (B) Sophomore Class Advisor 5.78 percent
- (C) Junior Class Advisor 5.78 percent
- (D) Senior Class Advisor 5.78 percent
- (E) Drama 5.78 percent
- (F) Rally Squad 7.5 percent
- (G) Co-editor (Newspaper) 4.45 percent
- (H) Year Book 4.00 percent
- (I) Recreation Director 10.00 percent
- (J) Athletic Director 6.69 percent
- (K) Football or Basketball Coach 7.50 percent
- (L) Football, Basketball Assistant Coach 5.28 percent
- (M) Softball, Track, Volleyball, Wrestling, or Baseball Coach 7.50 percent
- (N) Assistant Coach (Softball, Track, Volleyball, Baseball) 5.28 percent

(z) Shift Differential

- (A) This differential applies to employees in salary ranges 22 or below, plus Correctional Lieutenant (X6779) and Information Systems Specialist 3 (C1483). Part-time employees who work less than 32 hours per month and unrepresented temporary employees are not eligible for shift differential. An employee earns shift differential on a hourly basis for each hour or major portion thereof (30 minutes or more) worked between 6 p.m. and 6 a.m. or on Saturday or Sunday. It does not apply to base rates in the computation of payments for paid time off such as vacation and sick leave. To compute overtime, add shift differential to the employee's base rate during the pay period when an employee works overtime. To compute premium pay at time and one-half the regular rate of pay, do not add shift differential to the base rate. Do not pay shift differential when an employee requests an alternate work schedule to make up hours not worked during the established workweek. The differential is \$.75 per hour.
- (B) This differential applies to employees in the classifications of Production Supervisor (X2443) and Printing Production Coordinator (X2475) on an hourly basis for each hour worked between 3 p.m. and 3 a.m. If four or more hours of the shift fall within the hours of 3 p.m. and 3 a.m., the differential applies to the entire shift. The differential is \$.75 per hour.
- (C) This differential applies to Supervising Registered Nurse (X6240) positions at Oregon Youth Authority. Employees are eligible when their full eight-hour or regular workweek shift starts on or after 2 p.m. and on or before 2 a.m. The differential applies to all hours worked during that shift. Employees are eligible when their full irregular workweek shift starts on or after 1 p.m. and on or before 2 a.m. The differential applies to all hours worked during that shift. Employees who work a split shift, and either portion of the split shift starts

on or after 2 p.m., and on or before 2 a.m., are eligible for the differential for the hours actually worked during that portion of the split shift. The differential is \$1.85 per hour.

- (D) This differential applies to Mental Health Supervising RN (X6209) and Nurse Manager (X6241) in DHS. Employees are eligible when at least half of the scheduled shift hours fall between 6 p.m. and midnight for evening shift, and midnight and 6 a.m. for night shift. Shift differential applies to base rates for all hours worked during the shift. The differential rate is \$1.85 per hour for evening shift and \$2.25 per hour for night shift.

(aa) Standby Duty Differential

This differential applies when management requires FLSA non-exempt employees to be available for work outside normal working hours, and subject to restrictions, consistent with the FLSA, which prevent the employee from using the time while on standby duty effectively for the employee's own purposes. Compensation for standby duty is at the employee's straight time rate of pay. Overtime hours on standby are at the appropriate overtime pay rate.

(bb) Tactical Emergency Response Team (TERT) Differential

Applies to Department of Corrections' employees in Correctional Lieutenant (X6779) and Correctional Captain (X6780) classifications assigned to the Tactical Emergency Response Team. The differential is 2 percent of monthly base pay.

(1)	Performance Measure:	Percent of pay decisions consistent with pay policies.
	Performance Standard:	100 percent
(2)	Performance Measure:	Percent of pay decisions set forth and maintained in writing.
	Performance Standard:	100 percent
(3)	Performance Measure:	Percent of lump sum payments granted with prior approval and documentation retained in the recruitment file.
	Performance Standard:	100 percent
(4)	Performance Measure:	Percent of employees receiving WOC pay within the standards.
	Performance Standard:	100 percent

DAS Statewide Policy

SUBJECT: **Exceptions to Hay Evaluated Salary** **NUMBER:** **20.005.15**
DIVISION: Human Resource Services Division **EFFECTIVE DATE:** 10/21/04

APPROVED: Signature on file with the Human Resource Services Division

POLICY STATEMENT: Because of the public policy to attempt to achieve and maintain an equitable comparability of work within the Executive Branch, exceptions to a Hay evaluated salary range shall be made only under extraordinary circumstances.

AUTHORITY: ORS 240.145; 240.190; 240.235; 240.240; 240.245; 240.250; 292.951

APPLICABILITY: All positions subject to ORS 240.190

ATTACHMENTS: None

DEFINITIONS: See HRSD State Policy 10.000.01, Definitions; and OAR 105-010-0000

POLICY:

- (1) Because of the public policy to attempt to achieve and maintain an equitable comparability of work within the Executive Branch, exceptions to a Hay evaluated salary range shall be made only under extraordinary circumstances.
 - (a) Exceptions must be related to: recruitment and/or retention problems relative to the labor market, the result of collective bargaining, or administrative or legislative priorities.
 - (b) The Division shall approve exceptions to the Hay evaluated ranges and salaries for classifications or groups of employees within classifications. Documentation and records of all exceptions shall be maintained by the Division. The Director of the Department of Administrative Services shall approve exceptions to Hay evaluated salary ranges for all evaluated agency benchmark positions.
 - (c) Exceptions granted for represented or unrepresented positions shall be funded within the current budget. All exceptions affecting represented positions shall be negotiated by the Labor Relations Unit on behalf of the State before implementation. Exceptions requiring Emergency Board review shall be presented by the Department of Administrative Services before implementation. Documentation and records of such exceptions shall be maintained by the Division **and agency**.
 - (d) Human resource managers are to review all exceptions to individual positions as they become vacant or the circumstances supporting the exception change to determine if continuing the exception is appropriate, and advise the Division.

(2) Policy Clarification:

Prior to granting exceptions, consideration must be given to internal agency relationships and the impact such exceptions create on other state agencies with similar or related jobs, and their impact on the State's labor relations and compensation goals.

- | | |
|---------------------------------|--|
| (1) Performance Measure: | Number of exceptions made to individual positions in a given agency within a biennium. |
| Performance Standard: | None except under extraordinary circumstances. |
| (2) Performance Measure: | Number of exceptions made meeting criteria specified in policy. |
| Performance Standard: | 100% |
| (3) Performance Measure: | Number of exceptions made for which documentation and records have been maintained. |
| Performance Standard: | 100% |

DAS Statewide Policy

SUBJECT: Fair Labor Standards Act

NUMBER:

20.005.20

DIVISION: Human Resource Services Division

EFFECTIVE DATE:

08/05/05

APPROVED: Signature on file with the Human Resource Services Division

POLICY STATEMENT:

The state shall comply with provisions of the Fair Labor Standards Act (FLSA) and Oregon Wage and Hour Laws.

AUTHORITY:

ORS 240.145(3); 240.235; 240.240; 240.250; 240.551; 279.340(1); 653.268; 653.269; OAR 839-020-0015, 839-020-0130, 839-020-0200 through 0830-020-0350 and 839-020-0300; Fair Labor Standards Act (FLSA), 29 C.F.R. 201-219, 500-899; FLSA Act Amendments of 1985; Bureau of Labor and Industries Handbook on Oregon Wage and Hour Laws

APPLICABILITY:

Classified (where not in conflict with collective bargaining agreements), management service, unclassified executive service, unclassified unrepresented and temporary employees (where not in conflict with collective bargaining agreements)

ATTACHMENTS:

None

DEFINITIONS:

See HRSD State Policy 10.000.01, Definitions; and OAR 105-010-0000

POLICY:

- (1) The state shall comply with provisions of the Fair Labor Standards Act (FLSA) and Oregon Wage and Hour Laws. **Agencies are required to comply with both federal and state laws. When standards under one law differ from those under the other, the standards most generous to the employee must be met. For example, if the state minimum wage is higher than the federal minimum wage, the state minimum wage must be paid. Likewise, if an employee qualifies as exempt under state law but not under federal law, the agency must comply with federal law.** Accordingly:
- (a) The appointing authority shall determine the status of each employee, either exempt or non-exempt from overtime, using Department of Labor (DOL) and Bureau of Labor and Industries (BOLI) guidelines, and keep accurate records of FLSA status, work week and overtime. Each appointing authority shall conspicuously post notices regarding wage and hour laws as required by the DOL and BOLI.
 - (b) Exempt employees work a professional work week on a salaried basis and shall not be eligible for overtime. **An exempt employee may work a flexible and/or alternate work schedule with supervisory approval.**
 - (c) **Appointing authorities shall ensure any deduction made to an exempt employee's pay is appropriate. Unlawful deductions are prohibited. Exempt employees who believe an improper deduction has been made from their pay may submit a written complaint to their agency payroll/personnel office. The agency shall respond to the complaint within 15 calendar days of receipt. If the agency finds the deduction to be improper, it will reimburse the employee for the deduction. If the agency and employee do not agree about the deduction, the agency shall contact DAS HRSD for assistance.**
 - (d) For exempt employees, accrued leave shall be used for partial day absences due to personal reasons or because of illness or injury. If an exempt employee does not have sufficient appropriate paid leave accrued to cover the absence, the appointing authority shall reduce the employee's salary for that portion of the absence not covered by paid leave.

(e) Non-exempt employees shall be eligible for overtime when time worked is in excess of 40 hours in a workweek. Overtime shall be paid in cash at time and one half if agency budgeted funds for the payment of overtime are available. If budgeted funds for the payment of overtime are not available, such overtime shall be allowed in compensatory time off at time and one half with prior agreement of employee. The maximum number of hours that may be accumulated for compensatory time is 240 hours (480 hours for seasonal workers, fire, police and emergency response personnel). Overtime must be paid in cash when the maximum is reached. Agencies may establish their own policy setting a lower limit on the number of hours employees may accrue. At termination, compensatory time must be cashed out at the higher of the employee's final regular rate, or the average regular rate during the last three years of employment.

(f) Second job situations in state government:

(A) The state usually must pay overtime for non-exempt employees who work in two or more positions in one or more state agencies, if the employee works in excess of 40 hours in a workweek.

(i) If a state employee, working full time for one agency, applies for a second state job, the second hiring agency shall be responsible for any overtime pay liability. However, the second hiring agency may refuse to hire the employee because of potential overtime pay liability.

(ii) If a state employee, working part time for one agency, applies for a second state job, the two agencies shall mutually agree on the employee's FLSA status and any overtime pay obligation. Generally, the state agency employing the employee at the time the employee exceeds 40 hours in a work week shall pay the overtime.

(B) For non-exempt jobs, a hiring agency may hire a state employee without overtime pay liability if the following exceptions apply: (The exceptions require a difficult, fact-specific legal analysis. Contact DOJ Labor and Employment if you think these exceptions could apply.)

(i) Under the FLSA, the employee's second position is in a different capacity than the first position, and is undertaken on an occasional or sporadic basis, solely at the employee's option; or

(ii) Under the FLSA, the employee's second job is for a different state agency under circumstances where the two state agencies would be considered separate and not joint employers; and

(iii) Under Oregon law, the collective bargaining agreement expressly waives application of ORS 653.268.

(g) Supervisors and managers are responsible for assigning work and work schedules, ensuring any overtime worked is authorized. FLSA requires payment for overtime even if overtime worked is unauthorized. Employees who work unauthorized overtime must be paid for overtime worked but, depending on the circumstances, may be subject to disciplinary action.

(h) If an employee performs work which is the same or similar to their regularly assigned job duties it is considered time worked for computing overtime. State agencies shall not allow employees to volunteer to do the same work as that for which the employee is paid. If an agency allows an employee to volunteer time under such circumstances it will result in an overtime liability.

(2) Policy Clarification:

(a) Availability of budgeted funds means that payment for overtime is included in the agency's legislatively approved budget; i.e., funds specifically for the purpose of compensating employees from which overtime cash payments can be withdrawn, not funds available generally.

(b) Occasional or sporadic means infrequent, irregular or occurring in scattered instances.

- (c) Different capacity means employment that does not fall within the same general occupational category as regularly assigned duties.

(1) **Performance Measure:** Percentage of employee status and compensation records accurately kept.

Performance Standard: 100%

(2) **Performance Measure:** Percentage of overtime worked which was prior authorized.

Performance Standard: 100%

State of Oregon
DEPARTMENT OF ADMINISTRATIVE SERVICES
Human Resource Services Division



Administrative Rule: 105-020-0015 "Pick-up" of Employee Contributions to Retirement

See HRSD Permanent Rule 105-020-0015 as published by the [Secretary of State](#).



DAS Statewide Policy

SUBJECT: Position Management

NUMBER:

30.000.01

DIVISION: Human Resource Services Division

EFFECTIVE DATE:

08/05/05

APPROVED: Signature on file with the Human Resource Services Division

POLICY STATEMENT:

State agencies shall manage work assignments within the budgeted position classification levels. Accordingly, an appointing authority shall:

AUTHORITY:

ORS 240.015; 240.145(3); 240.205(1)-(5); 240.215; 240.311; 243.650(6)(16)(23)

APPLICABILITY:

Classified, management service, and unclassified executive service positions

ATTACHMENTS:

None

DEFINITIONS:

See HRSD State Policy 10.000.01, Definitions; and OAR 105-010-0000

POLICY:

- (1) State agencies shall manage work assignments within the budgeted position classification levels. Accordingly, an appointing authority shall:
 - (a) Develop and maintain a complete and current position description for each position which accurately describes the duties, authorities and responsibilities assigned by management.
 - (b) Allocate each position to the available classification that best depicts the assigned duties, authority and responsibilities and maintain written documentation of allocation decision rationale.
 - (A) Allocation, reallocation, and reclassification decision documentation shall include an accurate, current written position description and organization chart; and a clear narrative justification for the allocation based on relevant classification specifications. At a minimum, the narrative justification should include the: 1) reason for the position review or establishment; 2) information and classifications considered; 3) analysis; and 4) classification decision.
 - (c) Determine and maintain accurate statutory assignment or representation identifications of each position to include:
 - (A) Exclusion from a bargaining unit when a position meets the ORS 243.650(6), (16) or (23) definition of confidential, managerial or supervisory; or
 - (B) Assignment to the unclassified executive service when a position is in the unclassified service as specified in ORS 240.205(1), (2), (3), (4) and (5). Positions identified as principal assistants, pursuant to ORS 240.205(4), require the approval of the Director of DAS to be placed in the unclassified executive service.
 - (d) When changes in position assignment are required, plan the impact on position classification and related positions before assigning a change in duties, authorities and responsibilities.

- (e) Review position allocations periodically and correct any allocation errors.
- (f) Determine and implement the appropriate method of position change when allocating a position to a different classification as follows:
 - (A) Reclassify the position and employee when the change is based on the finding of a significant change in duties, authority, and responsibility but still requires the same knowledge and skills of the occupational area. The changes in position duties will usually have occurred gradually over a period of time.
 - (B) Simultaneously abolish an existing position and establish a new position in a different classification when a position has significantly different knowledge and skills of the occupational area. The changes in position duties will usually have occurred immediately rather than over a period of time.
 - (C) During a classification study, reallocate the position and the employee when the duties remain the same and a new classification or a revision of an existing classification results in a more appropriate allocation.
- (g) Comply with HRSD State Policies 30.005.01, Effect of Position Classification Change on Incumbents, and 20.005.10, Pay Practices.
- (h) Not utilize the classification system to resolve employee compensation issues.

(1) Performance Measure:	Percentage of complete and up-to-date position descriptions for each agency position.
Performance Standard:	100%
(2) Performance Measure:	Percentage of position allocations, reclassifications, and/or reallocations having written decision documentation which supports allocation decision.
Performance Standard:	100%
(3) Performance Measure:	Percentage of positions changed, through reclassification that meets the position change definition for reclass.
Performance Standard:	100%
(4) Performance Measure:	Percentage of unclassified executive service positions that meet requirements for placement in the unclassified executive service.
Performance Standard:	100%
(5) Performance Measure:	Percentage of positions excluded from the bargaining unit consistent with statutory definition for supervisory, managerial or confidential employee.
Performance Standard:	100%

DAS Statewide Policy

SUBJECT: Effect of Position Classification Change on Incumbents **NUMBER:** 30.005.01
DIVISION: Human Resource Services Division **EFFECTIVE DATE:** 12/26/05

APPROVED: Signature on file with the Human Resource Services Division

POLICY STATEMENT: When making position classification changes, appointing authorities shall normally maintain the incumbent in the position if no fundamental changes in duties and responsibilities have occurred. When a position change is accomplished by abolishment/establishment, an appointing authority shall vacate the position and select an incumbent in accordance with recruitment and selection rules and policies.

AUTHORITY: ORS 240.015; 240.145(3); 240.215; 240.217; 240.250; 240.321(4)

APPLICABILITY: Classified unrepresented, management service and unclassified executive service employees

ATTACHMENTS: None

DEFINITIONS: See HRSD State Policy 10.000.01, Definitions; and OAR 105-010-0000

POLICY:

(1) When making position classification changes, appointing authorities shall normally maintain the incumbent in the position if no fundamental changes in duties and responsibilities have occurred. When a position change is accomplished by abolishment/establishment, an appointing authority shall vacate the position and select an incumbent in accordance with recruitment and selection rules and policies.

(2) **Classification changes**

(a) **Reclassification**—The effective date of an approved reclassification normally is the first day of the month following the day the request is received by the designated unit of the appointing authority. An appointing authority may authorize a later effective date to reflect budgetary actions and reorganizations. An earlier date shall not be authorized. Upon reclassification, an employee shall meet the minimum qualifications of the new classification.

(A) **Pay for reclassification**—When an employee's classification is changed due to reclassification to a classification with a:

(i) Higher Salary Range

(a) A salary increase to an established rate of pay (step) within the salary range of the new classification is appropriate.

- (b) A salary increase may be made retroactively in a situation where an individual has been performing the duties of the higher classification prior to final approval of a reclassification. An appointing authority may approve "work-out-of-class" pay prior to final approval if the process is delayed due to a pending action related to permanent funding for the reclassification. See HRSD State Policy, 20.005.05, Pay Practices for calculation of "work-out-of-class".
- (c) When a position's change in duties warrants upward reclassification, but duties are removed and the reclassification is denied, the employee shall be paid for the period of time the duties of the higher classification were performed.
- (d) The current salary eligibility date (SED) is generally retained. However, if the employee's SED is no longer available because the employee was at the maximum rate in the previous classification, the last SED in the previous classification will be used.

(ii) Lower Salary Range

- (a) The employee's salary rate from the previous higher classification is normally retained when the position is reclassified to a lower classification.
- (b) If the employee's current salary rate is within the salary range of the new (lower) salary range, place the employee's new salary rate at a corresponding step in the new (lower) classification. If retaining the employee's current salary rate places them off-step in the new salary range, the employee's salary rate shall be increased at least one full step to a step in the new salary range on the next salary eligibility date (SED). The one step increase given on the employee's SED shall not exceed the top step of the new salary range.
- (c) If the employee's current salary rate is above the maximum rate of the lower classification, the employee's current salary rate is normally retained. If the employee's rate of pay is retained, the employer will red circle the rate of pay until the maximum rate of the lower classification equals or exceeds the employee's retained salary rate. At that time, the appointing authority may adjust the employee's salary rate as appropriate.
- (d) The current salary eligibility date (SED) is generally retained. However, if the employee's SED is no longer available because the employee was at the maximum rate in the previous classification, the last SED in the previous classification will be used.

(iii) Equal Salary Range

- (a) Retain the employee's current salary rate.
- (b) If retaining the employee's current salary rate places them off-step in the new salary range, the employee's salary rate shall be increased at least one full step to a step in the new salary range on the next salary eligibility date (SED). The one step increase given on the employee's SED shall not exceed the top step of the new salary range.
- (c) The current salary eligibility date (SED) is generally retained. However, if the employee's SED is no longer available because the employee was at the maximum rate in the previous classification, the last SED in the previous classification will be used.

- (b) **Misallocation**—When a position is reclassified to correct a misallocation and the incumbent meets the minimum qualifications for the new class, an appointing authority shall continue a regular or trial service incumbent in the position with the same status (regular or trial service) formerly held in the previous class. If the incumbent does not meet the minimum qualifications for the new class, but can do so within a 24-month period, the appointing authority shall assign the incumbent to the position in the new class as an underfill until the classification requirements are met. If the incumbent is in trial service at the time of the position classification change, the trial service status is unaffected. Attainment of regular status and meeting the minimum qualifications for the new classification are separate actions.

(A) **Pay for misallocation**—When an employee's classification is changed due to a misallocation to a classification with a:

(i) Higher Salary Range

- (a) The agency has the option of granting a salary increase.
- (b) The current salary eligibility date (SED) is generally retained. However, if the employee's SED is no longer available because the employee was at the maximum rate in the previous classification, the last SED in the previous classification will be used.

(ii) Lower Salary Range

- (a) The agency has the option to retain the employee's salary rate if the rate of pay they were receiving in the old (higher) classification is above the maximum rate of the new (lower) classification. If the employee's rate of pay is retained, the employer will red circle the rate until the maximum rate of the lower classification equals or exceeds the employee's retained salary rate. At that time, the appointing authority may adjust the employee's salary rate as appropriate. If the employee's salary rate is not retained, the employer shall place the employee's salary rate at a corresponding step in the new (lower) classification not exceeding the top step of the new classification.
- (b) The current salary eligibility date (SED) is generally retained. However, if the employee's SED is no longer available because the employee was at the maximum rate in the previous classification, the last SED in the previous classification will be used.

(iii) Equal Salary Range

- (a) Retain the employee's current salary rate.
- (b) If retaining the employee's current salary rate places them off-step in the new salary range, the employee's salary rate shall be increased at least one full step to a step in the new salary range on the next salary eligibility date (SED). The one step increase given on the employee's SED shall not exceed the top step of the new salary range.
- (c) The current salary eligibility date (SED) is generally retained. However, if the employee's SED is no longer available because the employee was at the maximum rate in the previous classification, the last SED in the previous classification will be used.

(c) **Reallocation**— When a position is reallocated due to a classification plan revision, an appointing authority shall continue a regular or trial service incumbent in the position with the same status (regular or trial service) formerly held in the previous classification. The effective date of an approved reallocation normally is the first day following the implementation of a classification plan revision. An earlier effective date shall not be authorized.

(A) **Pay for Reallocation**—When an employee's classification is changed due to a reallocation to a classification with a:

(i) Higher Salary Range

- (a) If the employee's current salary rate is within the new (higher) salary range, retain the employee's salary rate and salary eligibility date.

- (b) If retaining the employee's current salary rate places them off-step in the new salary range, the employee's salary rate shall be increased at least one full step to a step in the new salary range on the next salary eligibility date (SED). The one step increase given on the employee's SED shall not exceed the top step of the new salary range.
- (c) If the employee's current salary rate is below the first step of the new (higher) salary range, place the employee's rate at the first step of the new salary range and set a new salary eligibility date based on the employee's status.

(ii) Lower Salary Range

- (a) Retain the employee's current salary rate.
- (b) If the employee's current salary rate is within the salary range of the new (lower) salary range, place the employee's new salary rate at a corresponding step in the new (lower) classification. If retaining the employee's current salary rate places them off-step in the new salary range, the employee's salary rate shall be increased at least one full step to a step in the new salary range on the next salary eligibility date (SED). The one step increase given on the employee's SED shall not exceed the top step of the new salary range.
- (c) If the employee's current salary rate is above the maximum rate of the lower classification, the employee's current salary rate shall be retained. The employer will red circle the rate of pay until the maximum rate of the lower classification equals or exceeds the employee's retained salary rate. At that time, the appointing authority may adjust the employee's salary rate as appropriate.
- (d) The current salary eligibility date (SED) is generally retained. However, if the employee's SED is no longer available because the employee was at the maximum rate in the previous classification, the last SED in the previous classification will be used.

(iii) Equal Salary Range

- (a) Retain the employee's current salary rate.
- (b) If retaining the employee's current salary rate places them off-step in the new salary range, the employee's salary rate shall be increased at least one full step to a step in the new salary range on the next salary eligibility date. The employee's salary rate due to the one step increase shall not exceed the top step of the new salary range.
- (c) The current salary eligibility date (SED) is generally retained. However, if the employee's SED is no longer available because the employee was at the maximum rate in the previous classification, the last SED in the previous classification will be used.

(3) Effects of position change on the unclassified executive service

- (a) A regular status classified unrepresented or management service employee occupying a position that is placed in the unclassified executive service without a significant change in duties and responsibilities shall be directly appointed to the position in the unclassified executive service.
- (b) An unclassified executive service employee occupying a position that is abolished from the unclassified executive service and established in the classified unrepresented or management service shall be terminated in accordance with HRSD State Policy [40.035.01, Unclassified Service Employment and Termination](#), but may be eligible for restoration in accordance with HRSD State Policy 50.030.01, Restoration of Terminated Employees.
 - (i) If the abolishment/establishment occurred without a significant change in position duties and responsibilities, the appointing authority may directly appoint the employee to the position in the classified unrepresented or management service.

- (c) An unclassified executive service employee occupying a position that is abolished and re-established in the unclassified executive service without a fundamental change in position duties and responsibilities may be directly appointed to the position.

(4) Appeal rights

- (a) An appointing authority shall establish a procedure for employees to appeal classification decisions including allocation to a new or revised classification. The procedure shall include the following:
 - (A) The employee shall submit a written appeal request within 15 calendar days of the receipt of the final classification decision notification.
 - (i) The request shall identify the agency classification decision and include a narrative describing the classification believed to be correct.
 - (B) An agency shall issue a final determination within 30 calendar days from the date of the employee appeal request.
- (b) A classified unrepresented employee may also appeal an agency classification decision directly to the Employment Relations Board in accordance with OAR 115-045-0020.

Performance Measure: Percent of pay decisions set forth and maintained in writing.

Performance Standard: 100%

State of Oregon
DEPARTMENT OF ADMINISTRATIVE SERVICES
Human Resource Services Division



Administrative Rule: 105-040-0001 Equal Employment Opportunity and Affirmative Action

See HRSD Permanent Rule 105-040-0001 as published by the [Secretary of State](#).

Performance Measure: Percentage of under-utilized EEO categories at the beginning of fiscal year versus under-utilized EEO categories at end of fiscal year.

Performance Standard: Quantitative progress in meeting affirmative action goals.

(The performance measure and standard cited above are not a part of the official rule. This information appears only on internal copies for administrative purposes.)

State of Oregon
DEPARTMENT OF ADMINISTRATIVE SERVICES
Human Resource Services Division



Administrative Rule: 105-040-0010 Recruitment and Selection Process

See HRSD Permanent Rule 105-040-0010 as published by the [Secretary of State](#).

Performance Measure: Percentage of delegated recruitments conducted in accordance with applicable laws and rules.

Performance Standard: 100%

(The performance measure and standard indicated above are not a part of the official rule. This information appears only on internal copies for administrative purposes.)

State of Oregon
DEPARTMENT OF ADMINISTRATIVE SERVICES
Human Resource Services Division



State Policy: 40.010.01 Recruitment and Selection Record Retention

APPLICABILITY: State Agency Appointing Authorities

REFERENCE: ORS [192.105](#); [192.501](#); 240.145(3); 240.250; 240.321(2); and 240.990; OAR 105-[040-0010](#); 105-[040-0030](#); 105-[040-0040](#); and 166-300-0040([16](#))

(1) **Policy:** An appointing authority is responsible for ensuring documentation of all required recruitment and selection activities is retained.

(a) Appointing authorities shall ensure materials used to recruit, test, interview, and check applicant references for each recruitment are retained for the appropriate period of time. These materials shall include, but are not limited to:

(A) Graded applications, rejected applications, interview notes, [tests and applicant reference check records](#) (retain 2 years);

(B) Dispositioned certificate of eligibles (retain 3 years);

(C) At least one copy of the announcement and all documentation relating to the announcement (retain 10 years);

(D) All documentation relating to the test and rating levels (retain 10 years); and

(E) A copy of the position description (retain 10 years).

(b) Agencies may adopt or adapt the Model Recruitment and Selection Process Documentation Checklist which is an addendum to this policy or they may develop their own.

(2) **Policy Clarification:**

(a) Documentation from interviews includes interview questions, rating criteria, interview notes, rating sheets, [and applicant reference check records](#).

(b) Documentation related to the test and rating levels includes the questions, criteria, and notes from conversations with subject matter experts (SMEs).

Model Recruitment and Selection Process Documentation Checklist

Position Number	Class Number	Type of Appointment Permanent Temporary Limited Duration Seasonal Fulltime Parttime Job Share		
Announcement Number		Date Opened	Date Posted	Date Closed
List Type	Cert. Number	Date of Cert.	Comments	
Injured Worker				
Agency Layoff				
Statewide Reemployment				
Open Competitive				
Statewide Transfer				
Statewide Promotion				
Agency Promotion				
Other				

- ☐ Copy of current position description.
- ☐ Copy of announcement.
- ☐ Documentation related to the test and rating levels (e.g., questions, criteria, subject matter expert (SME) documentation).
- ☐ Graded applications.
- ☐ Rejected applications.
- ☐ Interview questions, rating criteria, interview notes, **tests**, and rating sheets.
- ☐ Dispositioned certificate of eligibles.
- ☐ **Applicant reference check records.**
- ☐ Other documentation (list below)

State of Oregon
DEPARTMENT OF ADMINISTRATIVE SERVICES
Human Resource Services Division



Administrative Rule: 105-040-0015 Veteran's Preference in Employment

See HRSD Rule 105-040-0015 as published by the [Secretary of State](#).

Performance Measure: Percentage of delegated recruitments conducted in accordance with applicable laws and rule 105-040-0015.

Performance Standard: 100%

Performance Measure: Percentage of applicant requests responded to in writing within 30 days of receipt.

Performance Standard: 100%

(The performance measure and standard indicated above are not a part of the official rule. This information appears only on internal copies for administrative purposes.)

State of Oregon
DEPARTMENT OF ADMINISTRATIVE SERVICES
Human Resource Services Division



Administrative Rule: 105-040-0020 Types and Order of Applicant Lists

See HRSD Permanent Rule 105-040-0020 as published by the [Secretary of State](#).

Performance Measure: Percentage of vacant positions filled having documentation on file to support that the appropriate order of lists was applied.

Performance Standard: 100%

(The performance measure and standard indicated above are not a part of the official rule. This information appears only on internal copies for administrative purposes.)

SUBJECT: Temporary Appointments	NUMBER: 40.025.01
DIVISION: Human Resource Services Division	EFFECTIVE DATE: 2/18/11
APPROVED: Signature on file with the Human Resource Services Division	

POLICY STATEMENT: Agencies may make temporary non-status, noncompetitive appointments to meet workload needs that are emergency, nonrecurring, or short-term when the use of existing positions, or establishing new positions, is not appropriate or feasible.

AUTHORITY: ORS 180.140 (3), 238.082, 240.307 and 240.309; OAR 105-040-0040(C), 115-045-0017 and 839-006-0146

APPLICABILITY: All temporary employees where not in conflict with an applicable collective bargaining agreement

ATTACHMENTS: PD 412 "Conditions of Temporary Appointment"; PD412A "Temporary Appointment Extension"

DEFINITIONS:

"Emergency need": a sudden and unanticipated workload need.

"Nonrecurring need": a special one-time project that requires additional staff.

"Short-term workload need": covering workload for less than six months.

See also State HR Policy 10.000.01 Definitions; and OAR 105-010-0000

POLICY

- (1) An appointing authority may make a temporary appointment in the following situations:
 - (a) A workload need exists that is emergency, nonrecurring or short-term.
 - (b) Using an existing position, or establishing a new position, is not appropriate or feasible.
- (2) An appointing authority or designee first offers the appointment to persons who meet minimum qualifications, and whose names appear on applicable agency layoff lists. If no qualified person's name appears on the layoff list(s), the appointing authority or designee may use other recruitment sources consistent with affirmative action practices.
- (3) Beyond an agency's requirement to offer the appointment to persons on applicable agency layoff lists when making an appointment, agencies **should** consider persons on the appropriate lists of applicants and re-employment lists referenced in Oregon Administrative Rule 105-040-0020, Types and Order of Applicant Lists.

- (4) Agencies must pay temporary employees at an hourly rate (for FLSA non-exempt work) or a salary rate (for FLSA exempt work) equivalent to an appropriate step within the range for the classification of the work performed.
- (5) A temporary employee, other than one filling in behind an employee on approved leave, may not work beyond six calendar months for the same workload need. An appointing authority may extend a temporary appointment beyond six calendar months (not to exceed 1,040 hours) for the same emergency workload need when all of the following conditions are met:
 - (a) The original emergency continues to exist.
 - (b) No other reasonable means exists to meet the emergency.
 - (c) Using an existing position or establishing a new position is not appropriate or feasible.
 - (d) A limited duration appointment in a permanent position is not appropriate or feasible.
- (6) If an extension is necessary, the appointing authority must approve it in a timely manner to ensure uninterrupted continuation of the appointment.
- (7) Employment of a temporary employee for different workload needs may not exceed the equivalent of six calendar months (1,040 hours) in a 12-month period.
- (8) An agency may make a temporary appointment to fill behind an employee on approved leave. Such an appointment may continue beyond six months (1,040 hours) only when the temporary employee replaces an employee on approved leave. The temporary appointment may not exceed the period of the approved leave.
- (9) The Department of Justice, the Office of Administrative Hearings, and the Public Utilities Commission may use a temporary appointment for a student law clerk for a period not to exceed 24 months.
- (10) The Department of Justice may use a temporary appointment for assistants trained in the law for a period not to exceed 15 months.
- (11) A state agency may use temporary appointments for a period not to exceed 48 months for student interns enrolled in high school or under 19 years of age and training to receive a General Educational Development (GED) certificate. (Student interns are not eligible for benefits under ORS 243.105 to 243.285.)
- (12) The Oregon Military Department appoints temporary status to members of the organized militia who are ordered to active state duty. These appointments are not subject to ORS 240 or ORS 243.650 to ORS 243.782 (Collective Bargaining). The limitation on employment imposed by ORS 238.082 (2) does not apply to a retired member of PERS who attained normal retirement age and is on active state duty.
- (13) The appointing authority or designee provides proper documentation to temporary employees for every temporary appointment and extension. Complete Form PD 412, Conditions of Temporary Appointment, and PD 412A, Temporary Appointment Extension (addendums to this policy) for every temporary appointment and extension (see applicable collective bargaining agreement). The agency provides a copy of the completed and signed forms to the employee and maintains originals in the employee's personnel file.
- (14) At the time of appointment, the appointing authority or designee provides written notice to the employee of the right to file a complaint alleging violations of ORS 240.309. Written notice is contained on Form PD 412, an addendum to this policy. Providing the employee a copy of Form PD 412 fulfills the written notice requirements for the employer.

- (15) An employee who believes that the terms and conditions of the temporary employment in any way violate the provisions of ORS 240.309 may file a written complaint with the Employment Relations Board within 30 days after the employee knew or should have known of the alleged violation. For SEIU-represented temporary employees, **the Union files** grievances alleging violations of ORS 240.309 directly with the Department of Administrative Services for full and final review.
- (16) Policy Clarification
- (a) An employee, who worked the equivalent of six calendar months in a 12-month period, may work again as a temporary employee of the **state** during subsequent 12-month periods beginning from the initial date of appointment. For purposes of temporary appointments, **state government** is one employer. A temporary employee may not work more than the equivalent of six calendar months in a 12-month period for any single or combination of **state** agencies except for temporary appointments made to fill in behind an employee on approved leave.
 - (b) A temporary employee who suffers an injury on the job, files for worker's compensation and seeks to return to temporary employment upon release, has return rights that extend only to the period of appointment remaining on the written notice provided at **the** time of appointment.
 - (c) An employer found to be in violation of ORS 240.309 by the Employment Relations Board may be required to pay an affected employee damages for any lost wages, benefits, and rights.
 - (d) For purposes of retirement, **generally, Tier 1 and Tier 2 retirees (ORS 238.082) are limited to 1,039 hours and Oregon Public Service Retirement Plan (OPSRP) retirees are limited to 599 hours (ORS 238A.245)** of temporary employment per calendar year. ORS 238.082 provides exceptions to this general rule, including: state work in a correctional institution; State Police work located in a county with less than 75,000 inhabitants; or where the retired member is employed to temporarily replace an employee called to active federal duty in the National Guard or in a reserve unit of the United States Armed Forces. However, temporary appointments of retirees made pursuant to **ORS 238.082 and ORS 238A.245** still must comply with ORS 240.309, this policy, and may not exceed the equivalent of six calendar months (1,040 hours) in a 12-month period unless filling behind an employee on an approved leave.
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State of Oregon
DEPARTMENT OF ADMINISTRATIVE SERVICES
Human Resource Services Division



State Policy: 40.025.05 School-to-Work: Career-Related Learning

APPLICABILITY: State Agencies

REFERENCE: ORS 240.145(3); BOLI Regulations; HRSD Policies 40.025.01, 20.005.20

(1) **Policy:** It is the policy of the State of Oregon that we, as an employer, recognize the importance of enhancing work-based learning opportunities through creating and maintaining relationships with public and private schools that promote an effective and efficient workforce in state government through a School-to-Work: Career-Related Learning Program.

(a) Each agency is encouraged to develop an agency plan which promotes participation in and support of work-based learning activities for students and educators. The plan may allow employees the flexibility to participate in associated activities offsite and not directly work-related.

(b) An agency plan should:

(A) Consider the business needs of the organization while creating meaningful work experience opportunities for participants.

(B) Ensure that participants (paid or unpaid) in the Program do not displace permanent employees.

(C) Be applied consistently throughout the agency.

(D) Be communicated to all employees.

(c) Agencies are not required to submit their plans to the Division for approval, but are encouraged to work with the Division to prepare and administer their plans.

(d) Agencies may adopt or adapt the Model School-to-Work: Career-Related Learning Program Plan which is an addendum to this policy or they may develop their own.

(2) Policy Clarification:

(a) Agencies should consult their internal risk coordinator to determine the liability to the state under the different circumstances of employment of participants in the program.

(b) Agencies should adopt internal policies which allow employees the flexibility to participate in mentoring or other offsite activities on their own time while adhering to HRSD Policy 20.005.20, "Fair Labor Standards Act."

(c) Paid participants in the School-to-Work: Career-Related Learning Program will have temporary status (see HRSD Policy 40.025.01) unless hired into a budgeted student worker position.

(d) Where unpaid participants in the Program receive the primary benefit of the placement, (e.g., practicum, internship, job shadow), they may not have volunteer status. Check with the school or university to determine liability and injury coverage. All other unpaid participants will have volunteer status.

MODEL PLAN
SCHOOL-TO-WORK: CAREER-RELATED LEARNING PROGRAM

- (1) It is the policy and commitment of this agency to establish a work-based learning program that is mutually beneficial to state employees, students, and educators.
- (2) To achieve this commitment, this program is established consistent with State Policy 40.025.05 and shall serve as the agency's School-to-Work: Career-Related Learning Program. The agency shall:
 - (a) identify an agency program coordinator who will work with the state program manager;
 - (b) adopt and maintain an agency policy that allows employees reasonable flexibility to participate in mentoring or other offsite program activities on personal time;
 - (c) advocate voluntary participation in career-related learning activities within the agency;
 - (d) consider the business needs of the agency while creating meaningful program opportunities for students;
 - (e) initiate common understanding of the program mission, program goals, and education standards;
 - (f) provide representation on the state program team and committees;
 - (g) provide orientation and training for agency employees;
 - (h) provide adequate technology to the agency coordinator to support training;
 - (i) provide flexibility and support for unique departmental approaches;
 - (j) communicate program-related resources to employees;
 - (k) facilitate student placements in the worksite;
 - (l) create employee networking opportunities to share resources and practices;
 - (m) encourage participation in education reform training, workshops, and conferences;
 - (n) initiate a program measure strategy that is consistent with and ties to the state program measures;
 - (o) manage agency data collection and report to the state program manager; and
 - (p) provide opportunities for leadership and professional development for agency employees who create successful work-based learning environments for students and educators.
- (3) The School-to-Work: Career-Related Learning Program components include:
 - (a) matching student placements based on student's identified focused area of study;
 - (b) progressive skill mastery for participants;
 - (c) broad instruction in a variety of elements of an industry;
 - (d) agency familiarity with education standards;
 - (e) workplace mentoring;
 - (f) instruction in general workplace competencies;
 - (g) planned training program;
 - (h) internships, paid and unpaid;
 - (i) reflection of the agency program for recruitment and retention of a diverse pool of qualified, skilled employees;
 - (j) work-based curriculum to support school-based curriculum, where applicable;
 - (k) planned training agreements for long-term work-based learning placements in conformance with the state program guidelines;
 - (l) a certificate of skill mastery, where applicable.

DAS Statewide Policy

SUBJECT: Unclassified Service Employment & Termination **NUMBER:** 40.035.01
DIVISION: Human Resource Services Division **EFFECTIVE DATE:** 01/01/06

APPROVED: Signature on file with the Human Resource Services Division

POLICY STATEMENT: Unclassified employees under ORS 240.205 [excluding subsection (10)] who are unrepresented or excluded from collective bargaining shall serve at the pleasure of the Governor or the agency appointing authority. (This includes employees in positions designated as Unclassified Executive Service in HRSD State Policy 30.000.01, Position Management.)

AUTHORITY: ORS 240.145(3); 240.205; 240.240; 240.570

APPLICABILITY: Unclassified employees under ORS 240.205 [excluding subsection (10)] who are unrepresented or excluded from collective bargaining.

ATTACHMENTS: None

DEFINITIONS: See HRSD State Policy 10.000.01, Definitions; OAR 105-010-0000 and OAR 105-040-0020

POLICY:

- (1) Unclassified employees under ORS 240.205 [excluding subsection (10)] who are unrepresented or excluded from collective bargaining shall serve at the pleasure of the Governor or the agency appointing authority. (This includes employees in positions designated as Unclassified Executive Service in HRSD State Policy 30.000.01, Position Management.)
 - a) No rule or policy of the Division is applicable to these employees unless the rule or policy specifically so indicates.
 - b) Although some personnel rules or policies indicate applicability to the unclassified service for purposes of establishing management directives and/or implementing statutory provisions pertaining to the unclassified service, nothing in those rules or policies creates any type of employment contract, express or implied, or gives these unclassified employees the right to be employed for any specific period of time.
- (2) Unclassified employees serve at the pleasure of the Governor or the agency appointing authority and may be terminated at any time.
- (3) Unclassified employees terminated due to a reduction in force or reorganization may request placement on the statewide reemployment layoff list for the same classification or same, equal, or lower salary range number. The employee shall submit an application (PD100) identifying the classification(s) requested. The agency appointing authority shall provide the employee with the results of the minimum qualifications assessment and place the employee on the statewide reemployment layoff list for the qualifying classifications as per OAR 105-040-0020(c).

State of Oregon
DEPARTMENT OF ADMINISTRATIVE SERVICES
Human Resource Services Division



Administrative Rule: 105-040-0030 Use of Applicant Lists

See HRSD Permanent Rule 105-040-0030 as published by the [Secretary of State](#).

Performance Measure: Percentage of certificates correctly dispositioned in recruitment files and with appointing authority's signature.

Performance Standard: 100%

(The performance measure and standard indicated above are not a part of the official rule. This information appears only on internal copies for administrative purposes.)

State of Oregon
DEPARTMENT OF ADMINISTRATIVE SERVICES
Human Resource Services Division



Administrative Rule: 105-040-0040 Types of Appointments

See HRSD Permanent Rule 105-040-0040 as published by the [Secretary of State](#).

To view a sample of the Limited Duration Agreement please use the following link:

<http://www.oregon.gov/DAS/CHRO/pages/forms.aspx>.

State of Oregon
DEPARTMENT OF ADMINISTRATIVE SERVICES
Human Resource Services Division



State Policy: 40.045.01 Transfers

APPLICABILITY: Classified unrepresented and management service employees

REFERENCE: Administrative Rule 105-40-010

(1) **Policy:** The Administrator and/or individual state agencies may provide for transfer of employees, when appropriate, to provide for the most efficient and effective use of employee resources and may establish transfer processes as appropriate.

(a) The transfer process shall be completed with no more than a **15** calendar-day break in service.

(b) Statewide Transfer

Eligibility for placement on the statewide transfer list (TR) shall be based on the classifications for which the employee is qualified of the same, equal, or lower salary range number. For classified represented employees, use of the transfer list shall not be in conflict with an applicable collective bargaining agreement. **See Section (2)(b) of this policy for employees whose positions have been reallocated due to a classification plan implementation.**

(c) Internal Transfer

Individual agencies may establish their own internal process and communicate it to their employees.

(d) Notice of Transfer

(A) A classified unrepresented employee shall be given 45 calendar days notice of an involuntary geographic transfer.

(B) A management service employee may be transferred for the good of the service with advance notice determined by the appointing authority.

(2) **Policy Clarification:**

(a) **Agencies are encouraged to allow employees who have been targeted for layoff or have been demoted in lieu of layoff the opportunity to be considered for positions in different classifications, geographic locations, and agencies consistent with reemployment eligibility.**

(b) **Employees whose positions have been reallocated as part of a classification plan implementation shall be eligible to be placed on the statewide transfer list (TR) for the reallocated classification in which they currently hold regular status.**

State of Oregon
DEPARTMENT OF ADMINISTRATIVE SERVICES
Human Resource Services Division



Administrative Rule: 105-040-0050 Direct Appointment

See HRSD Permanent Rule 105-040-0050 as published by the [Secretary of State](#)

- (1) **Performance Measure:** Percentage of direct appointments meeting the rule criteria.
Performance Standard: 100%
- (2) **Performance Measure:** Percentage of direct appointments to professional level positions or for critical timing reasons.
Performance Standard: The number of direct appointments to professional positions or for critical timing reasons shall not exceed 10% of the agency's total appointments.

(The performance measures and standards indicated above are not a part of the official rule. This information appears only on internal copies for administrative purposes.)

DAS Statewide Policy

SUBJECT: Appointment to the Unclassified Executive Service **NUMBER:** 40.055.01
DIVISION: Human Resource Services Division **EFFECTIVE DATE:** 1/17/06

APPROVED: Signature on file with the Human Resource Services Division

POLICY STATEMENT: It is the policy of the State of Oregon to recruit competitively for unclassified executive service positions, create diverse applicant pools, and achieve the Affirmative Action goals of the service.

AUTHORITY: ORS 240.145(3); 240.205(1)(2)(3)(4)(5); 240.570; OAR 105-040-0001(2)(3)

APPLICABILITY: Unclassified Executive service positions as specified in ORS 240.205 (1), (2), (3), (4), and (5)

ATTACHMENTS: None

DEFINITIONS: See HRSD State Policy 10.000.01, Definitions; and OAR 105-010-0000

POLICY:

- (1) It is the policy of the State of Oregon to recruit competitively for unclassified executive service positions, create diverse applicant pools, and achieve the Affirmative Action goals of the service.
 - (a) The standard method for filling an unclassified executive service position shall be through a competitive recruitment process.
 - (A) Unclassified Executive Service is defined in HRSD State Policy 30.000.01, Position Management as positions specified in ORS 240.205 (1), (2), (3), (4) and (5).
 - (B) Recruitment plans shall include proactive recruitment strategies designed to attract a talented and diverse applicant pool. The recruitment process shall be documented and maintained in the recruitment file.
 - (i) Proactive steps to develop diverse applicant pools require the use of outreach strategies such as targeted newspapers, professional organizations, employee networks, community organizations, and resume banks.
 - (ii) Where appropriate, applicant accomplishments in the area of promotion of diversity should be considered in the selection process.
 - (C) A good faith effort shall be made to have diverse representation on screening and interview panels.
 - (D) Recruitment efforts for an agency head will be conducted by the Statewide Recruitment Services Section of the Division in conjunction with the agency. The agency may request to conduct the recruitment with oversight by the Statewide Recruitment Services Section of the Division.
 - (b) The agency head has the delegated authority and discretion to make an appointment to fill an unclassified

executive service position provided the criteria **listed in (b)(A) or (B) is met.**

(A) **The appointment must meet one of the following criteria:**

- (i) **A recent competitive recruitment results in no suitable candidates as determined, documented, and certified by the agency head. To be considered recent, a competitive recruitment must have been completed within the previous six (6) months. or**
- (ii) **The appointment is made consistent with a court or administrative order, consent decree, court or administrative settlement, or negotiated tort claim settlement; or**
- (iii) **The position requires special or unique skills at the professional level. Special or unique skills at the professional level are those which require specialized knowledge typically acquired from college coursework at the bachelor degree level or beyond; or**
- (iv) **The position being filled has critical timing requirements affecting recruitment. Critical timing requirements affecting recruitment means that the position is critical to agency operations and there is a demonstrated need to fill the position quickly.**

(B) A request for an exception to the standard **competitive** recruitment method for reasons other than stated in section (b)(A) above shall be submitted to the **DAS** Director prior to making the appointment.

(c) An appointment to unclassified executive service positions made under Section (1)(b) of this policy shall be documented. The documentation shall be retained for a minimum of three (3) years. The documentation shall cite the applicable criteria, supporting facts, the qualifications of the individual selected, and the agency appointing authority authorization signature. A completed Appointment to Unclassified Executive Service form (an addendum to this policy) with appropriate attachments may serve as such documentation.

(1) Performance Measure:	Number of appointments made through an exception to the competitive recruitment process versus number of appointments made through a competitive recruitment process.
Performance Standard:	Minimal
(2) Performance Measure:	Percent of appointments made with documentation showing the appointment met the appropriate criteria in Section 1(b).
Performance Standard:	100%
(3) Performance Measure:	Percent of appointments that have documentation on the recruitment process on file.
Performance Standard:	100%

Documentation of Appointment to Unclassified Executive Service

1. AGENCY NAME:	2. AGENCY NUMBER:
3. HIRING MANAGER:	4. PHONE NUMBER:
5. POSITION CLASSIFICATION TITLE AND NUMBER:	6. POSITION NUMBER:

7. COMPETITIVE RECRUITMENT METHOD (PPDB = B):

☐ a. ANNOUNCEMENT #: _____

PLEASE DESCRIBE RECRUITMENT METHODS USED THAT DEMONSTRATE PROACTIVE STRATEGIES TO PROMOTE DIVERSITY: (Please feel free to attach additional pages.)

ORIGINAL APPLICANT POOL:	FINALIST APPLICANT POOL:	DATES OF RECRUITMENT:
TOTAL APPLICANTS _____	TOTAL APPLICANTS _____	OPEN: _____
TOTAL FEMALE _____	TOTAL FEMALE _____	CLOSE: _____
TOTAL MALE _____	TOTAL MALE _____	DATES OF INTERVIEWS:
TOTAL MINORITY _____	TOTAL MINORITY _____	1 ST ROUND: _____
TOTAL DISABLED _____	TOTAL DISABLED _____	2 ND ROUND: _____
TOTAL UNKNOWN _____	TOTAL UNKNOWN _____	

INTERVIEW PANEL: MEMBERS: _____

☐ b. APPOINTMENT PURSUANT TO HRSD STATE POLICY 40.055.01, APPOINTMENT TO UNCLASSIFIED EXECUTIVE SERVICE: (Please indicate applicable criteria and attach supporting documentation) (PPDB Code = D)

- ☐ FAILED OPEN COMPETITIVE RECRUITMENT (**HRSD State Policy 40.055.01(1)(b)(A)(i)**); or
- ☐ COURT OR ADMIN ORDER/SETTLEMENT/CONSENT DECREE (**HRSD State Policy 40.055.01(1)(b)(A)(ii)**); or
- ☐ POSITION REQUIRES UNIQUE/SPECIAL SKILLS AT PROFESSIONAL LEVEL (**HRSD State Policy 40.055.01(1)(b)(A)(iii)**); or
- ☐ CRITICAL TIMING REQUIREMENTS AFFECTING RECRUITMENT (**HRSD State Policy 40.055.01(1)(b)(A)(iv)**).

☐ c. **AN EXCEPTION TO THE STANDARD RECRUITMENT METHOD HAS BEEN** APPROVED BY **THE** DAS **DIRECTOR** FOR REASONS NOT INCLUDED IN HRSD STATE POLICY 40.055.01(1)(b)(A)(i-iv). (Attach request and approval to this form.) (PPDB Code = A)

8. APPOINTEE NAME:	9. DATE OF OFFER: _____	10. SALARY OFFERED: _____
	START DATE: _____	SALARY ACCEPTED: _____

11. SIGNATURES:

SUPERVISOR'S PRINTED NAME AND SIGNATURE	DATE	PHONE NUMBER
APPOINTING AUTHORITY PRINTED NAME AND SIGNATURE	DATE	PHONE NUMBER

SUBJECT:	Current or Recalled Employee Relocation	NUMBER:	40.055.10
DIVISION:	Chief Human Resources Office	EFFECTIVE DATE:	July 10, 2014

APPROVED: Signature on file with the Chief Human Resources Office

POLICY STATEMENT: The agency director or designee may provide relocation allowances to employees for the benefit of an agency.

AUTHORITY: ORS 240.145(3); 240.250; 240.306; IRS Title 26, Section 217; IRS Publication 521

APPLICABILITY: Classified unrepresented, management service, unclassified executive service employees, and classified represented where not in conflict with the collective bargaining agreement

ATTACHMENTS:

- Guide for Determining Reimbursable Miscellaneous Relocation Expenses
- Sample Relocation Agreement Form – Current or Recalled Employees

DEFINITIONS: See State HR Policy 10.000.01, Definitions; and OAR 105-010-0000

POLICY:

- (1) An agency director must administer this policy as the agency's policy for current employee's relocation.
- (2) **Relocation by the Agency**
 - (a) **Moving Logistics**
 - (A) When the agency relocates an employee to a new official work site, the agency will reimburse the employee for reasonable moving expenses.
 - (B) The new work site must be at least 50 miles farther from the employee's former residence than the old work site was from the same residence. For example, if the old work site was three miles from the former residence, the new work site must be at least 53 miles from the former residence. This provision for relocation 50 or more miles from the previous work site does not apply if the employee is required to move into state-owned housing.
 - (C) Employees must provide receipts for all moving expenses and be reimbursed directly through the payroll system. The agency must process all moving expense reimbursements and pay the employee either within the same tax year in which the move occurred or within the first quarter of the following tax year.
 - (D) Employees may request and receive a moving expense advance from the agency's payroll system similar to a travel advance.

- (E) If an employee does not move his or her residence within six months from the date an employee reports to the new official work site, the employee is not eligible for moving expense reimbursement.
 - (i) The employee may submit a written request to extend the period up to an additional six months for good cause. The agency must receive the request for extension at least 30 days prior to the end of the initial six months.
 - (ii) The agency has authority to grant an extension.
- (b) **Tax Issues.** The agency must notify employees that all or part of the reimbursement may be considered taxable income by the Internal Revenue Service. The agency will report the reimbursements on the employee's Form W-2. Employees are encouraged to seek professional tax advice on their own tax liabilities and allowable tax deductions.
- (c) **Paid Time.** Agencies may allow up to ten days of paid leave to effect the move, including searching for temporary living quarters, house hunting, and the transporting of personal belongings.
- (d) **Relocation Notice**
 - (A) The agency must give the employee a minimum of 45-days notice of relocation.
 - (B) If the agency rescinds an employee's written relocation notice, the agency must compensate the employee for all moving expenses incurred which are reimbursable under this policy. Employees must provide the agency with the required receipts for the moving expenses claimed.
- (e) **Temporary Living Quarters**
 - (A) If the agency requires the employee to begin work at the new work site within the 45-day notice period and the employee finds temporary living quarters, the agency will reimburse the employee at instate travel reimbursement allowances for meals and lodging.
 - (B) If both the employee and the employee's family members move to the temporary living quarters, the agency must reimburse the employee at one and one-half times the instate travel allowances for meals and lodging.
 - (C) Employees who provide their own lodging must receive reimbursement according to the state reimbursement allowance for non-commercial lodging accommodations. The reimbursement for employees with accompanying household members is one and one-half the allowance for non-commercial lodging accommodations.
 - (D) The allowances will continue until the employee has moved his or her belongings, but will not extend beyond the 45-day notice period. On a case-by-case basis, the agency authority or designee may consider requests to extend the allowances up to a maximum of 60 days.
- (f) **Relocation of Manufactured Homes.** The agency must pay for the relocation of mobile homes including breakdown and setup. The agency will also pay the cost of rented moving trailers and freight charges for transportation of appliances or other large household equipment.
- (g) **House Hunting**
 - (A) The agency will reimburse employees for house hunting expenses incurred in finding a new place of residence when relocated by the agency. House hunting expenses are expenses incurred when the

employee travels to the new location in order to seek a new residence. The following provisions apply to house hunting:

- (i) The agency will reimburse at instate travel reimbursement allowances for meals and lodging. Employees with accompanying household members are allowed twice the state meal allowances and one and one-half times the state lodging allowance.
- (ii) Employees who provide their own lodging will be reimbursed at the state reimbursement allowance for non-commercial lodging accommodations. The reimbursement for employees with accompanying household members is one and one-half the allowance for non-commercial lodging accommodations.
- (iii) Private vehicle mileage is reimbursable for up to two round trips made by the employee, at the state reimbursement rate for private vehicle mileage. Reimbursement will be made at the full GSA [rate](http://www.irs.gov/2014-Standard-Mileage-Rates-for-Business,-Medical-and-Moving-Announced) in effect at the time of travel. <http://www.irs.gov/2014-Standard-Mileage-Rates-for-Business,-Medical-and-Moving-Announced>. The agency must reimburse private vehicle mileage for house hunting travel at the destination, up to a maximum of 200 miles.
- (iv) The agency may not reimburse employees for house hunting expenses while the employee receives temporary living expenses.

(h) **Personal Household Belongings**

- (A) The agency must pay or reimburse for the moving of the personal household belongings up to a maximum of 20,000 pounds. If the movers estimate that personal belongings exceed the maximum limitation, the agency must submit a request for additional payment to the DAS Director for consideration, based on reasonable need.
- (B) If the employee shows an actual and reasonable need to have the personal household belongings stored before delivery to the new residence, the agency director or designee may authorize storage. The agency must pay for such storage and incidental handling charges within the authorized weight for a period of up to 90 days. The employee must pay any charges for storage in excess of 90 days. Regardless of the length of storage, the agency must pay to move the household belongings from such storage to the employee's new residence.

- (i) **Packing, Crating and Unpacking.** The agency must pay or reimburse for packing, crating, and unpacking for the moving of the personal household belongings up to \$1,500 per move. A request for reimbursements that exceed the limit shall be submitted by the agency to the DAS Director for consideration.
- (j) **Additional Moving Expenses.** The agency must pay for full value insurance, appliance blocking charges, and extra handling charges for items such as pianos. The agency director or designee must approve all additional moving charges to be reimbursed up to \$2,000. The agency may submit a request to the DAS Director for consideration of additional moving expenses that exceed the limit.
- (k) **Vehicles.** In addition to mileage reimbursement provided in (2)(g), the agency must pay one-way private vehicle mileage from the old to the new residence for a maximum of two private vehicles. The state's moving mileage rate mirrors the federal rate; the state will update that rate to match any future change in the federal rate. The current moving mileage (not the business rate) is available at <http://www.irs.gov/2014-Standard-Mileage-Rates-for-Business,-Medical-and-Moving-Announced>. (To calculate the one-way mileage, use an Internet mapping program (e.g., www.mapblast.com, or a similar program) or an atlas. You may also use a general mileage chart that shows the distance between the two cities involved. Retain a copy of the website results or a copy of the atlas/map mileage chart to document the mileage to be

reimbursed. An employees who lacks computer access should contact his or her supervisor for assistance in obtaining mileage information.

- (l) **Miscellaneous Expenses.** Employees may be eligible for reimbursement of miscellaneous relocation expenses up to \$5,000. The DAS Director may consider requests for additional miscellaneous expenses in excess of \$5,000. Employees must submit receipts for all miscellaneous expenses with the expense claim, including those described in the attached "Guide for Determining Reimbursable Miscellaneous Relocation Expenses."
 - (3) **Voluntary Relocation at Request of Employee.** When voluntarily relocating to a new official work site with the same agency or another state agency, the employee may request relocation reimbursement for items listed in section (2) of this policy from the receiving agency. The agency director or designee of the receiving agency may approve full or partial reasonable moving expenses and related expenses.
 - (4) **Recalled Employee.** When an agency recalls a laid-off employee from an agency layoff list (not a secondary recall or statewide reemployment layoff list), and sends that employee to a different geographic location as described in Section (2)(a), the agency may reimburse the recalled employee for items listed in Section (2)(c) through (l) of this policy.
-

Guide for Determining Reimbursable Miscellaneous Relocation Expenses

This guide describes examples of the types of expenditures that an agency may approve for the “miscellaneous relocation expense” category. Other types of miscellaneous expenses may be submitted for consideration. All expenses require documentation for reimbursement. The agency director or designee determines final approval of miscellaneous expenses. NOTE: This is not an all-inclusive list.

Category of Expense	Sample Expenses
Lodging and meals while in transit to new location	<ul style="list-style-type: none"> The agency must reimburse for meals (employee only) at the state per diem rate The agency must reimburse for lodging at the state per diem rate
Service Charges & Materials	<ul style="list-style-type: none"> Non-refundable utility disconnect and connection charges (i.e. telephone, water, cable, natural gas, electricity, sanitary service, television antenna, etc.) Additional Manufactured Home set up materials including skirting, if required School (if transferred during school year) Equipment to complete utilities hookup Non-refundable cleaning deposits Telecommunication change service fees
Temporary Expenses	<ul style="list-style-type: none"> Laundry (before washer and dryer are hooked up) Boarding of pets while affecting the move

SUBJECT: New Employee Relocation	NUMBER: 40.055.20
DIVISION: Chief Human Resources Office	EFFECTIVE DATE: July 10, 2014

APPROVED: Signature on file with Chief Human Resources Office

POLICY STATEMENT: Relocation expense reimbursement is a negotiable tool for managers to accomplish recruitment goals when hiring an employee to initial state service.

AUTHORITY: ORS 240.145(3); 240.250; 240.306; IRS Title 26, Section 217; IRS Publication 521

APPLICABILITY: All initial appointments to state service in a permanent, seasonal, or limited duration position (not temporary), where not in conflict with collective bargaining agreements

ATTACHMENTS:

- Guide for Determining Reimbursable Miscellaneous Relocation Expenses
- Sample Relocation Agreement Form – New Employees

DEFINITIONS: See State HR Policy 10.000.01, Definitions; and OAR 105-010-0000

POLICY:

- (1) **New employees normally move and travel at their own expense.** The agency director or designee may negotiate full or partial reimbursement up to the prescribed limits of moving costs when the reimbursement is: (a) necessary for employment of qualified personnel; or (b) needed when filling a hard-to-fill position and is the most efficient and cost effective use of state funds. Agencies should use relocation reimbursement judiciously and it should not be an automatic offering to initial appointees.
- (2) **An agency director must administer this policy as the agency's policy on new employee relocation of all initial appointments to state service.**
 - (a) Additional tools to accomplish recruitment goals may be also available in the following policies:
 - (A) Lump Sum Payments under Pay Practices, State HR Policy 20.005.10 (1)(a)(D);
 - (B) Alternate Leave Provisions under State HR Policy 60.000.20.
 - (b) Overall factors to consider when deciding to offer relocation reimbursement:
 - (A) Is this the employee's initial appointment to state service? Initial appointment to state service is the appointment of an employee from outside state government or the appointment of a former employee whose reemployment or layoff rights have expired.
 - (B) Is offering reimbursement to the successful candidate a responsible and prudent use of state funds?
 - (C) What is the skill availability and location of the position in comparison to the qualifications of the successful applicant? If job market information is needed, contact the DAS CHRO Classification and Compensation section for job market data reports and information.
 - (D) How far is the applicant moving to accept the position?

(c) Moving Logistics

- (A) If the new employee does not move his or her residence within six months from the date an employee reports to work, the employee is not eligible for moving expense reimbursement.
- (i) The employee may submit a written request to extend the period up to an additional six months for good cause. The agency must receive the request for extension at least 30 days prior to the end of the initial six months.
- (ii) The agency has authority to grant an extension.
- (B) Employees must provide receipts for all moving expenses and be reimbursed directly through the payroll system. The agency must process moving expense claims and reimburse the employee either within the same tax year in which the move occurred or within the first quarter of the next tax year.

- (d) Tax Issues.** The agency must notify new employees that all or part of the reimbursement may be considered taxable income by the Internal Revenue Service. The agency will report the reimbursements on the employee's Form W-2. Employees are encouraged to consult a tax professional for advice on their own tax liabilities and allowable tax deductions.

(e) Negotiable Relocation Expenses Include:

- (A) Personal Household Belongings.** The agency may pay or reimburse for the moving of the personal household belongings up to a maximum of 20,000 pounds. If the movers estimate that personal belongings exceed the maximum limitation, a request for additional payment based on reasonable need shall be submitted by the agency to the DAS Director for consideration.
- (B) Packing, Crating and Unpacking.** The agency may pay or reimburse for packing, crating, and unpacking for the moving of the personal household belongings up to \$1500 per move. A request for reimbursements that exceed the limit shall be submitted by the agency to the DAS Director for consideration.
- (C) Additional Moving Charges.** The agency may pay or reimburse for full value insurance¹, appliance blocking charges, and extra handling charges on items such as pianos. The total amount shall not exceed \$2,000. A request for additional moving expenses that exceeds the limit shall be submitted by the agency to the DAS Director for consideration.
- (D) Vehicles.** The agency may pay one-way private vehicle mileage from the old to the new residence for a maximum of two private vehicles. The state's moving mileage rate mirrors the federal rate and is updated to match the federal rate when changed. The current moving mileage rate (not the business rate) may be found at <http://www.irs.gov/2014-Standard-Mileage-Rates-for-Business,-Medical-and-Moving-Announced>. To calculate the one-way mileage, use an internet mapping software (i.e. www.mapblast.com or a similar program); an atlas; or map with a general mileage chart showing the distance between the two cities involved. Retain a copy of the website results or a copy of the atlas/map mileage chart as evidence of the mileage to be reimbursed. Employees without computer access should contact their supervisor for assistance in obtaining mileage information. **If the employee transports their household goods with their own private vehicle, the employee may receive the greater of the one-way state mileage reimbursement or the actual fuel cost to relocate. Fuel receipts will be required for reimbursement.**
- (E) Miscellaneous Expenses.** Employees may be eligible for reimbursement of miscellaneous relocation expenses up to \$5,000. A request for additional miscellaneous expenses that exceeds the limit shall be submitted by the agency to the DAS Director for consideration. Employees will submit receipts for all miscellaneous expenses with the expense claim. Examples of miscellaneous expenses that may be reimbursable include but are not limited to those described on the attached "Guide for Determining Reimbursable Miscellaneous Relocation Expenses."

Guide for Determining Reimbursable Miscellaneous Relocation Expenses

The following guide describes examples of the types of expenditures that may be approved for the “miscellaneous relocation expense” category. Other types of miscellaneous expenses may be submitted for consideration. All expenses require documentation for reimbursement. Final approval of miscellaneous expenses will be determined by the agency director or designee. NOTE: This is not an all-inclusive list.

Category of Expense	Sample Expenses
Lodging and meals while in transit to new location	<ul style="list-style-type: none">• Meals (employee only) will be reimbursed at the state per diem rate• Lodging will be reimbursed at the state per diem rate
Service Charges & Materials	<ul style="list-style-type: none">• Non-refundable utility disconnect and connection charges (i.e. telephone, water, cable, natural gas, electricity, sanitary service, television antenna, etc.)• Additional Manufactured Home set up materials including skirting, if required• School (if transferred during school year)• Equipment to complete utilities hookup• Non-refundable cleaning deposits• Telecommunication change service fees
Temporary Expenses	<ul style="list-style-type: none">• Laundry (before washer and dryer are hooked up)• Pets (boarding while affecting the move)

State of Oregon
DEPARTMENT OF ADMINISTRATIVE SERVICES
Human Resource Services Division



Administrative Rule: 105-040-0060 Limited-Competitive and Non-Competitive Appointments

See HRSD Permanent Rule 105-040-0060 as published by the [Secretary of State](#).

Performance Measure: Percentage of limited-competitive and non-competitive appointments open to the public and reported to field offices of the Employment Department.

Performance Standard: 100%

(The performance measure and standard indicated above are not a part of the official rule. This information appears only on internal copies for administrative purposes.)

State of Oregon
DEPARTMENT OF ADMINISTRATIVE SERVICES
Human Resource Services Division



Administrative Rule: 105-040-0065 Management Trial Service Period

See HRSD Permanent Rule 105-040-0065 as published by the [Secretary of State](#).

SUBJECT: Trial Service Period	NUMBER: 40.065.01
DIVISION: Chief Human Resources Office	EFFECTIVE DATE: 1/1/2015
APPROVED: Signature on File with the Chief Human Resources Office	

POLICY STATEMENT: Trial service is the final phase of the hiring process to afford an employee the opportunity to demonstrate the ability to perform the work and provide state agencies the opportunity to confirm qualifications and fitness for the position.

AUTHORITY: ORS 240.015(1)(2)(4)(8); 240.145(3); 240.240; 240.250; 240.316(1)(2); 240.410; 240.425; 240.570(1)(3)(5)

APPLICABILITY: Classified unrepresented and management service employees

ATTACHMENTS: None

DEFINITIONS: See State HR Policy 10.000.01, Definitions; and OAR 105-010-0000

POLICY:

- (1) A trial service period of six to 12 months is required upon initial appointment or promotion. The length of trial service depends upon the complexity of the job, the length of time required to effectively perform the work and the length of the agency's initial training program.
 - (a) Part-time employees serve an equivalent trial service period set by the agency for the specified classification on an hour by hour basis. (i.e., a six-month trial service period is equivalent to 1040 hours for a half-time employee).
 - (b) Employment under a temporary appointment does not count as part of a trial service period upon subsequent appointment to a permanent position.
 - (c) Upon successful completion of the trial service period, an employee gains regular status.
 - (d) A seasonal employee who does not complete trial service in a single seasonal period is credited with accumulated service if a break between service periods does not exceed two years.
 - (e) An agency may establish a trial service period upon appointment of an injured worker to a position.
 - (f) An agency may establish a new trial service period for an employee who is currently serving a trial service period upon lateral transfer to another position having a different supervisor or upon demotion, unless demoted as a result of restoration.
- (2) An agency may establish a trial service period when a regular status employee:
 - (a) transfers to a different agency;

- (b) transfers back to the same agency after an absence of more than one year;
 - (c) reemploys with a different agency;
 - (d) reemploys with the same agency after an absence of more than one year; or
 - (e) voluntarily demotes to a different classification series.
- (3) An agency appointing authority may extend an employee's trial service period by the corresponding total number of days for a period of leave with or without pay exceeding 15 consecutive calendar days.
- (4) An agency appointing authority may remove a trial service employee during a trial service period if, in the opinion of the appointing authority: the employee is unable or unwilling to perform duties of the position satisfactorily, or the habits and dependability of the employee do not merit continuance in state service.
- (a) The agency shall provide the employee written notice of trial service removal. The notice shall state the action of removal is being taken, indicate the effective date of the action, identify the grounds as listed above, and include the statutory ORS 240.570(3) or ORS 240.410 for a management service employee or ORS 240.410 for a classified unrepresented employee.
 - (b) An employee who has gained regular status in any previously held position in classified unrepresented or management service immediately prior to transferring, promoting, or voluntarily demoting and is removed from trial service has return rights to a position in the same classification or successor classification and agency as the previously held position. If a position in the previously held classification or successor classification is not available, the agency shall place the employee in a lower position in the same service type for which the employee is qualified. In order to have return rights, the removal from trial service shall be involuntary and for reasons other than specified in ORS 240.555.
 - (c) If no vacant position exists in the classification determined in section (4)(b), the agency shall return the employee to a filled position as provided for in OAR 105-040-0070, Alternate Methods of Filling a Position.
 - (A) The agency will resolve any doublefill created by (i) or (ii) below.
 - (i) The agency may conduct a layoff; or
 - (ii) The agency shall develop a plan to resolve the doublefill, document the plan in writing and specify the timeframe for resolution.
 - (B) The decision to resolve the doublefill shall be subject to applicable State HR policies, rules and collective bargaining agreements.
 - (d) A trial service employee who is removed and gained regular status in an agency where the employees of that agency are excluded from the provisions of ORS 240 shall be subject to the policies of the former agency.
 - (e) A classified unrepresented employee who is removed during trial service may request review of such removal according to State HR Policy 70.005.05, Classified Unrepresented Grievance Review.

State of Oregon
DEPARTMENT OF ADMINISTRATIVE SERVICES
Human Resource Services Division



Administrative Rule: 105-040-0070 Alternate Methods of Filling Positions

See HRSD Permanent Rule 105-040-0070 as published by the [Secretary of State](#).

(1) **Performance Measure:** Percentage of underfills resolved within 24 months of appointment made from a certificate or within 12 months of a Direct Appointment.

Performance Standard: 100%

(2) **Performance Measure:** Percentage of doublefills meeting the policy criteria.

Performance Standard: 100%

(The performance measures and standards indicated above are not a part of the official rule. This information appears only on internal copies for administrative purposes.)

State of Oregon
DEPARTMENT OF ADMINISTRATIVE SERVICES
Human Resource Services Division



Administrative Rule: 105-040-0080 Reemployment

See HRSD Permanent Rule 105-040-0080 as published by the [Secretary of State](#).

State of Oregon
DEPARTMENT OF ADMINISTRATIVE SERVICES
Human Resource Services Division



State Policy: 50.000.01 Drug-Free Workplace

APPLICABILITY: Classified, management service, unclassified, exempt and temporary employees

REFERENCE: ORS 240.145(3); 240.250; 240.321(2); Drug-Free Workplace Act of 1988 (Public Law 100-690) and implementing federal regulations

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- (1) **Policy:** State agencies shall maintain a drug-free workplace in order to promote employee safety, health, and efficiency. Accordingly:
- (a) An employee shall not, in the workplace, unlawfully manufacture, distribute, dispense, possess, or use a controlled substance.
 - (b) Upon determining or having reasonable suspicion, under subsection (1)(c) of this policy, that an employee has not complied with this policy, an appointing authority shall take appropriate action with regard to the employee, which may include:
 - (A) transfer,
 - (B) granting of leave with or without pay,
 - (C) discipline up to and including termination, and/or
 - (D) requiring satisfactory participation by the employee in an approved drug abuse assistance or rehabilitation program.
 - (c) Basis for reasonable suspicion shall be any of the following:
 - (A) observed abnormal behavior or impairment in mental or physical performance (e.g., slurred speech or difficulty walking);
 - (B) direct observation of use;
 - (C) the opinion of a medical professional employed at the worksite;
 - (D) reliable information concerning use in the workplace;
 - (E) a work-related accident in conjunction with a basis for reasonable suspicion as listed above.
 - (d) An appointing authority shall:
 - (A) grant leave with or without pay to permit any employee who so requests to participate in a drug abuse assistance or rehabilitation program.
 - (B) with the assistance of the Division, establish a drug-free awareness program to inform employees of the:
 - (i) dangers of drug abuse in the workplace;

- (ii) availability of drug counseling, rehabilitation, and employee assistance programs; and
 - (iii) penalties that may be imposed for drug abuse violations occurring in the workplace.
- (C) provide to each employee a copy of this policy or an agency policy that applies provisions consistent with this policy.
- (D) for those employees who are paid directly or indirectly from funds received from federal grant or contract, not later than 10 calendar days after receiving notice of an employee's criminal drug statute conviction for a violation occurring in the workplace, provide written notice of such conviction, including employee position title, to every grant officer or other designee on whose grant activity the convicted employee was working, unless a federal agency has designated a central point for the receipt of such notification. Notification shall include the identification number for each of the federal agency's affected grants.
- (e) As a condition of employment, an employee shall notify, in writing, the appointing authority of any criminal drug statute conviction for a violation occurring in the workplace not later than five calendar days after such conviction.

(2) Policy Clarification:

- (a) Controlled substance means a controlled substance in schedules I through V of Section 202 of the Controlled Substances Act (21 U.S.C. 812) and as further defined by regulation 21 C.F.R. 1308.11 through 1308.15.
- (b) Drug-free workplace means a site for the performance of work at which employees are prohibited from engaging in the unlawful manufacture, distribution, dispensation, possession, or use of a controlled substance.

Performance Measure: Percent of employees aware of Drug-Free Workplace policy and possible penalties.

Performance Standard: 100%

State of Oregon
DEPARTMENT OF ADMINISTRATIVE SERVICES
Human Resource Services Division



State Policy: 50.000.02 Drug Testing of Employees in Designated Classifications/Positions

APPLICABILITY: Classified, management service, executive service, and temporary employees in agencies providing public safety and/or mental health services

REFERENCE: ORS 240.145(3); 240.250; 240.321(2); Drug Free Workplace Act of 1988 (Public Law 100-690) and implementing regulations

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- (1) Policy:** It is the policy of the Executive Branch of Oregon state government to provide the public with a drug-free service environment and employees with a drug-free workplace.
- (a) An appointing authority of an agency may institute a drug testing program for employees in those classifications and/or positions designated by the appointing authority.
 - (b) Prior to implementing the drug testing program the appointing authority shall develop an agency drug testing policy which shall include:
 - (A) a description of the agency's drug education program which incorporates a drug-free workplace as an agency value and integral part of the agency's culture;
 - (B) a description of the circumstances under which the appointing authority shall require an employee to take a drug test to determine if the employee is using a prohibited drug/controlled substance, i.e., reasonable suspicion, random and periodic drug testing;
 - (C) a list of and rationale for the designated job classifications and/or positions which shall be subject to drug testing;
 - (D) a list of prohibited drugs/controlled substances for which an employee shall be tested;
 - (E) a provision, available on a onetime basis only, for employees, who prior to a verified positive drug test, notify agency management (supervisor/personnel office) in writing that they have a drug use/dependency problem that no disciplinary action shall be taken but that they shall be referred to and actively participate in an assessment and treatment program and either remain on the job or use accrued leave or leave without pay as appropriate.
 - (F) a statement that the drug testing shall be conducted by a laboratory which is licensed and operated in accordance with ORS 438.010 and OAR 333-24-305 through 350;
 - (G) a description of the drug testing protocol, i.e., how and when the drug testing shall be carried out;
 - (H) a description of the consistent and appropriate action(s) the agency shall take with regard to an employee who tests positive for a prohibited drug/controlled substance, e.g., requiring participation in an approved drug abuse assistance or rehabilitation program, last chance agreements, reassigning of duties, discipline up to and including termination, etc. A model component for agencies' use in their drug testing policy development is attached to this policy.
 - (c) Once implemented the appointing authority shall ensure that the drug testing policy is administered uniformly and consistently.
 - (d) Drug tests shall be paid for by the employing agency and conducted according to the agency

policy.

- (e) At the time of implementation, an appointing authority shall submit a copy of the agency drug testing policy to the Division for filing.
- (f) An appointing authority shall maintain records of drug testing, stating the number of employees tested, the number of confirmed positive tests and the classifications/positions involved.
- (g) An appointing authority shall provide written notice of the agency's drug testing policy to each employee whose classification and/or position is subject to testing, making copies of the drug testing policy available upon request.
- (h) An agency's administration of its drug policy and drug testing records shall be subject to audit by the Division.

(2) Policy Clarification:

- (a) Basis for reasonable suspicion of prohibited drug use, possession, manufacture, distribution, or selling include:
 - (A) direct observation of abnormal behavior or impairment to mental or physical behavior/performance, e.g., slurred speech, difficulty in walking or performing job activities;
 - (B) direct observation of use, possession, etc.
 - (C) the opinion of a medical professional (doctor, nurse or other related professional practitioner qualified by education or experience) employed at the work site that an employee is using a prohibited drug;
 - (D) documented or verified information concerning the workplace manufacture, distribution, selling, possession or use of a prohibited drug;
 - (E) a work-related accident in conjunction with an above basis for a reasonable suspicion.
 - (b) Periodic drug testing is testing carried out on a recurrent, cyclic or intermittent basis, e.g., at the time of physical examinations.
 - (c) Prohibited drugs/controlled substances are marijuana, cocaine, opiates, phencyclidine (PCP), amphetamines and substances specified in schedules I through V of Section 202 of the Controlled Substances Act, 21 USC 811, 812 and as defined in 21 CFR 1300.11 through 1300.15 unless authorized by a legal prescription or are exempt from federal or State law.
 - (d) Random drug testing is testing done using a random number table or a computer-based number generator that is matched to a payroll or employee identification number.
 - (e) The notification by an employee of drug use/dependency as described in (1)(b)(E) does not preclude an appointing authority from taking disciplinary action against the employee for other work-related problems.
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MODEL POLICY COMPONENT

DEALING WITH EMPLOYEES WHO TEST POSITIVE FOR PROHIBITED DRUGS/CONTROLLED SUBSTANCES

It is the policy of (agency) to treat employees who test positive for a prohibited drug or controlled substance in a consistent and appropriate manner but which does not preclude imposing discipline up to and including dismissal.

- (a) Upon receiving the report of an employee's testing positive for a prohibited drug or controlled substance, the appointing authority shall conduct a pre-dismissal hearing which shall have for it purposes:
 - (A) the assessment of the employee's work history and the circumstances surrounding the drug use;
 - (B) the opportunity for the employee to provide information/mitigating circumstances surrounding the use of drugs;
 - (C) the basis upon which the agency takes action regarding the employee.
- (b) As a result of the assessment and discovery conducted at the pre-dismissal hearing, the agency appointing authority shall decide on the appropriate action(s) to be taken with regard to the employee which may include:
 - (A) the signing of a last chance agreement that the employee will stay free from drugs and will include:
 - (i) referral to a substance abuse professional for assessment;
 - (ii) referral to the EAP or other appropriate treatment or rehabilitation program;
 - (iii) a plan for verification of continued or successful completion of the treatment or rehabilitation program;
 - (B) the assigning of the employee to an alternative work/job assignment if appropriate;
 - (C) appropriate disciplinary action up to and including dismissal.

LAST CHANCE DRUG REHABILITATION AGREEMENT

The following agreement is entered into between the (agency name) and (employee name) henceforward to be referred to as employer and employee. This agreement serves as notice to the employee of what is expected for continued employment with the employer.

1. I agree to be evaluated by a qualified substance abuse counselor, and if required, I shall immediately enroll and continue in a bone fide drug inpatient or outpatient rehabilitation program recommended by the Substance Abuse Professional (SAP). I understand that should I fail to successfully complete either the recommended inpatient or outpatient program, my employment with the employer will be terminated.
2. I agree to comply with, and complete the conditions of any "aftercare plan" as recommended by my treatment counselor. If I must be absent from any aftercare session, I must notify the employer. The employer has my permission to verify attendance at required meetings. If I do not continue the aftercare program, I understand that my employment is terminated.
3. I agree that the signing of this agreement shall allow my employer to contact treatment or health care providers who may have information about my drug condition, my compliance with SAP recommended treatment and terms of this agreement. I authorize these providers to furnish information to my employer.
4. I agree to return to work immediately upon successful completion of the drug rehabilitation program. I further agree that should I be required to attend an outpatient program, that my time away from work for such appointments will only include the time necessary for the appointment and travel to and from the appointment.
5. I understand that this agreement constitutes a final warning and is non-precedent setting for any other employees with the employer in the future. Each case will be reviewed on its own merit.
6. I understand the Employee Assistance Program is available to me should personal problems arise in the future which may have an affect on my ability to remain in compliance with the employer's drug policies and this agreement.
7. I understand that violation of the employer's drug policies at any time in the future is cause for termination.
8. All parties to this agreement understand that the undersigned employee will be terminated should he/she exhibit deficient performance or conduct to the type that led to the drug test and this agreement.
9. I understand the terms and conditions of this agreement. I also understand that this agreement does not guarantee me employment for any set period of time. I have had the opportunity to discuss it with my representative. I sign this agreement free from any duress or coercion. This agreement will become a permanent part of my official personnel file.

Personal Commitment

I pledge and agree to abide by the terms of this agreement. I understand that a violation of, or noncompliance with, any of these terms can result in my being discharged. Further, I pledge to remain free of all illegal drugs and not to abuse legal drugs during my term of employment.

_____ Employee	_____ Date	_____ Employer	_____ Date
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_____ Employee Representative	_____ Date
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State of Oregon
DEPARTMENT OF ADMINISTRATIVE SERVICES
Human Resource Services Division



Administrative Rule: 105-050-0003 Alcohol and Controlled Substance Testing of Employees Having Commercial Drivers License

See HRSD Permanent Rule 105-050-0003 as published by the [Secretary of State](#).

State of Oregon
DEPARTMENT OF ADMINISTRATIVE SERVICES
Human Resource Services Division



Administrative Rule: 105-050-0004 Drug Testing of Final Applicants for Certain State Classifications/Positions

See HRSD Permanent Rule 105-050-0004 as published by the [Secretary of State](#).

State of Oregon
DEPARTMENT OF ADMINISTRATIVE SERVICES
Human Resource Services Division



Administrative Rule: 105-050-0006 Smoke-Free Workplace

See HRSD Permanent Rule 105-050-0006 as published by the [Secretary of State](#).

SUBJECT: Discrimination and Harassment Free Workplace	NUMBER: 50.010.01
DIVISION: Human Resource Services Division	EFFECTIVE DATE: 01/25/08
APPROVED: Signature on file with Human Resource Services Division	

POLICY STATEMENT: The State of Oregon is committed to a discrimination and harassment free work environment. This policy outlines types of prohibited conduct and procedures for reporting and investigating prohibited conduct.

AUTHORITY: ORS 174.100, 240.086(1); 240.145(3); 240.250; 240.316(4); 240.321; 240.555; 240.560; 659A.029; 659A.030; Title VII; Civil Rights Act of 1964; Executive Order EO-93-05; Rehabilitation Act of 1973; Employment Act of 1967; Americans with Disabilities Act of 1990; and 29 CFR §37.

APPLICABILITY: All employees, state temporary employees and volunteers.

ATTACHMENTS: None

DEFINITIONS: See also HRSD State Policy 10.000.01, Definitions; and OAR 105-010-0000

Collective Bargaining Agreement (CBA): A written agreement between the State of Oregon, (Department of Administrative Services) and a labor union. References to CBAs contained in this policy are applicable only to employees covered by a CBA.

Complainant: A person or persons allegedly subjected to discrimination, workplace harassment or sexual harassment.

Contractor: For the purpose of this policy, a contractor is an individual or business with whom the State of Oregon has entered into an agreement or contract to provide goods or services. Qualified rehabilitation facilities who by contract provide temporary workers to state agencies are considered contractors. Contractors are not subject to ORS 240 but must comply with all federal and state laws.

Discrimination: Making employment decisions related to hiring, firing, transferring, promoting, demoting, benefits, compensation, and other terms and conditions of employment, based on or because of an employee's protected class status.

Employee: Any person employed by the state in one of the following capacities: management service, unclassified executive service, unclassified or classified unrepresented service, unclassified or classified represented service, or represented or unrepresented temporary service. For the purpose of this policy, this definition includes board and commission members, and individuals who volunteer their services on behalf of state government.

Higher Standard: Applies to managers and supervisors. Proactively taking an affirmative

posture to create and maintain a discrimination and harassment free workplace.

Manager/Supervisor: Those who supervise or have authority or influence to effect employment decisions.

Protected Class Under Federal Law: Race; color; national origin; sex (includes pregnancy-related conditions); religion; age (40 and older); disability; a person who uses leave covered by the Federal Family and Medical Leave Act; a person who uses Military Leave; a person who associates with a protected class; a person who opposes unlawful employment practices, files a complaint or testifies about violations or possible violations; and any other protected class as defined by federal law.

Protected Class Under Oregon State Law: All Federally protected classes, plus: age (18 and older); physical or mental disability; injured worker; a person who uses leave covered by the Oregon Family Leave Act; marital status; family relationship; sexual orientation; whistleblower; expunged juvenile record; and any other protected class as defined by state law.

Sexual Harassment: Sexual harassment is unwelcome, unwanted, or offensive sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature when:

- 1) Submission to such conduct is made either explicitly or implicitly a term or condition of the individual's employment, or is used as a basis for any employment decision (granting leave requests, promotion, favorable performance appraisal, etc.); or
- 2) Such conduct is unwelcome, unwanted or offensive and has the purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile or offensive working environment.

Examples of sexual harassment include but are not limited to: unwelcome, unwanted, or offensive touching or physical contact of a sexual nature, such as, closeness, impeding or blocking movement, assaulting or pinching; gestures; innuendoes; teasing, jokes, and other sexual talk; intimate inquiries; persistent unwanted courting; sexist put-downs or insults; epithets; slurs; or derogatory comments.

Sexual Orientation under Oregon State Law: An individual's actual or perceived heterosexuality, homosexuality, bisexuality or gender identity, regardless of whether the individual's gender identity, appearance, expression or behavior differs from that traditionally associated with the individual's sex at birth.

Workplace Harassment: Unwelcome, unwanted or offensive conduct based on or because of an employee's protected class status.

Harassment may occur between a manager/supervisor and a subordinate, between employees, and among non-employees who have business contact with employees. A complainant does not have to be the person harassed, but could be a person affected by the offensive conduct.

Examples of harassing behavior include, but are not limited to, derogatory remarks, slurs and jokes about a person's protected class status.

POLICY

(1) **The State of Oregon is committed to a discrimination and harassment free work environment. This policy outlines types of prohibited conduct and procedures for reporting and investigating prohibited conduct.**

(a) **Discrimination, Workplace Harassment and Sexual Harassment.** The State of Oregon provides a work environment free from unlawful discrimination or workplace harassment based on or because of an employee's protected class status. Additionally, the state of Oregon provides a work environment free from sexual harassment. Employees at every level of the organization, including state temporary employees and volunteers, must conduct themselves in a business-like and professional manner at all times and not engage in any form of discrimination, workplace harassment or sexual harassment.

(b) **Higher Standard.** Managers/supervisors are held to a higher standard and are expected to take a proactive stance to ensure the integrity of the work environment. Managers/supervisors must exercise reasonable care to prevent and promptly correct any discrimination, workplace harassment or sexual harassment they know about or should know about.

(c) **Reporting.** Anyone who is subject to or aware of what he or she believes to be discrimination, workplace harassment, or sexual harassment should report that behavior to the employee's immediate supervisor, another manager, or the agency, board, or commission Human Resource section, Executive Director, or chair, as applicable. A report of discrimination, workplace harassment or sexual harassment is considered a complaint. A supervisor or manager receiving a complaint should promptly notify the Human Resource section, Executive Director, or chair, as applicable.

(A) A complaint may be made orally or in writing.

(B) A complaint must be filed within one year of the occurrence.

(C) An oral or written complaint should contain the following:

(i) the name of the person filing the report;

(ii) the name of the complainant;

(iii) the names of all parties involved, including witnesses;

(iv) a specific and detailed description of the conduct or action that the employee believes is discriminatory or harassing;

(v) the date or time period in which the alleged conduct occurred; and

(vi) a description of the remedy the employee desires.

(d) **Other Reporting Options.** Nothing in this policy prevents any person from filing a formal grievance in accordance with a CBA, or a formal complaint with the Bureau of Labor and Industries (BOLI) or the Equal Employment Opportunity Commission (EEOC) **or if applicable, the United States Department of Labor (USDOL) Civil Rights Center.** However, some CBAs require an employee to choose between the complaint procedure outlined in the CBA and filing a BOLI or EEOC complaint.

(e) **Filing a Report with the USDOL Civil Rights Center.** An employee whose position is funded by the Oregon Workforce Investment Act (WIA), such as employees of the Oregon Workforce One-stop System, may file a complaint under the WIA, Methods of Administration (MOA) with the State of Oregon WIA, MOA Equal Opportunity Officer or directly through the USDOL, Civil Rights Center. The

complaint must be written, signed and filed within 180 days of when the alleged discrimination or harassment occurred.

(f) Investigation. The agency, board, or commission Human Resource section, Executive Director, or chair, as applicable, will coordinate and conduct or delegate responsibility for coordinating and conducting an investigation.

(A) All complaints will be taken seriously and an investigation will be initiated as quickly as possible.

(B) The agency, board or commission may need to take steps to ensure employees are protected from further potential discrimination or harassment.

(C) Complaints will be dealt with in a discreet and confidential manner, to the extent possible.

(D) All parties are expected to cooperate with the investigation and keep information regarding the investigation confidential.

(E) The agency, board or commission will notify the accused and all witnesses that retaliating against a person for making a report of discrimination, workplace harassment or sexual harassment will not be tolerated.

(F) The agency, board or commission will notify the complainant and the accused when the investigation is concluded.

(G) Immediate and appropriate action will be taken if a complaint is substantiated.

(H) The agency, board or commission will inform the complainant if any part of a complaint is substantiated and that action has been taken. The complainant will not be given the specifics of the action.

(I) The complainant and the accused will be notified by the agency, board or commission if a complaint is not substantiated.

(g) Penalties. Conduct in violation of this policy will not be tolerated.

(A) Employees engaging in conduct in violation of this policy may be subject to disciplinary action up to and including dismissal.

(B) State temporary employees and volunteers who engage in conduct in violation of this policy may be subject to termination of their working or volunteer relationship with the agency, board or commission.

(C) An agency, board or commission may be liable for discrimination, workplace harassment or sexual harassment if it knows of or should know of conduct in violation of this policy and fails to take prompt, appropriate action.

(D) Managers and supervisors who know or should know of conduct in violation of this policy and who fail to report such behavior or fail to take prompt, appropriate action may be subject to disciplinary action up to and including dismissal.

(E) An employee who engages in harassment of other employees while away from the workplace and outside of working hours may be subject to the provisions of this policy if that conduct has a negative impact on the work environment and/or working relationships.

(F) If a complaint involves the conduct of a contracted employee or a contractor, the agency, board, or commission Human Resource section, Executive Director, chair, or designee must inform the contractor

of the problem behavior and require prompt, appropriate action.

(G) If a complaint involves the conduct of a client, customer, or visitor, the agency, board or commission should follow its own internal procedures and take prompt, appropriate action.

(h) Retaliation. This policy prohibits retaliation against employees who file a complaint, participate in an investigation, or report observing discrimination, workplace harassment or sexual harassment.

(A) Employees who believe they have been retaliated against because they filed a complaint, participated in an investigation, or reported observing discrimination, workplace harassment or sexual harassment, should report this behavior to the employee's supervisor, another manager, the Human Resource section, the Executive Director, or the chair, as applicable. Complaints of retaliation will be investigated promptly.

(B) Employees who violate this policy by retaliating against others may be subject to disciplinary action, up to and including dismissal.

(C) State temporary employees and volunteers who retaliate against others may be subject to termination of their working or volunteer relationship with the agency, board or commission.

(i) Policy Notification. All employees including state temporary employees and volunteers shall:

(A) be given a copy or the location of Statewide Policy 50.010.01, Discrimination and Harassment Free Workplace;

(B) be given directions to read the policy;

(C) be provided an opportunity to ask questions and have their questions answered; and

(D) sign an acknowledgement indicating the employee read the policy and had the opportunity to ask questions.

(i) Signed acknowledgements are kept on file at the agency, board or commission.

(1) Performance Measure: Percent of employees informed of Policy 50.010.01, prohibited behavior and reporting procedures.

Performance Standard: 100%

(2) Performance Measure: Percent of complaints where prompt, appropriate action is taken following investigation of a substantiated complaint.

Performance Standard: 100%

SUBJECT: Violence-Free Workplace	NUMBER: 50.010.02
DIVISION: Human Resource Services Division	EFFECTIVE DATE: 6/7/10
APPROVED: Signature on file with Human Resource Services Division	

POLICY STATEMENT: Oregon state government is committed to a violence-free work environment.

AUTHORITY: ORS 240.306; 240.321; 240.555; 240.560

APPLICABILITY: All employees, subject to ORS 240, State Personnel Relations Law, except where in conflict with a collective bargaining agreement, includes temporary employees and volunteers

ATTACHMENTS:

DEFINITIONS: See State HR Policy 10.000.01 Definitions; and OAR 105-010-0000

POLICY

- (1) The agency director administers this policy as the agency's Violence-Free Workplace policy.
- (2) This policy prohibits workplace violence which is behavior that to a reasonable person is intimidating, hostile, threatening, violent or abusive. Such behavior may include:
 - (a) Threats and threatening behavior such as physical, verbal, or written acts that express or are reasonably perceived to imply intent to cause physical or psychological harm against a person or persons, or cause damage to property
 - (b) Statements, gestures, or expressions that communicate a direct or indirect threat of physical or psychological harm
 - (c) Violent behavior such as carrying out threats or threatening behavior.
- (3) Refer to agency processes for incidents involving individuals in the care and custody of the agency.
- (4) The agency director, human resource section, or safety section designs a general safety plan for the agency and specific safety plans with at-risk employees to prepare for emergencies. Resources for safety planning and training appear in State HR Policy 50.010.04 Workplace Effects of Domestic Violence, Sexual Assault, and Stalking and the accompanying online Toolkit; and online through the Department of Consumer and Business Services and the Oregon Occupational Safety and Health Administration.
- (5) Employees report immediately any potentially dangerous situations such threats or threatening behavior and other behaviors listed in Section (2), to the agency Director, a supervisor, the agency Human Resource section, or the agency safety section. Employees may make anonymous reports. Supervisors and safety officers notify the agency director or the agency human resource section of any reports they receive from employees.
- (6) The agency director, human resource section, safety section or a designee assesses all reported incidents, investigates when appropriate and responds. The agency follows its safety plan to address

immediate threats to agency employees or others. The agency reports threats or assaults that require the immediate attention of law enforcement or security to the appropriate security entity, the police at 9-1-1, or the local law enforcement emergency number where 9-1-1 does not exist. The agency handles reports or incidents involving confidential information appropriately and only discloses the information on a need-to-know basis or when legally required.

- (7) Agency management or law enforcement may direct people who engage in workplace violence (employees, volunteers, customers, vendors, or visitors) to leave the premises if warranted. Criminal penalties, or barring from the workplace may also occur as well as discipline, up to and including dismissal (applies to employees), and termination from appointment (applies to temporary employees and volunteers).
- (8) Retaliating against employees who report or experience workplace violence or who participate in an investigation of workplace violence is prohibited. Any employee found to have engaged in retaliatory action or behavior may be subject to discipline, up to and including dismissal.
- (9) Agencies take the following measures to promote a safe working environment:
 - (a) Conduct reference checks of final candidates to reduce the risk of hiring people with a history of violent behavior. Conduct criminal history background checks when authorized by statute or Executive Order.
 - (b) Train employees and managers to identify and respond to unsafe workplace hazards, employees, or other people in the workplace who exhibit behavior that could be a sign of danger.
 - (c) Conduct periodic inspections of the premises to evaluate and determine vulnerabilities to workplace violence or hazards and take reasonable action to reduce identified risks.

SUBJECT: Maintaining a Professional Workplace **NUMBER:** 50.010.03
DIVISION: Chief Human Resource Office **EFFECTIVE DATE:** 11/01/13

APPROVED: 

**POLICY
STATEMENT:**

It is the policy of Oregon state government that mutual respect between and among managers, employees, temporary employees and volunteers is integral to the efficient conduct of business. All individuals work together to create and maintain a work environment that is respectful, professional and free from inappropriate workplace behavior.

AUTHORITY: ORS 240.145 and ORS 240.250

APPLICABILITY: All employees, including temporary employees and volunteers, and others working in the agency

DEFINITIONS: **Professional Workplace Behavior:** Supporting the values and mission of Oregon state government and the agency, building positive relationships with others, communicating in a respectful manner, holding oneself accountable and pursuing change within the system.

Inappropriate Workplace Behavior: Unwelcome or unwanted conduct or behavior that causes a negative impact or disruption to the workplace or the business of the state, or results in the erosion of employee morale and is not associated with an employee's protected class status.¹ (See State HR Policy 50.010.01 Discrimination and Harassment Free Workplace for guidance on issues involving protected class status.)

Examples of inappropriate workplace behavior include but are not limited to, comments, **actions** or behaviors of an individual or group that **embarrass, humiliate, intimidate**, disparage, demean, or show disrespect for another employee, a manager, a subordinate, a **volunteer**, a customer, a contractor or a visitor in the workplace.

¹ Protected Class Under Federal Law: Race; color; national origin; sex (includes pregnancy-related conditions); religion; age (40 and older); disability; a person who uses leave covered by the Federal Family and Medical Leave Act; a person who uses Military Leave; a person who associates with a protected class; a person who opposes unlawful employment practices, files a complaint or testifies about violations or possible violations; and any other protected class as defined by federal law.

Protected Class Under Oregon State Law: All federally protected classes, plus: age (18 and older); physical or mental disability; injured worker; a person who uses leave covered by the Oregon Family Leave Act; marital status; family relationship; sexual orientation; whistleblower; expunged juvenile record; and any other protected class as defined by state law.

Inappropriate workplace behavior does not include actions of performance management such as supervisor instructions, expectations or feedback, administering of disciplinary actions, or investigatory meetings.

Inappropriate workplace behavior does not include assigned, requested or unsolicited constructive peer feedback on projects or work.

State HR Policy 10.000.01 Definitions and OAR 105-010-0000

POLICY

- (1) Conduct** Employees of all service types, temporary employees and volunteers, at every level of the agency (includes boards and commissions) must foster an environment that encourages professionalism and discourages disrespectful behavior. All employees, temporary employees and volunteers must behave respectfully and professionally and refrain from engaging in inappropriate workplace behavior.
- (2) Addressing Inappropriate Workplace Behavior**
 - (a) Supervisors must address inappropriate behavior they observe or experience and should do so as close to the time of the occurrence as possible and appropriate.
 - (b) If an employee, **temporary employee or volunteer** observes or experiences inappropriate workplace behavior and feels comfortable in doing so, he or she should **do one or both of the following**:
 - (A) Redirect inappropriate conversations or behavior to workplace business
 - (B) Tell an offending employee, **temporary employee or volunteer** his or her behavior is offensive and ask him or her to stop.
- (3) Reporting Inappropriate Workplace Behavior**
 - (a) An employee, **temporary employee or volunteer** should report inappropriate workplace behavior he or she experiences or observes to his or her immediate supervisor as soon as practical. If the employee, **temporary employee or volunteer's** immediate supervisor is the one engaging in the inappropriate behavior, **he or she** should report the behavior to upper management, the agency head or **agency** Human Resource section, as soon as practical. The report may be **verbal** or **written**.
 - (b) If past practice exists in the agency, an employee represented by a labor union may have a union representative present during regular work hours, when reporting inappropriate workplace behavior and through the process set forth in this policy.
- (4) Responding to a Report of Inappropriate Workplace Behavior** Inappropriate workplace behavior must be addressed and corrected before it becomes pervasive, causes further workplace disruption or lowers morale. Unless the agency decides otherwise, the supervisor of the **individual** allegedly engaging in inappropriate workplace behavior must **address**² the report as soon as possible.

² The agency determines the best method of addressing the report, depending upon the behavior reported or observed, including determining method of follow up if necessary.

(5) Consequences

- (a) Any employee found to have engaged in inappropriate workplace behavior, will be counseled, or, depending on the severity of the behavior, may be subject to discipline, up to and including dismissal.
 - (b) An employee in trial service found to have engaged in inappropriate workplace behavior may be removed from trial service.
 - (c) A temporary employee or volunteer found to have engaged in inappropriate workplace behavior will be counseled or, depending on the severity of the behavior, may have his or her service terminated.
 - (d) A supervisor who fails to address inappropriate behavior, will be counseled, or, depending on the severity of the behavior, may be subject to disciplinary action, up to and including dismissal.
- (6) Retaliation** Retaliating against someone for reporting or addressing inappropriate workplace behavior is prohibited. An employee who believes he or she is experiencing retaliation as a result of reporting inappropriate behavior should report this to his or her immediate supervisor as soon as practical³. The agency will investigate reports of retaliation. Any employee found to have engaged in retaliation may be subject to discipline, up to and including dismissal. An employee in trial service found to have engaged in retaliation may be removed from trial service. A temporary employee or volunteer found to have engaged in retaliation may have his or her service terminated.
- (7) Policy Notification.** All employees including temporary employees and volunteers will:
- (a) Be given a copy or told the location of State HR Policy 50.010.03 Maintaining a Professional Workplace by the agency
 - (b) Be given directions to read the policy
 - (c) Be provided an opportunity to ask questions and have their questions answered
 - (d) Acknowledge he or she read the policy and had the opportunity to ask questions
 - (A) The agency decides the form of the acknowledgement, such as electronic, signed, or other documented acknowledgment
 - (B) The agency may create and offer training as it deems necessary.

³ If the employee believes his or her immediate supervisor is engaging in retaliation, he or she should report the behavior to the agency human resource office, upper management or the agency head as soon as practical.

SUBJECT:	Workplace Effects of Domestic Violence, Harassment, Sexual Assault and Stalking	NUMBER:	50.010.04
DIVISION:	Chief Human Resources Office	EFFECTIVE DATE:	01/01/14
APPROVED: Signature on file with Chief Human Resources Office			

POLICY STATEMENT:

Oregon state government promotes early intervention to prevent or minimize the occurrence and effects of domestic violence, harassment, sexual assault or stalking in the workplace. This policy supplements other statewide policies on workplace violence and harassment. The existence of a protective order, a criminal proceeding or law enforcement involvement is not necessary to invoke this policy.

Domestic violence, harassment, sexual assault and stalking are crimes punishable by law.

AUTHORITY:

ORS 240.145, 240.555, 240.560, Governor's Executive Order 07-17, ORS 659A.270 to 659A.290, OAR 839-005-0160 to 839-005-0170 and OAR 839-009-0325 to 839-009-0365

APPLICABILITY:

All employees subject to ORS 240, State Personnel Relations Law, except where in conflict with a collective bargaining agreement

ATTACHMENTS:

None

DEFINITIONS:

See State HR Policy 10.000.01 Definitions and OAR 105-010-0000. For the purpose of this policy, the following definitions apply:

- (a) Victim of domestic violence: an individual who has been threatened with abuse or is a victim of abuse, as defined in [ORS 107.705](#); or any other person who has suffered financial, social, psychological or physical harm as a result of domestic violence committed against the victim, including a member of the victim's immediate family. In no event will the perpetrator of domestic violence be considered a victim for the purposes of this policy.
- (b) Victim of harassment: an individual against whom harassment has been committed as described in Oregon's criminal code at [ORS 166.065](#). In no event will the perpetrator of harassment be considered a victim for the purposes of this policy.
- (c) Victim of sexual assault: an individual against whom a sexual offense has been threatened or committed as described in [ORS 163.305 to 163.467](#) or 163.525; or any other person who has suffered financial, social, psychological or physical harm as a result of sexual assault committed against the victim, including a member of the victim's immediate family. In no event will the perpetrator of sexual assault be considered a victim for the purposes of this policy.
- (d) Victim of stalking: an individual against whom stalking has been threatened or

committed as described in [ORS 163.732](#); or any other person who has suffered financial, social, psychological or physical harm as a result of a stalking committed against the victim, including a member of the victim's immediate family; or an individual who has obtained a court's stalking protective order or a temporary court's stalking protective order under [ORS 30.866](#). In no event will the alleged perpetrator of stalking be considered a victim for the purposes of this policy.

- (e) Immediate family: spouse, domestic partner, father, mother, sibling, child stepchild, grandparent, or any person who had the same primary residence as the victim at the time of the domestic violence, harassment, sexual assault or stalking.
- (f) Protective order: an order authorized by [ORS 30.866](#), [107.095\(1\)\(c\)](#), [107.700 to 107.735](#), [124.005 to 124.040](#) or [163.730 to 163.750](#) or any other order that restrains an individual from contact with an eligible employee or the employee's minor child or dependent.
- (g) Victim services provider: prosecutor-based victim assistance program or a nonprofit program offering safety planning, counseling, support or advocacy related to domestic violence, harassment, sexual assault or stalking.

POLICY

- (1) An agency director must administer State HR Policy 50.010.04 as the agency's policy to address the workplace effects of domestic violence, harassment, sexual assault and stalking.

(a) Mandated Posting and Notification Requirements

- (A) Executive branch agencies must provide either a hard copy or electronic version of this policy and related agency procedures, including a [resource list](#), to all new employees.
- (B) Executive branch agencies must post [summaries](#) of ORS [659A.270 to 659A.285](#); [OAR 839-005-0160 to 839-005-0170](#); [OAR 839-009-325 to 839-009-265](#) in a conspicuous and accessible place in the premises where employees are employed.
- (C) Executive branch agencies must inform all employees of the provisions of ORS 659A.290, regarding reasonable safety accommodations on an annual basis. This can be accomplished through annual training, or electronic notification to each employee that includes a link to ORS 659A.290 and statewide policy 50.010.04.

(b) Training for Managers, Supervisors and Human Resource Staff

- (A) All managers, supervisors and human resource staff must complete mandatory training within two years of appointment.
- (B) The mandatory training may be conducted online or in person by the agency, DAS, a local victim services provider or the Bureau of Labor and Industries (BOLI), and must include the information listed in (1)(a)(C) and the following:
 - (i) Responsibilities as an employer

- (ii) How to respond when employees self disclose or request referral information
- (iii) How to work with a victim services provider to assist identified victims in workplace safety planning
- (iv) How domestic violence, harassment, sexual assault and stalking affect the workplace, productivity, and safety risks to other on-site staff and visitors.

(c) Training for Employees

(A) An agency must provide regular opportunities to all employees to attend voluntary training to learn more about:

- (i) The policy and agency procedures
- (ii) The characteristics of domestic violence, harassment, sexual assault and stalking presented by a victim services provider
- (iii) Where an employee may request or locate referral information
- (iv) Support and safety accommodations available from the agency
- (v) How domestic violence, harassment, sexual assault or stalking impacts the workplace, productivity, and safety risks to other on-site staff and visitors
- (vi) Other applicable policies and collective bargaining agreement provisions:
 - [State HR Policy 10.030.01](#) Support of Employee's Work and Family Needs
 - [State HR Policy 50.010.01](#) Discrimination and Harassment Free Workplace
 - [State HR Policy 50.010.02](#) Violence-Free Workplace
 - [State HR Policy 50.010.03](#) Maintaining a Professional Workplace
 - [State HR Policy 60.000.12](#) Statutorily Required Leaves With and Without Pay.
 - [State HR Policy 60.000.15](#) Family and Medical Leave.

(d) Resources

- (A) Employees may obtain resource information by talking with a manager, supervisor or human resource staff.
- (B) Agency Resource List. An agency's resource list must, at a minimum, include all of the information listed below:
- (i) The names of the local domestic violence, harassment, sexual assault and stalking victim services providers

- (ii) The National Domestic Violence Hot Line: 1-800-799-7233 or <http://www.thehotline.org/>; The National Sexual Assault Hotline 1-800-656-HOPE (4673) or www.rainn.org; The National Center for Victims of Crime - Victim Helpline 1-800-FYI-CALL
- (iii) The Department of Human Services Domestic Violence Web site's list of victim services providers across the state, www.dhs.state.or.us/abuse/domestic/gethelp.htm
- (iv) The Employee Assistance Program (EAP) local service provider. State agencies with contracts with Cascade Centers, Inc. may use 1-800-433-2320 or www.cascadecenters.com to reach counselors 24 hours each day for intake and referrals to a local victim services provider
- (v) The Oregon Law Help Web site www.oregonlawhelp.org contains contact information for local legal service offices as well as basic information about protections for gaining employment and housing
- (vi) Perpetrator Information: Contact the EAP service provider as listed above, or go to [The Batterer Intervention Providers Directory 2013](#) for a list of batterer intervention providers throughout Oregon.

(e) Confidential Request and Referral

- (A) A manager, supervisor, human resource and safety staff must keep the following information confidential to the fullest extent permitted by law:
 - (i) An employee's request for resource or referral information about domestic violence, harassment, sexual assault, stalking, and additional security in the workplace
 - (ii) Witness reports of a threat or incident of domestic violence, harassment, sexual assault or stalking
 - (iii) An employee's request for other related assistance from the manager, supervisor, human resource and safety staff.
 - (iv) All records and information kept by an agency regarding a reasonable safety accommodation made for an individual, including requests for a reasonable safety accommodation, are confidential and may not be released without the express permission of the individual, unless otherwise provided by law.
 - (v) The report that an employee is a victim of domestic violence, harassment, sexual assault, or stalking
- (B) If the law or certain circumstances require disclosure of the above in (A)(i)-(v), the manager, supervisor, human resource or safety staff will give advance notice to the employee whenever possible before making the disclosure.

(f) Employee Safety and Support

- (A) The agency must take appropriate action to keep all staff safe in the workplace if an agency manager, supervisor, human resource or safety staff learn of a threat or possibility of workplace domestic violence, harassment, sexual assault or stalking. Refer to policies listed in (1)(c)(A)(vi).
- (B) If an agency has knowledge, or reasonably should have knowledge, that an employee is a victim of domestic violence, harassment, sexual assault or stalking, and if anyone makes or attempts to make, in the victim's workplace, direct or indirect communication to the eligible employee related to his or her victimization, the agency shall immediately inform the employee and offer to report the communication to law enforcement.
- (C) Any employee who witnesses a threat or incident of domestic violence, harassment, sexual assault or stalking at the employee's workplace must report it to his or her manager, supervisor, human resource or safety staff immediately.
- (D) If an employee who is a victim of domestic violence, harassment, sexual assault or stalking requests additional safety accommodations, the agency must take additional reasonable safety accommodations to protect the employee at work or in connection with work as consistent with the agency's operational needs and does not create an undue hardship on the agency. An undue hardship is a significant difficulty and expense to the agency. The agency considers its size and critical needs when it assesses an employee's request for additional safety and support measures.
- (E) Agencies must comply with all protective orders while the employee is in the workplace. If the parties to a civil protection order are employees of the same agency or work for different agencies in the same building or have on-the-job contact with one another, the pertinent managers will minimize or eliminate contact between the parties, as required by the order or as requested by the victim. Note: protective orders from other states are enforceable in the state of Oregon.
- (F) Reasonable safety accommodations, support and assistance may include but are not limited to the following (as per federal or state law, state HR policy or collective bargaining agreement):
 - (i) Suppressing, at the employee's request, their personnel information from public records requests as per OAR 137-004-0800
 - (ii) Providing local advocacy and safety planning resource information
 - (iii) Creating a pseudo name and email address for performing work
 - (iv) Initiating altered or reduced work schedules, transfer, or reassignment according to applicable policies and collective bargaining agreements
 - (v) Offering alternate parking spaces
 - (vi) Relocating or adjusting the employee's workstation, worksite or location
 - (vii) Screening telephone calls and visitors
 - (viii) Changing telephone number(s)
 - (ix) Providing alternate methods of receiving a paycheck

- (x) Approving leave of absence or intermittent leave per state law, statewide policy 60.000.12 or collective bargaining agreement
 - (xi) Sharing a copy of the protective order and a photograph of the abuser with the building security or safety staff, manager, supervisor or human resource manager to stop the abuser entering the workplace
 - (xii) Providing other safety accommodations as appropriate
- (G) Prior to making a reasonable safety accommodation, an agency may require an employee to provide certification that the employee is a victim of domestic violence, harassment, sexual assault, or stalking. Upon request, an employee must provide the certification within a reasonable time. Any of the following constitutes sufficient certification:
- (i) A copy of a police report indicating that the individual was or is a victim of domestic violence, harassment, sexual assault or stalking.
 - (ii) A copy of a protective order or other evidence from a court or attorney that the individual appeared in or is preparing for a civil, criminal or administrative proceeding related to domestic violence, harassment, sexual assault or stalking.
 - (iii) Documentation from an attorney, law enforcement officer, health care professional, licensed mental health professional or counselor, member of the clergy or victim services provider that the individual was or is undergoing treatment or counseling, obtaining services or relocating as a result of domestic violence, harassment, sexual assault or stalking.
- (g) **Prohibited Behavior**
- (A) This policy prohibits discrimination and retaliation against an employee who is a victim of domestic violence, harassment, sexual assault or stalking or who requests or uses any provision of this policy. If any employee suffers such retaliation or discrimination, the employee may file a complaint with the human resource manager for investigation and appropriate action.
 - (B) An agency shall not refuse to hire an otherwise qualified individual; or discharge, threaten to discharge, demote, suspend or in any manner discriminate or retaliate against an individual with regard to promotion, compensation, or other terms, conditions or privileges of employment because the individual is a victim of domestic violence, harassment, sexual assault or stalking.
 - (C) This policy prohibits the threat of or commission of domestic violence, harassment, sexual assault, or stalking by an agency employee on agency premises or during working hours or at an agency-sponsored event.
 - (D) An agency has the authority to impose discipline or take other appropriate action for conduct that involves the threat or commission of domestic violence, harassment, sexual assault, or stalking by an agency employee in off-duty hours, in certain circumstances.
 - (E) It is an unlawful employment practice for a covered employer to discharge, expel or otherwise discriminate against any person because the person filed a complaint, testified

or assisted in any proceeding in connection with the Oregon Victims of Certain Crimes Victim Leave Act (OVCCLA).

(h) Violations

- (A) The agency may impose disciplinary action up to and including dismissal, against violators of this policy.
 - (B) An agency may impose discipline or take other appropriate action for conduct that involves the threat or commission of domestic violence, harassment, sexual assault, or stalking by an agency employee in off-duty hours, in certain circumstances.
 - (C) An eligible employee claiming a violation of this policy may file a complaint with the Civil Rights Division of the Bureau of Labor and Industries pursuant to ORS 659A.820.
-

State of Oregon
DEPARTMENT OF ADMINISTRATIVE SERVICES
Human Resource Services Division



State Policy: 50.015.01 Job Rotation

APPLICABILITY: Classified unrepresented and management service employees

REFERENCE: ORS 240.145(3); 240.250

- (1) **Policy:** To provide employees the opportunity, at appointing authority discretion, to explore new assignments or jobs, and to provide agencies the opportunity to enhance employee development or make more effective use of staff.
- (a) Job rotation shall incorporate the following provisions:
- (A) Job rotation can be within the agency, between state agencies, or between a state agency and a federal, local, or private entity.
 - (B) Job rotation can be for development or for career enrichment. The type of rotation shall be designated on the rotation agreement.
 - (i) Developmental rotation provides an employee with the opportunity to acquire new skills. The employee is not expected to initially perform the full range of duties but is expected to develop the skills necessary to perform them during the term of the rotation. An employee on developmental job rotation shall normally retain the same salary rate.
 - (ii) Career enrichment rotation provides the opportunity for an employee to use existing skills in a different setting. In this instance the employee is expected to satisfactorily perform essentially the full range of duties from the beginning of the rotation.
 - (C) In order to prevent potential disruptions, an employee on job rotation shall normally remain in the same position number and classification and shall retain all rights, benefits, and privileges of the position.
 - (D) When the rotation is outside of state agencies, the parties involved shall determine, in advance, who will be responsible for workers' compensation premiums and claims. Such special conditions shall be reflected in the memo of agreement.
 - (E) Salary, employee benefits and state contributions shall be provided by the agency which pays the employee on rotation.
 - (F) An employee on job rotation shall receive a performance evaluation at the normal time. Sending and receiving supervisors shall collaborate as appropriate on the evaluation. The sending supervisor, however, shall retain responsibility for timely completion of the evaluation.
 - (G) An employee on job rotation shall retain eligibility for promotional opportunities in the sending agency.
 - (H) An employee on job rotation shall only be subject to and affected by layoff processes of the sending agency.
- (b) Agencies shall be required to document job rotations on the attached form or a similar form which incorporates the same provisions.

- (2) **Policy Clarification:** Job rotation, unlike a management assignment, is a work change by mutual agreement wherein the employee takes on a new role for some period of time agreed to in advance by the parties. Such arrangements are intended to be for the benefit of all of the parties involved.
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SUBJECT:	Reinstatement and Reemployment of Injured Workers	NUMBER:	50.020.03
DIVISION:	Human Resource Services Division	EFFECTIVE DATE:	6/7/10
APPROVED: Signature on file with Human Resource Services Division			

POLICY STATEMENT: The State of Oregon **reinstates employees with compensable work-related injuries or illnesses to their former positions, reemploys them to available and suitable positions, and provides them preference to entry-level classifications** in accordance with ORS 659A.043, 659A.046, and 659A.052.

AUTHORITY: ORS 240.015; 240.250; 240.306; 656.340; 659A.043; 659A.046; 659A.052; OAR 105-040-0010; 105-040-0020; 105-040-0030; 105-040-0060; 839-006-0100 through 839-006-0150

APPLICABILITY: **All employees subject to ORS 240, State Personnel Relations Law, except where in conflict with a collective bargaining agreement.**

ATTACHMENTS: None

DEFINITIONS: **Agency-at-Injury:** The state agency employing the injured worker when the compensable injury occurred.

Attending Physician: The **doctor, physician, or physician assistant** primarily responsible for the injured worker's care related to the compensable condition in the workers compensation claim [see ORS 656.005 (12) for further definition].

Entry-Level Classification: All limited competitive and non-competitive appointment classifications as listed in OAR 105-040-0060; all classifications defined as entry in their title; single-level classifications and the first level of a classification series.

Former Position: The regular duties, responsibilities, classification, and status held by the employee at the time the worker sustained a compensable injury or illness. The former position does not include temporary duties or compensation such as work out of class or developmental or rotational job assignments.

Injured Worker List: A list of employees injured while employed with an Executive Branch state agency, **who** are unable to return to their former positions due to compensable, work-related injuries or illnesses. The employee must not have waived reemployment rights in accordance with state workers' compensation laws.

Reinstatement: Return of an injured worker to the worker's former position **according to** ORS 659A.043.

Reemployment: As used in this policy, when an injured worker is disabled from performing the duties of the worker's former position **and** returns to work in an available and suitable position.

Suitable Position: A position that meets the worker's medical restrictions and is most similar to the former position in terms of compensation, duties, responsibilities, skills, location, duration (full or part-time, temporary or permanent) and shift.

See also HRSD State Policy 10.000.01, Definitions; and OAR 105-010-0000

POLICY:

(1) General Provisions:

- (a) This policy designates the manner in which state agencies comply with reinstatement, reemployment, and preference to entry-level classification obligations. This policy also establishes, consistent with law and rule, the responsibilities and obligations of injured workers. Additionally, the Department of Administrative Services, Human Resource Services Division Administrator, according to ORS 659A.052(3), may compel any agency within the Executive Branch to provide reinstatement to the former position, to appoint to an available, suitable position or give an injured worker preference in appointment to a position in an entry-level classification.
- (b) An agency-at-injury provides injured workers with written notice of their rights and responsibilities, in any reasonable form, including but not limited to this policy.
- (c) An agency:
 - (A) reinstates injured workers who make a timely demand in accordance with Section (2)(a)(A) of this policy for reinstatement
 - (B) reemploys injured workers who make a timely demand in accordance with Section (2)(a)(A) of this policy for reemployment who are unable to perform the tasks of their former position due to their compensable injury
 - (C) gives preference to injured workers in appointment to positions in entry-level classifications
 - (D) may establish a trial service period upon reemployment of an injured worker to a position consistent with State HR Policy 40.065.01 Trial Service Period, or an applicable collective bargaining agreement.
- (d) If an injured worker accepts an offer of suitable work, begins the position, and then cannot physically perform the essential functions of the position, the employing agency may remove the injured worker from the position subject to applicable law, rule, policy, and collective bargaining agreement. The employing agency notifies the agency-at-injury of the removal. Upon receipt of notice, the agency-at-injury places the injured worker on leave status in their former position and ensures the injured worker remains active on the injured worker list for all appropriate classifications.
- (e) An injured worker:
 - (A) has the right to reinstatement to the injured worker's former position or reemployment to an available, suitable position and to placement on the injured worker list for positions in entry-level classifications as well as available and suitable classifications if the employee:
 - (i) is an employee of an Executive Branch agency at the time of injury, and
 - (ii) has a compensable injury or illness that occurred in the course and scope of their duties as a state employee, and
 - (iii) has a written release for work from the attending physician that clearly indicates that the worker may return to the former position (reinstatement), or has medical restrictions preventing the worker from returning to the former position, but is medically released to other suitable positions (reemployment), and
 - (iv) makes a timely written demand in accordance with Section (2)(a)(A) of this policy to the agency supervisor, human resource office or appointing authority for reinstatement or reemployment.

- (B) **Notifies** the human resources office of the agency-at-injury within 10 calendar days when the need arises to correct or change the employee's placement on the injured worker list, or to change the injured worker's name, address or phone number. The worker shall also notify the employer if he **or she** participates in vocational assistance under ORS 656.340, resigns or abandons employment with the State, or accepts a suitable position outside of the Executive Branch.
- (C) loses reinstatement and reemployment rights when:
- (i) the worker cannot return to the former position, (loss of reinstatement rights) or cannot return to, or be placed in any position with the Executive Branch (loss of reemployment rights), or
 - (ii) the worker is eligible for and participates in vocational assistance under ORS 656.340, or
 - (iii) the worker accepts suitable employment with another employer (not an agency within the Executive Branch of the State of Oregon) after being released to suitable employment, or
 - (iv) the worker refuses a bona fide **(good faith)** offer from the employer of transitional work (light duty or modified employment) prior to becoming released to suitable employment, or
 - (v) the worker fails, in the absence of extenuating circumstances, to make a written demand, to a party listed in Section 2(a)(A), for reinstatement to the former position or reemployment to an available, suitable position within seven calendar days of receiving notice from the insurer that the worker's attending physician has released the worker for reinstatement to the former position or to reemployment to a suitable position, or
 - (vi) the worker clearly and unequivocally abandons employment with the state in accordance with OAR 839-006-0131, or
 - (vii) the worker is discharged for bona fide (good faith) reasons not connected with the injury and for which others are or would be discharged in accordance with OAR 839-006-0131, or**
 - (viii) three years elapse since the date of injury or three years elapse since the date a worsened condition occurred according to ORS 656.273.**

(2) Procedures

(a) The injured worker:

- (A) may demand reinstatement to their former position or reemployment to an available, suitable position within seven calendar days of receiving notice from the insurer that the injured worker has been released to return to work by the attending physician. If a demand is made, the demand must be in writing and be made to the injured worker's supervisor, human resources office or appointing authority of the agency-at-injury and include the attending physician's latest statement of work capacity restrictions
- (B) may request consideration to positions in **specific** entry-level classifications, even where such positions are not "suitable," by advising, in writing, the human resources office of the agency-at-injury
- (C) after making a demand for reinstatement or reemployment, must cooperate with state agencies' efforts to reinstate or reemploy the injured worker by:
 - (i) accepting all invitations to interview for suitable positions, and
 - (ii) accepting an offer of a suitable position. Refusing to accept an offer of a suitable position may only be made as prescribed in Section 2(d)(D) of this policy, and

(iii) notifying the agency-at-injury of changes in address, telephone number, return to work status or medical status, and

(iv) complying with the State's reporting policy in Section 1(e)(B) of this policy.

(D) failing to cooperate with the State's efforts to reinstate or reemploy the injured worker may be subject to disciplinary action.

(b) The agency-at-injury:

(A) reinstates the worker upon timely demand provided the worker is released by the attending physician. If the former position no longer exists, the agency reemploys the worker in an available and suitable position, or

(B) reemploys the worker in an available and suitable position within the agency-at-injury after receiving a worker's demand for a suitable position

(C) if a suitable position is not immediately available within the agency-at-injury, the agency-at-injury facilitates the reemployment of an injured worker in other agencies by:

(i) requesting documentation of the injured worker's work experience, knowledge, skills and abilities via the state job application form, and

(ii) evaluating the injured worker's experience, knowledge, skills and abilities and placing the injured worker on the injured worker list for all suitable classifications, including but not limited to entry-level classifications, at or within four salary ranges below the injured worker's current salary range for which the injured worker meets the minimum qualifications, and

(iii) placing the injured worker on the injured worker list for additional classifications that are more than four salary ranges below the former position when such classifications are requested by the injured worker and where the injured worker meets the minimum qualifications, and

(iv) placing the worker on the injured worker list for the geographic areas in a similar location to the injured workers' former work site. "Similar location" is within a reasonable commuting distance, generally, no more than 35-miles from the official workstation or the distance of the injured worker's regular commute, whichever is greater, and

(v) Placing the worker on the injured worker list within a reasonable timeframe not to exceed two weeks from receipt of the injured worker's written demand unless extenuating circumstances exist, and

(vi) obtaining updated information regarding the injured worker's relevant work-related restrictions or a specific release to perform the duties of a potentially suitable position, and

(vii) notifying DAS Human Resource Management and Consultation (HRMC) of the worker's placement on the injured worker list including an updated state application form and the worker's date of injury. HRMC notifies other Executive Branch agencies that are not subject to this policy of the worker's reemployment rights under statute and administrative rule, and

(viii) sharing information regarding a worker's relevant work-related restrictions upon the request of a recruiting agency.

(D) responds in writing if the worker provides written notice that the job is unsuitable. The agency may notify the worker in writing that the injured worker has twenty calendar days to provide medical verification or a written explanation why the job is not suitable. In the absence of requiring such written explanation, the agency offers a more suitable position.

(c) A recruiting agency **must** request an injured worker list when filling vacant positions and:

- (A) offers a suitable position to an injured worker appearing on the list if the worker meets the minimum qualifications and special requirements documented in the official position description
- (B) may interview the injured worker to determine if the worker meets the special requirements of the position, however, the injured worker does not compete against other candidates for placement in the position
- (C) may obtain information from the agency-at-injury or from the worker, such as a certificate from the attending physician about the worker's relevant work restrictions and capacities,
- (D) must offer the position to the qualified injured worker who has been on the injured worker list the longest if there is more than one qualified injured worker on the list for the vacant position
- (E) notifies the agency-at-injury if the injured worker accepts a position, and
- (F) notifies the agency-at-injury if the injured worker fails to cooperate with the recruiting agency, fails to follow proper procedure for refusal of interviews or refuses job offers as outlined in Sections 2(d)
- (G)** utilizes the Preferred Worker Program administered by the Department of Consumer & Business Services, Workers Compensation Division for the purposes of wage subsidy, premium exemption, worksite modification, and reimbursement for related expenses.
See: www.cbs.state.or.us/external/wcd/communications/emp_info3.html

(d) The injured worker:

- (A) must provide the attending physician's release to the agency-at-injury and must return to the injured worker's former position within seven calendar days upon being released to perform the duties of the former position, **and**
- (B) must accept a bona fide **(good faith)** job offer of a suitable position if unable to return to the injured worker's former position
- (C) may discuss the duties of the suitable position with the recruiting agency and may request written clarification of the duties
- (D) may refuse an offer of a suitable position if the worker believes that he or she is physically unable to perform the duties of the position. In the event of a refusal based on physical ability, the injured worker **must**:
 - (i) provide written or verbal notice to the employing agency that the worker believes the worker is physically unable to perform the duties of the position, **and**
 - (ii) provide medical verification of the worker's inability to perform the duties of the position within 20 calendar days of being notified in writing by the employing agency that medical verification is required.
- (E) must accept an offer of a suitable position. If the worker considers the position not suitable for reasons other than physical ability the injured worker may provide written notice to the agency-at-injury within 20 calendar days that specifies the reasons why the worker considers the position to be unsuitable
- (F) Upon receipt of the written notice, the agency-at-injury determines whether the position is suitable. If the agency-at-injury determines the position is suitable, the injured worker continues working in the position but may contest whether the position is suitable through an applicable grievance procedure or by filing a complaint with the Oregon Bureau of Labor and Industries.

(e) The agency-at-injury:

- (A) removes the injured worker's name from the injured worker list when the injured worker **loses** reinstatement and reemployment rights as set out in Section 1(e)(C) or when notified that the injured worker has accepted a suitable position and there are no other classifications of work for which the worker qualifies which are closer to the injured worker's salary level at the time of injury, **and**
- (B) cooperates with a recruiting agency in order to determine the suitability of an available position, **and**
- (C) retains the injured worker in leave without pay status until such time as:
 - (i) the injured worker is reinstated to the job at injury, **or**
 - (ii) the injured worker is reemployed in an available, suitable position with the agency-at-injury or with another agency of the Executive Branch, **or**
 - (iii) the injured worker loses reinstatement and reemployment rights and becomes ineligible for placement on the injured worker list as set out in Section 1(e)(C) of this policy.
- (D) may initiate disciplinary action (pre-dismissal or separation of employment, as appropriate), if provisions of Section 1(e)(C) of this policy are met, assuming other legal and contractual obligations have been met.

(3) Policy Clarification:

- (a) In the event **an** agency-at-injury and an injured worker agree that an offered position is not suitable via the process described in 2(d)(E-F) of this policy, the injured worker **remains** on the injured worker list until such time as provisions of Section 1(e)(C) of this policy is met.
- (b) A managerial or supervisory position may be a suitable position for a returning injured worker whose former position was managerial or supervisory.
- (c) Preference in appointment means qualified injured state workers are considered over all applicants for positions in any agency of the Executive Branch of the State of Oregon. Exceptions are other injured workers and employees entitled to appointment to the position pursuant to provisions or other employment restrictions of an applicable collective bargaining agreement.
- (d) A position is not available or vacant if another worker has a prior right to that job under a seniority or employment restriction provision of a valid collective bargaining agreement or if the **agency previously identified the position for abolishment**.
- (e) The State has no obligation to create a job for an injured worker.
- (f)** Nothing in this policy prohibits an agency-at-injury from offering an available, suitable position to an injured worker prior to the injured worker making a demand for reemployment when the agency-at-injury reasonably anticipates that the injured worker will not be able to return to the injured worker's former position.

SUBJECT:	Early Return to Work of Injured Workers	NUMBER:	50.020.05
DIVISION:	Human Resource Services Division	EFFECTIVE DATE:	05/01/07
APPROVED: Signature on file with the Human Resource Services Division			

POLICY STATEMENT: It is the policy of the State of Oregon that each agency will develop and implement an Early Return to Work Program for injured workers that effectively reduces medical, disability and premium costs, and positively impacts employee recovery from work-related illnesses and injuries.

AUTHORITY: 240.145; 659A.043; 659A.046; 659A.052(c)(2)(3)

APPLICABILITY: All injured workers where not in conflict with an applicable collective bargaining agreement. All Executive Branch agencies subject to ORS 240.

ATTACHMENTS: None

DEFINITIONS: See HRSD State Policy 10.000.01, Definitions; HRSD State Policy 50.020.03 Reinstatement and Reemployment of Injured Workers; and OAR 105-010-0000

POLICY:

- (1) Agencies shall develop, implement, and maintain an Early Return to Work Program that will:
 - (a) strive to return an injured worker to a transitional assignment that complies with medical limitations within three days of being released to transitional work.
 - (b) provide a written offer of temporary transitional work that will notify the worker of the worker's responsibilities including but not limited to:
 - (A) the temporary nature of the transitional work assignment and reevaluation process.
 - (B) description of job duties based on injured worker's physical restrictions.
 - (C) physical work restrictions and limitations relevant to the assignment to be approved by the attending physician.
 - (D) potential loss of reemployment and reinstatement rights of failing to accept a bona fide offer of transitional work [see HRSD Policy 50.020.03(1)(e)(C)(iv)].
 - (c) effectively review transitional work assignments every thirty days or sooner if needed in order to adjust the work assignment to align with the worker's temporary work restrictions and monitor the injured worker's recovery.
 - (d) limit transitional work to three, thirty-day review sequences unless there are extenuating factors based on written medical confirmation of the worker's prognosis with an expected recovery date that justifies continuing the transitional work assignments. Otherwise end transitional work assignments when one of the following occur;

- (A) the injured worker is released by the attending physician to regular work.
 - (B) the attending physician determines the employee to be medically stationary with permanent restrictions or releases the employee to suitable employment.
 - (C) the injured worker fails to abide by medical restrictions or terms of the transitional work assignment.
 - (D) the transitional work assignment can no longer be provided by the agency.
 - (E) the workers' compensation claim is denied by the insurer.
 - (e) utilize to the fullest extent possible, the Employer-at-Injury Program and Preferred Worker Programs administered by the Department of Consumer & Business Services, Workers Compensation Division for the purposes of wage subsidy, worksite modification and reimbursement for related purchases.
- (2) During the Early Return to Work period, the agency will:
- (a) work with SAIF and DAS-Risk Management to coordinate injured worker management and claim resolution.
 - (b) communicate as needed with SAIF Claims Team, DAS-Risk Management, DAS-Human Resource Services Division, Agency Benefits Managers and the Department of Justice.
 - (c) coordinate leave laws, bargaining agreements, injured worker/workers compensation laws and rules.

SUBJECT: ADA and Reasonable Accommodation in Employment	NUMBER: 50.020.10
DIVISION: Human Resource Services Division	EFFECTIVE DATE: 6/7/10
APPROVED: Signature on file with Human Resource Services Division	

**POLICY
STATEMENT:**

Oregon state government follows the clear mandate in state law and the Americans with Disabilities Act (ADA) of 1990, as amended by the ADA Amendments Act of 2008, to remove barriers that prevent qualified people with disabilities from enjoying the same employment opportunities that are available to people without disabilities.

Oregon state government provides equal access and equal opportunity in employment. Its agencies do not discriminate based on disability. Oregon state government uses only job-related standards, criteria, and methods of administration that are consistent with business necessity. These standards, criteria and methods do not discriminate or perpetuate discrimination based on disability.

According to OAR 105-040-0001 Equal Employment Opportunity and Affirmative Action, Oregon state government takes positive steps to recruit, hire, train, and provide reasonable accommodation to applicants and employees with disabilities.

AUTHORITY:

ORS 240.145; 240.240; 240.250; ORS 659A.103 -145; 243.305; 243.315; The Americans with Disabilities Act (ADA) of 1990 as amended by the Americans with Disabilities Act Amendments Act (ADAAA) of 2008; Civil Rights Act of 1991; and 42 U.S.C. §12101 *et seq.*

APPLICABILITY:

This policy applies to all state employees, including state temporary employees, according to provisions of federal and state law.

ATTACHMENTS:

ADA Accommodation Tool Kit

DEFINITIONS:

See State HR Policy 10.000.01 Definitions and OAR 105-010-0000

The following definitions apply to terms referenced in this policy and its attachments:

Americans with Disabilities Act (ADA) –The ADA is a federal civil rights statute that removes barriers that prevent qualified people with disabilities from enjoying the same employment opportunities available to people without disabilities. References to ADA also refer to amendments to that Act.

Essential Functions – These include, but are not limited to, duties that are necessary because:

- The primary reason the position exists is to perform these duties.
- A limited number of employees are available who can perform these duties.
- The incumbent is hired or retained to perform highly specialized duties.

Individual with a Disability – This term means a person to whom one or more of the following apply:

- A person with a physical or mental impairment that substantially limits one or more of the major life activities of such a person without regard to medications or other assistive measures a person might use to eliminate or reduce the effect of impairment.
- A person with a record of such an impairment
- A person regarded as having such impairment.

Major Life Activities – This term means the basic activities the average person in the general population can perform with little or no difficulty. These including breathing; walking; hearing; thinking; concentrating; seeing; communicating; speaking; reading; learning; eating; self-care; performing manual tasks such as reaching, bending, standing and lifting; sleeping; or working (working in general, not the ability to perform a specific job). The term also includes but not limited to “major bodily functions,” such as functions of the immune system, normal cell growth, digestive, bowel, bladder, neurological, brain, respiratory, circulatory, endocrine, and reproductive functions.

Physical or Mental Impairment – This term refers to any of the following:

- Physiological disorder, condition, cosmetic disfigurement, or anatomical loss that affects one or more bodily systems, including neurological, musculoskeletal, special sense organs, respiratory, cardiovascular or reproductive
- Mental or psychological disorder including but not limited to mental retardation, organic brain syndrome, emotional or mental illness or specific learning disability
- Disease or condition including orthopedic, visual, speech and hearing impairment, cerebral palsy, epilepsy, muscular dystrophy, multiple sclerosis, cancer, heart disease, diabetes, HIV disease or alcoholism
- Any other physical or mental impairment listed under the ADA.

Qualified Person – This term means a person who has the personal and professional attributes, including skill, experience, education, physical and mental ability, medical, safety and other requirements to hold the position.

“Qualified person” does not include people who currently engage in illegal use of drugs. A person may qualify, however, if he or she is currently enrolled in or has completed a rehabilitation program, and continues to abstain from illegal use of drugs.

Reasonable Accommodation – This term means change or adjustment to a job or work environment that enables a qualified employee with a disability to perform the essential functions of a job, or enjoy the benefits and privileges of employment equal to those enjoyed by employees who have no disabilities. “Reasonable accommodation” does not include modifications or adjustments that cause an undue hardship to the agency.

“Reasonable accommodation” does not mean providing personal auxiliary aids or services, such as service dogs or hearing aids that person uses both on and off the job.

A reasonable accommodation does not include lowering production standards, promoting or assigning an employee to a higher-paying job, creating a position or reassigning essential functions to another worker.

Undue Hardship – This term means significant difficulty or expense. Whether a particular accommodation imposes undue hardship is determined on a case-by-case basis, with consideration of such factors as the following:

- The nature and cost of the accommodation needed
- The agency's size, employee's official worksite, and financial resources
- The agency's operation, structure, functions, and geographic separateness
- The agency's administrative or fiscal relationship to its facility responding to the accommodation request and to the other state agencies
- The impact of the accommodation on the operation of the agency or its facility.

POLICY

- (1) Each state agency director or authorized designee (agency) administers State HR Policy 50.020.10 as the agency's policy. Compliance with the ADA is mandatory.
 - (a) Each agency identifies an ADA Coordinator for the agency to coordinate ADA accommodation requests and function as an agency resource on ADA matters.
 - (b) Each agency develops and follows its own procedures for receiving, processing and documenting accommodation requests under this policy. The attached tool kit will assist in this process.
- (2) An employee may request an accommodation under this policy by following agency procedures.
- (3) The agency must review and respond in a timely manner to each request for accommodation. The agency must engage in an interactive dialogue with the employee to determine whether the accommodation is necessary and will be effective.
- (4) Each accommodation is unique to the person, the disability and the nature of the job. No specific form of accommodation can guarantee success for all people in any particular job. The agency must give primary consideration to the specific accommodation requested by the employee. Through the interactive process the agency may identify and provide an alternative accommodation.
- (5) The duty to provide reasonable accommodation is ongoing. The agency and the employee must engage in the interactive process again if an accommodation proves ineffective.
- (6) The agency may deny an accommodation if it is not effective, if it will cause undue hardship to the agency, or if the agency identifies imminent physical harm or risk. The undue hardship exception is available only after careful consideration. The agency must consider alternative accommodations, should a requested accommodation pose undue hardship.
- (7) Federal and state law prohibit retaliation against an employee with respect to hiring or any other term or condition of employment because the employee asked about, requested, or was previously accommodated under the ADA.

State of Oregon
DEPARTMENT OF ADMINISTRATIVE SERVICES
Human Resource Services Division



Administrative Rule: 105-050-0025 Injured worker preference for light duty assignments under ORS 659.052.

See HRSD Permanent Rule 105-050-0025 as published by the [Secretary of State](#).

State of Oregon
DEPARTMENT OF ADMINISTRATIVE SERVICES
Human Resource Services Division



Administrative Rule: 105-050-0030 Injured worker preference for entry-level positions under ORS 659A.052.

See HRSD Permanent Rule 105-050-0030 as published by the [Secretary of State](#).

SUBJECT: Layoff/Removal

NUMBER: 50.025.01

DIVISION: Chief Human Resources Office

EFFECTIVE DATE: 1/1/2015

APPROVED: Chief Human Resources Office

POLICY STATEMENT: Because Oregon state government values stability in the workforce and the talents and contributions of its employees, state agencies shall layoff classified employees and remove management service employees when other workforce adjustment measures are not feasible.

AUTHORITY: ORS 240.015; 240.145(3); 240.250; 240.309; 240.316(1)(2)(3); 240.425; 240.430; 240.570(2) & (5); 240.580; OAR 105-040-0020

APPLICABILITY: Classified unrepresented and management service employees

ATTACHMENTS: Attachment A: Model Classified Unrepresented Layoff Plan
Attachment B: Model Management Service Removal (Layoff) Plan

DEFINITIONS: See State HR Policy 10.000.01, Definitions; and OAR 105-010-0000

POLICY:

- (1) An agency head shall develop and administer a written agency layoff/removal plan which is consistent with the provisions of this policy.
 - (a) An agency layoff/removal plan shall:
 - (A) Consider the needs of the organization in terms of the types of positions and the special knowledge and skills necessary to accomplish the work of the agency.
 - (B) Consider the qualifications of the employees in terms of special skills and expertise.
 - (C) Consider the quality of performance, relative merit, and length of state service in determining the order of individual layoff/removal.
 - (D) Provide written notice of layoff/removal to employees as early as possible, but in no case less than 15 calendar days prior to the effective date.
 - (E) Establish an agency layoff list for the purpose of returning employees to the classification from which they were laid off/removed consistent with the provisions of OAR 105-040-0020, Types and Order of Applicant Lists. If the classification the employee was laid off from is removed from the agency's classification plan, the agency will place the employee on the layoff list for the classification that most closely represents the work of their former position.
 - (F) Provide an option to employees to be placed on the statewide layoff list consistent with the provisions of OAR 105-040-0020. Classified unrepresented and management service employees may be placed on the statewide

list when their layoff or removal results in separation of employment with the state.

- (G) Provide for eligible employees to be restored consistent with State HR Policy 50.030.01 Restoration of Terminated Employees. **NOTE: In the 2014 Legislative Session, SB 1567 amended ORS 240.570 and limited restoration rights. Under SB 1567, an employee appointed to management service prior to January 1, 2015 has restoration rights for three years from the date of appointment to management service if (a) the employee has immediate prior former regular status in classified service, and (b) the employee was not dismissed from management service for a reason(s) specified in ORS 240.555. Under SB 1567, employees appointed to management service on or after January 1, 2015 have no restoration rights.**
- (H) Provide for eligible employees to be re-appointed consistent with OAR 105-040-0020, Types and Order of Applicant Lists.
- (I) Be consistent with all referenced statutes.
- (b) Agencies shall submit alternative layoff/removal plan(s) for approval to the Chief Human Resources Office (CHRO) prior to implementation.
- (c) An agency that has not adopted alternative layoff/removal plan(s) shall use the attached models if a layoff/removal occurs.

(2) Policy Clarification:

- (a) A classified unrepresented employee may be laid off through a reduction in force because of lack of work, curtailment of funds or reorganization, or other reasons which are not for cause.
 - (b) A management service employee may be removed from the management service due to reorganization or lack of work, or other reasons which are not for cause.
-

ATTACHMENT A

MODEL CLASSIFIED UNREPRESENTED LAYOFF PLAN(1) Policy

- (a) This Classified Unrepresented Layoff Plan conforms to State HR Policy 50.025.01 Layoff/Removal.
- (b) A classified unrepresented employee may be laid off through a reduction in force because of lack of work, funds curtailment, reorganization, or other reasons which are not for cause according to this policy and procedure.
- (c) All workforce adjustment measures, e.g., reassignment of employees to existing vacancies where qualified, voluntary terminations or demotions within the classified unrepresented service shall occur prior to implementing the layoff procedure.
- (d) A layoff is implemented when the number of employees in a given classification exceeds the number of available positions within the classification.
- (e) Should workforce adjustments result in the layoff of classified unrepresented employees, the appointing authority shall make every reasonable effort to:
 - (A) inform employees of their options and the process to be considered for other opportunities within state service; and
 - (B) minimize the negative impact on employees to the extent possible according to sound judgment and applicable rules and policies.
- (f) A classified unrepresented employee laid off according to this policy shall be placed on the agency layoff list for their classification. If the classification the employee was laid off from is removed from the agency's classification plan, the agency will place the employee on the layoff list for the classification that most closely represents the work of their former position. Those classified unrepresented employees whose layoff results in separation of employment with the state may request to be on the statewide layoff list for consideration in other agencies for the same, equal, or lower, classifications pursuant to State HR Policy 50.025.01 Layoff/Removal and OAR 105-040-0020 Types and Order of Applicant Lists.
- (g) A classified unrepresented employee laid off according to this policy may appeal such action pursuant to the provisions of State HR Policy 70.005.05 Classified Unrepresented Grievance Review.

(2) Procedure

- (a) The appointing authority shall determine the specific number of positions, classification(s), organizational unit(s), and/or geographic area(s) affected for a pending layoff and confines the layoff to those designations.
- (b) The appointing authority shall consider the needs of the organization in terms of the types of positions; special knowledge and skills necessary to accomplish the work of the agency.
- (c) The appointing authority shall identify all employees by classification for each designated organizational unit and/or geographic area. The agency's Human Resources office identifies the length of state service. An agency's layoff/removal policy may include a requirement to use an employee's most recent performance evaluation score as part of an employee's service credit points.
- (d) The agency's Human Resources office computes a service credit score for each employee identified for layoff by classification using the following formula:

- (A) One point for each full month of state service (except as a temporary employee) from date of hire, regardless of class. If there is a break in service of more than two years the time in state service prior to the break in service will not be counted as time in state service for the service credit score. Part-time service is credited on a prorated basis. Job-share is considered one position, and the service credit computed as an average of the incumbents, or of the one incumbent if part of the job-share position is vacant.
- (e) Service credit scores shall remain fixed for up to three months beginning with the date of notice (see (g) below).
- (f) The employee(s) with the lowest service credit score shall receive the first layoff notice(s) by classification, within the areas identified in Section (2)(a) of this policy, in the following separate categories:
 - (A) Permanent full-time positions;
 - (B) Permanent part-time positions;
 - (C) Seasonal full or part-time positions.
- (g) The appointing authority shall, at least 15 days prior to the effective date of layoff, provide written notice to the identified employees of pending layoff, date of layoff, the employee's service credit score, layoff rights and options, and assist them in making their transition.
- (h) Upon receipt of the written notice, the employee shall select one of the following options and communicate their choice in writing to the agency's Human Resources office within five working days from receipt of the layoff notice:
 - (A) Within the area identified in Section (2)(a) of this policy, an employee may displace another employee with a lower service credit score in the same classification for which he or she meets any special qualifications for the position. Displacement shall begin with the lowest service credit score in the same classification. Vacant positions the agency intends to fill are considered to have "0" seniority and must be used prior to displacement consistent with the provisions of Section 1(c) above and Section (i) below.
 - (B) Within the area identified in Section (2)(a) of this policy, an employee may displace another employee with a lower service credit score in any lower classification for which he or she meets any special qualifications. Displacement shall begin with the lowest service credit score in the lower classification. Vacant positions the agency intends to fill are considered to have "0" seniority and must be used prior to displacement consistent with the provisions of Section 1(c) above and Section (i) below.
 - (C) The employee may elect to be laid off.
- (i) To qualify for the options under 2(h)(A) and (B) above, the agency's Human Resources office will determine if the employee has demonstrated the ability to perform the specific requirements of the position within 30 days. If the employee accepts the position and is unable to perform the duties, he or she will be laid off.
- (j) Failure on the part of the employee to respond within five working days shall be considered acceptance of option 2(h)(C) - layoff.
- (k) Employees, other than initial trial service, who have been laid off shall be placed on the agency layoff list by classification. If the classification the employee was laid off from is removed from the agency's classification plan, the agency will place the employee on the layoff list for the classification that most closely represents the work of their former position. The agency list shall be in descending order of service credit score.
 - (A) Individuals with the greatest service credit score on the agency list shall be appointed when an available vacant position occurs if the employee meets any special qualifications for the position.
 - (i) If a person on the agency layoff list is offered a position, he or she has one right of refusal. Upon a second

refusal, the agency shall remove the employee's name from its layoff list. Failure to respond to an offer of employment within 14 calendar days of the offer constitutes a refusal.

- (l) An employee whose layoff results in separation of employment with the state may request to be added to the statewide layoff list for consideration in other agencies for the same, equal, or lower classifications pursuant to State HR Policy 50.025.01 Layoff/Removal and OAR 105-040-0020 Types and Order of Applicant Lists.
 - (A) Employees are eligible to be on the list for up to two years from the date of layoff.
 - (B) The agency removes an individual from the list upon the following:
 - (i) A second refusal of a job offer; or
 - (ii) An individual accepts a position within the state and has returned to work (other than temporary or limited duration work).
- (m) An employee may be on the statewide layoff list pursuant to State HR Policy 50.025.01 Layoff/Removal and OAR 105-040-0020 Types and Order of Applicant Lists.
- (n) Regular seasonal employees laid off prior to the end of the season shall be placed on the layoff list for seasonal reappointment in the same classification, and within the area in which the reduction occurred. The state cancels seasonal layoff lists at the end of the designated season.
- (o) The appointing authority shall document the application of the layoff process, including the calculation of service credits and the results on each affected classification, and maintains the records for three years from date of layoff.
- (p) The agency's Human Resources office shall implement the necessary personnel actions per required notification timeframes.

ATTACHMENT B

MODEL MANAGEMENT SERVICE REMOVAL (LAYOFF) PLAN(1) Policy

- (a) This Management Service Removal Plan conforms to State HR Policy 50.025.01 Layoff/Removal.
- (b) A management service employee may be removed from management service due to reorganization, lack of work or other reasons which are not for cause.
- (c) All workforce adjustment measures, e.g., reassignment of employees to existing vacancies where qualified, voluntary terminations, or demotions within management service, shall occur prior to implementing the removal procedure.
- (d) A removal is implemented when the number of employees in a given classification exceeds the number of available positions within the classification.
- (e) Should the workforce adjustment result in removal of employees, the appointing authority shall make every reasonable effort to:
 - (A) inform employees of their options and the process to be considered for other opportunities within state service; and
 - (B) minimize the negative impact on employees to the extent possible according to sound judgment and applicable rules and policies.
- (f) This policy does not authorize displacement (bumping) within management service by a management service employee.
- (g) A management service employee removed according to this policy shall be placed on the management service agency layoff list for their classification. If the classification the employee was laid off from is removed from the agency's classification plan, the agency will place the employee on the layoff list for the classification that most closely represents the work of their former position. Those management service employees whose removal/layoff results in separation of employment with the state may be added to the statewide layoff list for consideration in other agencies for the same, equal, or lower classifications pursuant to State HR Policy 50.025.01 Layoff/Removal, and OAR 105-040-0020 Types and Order of Applicant Lists.
- (h) A management service employee removed according to this policy may appeal such action pursuant to the provisions of State HR Policy 70.000.10 Management Service Grievance Review.
- (i) An eligible management service employee removed according to this policy with immediate prior former regular status in the classified service shall be restored pursuant to the provisions of State HR Policy 50.030.01, Restoration of Terminated Employees. **NOTE: In the 2014 Legislative Session, SB 1567 amended ORS 240.570 and limited restoration rights. Under SB 1567, an employee appointed to management service prior to January 1, 2015 has restoration rights for three years from the date of appointment to management service if (a) the employee has immediate prior former regular status in classified service, and (b) the employee was not dismissed from management service for a reason specified in ORS 240.555. Under SB 1567, employees appointed to management service on or after January 1, 2015 have no restoration rights.**

(2) Procedure

- (a) The appointing authority shall determine the specific number of positions, classification(s), organizational unit(s), and/or geographic area(s) affected for a pending removal and confines the removal to those designations.

- (b) The appointing authority shall consider the needs of the organization in terms of the types of positions; special knowledge and skills necessary to accomplish the work of the agency.
- (c) The appointing authority and agency's Human Resources office shall identify all employees by classification for each organizational unit and/or geographic area designated.
- (d) The agency's Human Resources office will evaluate all regular status and promotional trial service employees (who held regular status prior to promotion) and the appointing authority shall identify the employee(s) to be removed; taking into consideration the following provisions in descending order of importance:
 - (A) the qualifications of the employees in each classification affected in terms of special skills or expertise and the diversity of workers as it relates to the agency's ability to provide service, and minimal transition time for an individual to be capable of performing the specific requirements of the positions.
 - (B) the quality of performance and relative merit of each employee in the classification(s) affected as determined by their most recent performance evaluation or by a special performance evaluation score determined by the appointing authority and managers for all employees being evaluated in the area(s) designated prior to the implementation of the removal procedure.
 - (C) length of state service.
- (e) Initial trial service employees shall receive the first removal notices by classification followed by the employees identified by the review committee to be removed within the following separate categories:
 - (A) Permanent full-time positions;
 - (B) Permanent part-time positions;
 - (C) Seasonal full or part-time positions.
- (f) The appointing authority shall, at least 15 calendar days prior to the effective date of removal, provide written notice to the identified employees of the pending action, date, rights and options, and assist them in making their transition.
- (g) Employees, other than initial trial service employees, who have been removed, shall be placed on the agency layoff list by classification. If the classification the employee was laid off from is removed from the agency's classification plan, the agency will place the employee on the layoff list for the classification that most closely represents the work of their former position.
- (h) Recall from the agency layoff list shall be according to State HR Policy 50.025.01 Layoff/Removal and OAR 105-040-0020 Types and Order of Applicant Lists.
 - (A) An agency shall select from the list when the majority of duties of a vacant position are the same as those performed by an employee on the list prior to their removal.
 - (B) When the majority of duties of a vacant position are changed or significantly different and no employee on the list performed the major duties prior to removal, the agency may develop a single competitive pool by supplementing the layoff list with agency promotion, transfer, or demotion candidates. The agency must select from this pool if there are at least three qualified candidates.
- (i) If a person on the agency layoff list is offered a position, he or she has one right of refusal. Upon a second refusal, the agency shall remove the employee's name from the agency's layoff list. Failure to respond to an offer of employment within 14 calendar days of the offer constitutes a refusal.

- (j) A management service employee whose removal/layoff results in a separation of employment with the state shall also be given the option to be on the statewide layoff list for consideration in other agencies for the same, equal to or lower classifications pursuant to OAR 105-040-0020 Types and Order of Applicant Lists.
 - (A) Employees are eligible to be on the list for up to two years from the date of layoff.
 - (B) The agency removes an individual from the list upon the following:
 - (i) A second refusal of a job offer; or
 - (ii) An individual accepts a position within the state and has returned to work (other than temporary or limited duration work).
 - (k) Each management service employee whose removal/layoff results in a separation of employment with the state is entitled to be on the statewide layoff list pursuant to State HR Policy 50.025.01 and OAR 105-040-0020 Types and Order of Applicant Lists.
 - (l) The appointing authority shall document the evaluation process and the steps of the removal process and results for each affected classification and maintains the records for three years from date of removal. The documentation shall include the rationale for identifying those removed.
 - (m) The appointing authority shall implement the necessary personnel actions per required notification timeframes.
-

SUBJECT: Restoration of Management Service Employees	NUMBER: 50.030.01
DIVISION: Chief Human Resources Office	EFFECTIVE DATE: 1/1/2015
APPROVED: Signature on file with the Chief Human Resources Office	

POLICY STATEMENT: Restoration may be provided to eligible employees removed from management service for reasons not listed in ORS 240.555 to retain their skills and expertise in public service.

AUTHORITY: ORS 240.145(3); 240.212; 240.250; 240.570(1)(3)(5); 243.650(6)(16)(23)

APPLICABILITY: Management Service Employees

ATTACHMENTS: None

DEFINITIONS: See State HR Policy 10.000.01, Definitions; and OAR 105-010-0000

POLICY:

(1) Management Service Employees with Immediate Prior Classified Service

- (a) An eligible management service employee with immediate prior former regular status in classified service shall have restoration rights back to classified service provided all the following conditions are met:
 - (A) The employee is being removed from management service, and
 - (B) The employee was appointed to management service prior to January 1, 2015, and the effective date of removal from management service is within three years after the date the employee was appointed to management service (employees appointed to management service on or after January 1, 2015 have no restoration rights to classified service); and
 - (C) The removal is not voluntary and is not for reasons listed in ORS 240.555; and
 - (D) The employee's service has been continuous and without a break from classified service to appointment into management service.
- (b) Eligible employees shall be restored as follows (where not in conflict with collective bargaining agreement):
 - (A) Classification Determination
 - (i) The employee shall be placed in the same classification within the same agency or successor agency where the employee last held regular status in a position in classified service.
 - (ii) If no such classification exists, the employee shall be placed in that agency in a successor classification with duties comparable to the position where the employee last held regular status in a classified service position.
 - (iii) If no such classification exists, or the employee does not qualify, the agency shall consider other classifications in classified service, beginning with the comparable level, in descending salary range

Restoration of Removed Management Service Employees

50.030.01

order, to determine a classification for which the employee qualifies. The employee shall then be restored to that classification.

(B) Restoration

- (i) An employee shall be restored to the appropriate classification as determined in section (1)(b)(A).
- (ii) If no vacant position exists in the classification determined in section (1)(b)(A), the employee shall be restored to a filled position as provided for in OAR 105-040-0070, Alternate Methods of Filling Positions.
- (iii) The agency shall resolve the doublefill created by (1)(b)(B)(ii) above, by (I) or (II) below.
 - (I) The agency may conduct a layoff; or
 - (II) The agency shall develop an alternate plan to resolve the doublefill, document the plan in writing and specify the timeframe for resolution.
- (iv) The decision to resolve the doublefill created above shall be subject to applicable State HR policies, rules and collective bargaining agreements.

(c) A removed employee whose immediate prior classified service was regular status in an agency excluded from the provisions of ORS 240 shall be subject to the policies of that former agency.

(d) The appointing authority taking the removal action shall initiate the restoration process and coordinate with the receiving agency's Human Resources Office.

(2) Management Service Employees without Immediate Prior Classified Service

(a) Management service employees without immediate prior classified service do not have restoration rights under this policy.

(3) Employees appointed to management service on or after January 1, 2015, do not have restoration rights under this policy. Employees appointed to management service prior to January 1, 2015 and whose removal from management service is three years after their date of appointment to management service, do not have restoration rights under this policy.

DAS Statewide Policy

SUBJECT: Performance Management Process **NUMBER:** 50.035.01
DIVISION: Human Resource Services Division **EFFECTIVE DATE:** **6/20/05**

APPROVED: Signature on file with the Human Resource Services Division

POLICY STATEMENT: The performance management process is a tool to assist managers and supervisors in managing the performance of their subordinates by promoting employee understanding of successful job performance and commitment to the objectives and goals critical to the success of their agency.

AUTHORITY: ORS 240.086(1); 240.145(3); 240.212; 240.240; 240.430; 659.025(1); and OAR 115-045-0020

APPLICABILITY: Classified unrepresented, management service, **unclassified** executive service, and unclassified unrepresented employees

ATTACHMENTS: None

DEFINITIONS: See HRSD State Policy 10.000.01, Definitions; and OAR 105-010-0000

POLICY:

- (1) The performance management process is a tool to assist managers and supervisors in managing the performance of their subordinates by promoting employee understanding of successful job performance and commitment to the objectives and goals critical to the success of their agency.
 - (a) Each agency shall develop a Performance Management Plan specific to their agency for **unclassified** executive and management service employees and classified employees, if applicable. Either Model A or B of the attached Performance Management Plans shall serve as the agency's plan unless an alternative plan has been adopted by the agency.
 - (b) The agency Performance Management Plan shall be communicated to all employees covered by the plan. Each agency is responsible for training all managers and supervisors in the administration of the agency's Performance Management Plan.
 - (c) Those agencies developing their own Performance Management Plan shall include the following plan requirements:
 - (A) a consistent annual performance evaluation period for all employees covered by the plan.
 - (B) a performance management plan for each employee that is developed and communicated to the employee prior to the beginning of each plan year and includes:

- (i) identification of their job performance expectations and performance measures that are results-based or behavior-based or a combination of both. Performance measures for managers and supervisors shall contain the effectiveness of their affirmative action objectives.
 - (ii) an individual employee development plan.
 - (iii) provisions for ongoing review during the plan year to discuss employee performance, monitor progress and modify and update the performance plan as needed.
- (C) Agencies shall adopt a scoring system to evaluate performance that permits comparison of performance and ratings agency-wide or by specified organizational units of the agency.
- (D) At least three performance level ratings shall be used to provide for consistency in describing and reporting ratings on a statewide basis.
- (E) All supervisors shall complete an annual written performance evaluation for each employee prior to the employee's performance appraisal date. The evaluation shall be based on the employee's performance plan and include:
 - (i) a performance discussion between supervisor and employee.
 - (ii) documented performance achievements and/or deficiencies.
 - (iii) a rating of each employee that is consistent with the agency's scoring and rating system.
 - (iv) an internal agency review process completed prior to finalizing and communicating the performance rating to each employee.
 - (v) required signatures of employee, supervisor, and reviewer with a copy of the signed evaluation form provided to the employee.
- (F) Any employee may prepare written comments or rebuttal to their evaluation within 30 calendar days of receiving the evaluation which shall be attached to the evaluation form and become part of the official record.
- (G) Performance evaluations may be appealed by classified employees under the grievance review process described in HRSD State Policy 70.005.05.
- (H) Agencies may provide for an appeal process for **unclassified** executive service and management service employees in which the agency head shall be the final step.
- (I) A performance evaluation shall be completed for each employee new to the agency or supervisory unit with a minimum of four months of service prior to the end of a performance plan year and prior to completion of trial service for trial service employees. Except for trial service, agencies have the option to complete performance evaluations for new employees with less than four months of service.
- (J) Agencies shall enter a numerical rating or a Y (yes) into the PPDB employee system to indicate the employee received a written performance evaluation.

- (K) Agencies shall evaluate their own performance management process and plan annually for compliance with established criteria, the job relatedness of performance criteria, overall consistency and rating errors, and modify them as necessary.
- (L) Agency performance management plans are subject to HRSD review for agency consistency of plan application and compliance with state policy requirements.

(2) Policy Clarification:

- (a) Attachment A provides elements and good practice options for agencies to consider in developing their agency performance management plan.
- (b) Attachment B - Model A - provides a simple plan utilizing a five point rating system and has no required form. It covers **unclassified** executive service and management service employees, and if applicable, classified employees in the agency. This plan may encompass both individual employee and team performance plans depending on how a supervisor organizes work and sets performance expectations.
- (c) Attachment C - Model B - is the current performance management plan which has been utilized successfully by many state agencies. It has three rating levels and a prescribed format.

Performance Measure: Percentage of trial service and annual performance evaluations completed within established timeframes.

Performance Standard: 100%

ELEMENTS TO CONSIDER FOR AGENCY PERFORMANCE PLAN

Element	Options	Good Practice
Performance evaluation review due date	a) on individual salary eligibility date (SED) b) all at the same time (focal point review)	Either a) or b) is appropriate based on agency's preference. b) facilitates comparisons of team performance
Development of employee performance management plans	a) developed jointly by supervisor and employee b) developed by supervisor	a) encourages communication and understanding between supervisor and employee
Performance expectations and measures	a) results based b) behavior based c) weighted	Situational to the job; a combination of two or all three may be appropriate
Training on agency's Performance Management Plan	a) employee handbook b) orientation for new managers c) regular updates on modifications of the plan	A combination of all three would be appropriate
Performance evaluations for employees new to agency or supervisory unit	a) losing supervisor complete an exit evaluation on employee b) gaining (rating) supervisor check with prior supervisor when completing employee's performance evaluation within the four month minimum c) evaluate employee based solely on observation of performance while in new supervisory unit	Either a) or b) provide the information necessary to evaluate the employee's performance during the entire performance evaluation period
Sources of input regarding employee performance	a) supervisor b) 360 degree review, i.e. input from: <ul style="list-style-type: none"> • peers • subordinates • customers • other managers c) employee	A combination of all three would provide the most comprehensive input for the supervisor to consider

Model A

PERFORMANCE MANAGEMENT PLAN

- (1) This Performance Management Plan is established consistent with HRSD State Policy 50.035.01 and shall serve as the agency's Performance Management Plan. It covers all **unclassified** executive and management service and classified employees in the agency.
- (2) Each supervisor is responsible to distribute and discuss the agency Performance Management Plan with all employees they supervise.
- (3) The agency's personnel office is responsible to provide training for agency supervisors in the proper administration of the Performance Management Plan and all supervisors are responsible to participate in the training.
- (4) Each supervisor shall develop an annual, written performance plan for each employee supervised and communicate/discuss it with the employee prior to the beginning of each plan year. Supervisors are encouraged to develop the performance plan in concert with each employee. EACH EMPLOYEE PERFORMANCE PLAN SHALL INCLUDE:

- (a) an annual performance plan period
- (b) job-related performance measures that are consistent with the employee's position description and tie to the agency's goals and performance measures. Each performance measure shall describe standards or indicators of success or achievement, i.e. measurable results and timeframes where applicable. An employee's performance plan may also include behavior-based performance measures where certain behaviors such as teamwork, cooperation, consensus building, networking, need emphasis or improvement. Performance measures for managers and supervisors shall contain effectiveness of their affirmative action objectives.

Each agency supervisor's performance plan shall include performance measure(s) related to the successful performance management of their subordinates.

- (c) the relative weight of each performance measure in the employee's plan, i.e. the points possible assigned to each measure according to the emphasis or priority placed on it in relation to the other performance measures in the plan. The total points possible for all measures shall equal 100.
- (d) an individual employee development plan that provides for the continuous improvement of the employee's job-related knowledge and skills. This development plan may be incorporated as one of the employee's performance measures, i.e. continuous improvement, or be a separate part of the plan.
- (e) the signatures and date of both the supervisor and the employee acknowledging understanding of the plan at the beginning of the performance plan year.
- (f) provisions for a minimum of one interim performance plan review during the plan year to discuss performance progress, any deficiencies and plan updates as needed. The supervisor and employee shall sign and date the plan at each review.

- (5) As determined appropriate, supervisors shall have the option to develop performance plans for teams of employees based on the organizational unit work plan or specific process or project goals. In such circumstances, results-based performance measures shall be developed for the team. Individual employee performance plans shall then be developed for each team member to include the team performance measures in whole or in part, together with any desired or needed performance measure(s) specific to the employee including their individual development plan or continuous improvement performance measure.
- (6) The agency shall adopt the following uniform scoring and rating system for use by each supervisor to facilitate consistency in employee performance evaluations throughout the agency:
- (a) a total of 100 possible points for an employee performance plan distributed by the relative weight assigned to each performance measure.
 - (b) a rating system of 1 through 5 based on the annual evaluation of total points achieved.
- 90-100 total points achieved equals an overall rating of 1: Outstanding -- Highest possible level of performance. Employee excels in all aspects of the position and significantly and consistently exceeds the established job requirements and performance standards, goals and expectations of the job. Generally, in any given year, a very limited number of employees achieve results at this level.
- 80-89 total points achieved equals an overall rating of 2: Exceeds expectations -- Employee consistently exceeds standards and expectations of the position and may perform at an outstanding level in some areas.
- 70-79 total points achieved equals an overall rating of 3: Meets expectations-- Employee performance fulfills established standards and job expectations. Work is consistently performed at an acceptable level and at times may be performed at a higher level. Results are those expected of most employees successfully performing their jobs.
- 60-69 total points achieved equals an overall rating of 4: Does not fully meet expectations-- Employee performance does not consistently satisfy position requirements, but employee has shown the aptitude, interest and/or skills needed to attain them. Improved sustained results need to be shown within a limited time period.
- Less than 60 total points achieved equals an overall rating of 5: Unacceptable--Employee performance clearly fails to meet standards and the employee does not demonstrate the aptitude and/or interest to perform job successfully. Immediate sustained improvement must be shown.
- (7) Each year for executive and management service employees and classified employees, each supervisor shall complete an annual written performance evaluation for each employee supervised based on the employee's individual performance plan to include:
- (a) input on the employee's performance during the plan year from other employees, peers, managers, customers, etc. with knowledge of the employee's job performance as determined relevant by the supervisor.
 - (b) a performance discussion between the supervisor and the employee regarding the results of the performance plan. Each employee shall have the opportunity to provide input, examples of work and a self-evaluation for the supervisor's consideration.

- (c) documented performance achievements and/or deficiencies.
 - (d) points achieved for each performance measure, total points achieved for the plan and an overall rating according to agency's adopted scoring/rating system described above.
 - (e) a review of all subordinate employee ratings with other supervisors in the same organizational unit or peer organizations within the agency for rating consistency PRIOR TO FINALIZING AND COMMUNICATING THE PERFORMANCE RATING TO EACH EMPLOYEE.
 - (f) a discussion of the evaluation rating with each employee and notice to the employee of the opportunity to attach written comments on the evaluation. The supervisor, employee and appropriate reviewer shall sign and date the completed performance evaluation.
- (8) The supervisor is responsible to transmit a copy of the completed and signed performance evaluation for each employee to the agency's personnel office prior to the employee's performance appraisal date. Except for trial service, the supervisor has the option to complete a performance evaluation for a new employee with less than four months of service.
 - (9) The agency's personnel office is responsible for entering a numerical rating or a Y (yes) into the PPDB employee system to indicate the employee received a written performance evaluation.
 - (10) All employees new to the agency or supervisory unit (unless they are in their trial service period) who have been with the agency a minimum of four months prior to the end of a performance plan year shall have a performance plan and evaluation in accordance with this policy. A performance evaluation shall be completed for each trial service employee prior to the completion of their trial service.
 - (11) Performance evaluations cannot be appealed by an executive or management service employee. Classified employees may appeal their performance evaluation according to the agency's grievance process.
 - (12) Any employee disagreeing with his/her performance evaluation may prepare written comments or rebuttal within 30 calendar days of receiving the evaluation. This rebuttal shall be attached to the evaluation form and become part of the official record.
 - (13) The agency's personnel office shall evaluate the agency's performance management plan and process annually for compliance with established requirements and overall agency rating consistency. They shall make recommendations to modify the plan as necessary.

Model B

**PERFORMANCE MANAGEMENT PLAN
MANAGEMENT AND EXECUTIVE SERVICE**(1) Performance Management System

- (a) This system is established consistent with HRSD State Policy 50.035.01 and shall serve as the agency's Performance Management Plan.
- (b) A performance management evaluation shall be completed for all employees new to the agency or supervisory unit with a starting date at least four months prior to the end of the performance plan year and each employee prior to completion of trial service. Except for trial service, supervisors have the option to complete performance evaluations for new employees with less than four months of service. In addition, all trial service employees shall receive an informal interim performance review at least twice during the trial service period. A performance management evaluation shall be completed for each regular status employee annually. In addition to the annual evaluation, all regular status employees shall receive an informal interim performance review at least once during the review period.
- (c) The appointing authority may select standard performance measures to be used in evaluating employees. In addition to agency standard measures, unless the appointing authority has directed otherwise, supervisors may select other performance measures to be used in evaluating individual employee performance. The performance measures for managers and supervisors shall contain the effectiveness of their affirmative action objectives.
- (d) The agency appointing authority shall be responsible for determining the total number of points that will be possible to achieve on the performance management evaluations (agency standard) **and** for developing a method of converting the points to the three required rating levels used for the final score.

Using the agency standard on the total number of points possible to achieve on the overall performance management evaluation, agency supervisors/managers shall be responsible for determining the number of points possible to achieve on each individual performance measure. Unless the appointing authority has directed otherwise, supervisors/managers may weight the individual performance measures based on importance in meeting job goals and expectations.

- (e) Performance measures, expectations, goals and objectives, and an individual development plan shall be identified for each employee and discussed with the employee prior to the start of each review period. This information shall be documented on the Performance Management Evaluation form.
- (f) Supervisors shall be responsible for evaluating employees on each identified performance measure and for providing on the Performance Management Evaluation form examples of the employee's work which illustrates the rationale for the rating given. Performance Management Evaluations shall make reference to prior documentation or discussion of performance deficiencies.

- (g) Performance management evaluations shall be due in the agency's personnel unit prior to the employee's performance appraisal date. They shall be completed on the standard Performance Management Evaluation form.
- (h) The appointing authority shall assure that each performance management evaluation form is completed, signed, and discussed with the employee by the due date and that each employee is provided with a copy of the signed form.
- (i) The agency's personnel office is responsible for entering a numerical rating or a Y (yes) into the PPDB employee system to indicate the employee received a written performance evaluation.
- (j) Performance management evaluations may be appealed to the next level of review up to the agency head. Additionally, if an employee disagrees with the evaluation, after review of the evaluation with the supervisor and/or next level of review, the employee has the option to prepare a written rebuttal to the evaluation within 30 calendar days of receiving the evaluations. This rebuttal shall be attached to the performance management form and become part of the official record.

(2) Performance Management Process

Beginning of Review Period

- (a) At the beginning of the review period, unless the appointing authority has directed otherwise, the supervisor identifies the performance categories, measures, expectations, goals and objectives for each subordinate. The supervisor also includes any performance measures that have been identified as an agency standard.
- (b) Unless the appointing authority has directed otherwise, the supervisor identifies the number of points possible to achieve on each performance measure and documents this on the form as "Points Possible".
- (c) Supervisor and employee meet to discuss the identified performance measures, expectations, goals and objectives and together they decide on an individual development plan that will assist the employee in performing the job and bring greater job satisfaction. The employee signs the Performance Management Evaluation form acknowledging understanding of the performance measures, expectations, goals and objectives on which the employee will be evaluated during the next review period.
- (d) Supervisor and employee decide on the date of the mid-period informal review.

(3) Mid-Period Review

- (a) Supervisor and employee meet to informally discuss performance up to that point and to review performance categories and measures. This review allows both individuals to provide feedback regarding employee performance prior to the formal evaluation and to review and make any changes to the performance measures determined to be necessary due to changes in the work assignment or environment.
- (b) Supervisor and employee sign and date Performance Management Evaluation form acknowledging the review.

(4) Performance Review

- (a) Supervisor rates performance of employee on each of the identified performance measures, indicating on the Performance Management Evaluation form both the level of work performed and the number of points achieved on each measure. Supervisor indicates on the form examples of the employee's work supporting the rating given on each measure.
- (b) Supervisor totals the points the employee has achieved and, using the point conversion developed by the appointing authority, determines the final rating the employee will receive.
- (c) Unless the appointing authority has directed otherwise, supervisor identifies the performance categories, measures, goals, expectations and objectives that will be used to evaluate the employee during the next review period. Note: these may be the same as those previously used.
- (d) The Performance Management Evaluation form is submitted for review and signature by both the reviewer and appointing authority prior to meeting with the employee.
- (e) Supervisor and employee meet to discuss the supervisory ratings, discuss performance categories, measures, goals, expectations, objectives identified for next review period, and decide on employee development plan for next review period.
- (f) Supervisor and employee sign Performance Management Evaluation form and employee is provided a copy of the form.
- (g) Copy of completed form is provided to the agency's personnel office.
- (h) Agency's personnel office enters the numerical rating or a Y (yes) into the PPDB employee system to indicate the employee received a written performance evaluation.

RATING LEVELS

- (1) EXCEEDS EXPECTATIONS: Performance at this level significantly and consistently exceeds the established job requirements and performance measures, goals, and expectations of the job. Work quality and quantity are of the highest caliber. This level contributes unique and innovative solutions to even the most difficult problems.
- (3) MEETS EXPECTATIONS: Performance at this level consistently meets and may, at times, exceed the established job requirements and performance measures, goals, and expectations of the job. At the high end of this level, performance is that of a fully competent performer in all areas. This employee meets the high standards that the State of Oregon requires of all its employees. At the low end, the employee, on balance, has met most of the required performance measures, goals and expectations of the job but may not have reached all of the agreed upon standards of quality/quantity/time constraints for the accomplishment of those objectives.
- (5) DOES NOT MEET EXPECTATIONS: Performance at this level is consistently below the expectations of the job. Although some employees at the high end of this rating may meet some of the established job requirements and performance measures, goals and expectations of the job, on balance, they have failed to satisfactorily complete expectations. This level of performance indicates the immediate need for the improvement of performance (may require training, instruction, use of acquired knowledge and skills). It is expected that an employee would not remain in this category without further action, disciplinary or otherwise.

Employee Name				Employee ID Number: OR		Position Number	
Class Number		Class Title			Working Title		
Reporting Period From:		To:		Evaluation For <input type="checkbox"/> Annual Review <input type="checkbox"/> Trial Service <input type="checkbox"/> Other		Next Evaluation Date	

PART 1: PERFORMANCE MEASURE/EXPECTATIONS/OBJECTIVES		
PERFORMANCE CATEGORY:	PERFORMANCE MEASURE:	
EXPECTATIONS/GOALS/OBJECTIVES:		
EXCEEDS EXPECTATIONS/GOALS/OBJECTIVES	_____	POINTS POSSIBLE
MEETS EXPECTATIONS/GOALS/OBJECTIVES	_____	POINTS ACHIEVED
DOESN'T MEET EXPECTATIONS/GOALS/OBJECTIVES	_____	
EXAMPLES OF WORK ILLUSTRATING RATING:		

PERFORMANCE CATEGORY:	PERFORMANCE MEASURE:
EXPECTATIONS/GOALS/OBJECTIVES:	
EXCEEDS EXPECTATIONS/GOALS/OBJECTIVES MEETS EXPECTATIONS/GOALS/OBJECTIVES DOESN'T MEET EXPECTATIONS/GOALS/OBJECTIVES	POINTS POSSIBLE POINTS ACHIEVED
EXAMPLES OF WORK ILLUSTRATING RATING:	

PART I - PERFORMANCE MEASURES/EXPECTATIONS/GOALS/OBJECTIVES (Continuation Sheet)

PERFORMANCE CATEGORY:	PERFORMANCE MEASURE:
EXPECTATIONS/GOALS/OBJECTIVES:	
<div>EXCEEDS EXPECTATIONS/GOALS/OBJECTIVES</div> <div>MEETS EXPECTATIONS/GOALS/OBJECTIVES</div> <div>DOESN'T MEET EXPECTATIONS/GOALS/OBJECTIVES</div> <div>POINTS POSSIBLE</div> <div>POINTS ACHIEVED</div>	
EXAMPLES OF WORK ILLUSTRATING RATING:	

PERFORMANCE CATEGORY:	PERFORMANCE MEASURE:
EXPECTATIONS/GOALS/OBJECTIVES:	
<div>EXCEEDS EXPECTATIONS/GOALS/OBJECTIVES</div> <div>MEETS EXPECTATIONS/GOALS/OBJECTIVES</div> <div>DOESN'T MEET EXPECTATIONS/GOALS/OBJECTIVES</div> <div>POINTS POSSIBLE</div> <div>POINTS ACHIEVED</div>	
EXAMPLES OF WORK ILLUSTRATING RATING:	

PERFORMANCE CATEGORY:	PERFORMANCE MEASURE:
EXPECTATIONS/GOALS/OBJECTIVES:	
<div>EXCEEDS EXPECTATIONS/GOALS/OBJECTIVES</div> <div>MEETS EXPECTATIONS/GOALS/OBJECTIVES</div> <div>DOESN'T MEET EXPECTATIONS/GOALS/OBJECTIVES</div> <div>POINTS POSSIBLE</div> <div>POINTS ACHIEVED</div>	
EXAMPLES OF WORK ILLUSTRATING RATING:	

PART II - INDIVIDUAL EMPLOYEE DEVELOPMENT PLAN

IDENTIFY DEVELOPMENT GOALS FOR INDIVIDUAL AND HOW THEY WILL BE ACHIEVED.

My supervisor has discussed with me and I understand the performance measures, expectations, goals, objectives and development plan for the next review period.

EMPLOYEE: _____

DATE: _____

PART III - INTERIM PROGRESS REVIEW

INTERIM PROGRESS REVIEW

EMPLOYEE: _____

DATE: _____

SUPERVISOR: _____

DATE: _____

COMMENTS:

PART IV - EVALUATION

PERFORMANCE MANAGEMENT EVALUATION

EMPLOYEE DATE

TOTAL POINTS POSSIBLE

TOTAL POINTS ACHIEVED

SUPERVISOR DATE

RATING

REVIEWER DATE

(1) EXCEEDS EXPECTATIONS

(2) MEETS EXPECTATIONS

APPOINTING AUTHORITY DATE

(3) DOESN'T MEET EXPECTATIONS

DAS Statewide Policy

SUBJECT: Employee Performance Recognition Program **NUMBER:** 50.040.01
DIVISION: Human Resource Services Division **EFFECTIVE DATE:** 08/05/05

APPROVED: Signature on file with the Human Resource Services Division

POLICY STATEMENT: In order to reward and reinforce desired, demonstrated behavior, achievement, and results, appointing authorities may establish and maintain plans that recognize and promote extraordinary employee and/or team achievements.

AUTHORITY: ORS 240.235, 240.240; 240.250

APPLICABILITY: Classified unrepresented, management service, unclassified executive service and unclassified unrepresented employees

ATTACHMENTS: None

DEFINITIONS: See HRSD State Policy 10.000.01, Definitions; and OAR 105-010-0000

POLICY:

- (1) In order to reward and reinforce desired, demonstrated behavior, achievement, and results, appointing authorities may establish and maintain plans that recognize and promote extraordinary employee and/or team achievements. Accordingly:
 - (a) An agency head shall determine the nature of the employee performance recognition program, to include:
 - (A) plan objectives;
 - (B) eligibility;
 - (C) performance criteria;
 - (D) plan administration;
 - (E) award components:
 - (i) cash or
 - (ii) **non-cash**
 - (F) communication to employees; and,
 - (G) costs and funding.
 - (b) An agency head shall ensure that the program is in compliance with all applicable rules, policies and regulations. He/she shall ensure the program can be financed within the limits of its biennial budget and legislatively approved program.

- (c) An agency head shall conduct and document a written program evaluation and audit on at least a biennial basis to assess and effect program improvements and corrective actions, as necessary. The written evaluation shall include a determination of employee understanding and satisfaction with the program.
- (d) Programs shall not duplicate the [Employee Suggestion Awards Program](#).
- (e) **Both cash and non-cash awards** are generally one-time awards **and shall not exceed \$50 in a calendar year (maximum of \$50 per individual if award is a team award)**. If cash-based, the award amount shall not be included in the employee's base salary. Cash awards are processed through the payroll system and are subject to taxation as income.
- (f) Employee(s) may receive a cash **or a** non-cash award, **or** a combination of the two.
- (g) Cash or non-cash awards, combined or separate, shall not exceed **a cash value of \$50**.

Performance Measure: Percent of program provisions and requirements fully documented in writing and consistently and equitably applied.

Performance Standard: 100%

State of Oregon
DEPARTMENT OF ADMINISTRATIVE SERVICES
Human Resource Services Division



State Policy: 50.045.01 Employee Development and Implementation of Oregon Benchmarks for Workforce Development

APPLICABILITY: Classified (where not in conflict with the collective bargaining contract), management service, executive service and unclassified unrepresented employees

REFERENCE: ORS 240.145(3)(4); 240.250; Oregon Benchmarks

(1) **Policy:** Oregon state government shall be a leader in achieving or exceeding the Oregon workforce development benchmarks of developing the best trained workforce in the U.S. by the year 2000 and in the world by the year 2010.

- (a) For each biennium, an agency head shall develop a written agency training plan to require a minimum of 20 hours of education and training related to work skills and knowledge for at least 50% of their permanent employees in each fiscal year.
- (b) Supervisors, in discussion with their employees, shall develop and update annually a written development plan for each employee that provides for the continuous improvement of the employee's job related knowledge and skills.
- (c) An agency head shall maintain written documentation of agency workforce development hours and expenditures per instructions from Department of Administrative Services regarding expenditures and account numbers related to training and travel.
- (d) When opportunities permit, agencies shall invite other state agencies to fill staff development openings and share training facilities and other employee development resources.
- (e) An agency head may provide educational assistance to employees when it directly relates to their job responsibility and can be accommodated within the agency budget:
 - (A) When an employee is assigned to attend courses, the agency shall reimburse all of the costs of course registration fees, course materials, and necessary travel.
 - (B) When an employee makes a request to attend a class(s), either during or after working hours, the agency may reimburse all or part of the costs attendant to the class(s).
 - (C) Educational assistance to employees may include paid leave. Provisions of the paid leave agreement between the agency and the employee shall be documented and maintained in the agency file.

(2) **Policy Clarification:**

- (a) The written agency training plan is intended to relate individual employee development plans and agency workforce development priorities to the agency mission.
- (b) Training or education related to work skills and knowledge includes formal instructions or a structured learning plan related to:
 - (A) employee's competence to perform a specific job,
 - (B) employee's state government career, or
 - (C) Employee's work environment.

(c) Modes of training delivery may be formal education, on the job training, supervised learning activities, and other specific training approved by the employee's supervisor as job related.

(1) **Performance Measure:** Percentage of agency employees who received 20 or more hours of job related training in each fiscal year.

Performance Standard: 50%

(2) **Performance Measure:** A current, completed written agency training plan for each biennium.

Performance Standard: 100%

(3) **Performance Measure:** Percentage of agency employees with current written individual development plans.

Performance Standard: 100%

SUBJECT: Telecommuting and Teleworking	NUMBER: 50.050.01
DIVISION: Human Resource Services Division	EFFECTIVE DATE: 11/9/09
APPROVED: Signature on file with the Human Resource Services Division	

POLICY STATEMENT: Oregon state government encourages state agencies to allow employees, where suitable, to telecommute or telework.

AUTHORITY: ORS 240.145(3), 240.250, 240.855

REFERENCE State HR Policy 20.005.20 Fair Labor Standards Act; Department of Administrative Services (DAS) Enterprise Information Strategy and Policy Division (EISPD) information technology and information security policies

APPLICABILITY: All employees (where not in conflict with collective bargaining agreements)

ATTACHMENTS: Sample Telecommuting Agreement; Sample Teleworking Agreement

DEFINITIONS: See State HR Policy 10.000.01, Definitions; and OAR 105-010-0000

- (a) Central worksite: The traditional office, official workstation, or workplace.
- (b) Suitable: Positions that have limited need for direct supervision and access to hard copy or electronic files, limited need for face-to-face contact with other employees, clients, and customers, and limited need for access to the agency's resources.
- (c) Alternate worksite: A worksite alternate to the central worksite, in the employee's home or in a building owned or leased by the state, or in a mutually agreed upon location.
- (d) Telecommuting: A mutually agreed upon work option between the agency and the employee in which the employee works at an alternate worksite on a regular basis on specified days.
- (e) Teleworking: A mutually agreed upon work option between the agency and the employee in which the employee works at an alternate worksite on an occasional, irregular basis with the remainder of his or her time at the central worksite.

POLICY

- (1) An agency director shall administer State HR Policy 50.050.01, as the agency's policy on telecommuting and teleworking.
- (2) Request and Consideration
 - (a) Telecommuting and teleworking are privileges and may be a work option for some positions.

- (b) Employees may request to telecommute or telework. In deciding whether to accept or deny an employee's request, the supervisor may consider a number of factors, including, but not limited to, the following:
 - (A) If the position is suitable for telecommuting or teleworking.
 - (B) If the employee consistently demonstrates work habits that are well-suited to teleworking or telecommuting, including, but not limited to self-motivation, self-discipline, the ability to work independently, the ability to manage distractions, the ability to meet deadlines, and a demonstrated record of meeting established performance expectations.
 - (C) Whether approval or denial of the request is a consistent application of the policy throughout the agency.
 - (D) Whether a telecommuting or teleworking arrangement will meet the agency's business or operation needs or a need of the agency's customers.
 - (c) The supervisor may approve or deny the telecommuting or teleworking request. An agency's human resources office can assist supervisors who are uncertain about whether to approve or deny a telecommuting or teleworking request.
- (3) Agreement
- (a) The agency may require teleworking or telecommuting at the time of hire as a condition of employment. Under those circumstances, the agency has discretion to discontinue the arrangement at any time. In addition, teleworking or telecommuting may be arranged by mutual agreement between the agency and an employee. Unless otherwise provided in the agreement, either the agency or the employee may discontinue the arrangement at any time.
 - (b) Telecommuting employees sign and abide by an agreement between the employee and the supervisor. The employment relationship remains the same as for employees not working from an alternate worksite. Agencies may create their own agreements. See attached samples of a telecommuting and a teleworking agreement.
 - (c) Agencies have the discretion to approve employees working in alternate worksites when the worksite is in Oregon or in the same state as the central worksite. When an employee's alternate worksite is outside of Oregon, the agency's appointing authority must request a workers' compensation insurance assessment from DAS Risk Management to determine if out-of-state workers' compensation coverage is needed. If additional coverage is needed, DAS Risk Management arranges for the coverage. Discuss with DAS Risk Management if an assignment will last more than 14 workdays, the period set by Risk for initial assessment and approval of out-of-state worksites.
 - (d) An employee's salary, benefits and employer-sponsored insurance coverage do not change as a result of telecommuting or teleworking.
 - (e) Managers will monitor employee compliance with the telecommuting and teleworking agreement, relevant state policies, performance standards, expectations for work products, productivity and time accountability. Employees must be available during established work hours. Absences (including unavailability during work hours) must be pre-approved. Employees must account for all time worked and use other leave, as appropriate, with prior management approval only. Management may consider an employee's request to alter regular work hours on a telecommuting or telework day, if the alteration is necessary for the employee to accomplish assigned work tasks. Management will discuss the employer's expectations with the employee such as assignments to be completed, timely response to e-mail and phone calls, etc.
 - (f) Employees' work schedules must comply with the Fair Labor Standards Act, Collective Bargaining Agreements, or State HR Policy 20.005.20 Fair Labor Standards Act, as applicable.

- (g) Management has discretion to determine whether to allow telework when an employee's dependents may be in the home during teleworking hours. If approved, time the employee spends caring for dependents, or time spent on other personal business, will not be counted as time worked. The employee must gain pre-approval from management prior to using any accrued leave.
 - (h) Security
 - (A) The supervisor will ensure that the employee can work at the alternate worksite without endangering state information. The agreement must contain assurance that the supervisor and employee will follow agency policies and DAS-EISPD policies related to information and data security. Complying with these policies mitigates risk and ensures an appropriate level of security for confidential state information (paper and electronic) in transit or at the alternate worksite.
 - (B) The supervisor will provide the employee with ongoing training on how to protect confidential state information.
 - (C) The agency will ensure that the employee has secure network access to the state's systems and that devices used by the employee contain an appropriate level of security software and configurations.
 - (i) State information stored on an employee's personal electronic equipment is subject to public records requests, and to review by the agency.
- (4) Logistics for Alternate Worksites
- (a) Employees are expected to have sufficient telephone arrangements to perform their work and to participate in telephone conferences during agreed-upon work hours.
 - (b) Employees are expected to have sufficient Internet access if work assignments require use of Web resources in the performance of their duties while working at an alternate worksite.
 - (c) Employees will not hold business visits or in-person meetings with an agency's customers or co-workers at the alternate worksite unless approved by the employee's supervisor.
 - (d) The agency provides office supplies for the alternate worksite.
 - (e) The agency may provide equipment and software for use at the alternate worksite. The equipment and software are for agency business only, and must comply with the agency's desktop security and maintenance policies and practices.
 - (f) If the employee provides equipment and software, it must comply with the agency's desktop security and maintenance policies and practices, and any additional safeguards required by the agency. Note: State information stored on personal electronic equipment may be subject to agency review, public records requests and discovery.
 - (g) The employee normally provides home worksite furniture and equipment and should maintain a clean and safe workspace. The employee must immediately report to the supervisor any injury that occurs during work hours. The state is not responsible for loss, damage, repair, replacement, or wear of personal property or equipment.
 - (h) The agency may require telecommuting and teleworking employees to share workspace with other telecommuting employees.

SAMPLE TELECOMMUTING AGREEMENT

(Fixed, regular basis)

Employee Name:			Date of Request:		
Telecommuting Agreement Begins:			Date of Telecommuting Agreement Review:		
Justification for this agreement: The reason for this agreement is: <input type="checkbox"/> Opportunity for improved employee performance <input type="checkbox"/> Agency savings <input type="checkbox"/> Work necessity <input type="checkbox"/> Reduced commuting miles <input type="checkbox"/> Other _____					
Work Schedule: Employee will telecommute on the following days and hours. Normal work hours are to remain the same while telecommuting. Discuss anticipated overtime and seek prior supervisory approval.					
Day:	<input type="checkbox"/> Monday	<input type="checkbox"/> Tuesday	<input type="checkbox"/> Wednesday	<input type="checkbox"/> Thursday	<input type="checkbox"/> Friday
Hours (start/finish):					
Alternate Worksite: Generally, the agency does not reimburse the employee for travel between the alternate worksite and the central worksite.					
Indicate type and address of alternate worksite: <input type="checkbox"/> Home: _____ <input type="checkbox"/> Satellite/Other: _____			Indicate alternate worksite telephone numbers: <input type="checkbox"/> Home telephone: _____ <input type="checkbox"/> Cell: _____		
Indicate features you will use while telecommuting: <input type="checkbox"/> Call Forwarding <input type="checkbox"/> Receptionist assistance <input type="checkbox"/> Voice Mail <input type="checkbox"/> Co-worker assistance			How will incoming calls be handled? _____ How will voicemail and e-mail be handled? _____		

Equipment:

The agency is not responsible for any private property used, lost or damaged. The state may pursue recovery from the employee for state property that is deliberately or negligently damaged or destroyed while in the employee's care, custody or control. Employees are advised to contact their insurance agent and tax consultant for information regarding home worksites.

Personal computer equipment used to telecommute must comply with agency security policies and practices. State information stored on personal electronic equipment is subject to public records requests and agency review.

In the event of equipment failure, the supervisor may immediately assign the employee to another project or worksite. The employee shall surrender all state equipment, data, and documents immediately upon request. List of equipment to be used at alternate worksite:

Item Description	Owner	Inventory # if state issued

Information Security:

According to State HR Policy 107.004.050, the security level of the information used at the alternate worksite is:

Level I (Published): _____

Level II (Limited): _____

Level III (Restricted): _____

Level IV (Critical): _____

Describe the measures being taken to secure the information and equipment at the alternate worksite?

What is the review period for these security measures?

Other Arrangements:

Please describe additional conditions agreed upon by the employee and supervisor.

Acknowledgment:

The employee agrees to perform services for the employer as a “telecommuter.” Telecommuting is voluntary and may be terminated at any time by either the employee or employer.

Telecommuting does not change the employee’s salary, job responsibilities and benefits. The employee agrees to comply with all existing job requirements and expectations.

The employee shall promptly notify the supervisor when he or she is unable to perform work assignments due to equipment failure or other unforeseen circumstances.

I have read and understand State HR Policy 50.050.01 Telecommuting and Teleworking, procedures of my organization and this agreement. I agree to abide by the terms and conditions outlined. I agree that the sole purpose of this agreement is to regulate telecommuting and that it neither constitutes an employment contract nor amends any existing contract.

Signatures:

Employee:	Date:
Supervisor:	Date:
Agency Information Security Officer: (optional)	Date:
Agency Appointing Authority: (optional)	Date:

SAMPLE TELEWORKING AGREEMENT
(Occasional, irregular basis)

<u>Employee Name:</u>	<u>Date of Request:</u>
<u>Teleworking Agreement Begins:</u>	<u>Date of Teleworking Agreement Review:</u>
<p><u>Work Schedule:</u></p> <p>The employee must gain agreement and approval from the supervisor prior to commencing telework. The agreed upon day(s) and schedule shall be documented by the manager. Managers use this information to verify time worked on time sheets.</p> <p>The employee's work schedule remains the same while teleworking unless an official work schedule change is requested.</p>	
<p><u>Alternate Worksite:</u></p> <p>Generally, the agency does not reimburse the employee for travel between the alternate worksite and the central worksite.</p>	
<p>Indicate type and address of alternate worksite:</p> <p>___ Home: _____</p> <p>___ Satellite/Other: _____</p>	<p>Indicate alternate worksite telephone numbers:</p> <p>___ Home telephone: _____</p> <p>___ Cell: _____</p>
<p><u>Assignments</u></p> <p>Supervisors set expectations for job assignments to be completed on teleworking day(s). Employees are held to the same job requirements and expectations in effect while in the central worksite.</p>	

Equipment:

The agency is not responsible for any loss of or damage to private property used while teleworking. The state may pursue recovery from the employee for state property that is deliberately or negligently damaged or destroyed while in the employee's care, custody or control. Employees are advised to contact their insurance agent and tax consultant for information regarding home worksites.

Personal computer equipment used to telework must comply with agency security policies and practices. State information stored on personal electronic equipment is subject to public records requests and agency review.

In the event of equipment failure, the supervisor may assign the employee to another project or work worksite. The employee shall surrender all state equipment, data and documents immediately upon request. List equipment to be used at alternate worksite:

Item Description	Owner	Inventory # if state issued

Information Security:

According to State HR Policy 107.004.050, the security level of the information used at the alternate worksite is:

Level I (Published): _____

Level II (Limited): _____

Level III (Restricted): _____

Level IV (Critical): _____

Describe the measures being taken to secure the information and equipment at the alternate worksite?

What review period has been agreed upon for these security measures?

Acknowledgment:

The employee agrees to perform services for the employer as a "teleworker." Teleworking is voluntary and may be terminated at any time by either the employee or employer. Approval to telework does not imply a position is eligible for telecommuting.

The employee's salary, job responsibilities and benefits will not change because of involvement in teleworking. The employee agrees to comply with all existing job requirements and expectations in effect while in the central worksite.

The employee shall promptly notify the supervisor when unable to perform work assignments due to equipment failure or other unforeseen circumstances.

Management has discretion to determine whether to allow telework when an employee's dependents may be in the home during the teleworking hours. If approved, time the employee spends caring for dependents or on other personal business will not be counted as time worked. The employee must gain pre-approval from management prior to using any accrued leave.

I have read and understand State HR Policy 50.050.01 Telecommuting and Teleworking, procedures of my organization and this agreement. I agree to abide by and operate in accordance with the terms and conditions outlined. I agree that the sole purpose of this agreement is to regulate teleworking and that it neither constitutes an employment contract nor amends any existing contract.

Signatures:

Employee:	Date:
Supervisor:	Date:
Agency Information Security Officer: (Optional)	Date:
Agency Appointing Authority: (Optional)	Date:

DAS Statewide Policy

SUBJECT: Continuous Improvement in State Service **NUMBER:** 50.055.01
DIVISION: Human Resource Services Division **EFFECTIVE DATE:** 6/20/05

APPROVED: Signature on file with the Human Resource Services Division

POLICY STATEMENT: It is the policy of the State of Oregon to proactively solicit the ideas and involvement of all employee in operations process redesign and implement those ideas that contribute to program involvement.

AUTHORITY: ORS 240.145(3)(4); 240.250; 240.850

APPLICABILITY: **Unclassified** executive and management service employees

ATTACHMENTS: None

DEFINITIONS: See HRSD State Policy 10.000.01, Definitions; and OAR 105-010-0000

POLICY:

- (1) It is the policy of the State of Oregon to proactively solicit the ideas and involvement of all employees in operations process redesign and implement those ideas that contribute to program improvement.
 - (a) Agency heads are responsible to monitor and improve the efficiency and effectiveness of agency operations and programs wherever possible.
 - (b) In the interest of promoting involvement and continuous improvement in state services managers shall:
 - (A) use problem-solving processes which encourage employee participation;
 - (B) solicit input from employees doing the job;
 - (C) encourage employee collaboration to improve work processes;
 - (D) implement those techniques and ideas that contribute to program improvement.
- (2) **Policy Clarification:** The [Employees Suggestion Awards program](#) can be one valuable tool for managers to encourage employee involvement in improving operations.



DAS Statewide Policy

SUBJECT: Transition of Agency Head

NUMBER: 50.060.01

DIVISION: Human Resource Services Division

EFFECTIVE DATE: 12/26/05

APPROVED: Signature on file with the Human Resource Services Division

POLICY STATEMENT:

The Director of the Department of Administrative Services (DAS) may enter into an agreement with an outgoing agency head to continue some or all of his/her former duties for a period not to exceed 30 calendar days. The purpose of the agreement is to provide for a smooth, orderly transfer of duties from an outgoing agency head to an incoming agency head and the continuation of the agency accomplishing its mission, goals, and objectives.

AUTHORITY: ORS 240.145(3); 240.205(2); 294.100

APPLICABILITY: Outgoing agency head in executive service

ATTACHMENTS: None

DEFINITIONS: See HRSD State Policy 10.000.01, Definitions; and OAR 105-010-0000

POLICY:

- (1) When, in the judgment of the Director of DAS, circumstances justify temporarily retaining the outgoing agency head to facilitate the transition of the agency to the new agency head, the outgoing agency head may continue to perform some, but not all of the functions of the agency head's position. The duties, responsibilities, and authority assigned to the outgoing agency head will be less than that of the incoming agency head during the transition period. The transition period shall not exceed 30 calendar days from the effective date of the resignation. During the 30-day transition period the outgoing agency head will be reassigned to another position within the agency.
 - (a) Due to the reassignment of duties, responsibilities, and authority, the outgoing agency head's rate of pay shall be reduced to be commensurate with the reassignment.
 - (b) The outgoing agency head shall continue to be subject to all HRSD rules and policies applicable to executive service employees.
 - (c) The State of Oregon will not pay for outplacement services.
 - (d) It is incumbent upon the agency to monitor the passage of time to ensure that the overlap of employment between the departing agency head and the arriving agency head not exceed 30 calendar days.
- (2) When the outgoing agency head is assigned to perform work outside the normal workplace:
 - (a) there shall be specific reporting responsibilities;
 - (b) the work product produced must demonstrate, in the judgment of the Director of DAS, the value of the work performed; and
 - (c) the special workplace arrangement shall not exceed 30 calendar days.

- (3) The agreement between the outgoing agency head and the Director of DAS, shall be formalized in writing prior to going into effect and be available for the Department of Justice's review. A copy of the agreement shall be maintained by the agency.
- (4) When appropriate, the Director of DAS shall consult with applicable board or commissions.
- (5) Nothing in the agreement between an outgoing agency head and the Director of DAS shall create a right of continuation of employment. The State reserves the right of immediate termination with or without cause as provided in HRSD State Policy [40.035.01](#), "[Unclassified Service Employment and Termination](#)." The outgoing agency head reserves the right to discontinue employment at any time.

SUBJECT: Patient Protection and Affordable Care Act	NUMBER: 50.070.01
DIVISION: Chief Human Resource Office	EFFECTIVE DATE:
APPROVED: 11/5/14	

POLICY

STATEMENT:

For most permanent employees, Oregon state government offers health coverage through PEBB. Effective [insert date], many temporary employees, appointed under ORS 240.309, will be entitled to coverage under Patient Protection and Affordable Care Act (ACA).

AUTHORITY:

26 U.S. Code § 4980H

APPLICABILITY:

Employees of all state agencies

ATTACHMENTS:

FAQ
Newly Hired Temporary Employee Worksheet
Temporary Employee Fact Sheet
Insurance Payment Letter

DEFINITIONS:

- (a) "Administrative Period" means the two-month period after the Standard Measurement Period (November and December) or the period of time ending at the end of the first full month following the Initial Measurement Period that allows time for enrollment and disenrollment.
- (b) "Hours of Service" means each hour for which an employee is paid or entitled to payment for duties performed for the state. Hours of service also include each hour for which an employee is paid or entitled to payment for a period of time during which no duties are performed due to vacation, holiday, illness, incapacity (including disability and workers' compensation leave), being on-call, or military duty. Note that three types of Special Unpaid Leave also count as hours of service: OFLA/FMLA leave, USERRA leave, and jury duty leave.
- (c) "Initial Measurement Period" means the 12 consecutive month period starting with the first day of the employee's employment.
- (d) "Ongoing Employee" means an employee who has been employed in state service for at least one complete Standard Measurement Period.
- (e) "New Employee" means an employee who has not been employed in state service for at least one complete Standard Measurement Period.
- (f) "Stability Period" means the 12 consecutive month period after any Standard or Initial Measurement Period and Administrative Period during which employees are entitled to keep coverage, no matter what their Hours of Service are.
- (g) "Standard Measurement Period" means the 12 consecutive month period starting November 1 and ending October 31.

Patient Protection and Affordable Care Act

(h) "Variable Hour Employee" means a New Employee if, based on the facts and circumstances at the New Employee's start date, the agency cannot determine whether the employee is reasonably expected to be employed on average at least 30 hours of service per week during the Initial Measurement Period because the employee's hours are variable or otherwise uncertain.

POLICY:

I. BENEFITS UPON HIRING

A New Employee should be made eligible for PEBB benefits unless the employee is a new temporary appointment under ORS 240.309 or is otherwise excluded from eligibility under PEBB rules. Temporary employees who are expected to work 30 or more hours per week should be made eligible for PEBB benefits the first of the fourth month of employment. Variable hour temporary employees shall be evaluated following an initial measurement period to determine if benefits should be offered. A New Employee engaged as an independent contractor, e.g., through "GALT," and others who are not considered employees of Oregon state government, will not be eligible for PEBB benefit plans. A New Employee who is employed on less than a half-time basis will not be eligible for benefits unless he or she is in a position classified as a job-sharing position.

Example of a Variable Hour Employee: The Public Utility Commission hires a student law clerk, employed under ORS § 240.309(10), to initially work full-time during the summer months. His or her employment continues during the school year, but the employee's hours are uncertain and are reduced to a few afternoons per week from September through November. The student law clerk works full time again in December and switches to fewer hours during January through May. The student law clerk then works full time again during the summer months.

The above example most likely fits the definition of a Variable Hour Employee and so the student law clerk should not be offered benefits upon hiring. However, after completing the Initial Measurement Period (as discussed in more detail below), the agency would count the hours of the Variable Hour Employee in order to determine whether to offer benefits on an ongoing basis.

An agency must document in writing the facts and circumstances used to determine that the employee was a Variable Hour Employee; use the ACA Newly Hired Temporary Employee Offer of Coverage Worksheet and place it in the employee's file.

II. INITIAL MEASUREMENT PERIOD – VARIABLE HOUR EMPLOYEES WHO ARE NOT BENEFITS ELIGIBLE

(1) Starting November 1, 2014, for all new Variable Hour Employees not made eligible for benefits upon hire or by the first of the fourth month following hire, an agency must calculate, at the end of the Variable Hour Employee's Initial Measurement Period, whether such employee had sufficient hours of service to qualify as eligible for benefits. A sufficient number of Hours of Service is 1,560 over the 12 month Initial Measurement Period (or 30 hours/week on average over the 12 month Measurement Period). Agencies can determine an employee's average Hours of Service by excluding any periods of Special Unpaid Leave that occurred during the Initial Measurement Period, and then apply the average hours for the resulting Initial Measurement Period. If the agency determines that a Variable Hour Employee had 1,560 Hours of Service during the Initial Measurement Period, then the agency must make the Variable Hour Employee eligible within the electronic HR personnel database within 10 business days of the end of the Initial Measurement Period.

Patient Protection and Affordable Care Act

(2) If, during the Initial Measurement Period, a New Employee experiences a change in status that makes the employee eligible for health benefits, or is placed in a position that is classified as benefits eligible, the agency shall make the New Employee eligible for benefits. A change in employment status before the end of the Initial Measurement Period such that would result in the employee being benefit eligible is a change that if the employee had begun employment in the new position or status, the employee would not have been a Variable Hour Employee and the employee would have reasonably been expected to be employed on average at least 30 hours of service per week. If such change occurs, then the agency must make the employee eligible for benefits effective the first of the fourth month following such change in employment.

III. STABILITY OF BENEFITS – NEW AND ONGOING EMPLOYEES

A New Employee or Ongoing Employee who qualifies as benefits eligible during a Measurement Period will remain eligible for health benefits for the duration of a Stability Period (12 months) that follows the Measurement Period and Administrative Period, regardless of the number of hours actually worked in a given month of that Stability Period, as long as that employee remains employed by Oregon state government. The amount of the premium payable by the employee will be deducted from the employee's pay unless the employee is on leave without pay. If the employee is on leave without pay, the employee will be asked in writing for payment. The employee must provide payment within the required time or coverage will terminate.

IV. BREAK IN SERVICE – IMPACT ON MEASUREMENT AND STABILITY PERIODS

If an employee qualifies as a benefits eligible employee for a given Stability Period, then has a break in service during that Stability Period, but resumes employment in state service (to the same agency or to another agency) in less than 13 weeks, the agency may not treat the returning employee as a New Employee. The agency must reinstate the returning employee to his or her previous Stability Period. The returning employee becomes eligible for health benefits by the first day of the calendar month following the month in which the employee resumes employment.

- (a) When calculating the time period in a Stability or Measurement Period during which an employee has not accrued hours of service under this subsection, periods of Special Unpaid Leave do not count as a break in service.
- (b) If the employee was employed immediately prior to his or her break in service for a period of less than 13 weeks, then the agency may treat the employee as a New Employee upon rehire for purposes of a Stability or Measurement period, as long as the period during which the employee did not accrue any hours of service was at least four weeks long. For example, an employee who works for five weeks and then has no hours of service for six weeks may be treated as a New Employee.
- (c) Notwithstanding the above, a permanent benefit eligible employee returning to a benefit eligible position within any consecutive 12 month period is to be reinstated to PEBB Benefits.

SUBJECT: ORHIX Transition	NUMBER: 50.080.01
DIVISION: Chief Human Resources Office	EFFECTIVE DATE: 3/06/2015
APPROVED: Signature on file with the Chief Human Resources Office	

POLICY STATEMENT: Because Oregon state government values stability in the workforce, the state recognizes the need to ensure a smooth transition of duties and maintain a consistent workforce.

AUTHORITY: ORS 240.145(3)

APPLICABILITY: Oregon Health Insurance Exchange Corporation Employees Only

ATTACHMENTS: Senate Bill 1, 2015 Legislative Session

DEFINITIONS: "Employee" means any person employed by Oregon Health Insurance Exchange Corporation (ORHIX) on or after the effective date of this policy.

See also State HR Policy 10.000.01, Definitions; and OAR 105-010-0000

POLICY:

- (1) All employees of the Oregon Health Insurance Exchange Corporation on the Oregon Health Insurance Exchange Corporation payroll as of March 6, 2015, whose employment with the state will continue after the date of enactment of Senate Bill 1 of the 78th Oregon Legislative Assembly ("ORHIX Employees") shall have their compensation and benefits continue through June 30, 2015, pursuant to the personnel and compensation policies of the Oregon Health Insurance Exchange Corporation.
- (2) ORS Chapter 240 shall not apply to ORHIX Employees.
- (3) Nothing in this policy is intended to alter the at-will employment of ORHIX employees or to create contractual relationships of any kind.
- (4) This policy is effective as of March 6, 2015, and shall remain in effect through and including June 30, 2015.

SUBJECT: Sick Leave with Pay	NUMBER: 60.000.01
DIVISION: Human Resource Services Division	EFFECTIVE DATE: 04/09/10
APPROVED: Signature on file with Human Resource Services Division	

POLICY STATEMENT: Sick leave with pay is granted to eligible employees to provide time off from work **to tend to the employee's or a family member's** illness or injury.

AUTHORITY: ORS 173.005; 236.610; 240.145(3); 240.551; 659a.150 – 659a.186; **326.113 [2007 c.119 §1]**

APPLICABILITY: **All employees subject to ORS 240, State Personnel Relations Law, except employees represented by a collective bargaining agreement.**

ATTACHMENTS: None

DEFINITIONS: See **State HR** Policy 10.000.01 Definitions, and OAR 105-010-0000

POLICY

(1) Accrual Rate

- (a) A full-time employee accrues eight hours of sick leave per month.**
- (b) A part-time employee or a full-time employee on leave without pay accrues sick leave on a pro rata basis. When determining the pro rata accrual of sick leave each month, the agency counts actual time worked and all leave with pay.**

(2) Eligibility for and Use of Sick Leave

- (a) An employee may use accrued sick leave with pay on or after the first of the month following the month in which it is accrued.**
- (b) An employee uses paid sick leave to tend to the employee's own or a family member's illness, emergency repair of personal assistive devices that are medically necessary for the employee to perform assigned duties, medical or dental care, injury, or death, or any period of absence qualifying as a serious health condition under State HR Policy 60.000.15 Family and Medical Leave.**
- (c) Family member includes the employee's spouse or domestic partner, and the following for the employee and his or her spouse or domestic partner:**
 - (A) Parent (includes one who stood in loco parentis (in place of a parent) when the employee was a child)**
 - (B) Child (and spouse) (includes a child whom the employee stood in loco parentis)**
 - (C) Sibling (and spouse)**

(D) Grandparent

(E) Grandchild

(F) The above include step, adoptive and foster

(G) Members of the immediate household.

- (d) An agency may require medical certification by the employee's or family member's medical provider that verifies the need for sick leave. See State HR Policy 60.000.15 Family and Medical Leave and statutes governing Workers' Compensation for requiring medical certification in those situations.

(3) Transfer of Sick Leave Hours

- (a) When an employee **laterally** transfers, **demotes or promotes** to another agency **or the Oregon University System (OUS)**, the employee's unused sick leave hours transfer to the gaining agency.
- (b) **When legislation causes a state agency to assume the functions of another state agency or Oregon state government entity, an affected employee's sick leave transfers to the assuming agency if the employee has no more than a 15 day break in service. The sick leave is prorated if the former agency's accrual rate exceeds eight hours per month. Apply the following formula when the accrual rate exceeds eight hours per month:**

$$\frac{8 \text{ hours}}{\text{Previous Accrual Rate}} \times \text{Sick Leave Balance at Previous Employer} = \text{Maximum Sick Leave Assumable}$$

- (c) **When an employee of a school district or an education service district leaves the district to become employed by the Department of Education (ODE), the ODE may accept unused sick leave, according to ORS 326.113. The employee may use the transferred sick leave according to this policy.**
- (d) **Upon appointment to the executive branch, unused sick leave hours accrued in an exempt position in the legislative branch are restored if there is no break in service according to ORS 173.005.**

(4) Disposition of sick leave accrual upon separation or retirement

- (a) **An employee receives no compensation for unused sick leave upon separation except as provided in ORS 238.350.**
- (b) **Upon retirement of an employee, the agency reports all of that person's unused sick leave hours to the Public Employees Retirement System (PERS). PERS considers the unused sick leave to be used as of the effective date of retirement. Sick leave hours are not restored to a PERS retiree who subsequently returns to work.**

(5) Restoration of Sick Leave Upon Rehire

- (a) Except for PERS retirees, **unused sick leave hours are restored to an employee returning to state service within two years of separation.**
- (b) Unused sick leave hours accrued in an exempt position (other than legislative) or a position with OUS, in a manner comparable to this policy, may be restored upon appointment to a classified unrepresented, management service, or unclassified position **if** the appointment occurs within two years of separation from the exempt or OUS position.
- (c) Unused sick leave hours accrued in an exempt position in the legislative branch **are** restored **according to** ORS 173.005.

Sick Leave with Pay

Statewide Policy

60.000.01

- (6) Coordination with Workers' Compensation: An employee may choose to use sick leave to equal the difference between the Workers' Compensation for lost time and the employee's regular salary rate. In such instances, **the agency** prorates charges against **the employee's** accrued sick leave. An employee **who exhausts** sick leave **may choose** to use other accrued leave **to** equal the difference between Workers' Compensation for lost time and the employee's regular salary rate. In such instances **the agency** prorates charges against **the** accrued leave. **Using leave while** receiving time loss benefits **is not required**.
- (7) **An employee on leave and receiving short-term disability payments may reserve 40 hours of sick leave. If an employee receives disability payments while on Family and Medical leave refer to State HR Policy 60.000.15 Family and Medical Leave regarding use of paid leave.**

SUBJECT: Vacation Leave	NUMBER: 60.000.05
DIVISION: Chief Human Resource Office	EFFECTIVE DATE: 4/01/15
APPROVED: Signature on file with Chief Human Resources Office	

POLICY STATEMENT: Vacation leave is an accrued benefit of paid time off granted to any eligible employee for reasons determined by the employee.

AUTHORITY: ORS 240.145(3); 240.205; 240.210; 240.212; 240.240; 240.250; 240.551

APPLICABILITY: All employees subject to ORS 240 State Personnel Relations Law except temporary employees and employees represented by a collective bargaining agreement

ATTACHMENTS: None

DEFINITIONS: See State HR Policy 10.000.01, Definitions; and OAR 105-010-0000

POLICY

(1) An employee accrues vacation leave based on his or her "recognized service date" which is established upon initial appointment to state service.

(a) The following types of state service are used to determine an employee's recognized service date:

- (A) Actual hours worked in the classified, management, or unclassified service
- (B) Time spent on paid leave
- (C) Time spent as a seasonal employee
- (D) Time spent employed with the judicial branch, legislative branch, or any entity the Department of Administrative Services has an intergovernmental agreement which specifies an employee's recognized service date transfers within the last two years from the date of appointment in the executive branch.
- (E) Time spent on the following approved leave without pay:
 - (i) Peace Corps
 - (ii) Military leave
 - (iii) Family and Medical leave
 - (iv) Workers Compensation

(b) When leave does not occur for the reasons listed in (1)(a)E), the agency adjusts the recognized service date

to reflect leave without pay over 15 consecutive calendar days. The adjustment reflects the actual number of days on leave without pay.

(c) Upon reemployment within two years of separation, the agency adjusts the recognized service date to reflect the break in service by showing the actual number of days separated. If the separation lasts longer than two years, the date of rehire becomes the new recognized service date.

(d) A reemployed seasonal employee retains his or her original recognized service date. Missed time does not affect the recognized service date, since the state credits each season as a "full season," regardless of its length (unless the employee resigns before the end of the season).

(e) Accrual Rates

(A) Employees accrue vacation leave based on their recognized service date as follows:

(i) Classified and unclassified unrepresented employees

<u>Months Worked</u>	<u>Accrual Rate</u>
First month through 60th month	8 hours per month
61st month through 120th month	10 hours per month
121st month through 180th month	12 hours per month
181st month through 240th month	14 hours per month
241st month through 300th month	16 hours per month
After 300th month	18 hours per month

(ii) Unclassified executive service, unclassified excluded and management service employees

<u>Months Worked</u>	<u>Accrual Rate</u>
First month through 60th month	10.00 hours per month
61st month through 120th month	11.34 hours per month
121st month through 180th month	13.34 hours per month
181st month through 240th month	15.34 hours per month
241st month through 300th month	17.34 hours per month
After 300th month	19.34 hours per month

(iii) Department of Justice Unclassified Excluded and Department of Justice Unclassified Unrepresented Attorneys

<u>Months Worked</u>	<u>Accrual Rate</u>
First month through 60th month	10.00 hours per month
61st month through 120th month	11.34 hours per month
121st month through 180th month	13.34 hours per month
181st month through 240th month	15.34 hours per month
241st month through 300th month	17.34 hours per month
After 300th month	18.00 hours per month

- (B) A part-time employee, a full-time employee on leave without pay, or an employee beginning work after the first working day of the month will accrue vacation leave on a pro rata basis.
- (C) The agency will include actual time worked and all leave with pay in determining the pro rata accrual of vacation leave each month.
- (D) With the approval of the Director of the Department of Administrative Services, an agency head may grant any accrual rate listed in Section (1)(e)(A)(ii) not to exceed 19.34 hours per month to accomplish recruitment objectives or reward outstanding performance.

(f) Eligibility

- (A) An employee is eligible to use accrued vacation leave after the completion of six months of state service.
- (B) Seasonal employees accumulate state service credit toward the six month requirement from prior seasons worked, provided there is not a break of more than two seasons.
- (C) An employee may ask to use accrued vacation leave hours on or after the first of the month following the month in which the hours were earned. Exceptions appear in State HR Policy 60.000.20, Alternative Leave Provisions.
- (D) An employee who works an academic year may take vacation leave during the academic year. The employee will receive one year of credit toward the vacation accrual rate for each completed academic year. Vacation leave will not accrue during time off between academic years.

(g) Leave Request

- (A) An employee may use accrued vacation leave with prior approval from the employee's designated supervisor.
- (B) An employee is eligible to use accrued vacation leave hours for absences that qualify under the Family and Medical Leave Acts. State HR Policy 60.000.15 Family and Medical Leave describes the procedure an employee must use to notify the agency that he or she wishes to use vacation leave for this purpose.

(h) Cancellation of Leave

- (A) The designated supervisor may cancel previously approved time off to meet workload needs. The agency can direct an employee to return from vacation leave if an emergent need arises.
- (B) In the event the supervisor must revoke previously granted vacation leave, the agency head or designee may approve reimbursement to the employee for non-refundable or non-exchangeable travel expenses. Non-refundable and non-exchangeable travel expenses include, but are not limited to, deposits and purchases such as airline tickets, vacation packages, and hotel or rental deposits. Reimbursements will be based solely on documented non-refundable or non-exchangeable out of pocket costs for the employee only. Any expenditure incurred prior to the date of approval or after revocation of the vacation leave is not reimbursable.

(i) Accumulation of Vacation Leave

- (A) Classified unrepresented, unclassified unrepresented, management service, unclassified executive service, unclassified excluded, Department of Justice unclassified excluded employees and Department of Justice unclassified unrepresented attorneys shall not accumulate vacation leave in excess of 350 hours.
- (i) An employee who has earned 310 or more hours of vacation leave may ask to use leave time to avoid

losing it.

(ii) An employee who is in danger of losing vacation leave will receive notice of the impending loss with his or her paycheck on the first of the month. The first notice will occur two months before the loss will occur. The notice will repeat the following month.

(iii) An employee will immediately lose any vacation leave in excess of 350 hours if he or she fails to use the excess hours in the month before reaching the maximum allowable accrual.

(B) An appointing authority may authorize cash payment for 40 hours, upon determining that granting of vacation leave is not appropriate. The designated supervisor must document the denial of the vacation leave request. Cash payout for accrued vacation leave must not be granted more than once in each fiscal year.

(j) Donation of Vacation Leave

(A) An eligible employee may voluntarily donate any amount of vacation leave to an individual employee for whom a donated leave bank has been established in accordance with State HR Policy 60.025.01 Donated Leave; State HR Policy 60.020.05 Military Donated Leave Program; or an applicable collective bargaining agreement.

(B) Donations must occur in whole hours.

(k) Effect of Employee Movement on Vacation Leave Hours

(A) If an employee accepts an appointment to another agency to which this policy applies during the six month prior to eligibility for use of vacation leave, the new agency must assume his or her unused vacation leave.

(B) Appointments after Six Month of Service

(i) When an employee has gained six months of service and accepts an appointment in the same agency, he or she retains the accrued vacation leave balance, up to the maximum balance permitted by policy or collective bargaining agreement.

(ii) When an employee has gained six months of service and accepts an appointment to a position in a different agency, the employee may elect to transfer maximum of 80 hours of accrued vacation leave hours to the new agency. The new agency may agree to accept a greater amount. The losing agency pays the employee for accrued vacation leave hours not transferred to the gaining agency up to a maximum of 250 hours.

(l) Vacation Pay Out Upon Separation

(A) An employee who completed six months of service and separates from state service will be paid for all unused vacation leave up to 250 hours at the time of separation.

(B) An employee who has not completed six months of service and separates from state service will not receive pay for earned but unused vacation leave. Hours accrued but unused due to ineligibility for use are retained for up to two years from the date of separation.

(m) Restoration of Vacation Accrual Rate Upon Reemployment

(A) An employee who separates from state service and returns within two years of the date of separation will receive state service credit toward vacation accrual rates. Refer to Section (1)(a-d).

- (B) Unused vacation leave hours accrued while in an exempt (other than legislative) or academic unclassified position, in a manner comparable to this policy, may be restored upon immediate appointment to a classified unrepresented, management service or unclassified position. Vacation leave hours accrued in an exempt position in the legislative branch shall be restored in according to ORS 173.005.

SUBJECT:	Special Leaves with Pay	NUMBER:	60.000.10
DIVISION:	Chief Human Resources Office	EFFECTIVE DATE:	2/24/15
APPROVED: Signature of file with Chief Human Resources Office			

**POLICY
STATEMENT:**

Oregon state government recognizes the benefits either direct or indirect of providing certain kinds of paid leave to employees.

AUTHORITY:

ORS 240.145(3); 240.240; 240.250; 240.551

APPLICABILITY:

All employees subject to ORS 240, except temporary employees and employees represented by a collective bargaining agreement

ATTACHMENTS:

None

DEFINITIONS:

Family member: This term applies to the employee's spouse or domestic partner, and the following for the employee and his or her spouse or domestic partner:

- Parent (includes one who stood in loco parentis (in place of a parent) when the employee was a child)
- Child (and child's spouse) (includes a child whom the employee stood in loco parentis)
- Sibling (and sibling's spouse)
- Grandparent
- Grandchild
- The above include step, adoptive and foster
- Members of the immediate household

POLICY: See State HR Policy 10.000.01 Definitions; and OAR 105-010-0000

(1) Bereavement Leave- For additional information related to Oregon Family Bereavement Leave (OFLA) please refer to policy 60.00.15

(a) Bereavement Leave with Pay

(A) A full time employee may request up to 24 hours of paid bereavement leave per occurrence to discharge customary obligations when a family member dies. The employee may use this leave intermittently or in a block of time.

(i) The agency will pro-rate the amount of leave for part time employees, employees who job- share, and part-time seasonal employees.

(ii) The agency will review the use of intermittent leave without pay and the use of leave under this section on a case-by-case basis.

(B) Customary Obligations:

- (i) "Customary obligations" is a term that means making funeral arrangements, meeting with representatives of a mortuary or funeral service, buying items for a funeral service, and attending the funeral and burial.
 - (ii) "Customary obligations" does not include visiting relatives, handling estate issues, selling property, etc.
- (C) An employee may request bereavement leave once per occurrence (i.e., one leave request for any single occurrence of death). If more than one death occurs in a family at the same time, simultaneous funeral service may be in order. In such a circumstance the agency will allow only one 24-hour entitlement.
- (D) If an employee needs additional leave after the funeral service and burial, he or she may ask to use vacation, sick, personal business leave, compensatory time or leave without pay. Refer to the applicable leave policies for further information that applies to such circumstances.

(b) Donated Bereavement Leave

- (A) An employee may be eligible to receive up to 40 hours of donated bereavement leave to be used consecutively. To qualify for donated bereavement leave, the employee must exhaust all bereavement leave and all accumulated leave including sick and vacation leave, compensatory time, and personal business leave.
- (B) Donated bereavement leave can impact long- and short-time disability benefits. Before applying for donated leave while receiving disability benefits, consult the agency payroll office for information on how donated bereavement leave will impact your specific circumstances.
- (C) An employee must submit a written request to the appointing authority or designee in order to request donated bereavement leave.
- (D) Donated bereavement leave is transferred to the requesting employee's sick leave account. Donated hours are based on the conversion of the donor's salary rate to sick leave hours at the recipient base rate of pay. Sick leave with pay is considered "time worked" for leave accrual and holiday pay.
- (E) Leave transferred to the requesting employee's sick leave account will not exceed 40 hours. The agency must ensure the transfer of the appropriate numbers of hours.
- (F) Donations within the same agency:
 - (i) A regular status employee who works within the same agency as the recipient may voluntarily donate vacation leave, compensatory time, or both, to an eligible employee's sick leave account.
 - (ii) The donor must submit written request to donate leave to an eligible employee. The donor's request must be processed as per agency program procedures before the transfer of leave occurs. A donor may not donate time that he or she has lost due to leave accrual limits set by CHRO state rule or policy.
 - (iii) An employee may donate leave only in one-hour increments to a recipient. The agency will base the amount of donated hours on the conversion of the donor's salary rate to sick leave hours at the recipient's base rate of pay.
 - (iv) Donated hours transfer from the donor's accrued leave as needed by the recipient. If total leave donated exceeds the total amount of leave accepted, the unaccepted leave remains in the donor's accrued leave balance.

(G) Donated between agencies:

- (i) An employee with regular status in a different agency may, subject to the approval of both agencies, donate leave to an eligible recipient by completing and signing the Interagency Donated Leave form (PD 625) and submitting it to the agency's appointing authority or designee.
- (ii) An appointing authority or designee may disallow the transfer of donated leave between agencies for legitimate business reasons including, but not limited to, restrictions on the use of dedicated funding sources.
- (iii) The agency may request documentation substantiating use of bereavement leave or donated bereavement leave.

(2) Exceptional Performance Recognition Leave with Pay

- (a) An appointing authority may award leave with pay to an employee in recognition of exceptional performance. The leave may be awarded to:
 - (i) FLSA-exempt employees who work a professional workweek and demonstrate extraordinary performance of work outside normal work hours. Such performance is compensable only in the form of leave.
 - (ii) Any employee, regardless of FLSA status, whose achievement or demonstrated performance deemed by the appointing authority or designee an outstanding contribution to agency goals and objectives.
 - (b) This leave is not an entitlement. The agency must not automatically award such leave each fiscal year. An agency awards such leave judiciously.
 - (c) The appointing authority must maintain records that show the reason for awarding such leave and the amount of time awarded and taken. The manager and the employee must agree on when the leave is taken.
 - (d) Restrictions on "exceptional performance recognition leave with pay":
 - (i) This leave is compensable only in time off, not pay.
 - (ii) Such leave may not exceed 40 hours in a fiscal year.
 - (iii) Such leave is not cumulative from fiscal year to fiscal year.
 - (iv) Such leave is not transferable between agencies.
 - (v) An employee is eligible to use exceptional performance recognition leave with pay after completion of six months of state service.
 - (e) Agency heads and salaried board and commission members including the chairs of such board or commissions who report directly to the Governor may request Exceptional Performance Recognition Leave from the Director of the Department of Administrative Services. Supporting rationale must accompany each request.
- (3) Day of Leave
- (a) When authorized by the Governor, the state grants eight hours of paid leave to full time employees. The agency will pro-rate the amount of leave for part time employees, employees who job-share, and part-time seasonal employees.

- (b) An employee, employed during the time in which Day of Leave is granted (the day before Thanksgiving until January 31), may request to use this leave with prior management approval.
 - (c) Day of Leave may be taken on any working day from the day before Thanksgiving through January 31.
 - (d) Day of Leave cannot be taken in hourly increments it must be taken in one block of time.
- (4) Job Interview and Testing Leave with Pay – Management may grant a reasonable amount of time for a state government job interview or test.
- (5) Personal Business Leave with Pay
- (a) An employee is granted up to 24 hours of personal business leave with pay each fiscal year.
 - (A) A full-time employee receives 24 hours of personal business leave with pay after completion of six months of state service.
 - (B) The agency will pro-rate the amount of leave for part time employees, employees who job-share, and part-time seasonal employees.
 - (b) With management's approval, an employee may use personal business leave for any purpose. An employee is eligible to use personal business leave for any absence qualifying under State HR Policy 60.000.15 Family and Medical Leave.
 - (c) An agency may recover the value of personal business leave time used from employees who separate and who work less than six months during the fiscal year.
 - (d) The state must restore unused personal business leave to an employee who separates and returns within the same fiscal year to a position covered by this policy, and who completes six months during the remainder of the fiscal year.
 - (e) An employee, after completion of six months of state service, who accepts an appointment in another state agency, retains any unused personal business leave.
- (6) Pre-Retirement Planning Leave with Pay. Management may grant up to 28 hours of pre-retirement planning leave with pay within three years of the chosen retirement date for retirement planning activities.
-

SUBJECT: Leaves without Pay	NUMBER: 60.000.11
DIVISION: Human Resource Services Division	EFFECTIVE DATE: 08/29/08
APPROVED: Signature on file with Human Resource Services Division	

POLICY STATEMENT: It is the policy of the State of Oregon that an appointing authority or designated representative grant leave without pay in accordance with law or policy or when an employee's accrued leave is exhausted and the employee's absence will not seriously impact operations.

AUTHORITY: ORS 240.145(3); 240.240; 240.250; 240.551

APPLICABILITY: Classified unrepresented, management service, unclassified executive service and unclassified unrepresented employees

ATTACHMENTS: None

DEFINITIONS: See State [HR](#) Policy 10.000.01 Definitions and OAR 105-010-0000

POLICY

(1) Leave without pay is not granted until all appropriate accrued leave is exhausted. [One exception allows an employee who is receiving short-term disability insurance benefits through the Public Employees' Benefit Board](#) to maintain a balance of up to 40 hours of sick leave. Additional exceptions are provided by statute and in the following policies:

(a) State HR Policy 60.000.12 Statutorily Required Leaves with and without Pay

(b) State HR Policy 60.000.15 Family and Medical Leave

(c) State HR Policy 60.000.25 Military Leave

(d) State HR Policy 60.000.01 Sick Leave with Pay.

(2) Leave without pay is not granted to an employee for employment outside of state service unless the appointing authority approves the employment as a benefit to the state.

(3) The appointing authority may grant leave without pay for reasons not specified in this policy when the absence of the employee will not seriously impact the work of the agency.

(4) Leave without pay over 15 [consecutive](#) calendar days affects an employee's recognized service date (RSD) and salary eligibility date (SED) by the total amount of calendar days the employee is on leave

without pay. For example, if the leave without pay is for 16 calendar days, the employee's RSD and SED adjusts by 16 days. The RSD and SED do not change for leave without pay for:

- (a) 15 calendar days or less
- (b) Military leave
- (c) Family and Medical Leave
- (d) Workers' Compensation.

- (5) Leave without pay totaling 11 or more working days in a month affects an employee's PERS retirement calculation.

Performance Measure: Percentage of leaves without pay granted that are preceded by the exhaustion of appropriate accrued leave.

Performance Standard: 100%

Performance Measure: Percentage of leave without pay that has the documentation showing why leave was requested and why it was granted.

Performance Standard: 100%

SUBJECT: Statutorily Required Leaves With and Without Pay **NUMBER:** 60.000.12

DIVISION: Chief Human Resources Office **EFFECTIVE DATE:** 04/22/15

APPROVED: Signature on file with Chief Human Resources Office

POLICY STATEMENT: This policy describes leave with and without pay granted by state statute.

AUTHORITY: ORS 10.061; 10.090; 236.040; 240.145(3); 243.325; 243.330 243.335; 401.378; 401.550; 404.100; 404.110; 404.130; 652.250; 659A.190 to 659A.198; 659A.230; 659A.236; 659A.270 to 290; OAR 839-005-0160 to 839-005-0170; 839-009-0325 to 839-009-0365

APPLICABILITY: All employees subject to ORS 240, State Personnel Relations Law, where not in conflict with a collective bargaining agreement

ATTACHMENTS: Certification for Requested Leave to address Domestic Violence, Harassment Sexual Assault or Stalking issues

DEFINITIONS: See State HR Policy 10.000.01, Definitions; and OAR 105-010-0000

POLICY:

(1) LEAVES WITH PAY

(a) Court, Legislative Committee or Quasi-Judicial Body Witness Leave with Pay ([ORS 659A.230\(1\)](#) and [659A Statute\(1\).236](#))

(A) An employee receives leave with pay to appear in court, before a legislative committee or in front of a quasi-judicial body as a witness for matters other than official assigned duties, if a subpoena or other proper authority requires such appearance. The agency should retain a copy of the summons and court release, if applicable, to support the leave.

(B) Compensation received while performing officially assigned duties belongs to the agency. If the appearance occurs during off-duty hours, the employee may keep any compensation.

(b) Jury Service Leave ([ORS 10.061 & 10.090](#))

An employee receives jury leave upon request. Except where an applicable collective bargaining agreement provides otherwise, the employee must waive any jury fees except for expense reimbursement. The agency may request and retain a copy of the jury summons and court release, if applicable, to support the leave.

(c) **Leave to Address Domestic Violence, Harassment, Sexual Assault or Stalking** ([ORS 659A.270 thru 659A.290](#))

(A) Definitions

- (i) Covered employer: an employer who employs six or more persons in Oregon for each working day during each of 20 or more calendar workweeks in the year in which an eligible employee takes leave to address domestic violence, harassment, sexual assault or stalking, or in the year immediately preceding the year in which an eligible employee takes leave to address domestic violence, harassment, sexual assault or stalking. Each agency, board and commission is a separate covered employer for the purpose of this definition.
- (ii) Public employer: Oregon state government.
- (iii) Dependent: an adult dependent child substantially limited by a physical or mental impairment as defined by [ORS 659A.104](#)(1)(a), (3), and (4) or any adult of whom the employee has guardianship.
- (iv) Eligible employee: an employee who works for a state agency on the date leave begins under [ORS 659A.270 to 659A.285](#) who is the victim of domestic violence, harassment, sexual assault or stalking or the parent or guardian of a minor child or dependent who is a victim of domestic violence, harassment, sexual assault or stalking.
- (v) Immediate family: spouse, domestic partner, father, mother, sibling, child, stepchild, grandparent, or any person who had the same primary residence as the victim at the time of the domestic violence, harassment, sexual assault or stalking.
- (vi) Minor child: biological, adopted, foster or stepchild, or a child with whom the employee is or was in relationship of in loco parentis. This definition includes the biological, adopted, foster, or stepchild of an employee's registered domestic partner. A minor child is under age 18.
- (vii) Protective order: an order authorized by ORS [30.866](#), 107.095 (1)(c), [107.700 to 107.735](#), [124.005 to 124.040](#) or [163.730 to 163.750](#) or any other order that restrains an individual from contact with an eligible employee or the employee's minor child or dependent.
- (viii) Undue hardship: a significant difficulty and expense to a covered employer. This definition includes consideration of the size of the agency and the agency's critical need for the eligible employee.
- (ix) Victim of domestic violence: an individual who has been threatened with abuse or who is a victim of abuse as defined in ORS [107.705](#); or any other person who has suffered financial, social, psychological or physical harm as a result of domestic violence committed against the victim, including a member of the victim's immediate family. In no event will the alleged perpetrator of domestic violence be considered a victim for the purposes of this policy.
- (x) Victim of harassment: an individual against whom harassment has been committed as described in [ORS 166.065](#). In no event will the alleged perpetrator of harassment be

considered a victim for the purposes of this policy.

- (xi) Victim of sexual assault: an individual against whom a sexual offense has been threatened or committed as described [in ORS 163.305 to 163.467 or 163.525](#); or any other person who has suffered financial, social, psychological or physical harm as a result of a sexual assault committed against the victim, including a member of the victim's immediate family. In no event will the alleged perpetrator of sexual assault be considered a victim for the purposes of this policy.
- (xii) Victim of stalking: an individual against whom stalking has been threatened or committed as described in [ORS 163.732](#); or any other person who has suffered financial, social psychological or physical harm as a result of a stalking committed against the victim, including a member of the victim's immediate family; or an individual who has obtained a court's stalking protective order or a temporary court's stalking protective order under ORS 30.866. In no event will the alleged perpetrator of stalking be considered a victim for the purposes of this policy.
- (xiii) Victim service provider: a prosecutor-based victim assistance program or a nonprofit program that offers safety planning, counseling, support or advocacy related to domestic violence, harassment, sexual assault or stalking.

(B) Paid Leave

A covered employer must grant up to 160 hours of leave with pay in each calendar year to an eligible employee for the purposes specified in (C) below. The 160 hours of paid leave is in addition to any vacation, sick, personal business or other form of paid or unpaid leave available to the eligible employee. An employee must exhaust all other forms of paid leave before the employee may use the paid leave established by this policy.

(C) An eligible employee may use the 160 hours of employer-paid leave for any of the following purposes:

- (i) To seek legal or law enforcement assistance or remedies to ensure the health and safety of the employee or the employee's minor child or dependent, including preparing for and participating in protective order proceedings or other civil or criminal legal proceedings related to domestic violence, harassment, sexual assault or stalking;
- (ii) To seek medical treatment for or to recover from injuries caused by domestic violence, harassment, sexual assault or stalking of the eligible employee or the employee's minor child or dependent;
- (iii) To obtain, or to assist a minor child or dependent in obtaining counseling from a licensed mental health professional related to an experience of domestic violence, harassment, sexual assault or stalking;
- (iv) To obtain services from a victim services provider for the eligible employee or the employee's minor child or dependent; or

- (v) To relocate or take steps to secure an existing home to ensure the health and safety of the eligible employee or the employee's minor child or dependent. Relocate includes:
 - (I) Transition periods spent moving the eligible employee or the eligible employee's minor child or dependent from one home or facility to another, including but not limited to time to pack and make security or other arrangements for such transitions related to domestic violence, harassment, sexual assault or stalking;
 - (II) Transportation or other assistance required for an eligible employee or the eligible employee's minor child or dependent related to the domestic violence, harassment, sexual assault or stalking.
- (D) Notification Requirements:
 - (i) An eligible employee seeking leave under this policy must give reasonable advance notice of the employee's intention to take leave unless giving the advance notice is not feasible. When taking leave in an unanticipated or emergency situation, an eligible employee must give oral or written notice as soon as is practicable. Notice may be given by any other person on behalf of an eligible employee taking unanticipated leave.
- (E) Certification requirements:
 - (i) An agency may require an eligible employee to provide, within a reasonable amount of time, written certification that the leave is for the employee or the employee's minor child or dependent who is a victim of domestic violence, harassment, sexual assault, or stalking; and the leave is taken for one of the purposes identified in (1)(c)(C). Any of the following constitutes sufficient certification:
 - (I) Documentation from an attorney, law enforcement officer, health care professional, licensed mental health professional or counselor, member of the clergy or victim services provider that the individual was or is undergoing treatment or counseling, obtaining services or relocating as a result of domestic violence, harassment, sexual assault or stalking.
 - (II) A copy of a police report indicating that the individual was or is a victim of domestic violence, harassment, sexual assault or stalking.
 - (III) A copy of a protective order or other evidence from a court or attorney that the individual appeared in or is preparing for a civil, criminal or administrative proceeding related to domestic violence, harassment, sexual assault or stalking.
- (F) Intermittent Leave, Altered or Reduced Work Schedule and Alternate Duty:
 - (i) An eligible employee may take leave under ORS 659A.270 to 659A.285 in multiple blocks of time, intermittently, and/or supplementing an altered or reduced work schedule.
 - (ii) An agency may transfer an employee on intermittent leave or a reduced work schedule into an alternate position with the same or different duties to accommodate the leave, provided the following exist:

- (I) The eligible employee accepts the transfer position voluntarily and without coercion;
 - (II) The transfer is temporary, lasts no longer than necessary to accommodate the leave and has equivalent pay and benefits;
 - (III) The transfer to an alternate position is used only when there is no other reasonable option available that would allow the eligible employee to use intermittent leave or reduced work schedule; and
 - (IV) The transfer is not used to discourage the eligible employee from taking intermittent or reduced work schedule leave, or to create a hardship for the eligible employee.
 - (V) The agency returns the eligible employee to the eligible employee's former position when the eligible employee notifies the employer that the employee is ready to return to the former position.
- (G) If an agency has knowledge, or reasonably should have knowledge, that an employee is a victim of domestic violence, harassment, sexual assault or stalking, and if anyone makes or attempts to make, in the victim's workplace, direct or indirect communication to the eligible employee related to his or her victimization, the agency shall immediately inform the employee and offer to report the communication to law enforcement.
- (H) Prohibited Behavior:
- (i) The agency must not deny leave, but may limit the amount of leave an eligible employee takes to address the issues stated above, if the employee's leave creates an undue hardship to the agency. If the agency limits leave, it must document the occurrence and the reason for limiting leave; the agency also must inform the employee in writing.
 - (ii) An agency must not discharge, threaten to discharge, demote, suspend, or in any other manner discriminate or retaliate against an employee with regard to promotion, compensation or other terms, conditions or privileges of employment because an employee inquires about, applies for, or takes leave under this policy
 - (iii) An agency must not refuse to hire an otherwise qualified person because the person is a victim of domestic violence, harassment, sexual assault or stalking.
 - (iv) An agency must not discharge, expel or otherwise discriminate against an employee because the person has filed a complaint, testified or assisted in any proceeding in connection with the Oregon Victim of Certain Crimes Leave Act (OVCCLA).
- (I) All records and information kept by an agency regarding an eligible employee's leave under this section, including the documentation that shows an employee requested or obtained leave under this section, are confidential. The agency may not release such records without the express permission of the employee, or unless otherwise required by law. The agency must retain this information in a separate confidential file for three years.
- (J) To the extent the employee's need for leave under this section is also covered by the Federal

Medical Leave Act and/or Oregon Family Leave Act the leave types run concurrently.

(d) Red Cross Disaster Relief Services Leave with Pay ([ORS 401.378](#))

An agency may grant leave with pay not to exceed 15 work days in any 12-month period to an employee to participate in disaster relief services in Oregon. To qualify for such leave the employee must be a certified disaster services volunteer of the American Red Cross. "Disaster" means an event designated at level II and above by the American Red Cross. The employee must present their currently valid disaster services American Red Cross volunteer certification at the time of the leave request. The agency should maintain a copy of the certification on file.

(e) Search and Rescue Operation Leave with Pay ([ORS 404.100, 404.110, 404.130 & 652.250](#))

An employee receives leave with pay not to exceed five work days for each operation identified by an incident number if requested by a law enforcement agency, the Department of Transportation, the United States Forest Service, or any local civil defense organization.

(f) World, Pan American, or Olympic Event Training Leave with Pay ([ORS 243.325, 243.330 & 243.335](#))

An agency may grant a leave-with-pay loan to participate in official training camps and competitions for World, Pan American, or Olympic events not to exceed 90 calendar days per calendar year. The conditions under which such a loan may be granted must conform to ORS 243.325 to 243.335.

(2) LEAVES WITHOUT PAY

- (a) The agency has discretion to grant leave without pay for reasons other than specified in this policy. The agency may grant such leave when the employee's absence will not seriously affect the agency. For the general state policy on leave without pay applicable to ORS 240 covered employees, see State HR Policy 60.000.11, Leave without Pay, or applicable collective bargaining agreement.

(A) Crime Victim Leave ([ORS 659A.190 to 659A.198](#))

(i) Definitions:

- (I) Covered employer: an employer who employs six or more persons in Oregon for each working day during each of 20 or more calendar workweeks in the year in which an eligible employee takes leave to attend a criminal proceeding or in the year immediately preceding the year in which an eligible employee takes leave to attend a criminal proceeding. Each agency, board and commission is a separate covered employer for the purpose of this definition.
- (II) Crime victim: a person or a member of the immediate family of the person who has suffered financial, social, psychological or physical harm as a result of a person felony, as defined in the rules of the Oregon Criminal Justice Commission, [OAR 213-003-0001\(14\)](#).
- (III) Immediate family: spouse, domestic partner, father, mother, sibling, child, stepchild,

grandchild and grandparent.

(IV) Criminal proceeding: any proceeding that constitutes a part of a criminal action or occurs in court in connection with a prospective, pending or completed criminal action. This definition includes a juvenile proceeding under ORS Chapter 419C or any other proceeding at which a crime victim has a right to be present.

(V) Undue hardship: a significant difficulty and expense to a business including consideration of the agency's critical need for the employee.

(B) The agency may not deny leave to attend a criminal proceeding under this policy, but may limit the amount of leave an eligible employee takes to attend a criminal proceeding if the employee's leave creates an undue hardship to the agency. If leave is limited, the agency must document the occurrence and the reason for limiting leave and inform the employee in writing.

(C) Agencies must allow an eligible employee to use accrued vacation, personal business leave and compensatory time, and - as a last resort - leave without pay, to attend a criminal proceeding. The agency may determine the order in which the employee uses accrued leave when more than one type of accrued leave is available. An employee must exhaust all accrued vacation and personal business leave and, when appropriate, compensatory time, before requesting leave without pay. An eligible employee will be granted leave without pay if he or she does not have accrued vacation, personal business leave and compensatory time (when appropriate), unless the leave creates an undue hardship to the agency.

(i) An employee is eligible to take Crime Victim Leave if:

(I) he or she worked for the state an average of more than 25 hours per week for at least 180 days immediately before the date the employee takes leave to attend a criminal proceeding; and

(II) he or she or a member of the immediate family is a crime victim.

(ii) An eligible employee must give the agency reasonable notice of the employee's intention to take leave to attend a proceeding; and copies of any notices of scheduled criminal proceedings that the employee receives from a law enforcement agency under [ORS 147.417](#).

(iii) All records kept by an agency regarding an eligible employee's leave, or notices received are subject to the laws that relate to confidentiality. The agency must retain such records in a separate confidential file for three years.

(iv) An agency must not deny leave to an eligible employee or discharge, threaten to discharge, intimidate or coerce an employee because the employee takes leave to attend a criminal proceeding.

(v) An employee who claims to be aggrieved by an unlawful employment practice as specified above may file a civil action under ORS 659A.885.

(vi) For court appearances associated with domestic violence, harassment, sexual assault or

stalking, see (1)(c)(B) above.

(D) Court Appearance ([ORS 659A.230](#))

- (i) An employee may request and receive leave without pay to appear as a plaintiff or defendant in a civil or criminal court proceeding not connected with the defendant's officially assigned duties. The agency must maintain documentation of the summons and court release in the employee's personnel file. For court appearance leave with pay applicable to ORS 240 covered employees see HRSD State Policy, 60.000.10, Special Leaves with Pay, or applicable collective bargaining agreement.
- (ii) An employee is granted leave without pay for a court appearance only after exhausting accrued vacation leave and personal business leave.
- (i) For court appearances associated with Crime Victim Leave, see section (1)(a)(A) above.
- (ii) For court appearances associated with domestic violence, harassment, sexual assault or stalking, see (1)(c)(B) above.

(F) Peace Corps ([ORS 236.040](#))

- (i) A full-time salaried employee receives leave without pay for at least two years if he or she provides a copy of Peace Corps appointment documents. Upon completion of service in the Peace Corps, the employee is returned to the last position she or she held, at the same salary step and without loss of seniority, leave accrual rate or other rights. Failure of the employee to report within 90 calendar days after completion of the Peace Corps service may result in termination.
 - (ii) An employee is granted Peace Corps leave without pay only after exhausting accrued vacation leave and personal business leave.
-

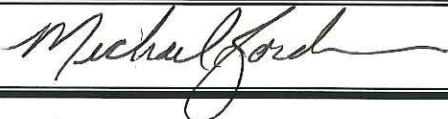
SUBJECT: Family and Medical Leave

NUMBER: 60.000.15

DIVISION: Chief Human Resource Office

EFFECTIVE DATE: 01/01/14

APPROVED:



**POLICY
STATEMENT:**

Oregon state government provides leave to employees in accordance with the Federal Family and Medical Leave Act (FMLA) and the Oregon Family Leave Act (OFLA).

AUTHORITY:

Federal Family and Medical Leave Act (FMLA), as amended, 29 USC § 2601 et seq; federal regulations 29 CFR Part 825; Oregon Military Family Leave Act, ORS 659A.090 through 659A.099; Oregon Family Leave Act (OFLA), as amended, ORS 659A.150 through 659A.186; ORS 659A.306; OAR 839-009-0200 through 839-009-0460; OAR 166-300-0010 through 166-300-0045; OAR 101-030-0005 through 101-030-0027; the Americans with Disabilities Act (ADA), as amended (including the ADA Amendments Act), 42 USC § 12101 et seq; the Fair Labor Standards Act (FLSA), as amended, 29 USC § 201 et seq; and the Uniform Services Employment and Reemployment Rights Act (USERRA), as amended, 38 USC §4301 et seq.

APPLICABILITY:

All employees (including temporary employees) subject to ORS 240 State Personnel Relations Law, except where in conflict with a collective bargaining agreement.

ATTACHMENTS:

Required postings:

BOLI poster: Oregon Family Leave Act, Notice to Employers and Employees

U.S. Department of Labor (DOL) poster: Employee Rights Under the Family and Medical Leave Act

Medical or Military Certification (if agency is requiring certification)

Medical Certification (PD 615A)

FMLA Military Healthcare Certification (PD 615B)

Qualifying Exigency Certification (PD 615C)

Insurance benefits guide

Public Employees' Benefit Board FMLA-OFLA Benefit Matrix

Additional policy requirements by leave-type

A. Leave for a serious health condition

B. Parental leave

C. OFLA Sick Child leave

D. FMLA Military Caregiver leave

E. FMLA Qualifying Exigency leave

F. OFLA Military Family leave

G. OFLA Bereavement leave

DEFINITIONS:

- (1) Federal Family and Medical Leave Act (FMLA) and Oregon Family and Medical Leave Act (OFLA): Federal and state laws that protect an employee's absence from work under certain conditions.
- (2) For the purposes of this policy the Oregon Military Family Leave Act is referred to as OFLA Military Family Leave.
- (3) Agency: For the purpose of this policy the word "agency" includes the appointing authority, the human resource staff, and individuals designated by the appointing authority to administer the agency's Family and Medical leave program.

(4) Subsequent sections of the policy include other definitions **relevant to the FMLA or OFLA leave type**.

(5) **State HR Policy 10.000.01 Definitions and OAR 105-010-0000.**

POLICY

- (1) FMLA and OFLA leaves are not optional. Federal and state law prohibit retaliating against an employee with respect to hiring or any other term or condition of employment because the employee asked about, requested or used any type of FMLA or OFLA leave. An agency grants an eligible employee up to 12 weeks (480 hours for a full-time employee who works 40 hours per week) of protected time off under FMLA and OFLA for the purposes listed in the chart below. The policy with its attachments, also describe exceptions to the 12-week entitlement. Other than the exceptions described in this policy or its policy attachments, an employee's leave entitlement is limited to 12 weeks per leave **in a 12 month time period**, no matter how many different leave-types are used.

Qualifying purposes under FMLA	Qualifying purposes under OFLA
To tend to the employee's own serious health condition	To tend to the employee's own serious health condition
<p>To tend to the serious health condition of the employee's:</p> <ul style="list-style-type: none"> Spouse: husband or wife as defined under Oregon state law and a same sex spouse of an employee if they are married in a state that legally recognizes same sex marriage Parent: the employee's biological or adoptive mother or father, or an individual who stood in loco parentis¹ (in place of a parent) when the employee was a child Child: The employee's biological, adopted, foster or stepchild, a legal ward, or a child of an employee standing in loco parentis. The child must be 17 years of age or younger. The age limit does not apply if the child is incapable of self-care because of a mental or physical disability under the ADA as interpreted by the EEOC per 29 C.F.R. § 825.122(d)(2). 	<p>To tend to the serious health condition of the employee's:</p> <ul style="list-style-type: none"> Spouse or same-sex domestic partner as defined under Oregon state law Parent: the employee's biological or adoptive mother or father, or an individual who stood in loco parentis (in place of a parent) when the employee was a child, and the parent of the spouse or same- sex domestic partner Child (of any age): The employee's biological, adopted, foster or stepchild, a legal ward, or a child of an employee standing in loco parentis, and the child of the same-sex domestic partner Grandparent or grandchild
Parental leave: to care for the employee's newborn, newly adopted child or newly placed foster child	Parental leave: to care for the employee's newborn, newly adopted child or newly placed foster child
Qualifying Exigency leave: to attend to qualifying exigencies when the employee's spouse, parent, son, or daughter is on active duty or called into active duty in support of a contingency operation for the military	Sick child leave: to care for a child 17 years of age or younger who has a non-serious health condition and requires home care. The age limit does not apply if the child is incapable of self-care because of a mental or physical disability
Military Caregiver leave: [Up to 26 weeks (1040 hours for a full-time employee who works 40 hours per week) in a single 12-month period] to care for the employee's spouse, parent, son or daughter of any age, or next of kin who is a covered servicemember with a serious injury or illness incurred in the line of duty on active duty, or a veteran discharged under other than dishonorable conditions within five years of receiving medical treatment, recuperation or therapy for a serious injury or illness.	<p>An eligible female employee taking any amount of OFLA leave for her own pregnancy-related disability may take up to 12 more weeks of OFLA leave in the same leave year for any OFLA-qualifying purpose.</p> <p>An eligible employee taking a full 12 weeks of Parental leave under OFLA may take up to 12 additional weeks of OFLA leave in the same leave year for Sick Child leave.</p>

¹ The Wage and Hour Division of the US Department of Labor issued an Administrator's Interpretation No. 2010-3 on June 22, 2010 to clarify the definition of "son or daughter" under Section 101(12) of the FMLA as it applies to an employee standing "in loco parentis" to a child.

Qualifying purposes under FMLA	Qualifying purposes under OFLA
The single 12 month period is applied on the following basis: per covered servicemember, per injury or illness. This includes (is not in addition to) time used for other FMLA-qualifying purposes during the 12-month period.	Military Family leave: [Up to 14 working days per deployment] related to the deployment of an employee's spouse or same-sex domestic partner. The 14 days is included in the 12-week OFLA entitlement.
	Bereavement leave: [Up to two weeks per family member, in a one year time period to be taken within 60 days of notification of the death] to deal with the death of a family member by: attending the funeral or alternative to a funeral, making arrangements necessitated by the death, or grieving.]

- (a) An agency prorates the FMLA or OFLA leave entitlement for part-time employees. Examples: (1) The entitlement for a part-time employee who works 30 hours a week is up to 12 weeks of leave at 30 hours a week or 360 hours of intermittent or reduced-schedule leave in a 12-month period for his or her own serious health condition; (2) An employee who uses FMLA Military Caregiver leave and works 30 hours a week is entitled to up to 26 weeks of leave at 30 hours a week or 780 hours of intermittent or reduced-schedule leave in a 12-month period.
- (b) An eligible limited duration or temporary employee's FMLA or OFLA leave ends when the employee's assignment expires regardless of whether the person has exhausted his or her leave entitlement.
- (2) Required posting: The agency must display the following posters in the worksite: "Oregon Family Leave Act, Notice to Employers and Employees" and "Employee Rights Under the Family and Medical Leave Act." These posters can be accessed electronically as an attachment to the policy, or through the US Department of Labor and the Oregon Bureau of Labor and Industries.
- (a) Federal law requires that an agency give FMLA information to applicants and employees upon hire. To satisfy the first requirement, DAS posted a link to FMLA information on the E-Recruit Applicant Information page. The second requirement can be satisfied by the agency giving the newly hired employee a copy of the FMLA poster or by using another method of informing newly hired employees about FMLA.
- (3) **An agency follows this policy for all FMLA and OFLA leave-types.** Additional requirements for specific leave-types are contained in the following policy attachments:
- (a) Leave for a serious health condition
 - (b) Parental leave
 - (c) OFLA Sick Child leave
 - (d) FMLA Military Caregiver leave
 - (e) FMLA Qualifying Exigency leave
 - (f) OFLA Military Family leave**
 - (g) OLFA Bereavement leave**

- (4) **Eligibility for leave:** The agency determines eligibility for leave using the chart below. Eligibility is not pro-rated for part-time employees.

Employees Eligible for FMLA	Employees Eligible for OFLA
To qualify for all FMLA leave-types the employee must have worked for Oregon state government for a total of at least 12 months (if months are non-consecutive there can be no more than a seven-year break in service) <u>and</u> worked for at least 1250 hours during the 12-month period immediately preceding the leave.	To qualify for leave for serious health condition Sick Child or Bereavement leave the employee must have worked for Oregon state government for a period of 180 calendar days immediately preceding the date leave begins <u>and</u> worked an average of 25 hours per week.
	To qualify for Parental leave the employee must have worked for Oregon state government for a period of 180 calendar days immediately preceding the date leave begins.
	To qualify for OFLA Military Family leave the employee need only work for Oregon state government an average of 20 hours per week.

- (a) The agency counts only the hours the employee was actually at work (not on paid or unpaid leave), the hours worked in another state agency, hours worked as a temporary employee (**state or Qualified Rehabilitation Facility temp) for a state agency**, and military leave-time (per federal USERRA law and State HR Policy 60.000.25 Military Leave), to determine an employee's eligibility for FMLA and OFLA leave.
- (b) An agency uses a "rolling backward" year to determine the employee's total entitlement. This means an agency looks backward on the calendar for one year from the first day of the requested leave. The agency reduces the employee's FMLA entitlement by any FMLA leave used in the previous 12 months for the employee's own or a family member's serious health condition, Parental leave, FMLA Military Caregiver leave or FMLA Qualifying Exigency leave. The agency reduces the employee's OFLA entitlement by any OFLA leave used in the previous 12 months for the employee's own or a family member's serious health condition, Parental leave, Sick Child leave, OFLA Military Family leave **and OFLA Bereavement leave**.
- (c) To determine the amount of an employee's entitlement to FMLA Military Caregiver leave, the agency uses a "rolling forward" leave year. This means the leave year for Military Caregiver leave starts on the first day of the first occurrence of Military Caregiver leave. The employee has one year from the first day of the leave to use the 26-week leave entitlement. If the employee exhausts the leave before the year is over, the employee is not eligible for additional FMLA Military Caregiver leave during that year. The agency does not reduce the employee's entitlement to FMLA Military Caregiver leave by the amount of FMLA leave used prior to the start of the Military Caregiver leave.
- (5) **Types of leave schedules:**
- (a) Continuous leave: Leave taken in a block of time. For example, an employee takes six weeks of leave due to illness.
- (b) Intermittent leave: Leave taken sporadically. For example, an employee misses five days of work a month due to a **serious** health condition. Conditions for use of intermittent leave are outlined in the policy attachments for each specific leave-type, **where applicable**.
- (c) Reduced-schedule leave: Leave taken where the employee is scheduled to work less than the employee's normal hours in a day or week. For example, an employee scheduled to work eight hours a day, works six

hours and takes the remaining two hours as FMLA and OFLA due to a serious health condition. Conditions for use of reduced-schedule are outlined in the policy attachments for each specific leave-type, **where applicable**.

- (6) **Dual entitlement:** If the reason for the leave qualifies under both FMLA and OFLA, an agency designates both FMLA and OFLA leave to an eligible employee, except in the following circumstance:
- (a) An agency does not designate OFLA if an employee is absent due to a disabling compensable injury (ORS 656.005(7)) or pending a determination of a workers' compensation claim. If the claim is denied or if an employee refuses an offer of transitional work (see State HR Policy 50.020.05 Early Return to Work of Injured Workers), an agency immediately designates OFLA leave if the employee meets eligibility and purpose requirements. If the denial is reversed upon appeal, an agency restores the designated OFLA hours to the employee.
- (7) **Entitlement when spouses and family members work for Oregon state government:**
- (a) Spouses who are both employed by Oregon state government share the FMLA entitlement for Parental leave, leave to care for a parent with a serious health condition, and FMLA Military Caregiver leave. An agency (or agencies) may choose to lift the requirement that spouses share the entitlement when the absence of both employees does not cause a hardship for the agency.
 - (b) Family members who are employed by Oregon state government may not take OFLA leave at the same time unless:
 - (A) One employee needs to care for the other employee who is suffering from a serious health condition.
 - (B) One employee needs to take care of a child with a serious health condition while the other employee is suffering from a serious health condition.
 - (C) Both employees have a serious health condition
 - (D) **The employees are taking OFLA Bereavement leave.**
 - (E) An agency (or agencies) chooses to grant permission to use leave at the same time when the absence of the family members does not cause a hardship for the agency.
- (8) **Employee requirements to request FMLA or OFLA leave:** An employee makes a request to the agency at least 30 calendar days in advance for a planned **or foreseeable** absence². The employee is not required to use the words FMLA or OFLA, but he or she must give enough information that the agency can determine if the reason for the leave might qualify as FMLA, OFLA or both. If the employee does not give enough information, the agency may ask questions as to the nature of the leave. Exceptions:
- (a) For medical emergencies, other unforeseeable events or short-notice situations, an employee, or his or her family member if the employee is medically unable, must notify the agency as soon as possible.
 - (b) For unplanned absences of OFLA Sick Child leave or pre-approved intermittent leave, an employee follows agency call-in procedures and states the leave is to care for his or her sick child or for pre-approved FMLA or OFLA leave.
 - (c) For OFLA Military Family leave, an employee notifies the agency within five business days of the employee's spouse or same-sex domestic partner receiving official notice of an impending call or order to active duty or of a leave from deployment, or as soon as possible in situations where official notice is provided less than five days from commencement of the leave.
- (9) **Agency's response to a request for OFLA Sick Child leave:** When initially designating OFLA Sick Child leave, **the agency** sends written notification to the employee stating whether the employee is eligible for OFLA Sick Child leave, the employee's rights and responsibilities under OFLA including coding time appropriately, and any

² The penalty for failure to give a 30 day notice is located in 29 CFR § 825.302 for an employee using exclusively FMLA and in ORS 659A.165 for an employee using exclusively OFLA.

requirement to provide medical certification after the third occurrence of OFLA Sick Child leave in a 12-month period.

- (10) **Agency's initial response to a request for FMLA or OFLA leave and eligibility determination³:** Under most circumstances an agency provides an initial written response to the employee within five business days telling the employee whether he or she is eligible for FMLA or OFLA leave, that the leave may count as FMLA, OFLA or both, and:
- (a) If the employee is not eligible for one or both leaves, the agency provides at least one reason for the determination. For example, the employee has not worked enough hours to qualify.
 - (b) If the employee is eligible for one or both leaves, the agency may provisionally designate the leave until the employee provides further information. Additionally, the agency notifies the employee of his or her rights and responsibilities listed in Section (12), and whether the employee must provide medical or military certification or military orders (in order for the agency to determine if the employee's reason for the leave qualifies as FMLA, OFLA or both). If the agency requires medical or military certification or military orders, the agency must also notify the employee of the consequence for failing to provide the information.
- (11) **Agency's determination if leave qualifies as FMLA, OFLA or both:** Within five business days of receiving information such as a medical or military certification or military orders, the agency provides the employee with a written response that states, whether the reason for the employee's leave qualifies as FMLA, OFLA or both, and:
- (a) If the employee's reason or purpose for the leave does not qualify for FMLA, OFLA or both, the agency provides at least one reason for the determination. For example, the leave did not qualify as a serious health condition.
 - (b) If the employee's reason or purpose for leave qualifies as FMLA, OFLA or both, the agency designates the leave as such and notifies the employee of:
 - (A) His or her rights and responsibilities listed in Section (12)
 - (B) The amount of weeks, days or hours of leave that will count against the employee's FMLA and OFLA entitlements if the leave is taken in a block of time or as a predictable reduced schedule
 - (C) If the FMLA leave is intermittent or it is not possible to provide the specific amount of time that will count against the employee's FMLA entitlement, the employee may request that the agency provide a notice of the amount counted against FMLA. The request can be no more than every 30 days and only when the employee has FMLA during those 30 days.
- (12) **Employee's rights and responsibilities under FMLA and OFLA:**
- (a) Employees are entitled to receive a description of the rolling backward leave year used to calculate FMLA and OFLA.
 - (b) Employees must use paid leave according to this policy or a collective bargaining agreement.
 - (c) Employees are entitled to insurance premium information, including the requirement to repay insurance premiums paid by the agency if the employee does not return to work.
 - (d) An employee who requests leave for his or her own serious health condition is entitled to know whether the agency will require a fitness-for-duty certification before returning to work. The fitness-for-duty certificate must verify whether the employee is able to return to work, whether the employee has any job-related restrictions, and the duration of any restrictions.
- (13) **Insurance:** During months when an employee uses FMLA, the agency pays its share of health care contributions for the employee's medical, dental and basic employee-only life insurance **for an employee otherwise qualified**

³ An agency may designate or deny FMLA or OFLA leave in the initial written response if the agency has enough information to make the determination if the employee is eligible and his or her need for leave qualifies. The agency's response must include (where applicable) the provisions in Sections (10)(a), (11) and (12).

for insurance. An employee must continue to pay his or her share of the premium payment and any surcharges related to his or her insurance plan. An employee in leave without pay is required to make arrangements with the agency to pay for his or her share of the premium payments and surcharges associated with the employee's plan. A family member may make arrangements to make premium payments if the employee is incapacitated. Premium payments made by the agency on an employee's behalf may be recovered by the agency.

- (a) An employee may be required to reimburse an agency for **the employer's portion of** insurance premiums paid on the employee's behalf if the employee fails to return to work, unless the reason for the employee's failure to return is a continuation, recurrence, or onset of a serious health condition of the employee or employee's family member, a continuation, recurrence, or onset of a serious illness or injury of a covered servicemember or other circumstances beyond the employee's control.
 - (b) If an employee works an insufficient number of hours in a month or uses an insufficient amount of leave to cover his or her optional insurances while on FMLA and OFLA, the employee must pay premiums for the optional insurances that **may be** continued.
 - (c) When the leave qualifies only under OFLA, the employee must work enough hours or use sufficient paid leave in a month for insurance coverage to continue in the next month. All insurance coverage terminates when the employee does not work enough hours in the month or uses insufficient paid leave. If the employee wishes the insurance to continue, he or she may self-pay some insurance premiums under COBRA. The employee receives information about self-paying insurance through a third-party administrator.
 - (d) Donated leave received from other employees applies first to the payment of the employee's insurance premiums for medical, dental and basic employee-only life insurance when the employee is on OFLA only.⁴
 - (e) Refer to the attached "Public Employees' Benefit Board FMLA-OFLA Benefit Matrix" for the effect on an employee's insurance when returning from FMLA or OFLA leave.
- (14) **Use of paid leave:** FMLA and OFLA are unpaid leave entitlements. However, this policy requires an employee to use available paid leave prior to using leave without pay with some exceptions listed in the chart below. The agency counts all paid and unpaid leave used during FMLA and OFLA leave toward the employee's FMLA and OFLA entitlement. An employee chooses whether to use compensatory time (unless required by a collective bargaining agreement).

⁴ See the OSPA Reference Manual, Family and Medical Leave Handbook; State HR Policy 60.025.01; and an applicable Collective Bargaining Agreement for more information about an employee's eligibility to receive donated leave and how an agency administers donated leave.

Family and Medical Leave

Statewide Policy

60.000.15

Leave situation	Represented Employees (The column below is the employee's requirement to use or reserve leave in the leave situation listed in the left-hand column)	Management Service, Unclassified Executive Service or Unrepresented Employees (The column below is the employee's requirement to use or reserve leave in the situation listed in the far left-hand column)
Employee is on any FMLA, OFLA or both leaves-types in a block of time, and , employee is not on OFLA Military Family leave, workers' compensation or receiving payments from a disability provider.	Employee must use paid leave but may be able to reserve leave according to an applicable collective bargaining agreement. Employee may not reserve accrued paid leave when on intermittent or reduced-schedule leave.	Employee must use paid leave but may reserve 40 hours of sick or vacation leave or a combination of both. Employee may not reserve accrued paid leave when on intermittent or reduced-schedule leave.
Employee receives payments from a disability provider at the same time that he or she is on FMLA only or FMLA and OFLA.	Employee chooses if he or she will use paid leave. Employee resumes use of accrued paid leave when disability payments end.	Employee chooses if he or she will use paid leave. Employee resumes use of accrued paid leave when disability payments end.
Employee is on OFLA Military Family leave.	Employee chooses if he or she will use paid leave. If the employee chooses to use accrued paid leave, the employee chooses the order in which to use the leave.	Employee chooses if he or she will use paid leave. If the employee chooses to use accrued paid leave, the employee chooses the order in which to use the leave.
Employee is on time loss through workers' compensation while on FMLA leave.	Employee can only use accrued paid leave to supplement the workers' compensation payment to equal the difference between the workers' compensation payment and his or her normal salary. (A collective bargaining agreement may have further requirements or different provisions.)	Employee chooses whether he or she will supplement the workers' compensation payment with accrued paid leave to equal the difference between the workers' compensation payment and his or her normal salary.
Employee is on OFLA Bereavement Leave	The first few days are paid by the employer, if specified in a relevant collective bargaining agreement and the employee meets the eligibility requirement under the collective bargaining agreement. Employee uses his or her own accrued paid leave for time that is not employer paid. Employee may request donated hardship leave if addressed in a collective bargaining agreement.	The first three days (24 hours), prorated for part time employee), are paid by the employer per occurrence if the employee meets the eligibility requirement under State HR Policy 60.000.10 Special Leaves with Pay. The employee is required to use his or her own accrued paid leave for the remainder of the period. The employee may request donated hardship leave if the employee will be in leave without pay during bereavement leave. The employee may receive up to 40 hours of donated leave per occurrence.

(15)Returning from leave:

- (a) An agency has the option to require an employee who returns from leave for his or her own serious health condition to provide a fitness for duty statement from a health care provider. The statement must certify that the employee is able to return to work, whether the employee has any job-related restrictions, and the duration of any restrictions. (The agency must communicate this requirement when it initially responds to the employee's request for leave.)

(b) Reinstatement rights:

- (A) An agency restores an employee who returns from OFLA only, or OFLA and FMLA used at the same time to the position of employment held by the employee when the leave began. If the position no longer exists, or if the employee returns from FMLA only, an agency returns the employee to an equivalent position with equivalent pay, benefits and other terms and conditions of employment. The following exceptions apply:
 - (i) If an agency eliminates the employee's position through layoff, the agency treats the employee as if the employee was not on FMLA, OFLA or both, in the same manner as similarly situated employees, according to the agency's policy or applicable collective bargaining agreement.
 - (ii) An agency restores an **unclassified**, temporary or limited duration employee to the extent the employee's placement, **appointment** or position still exists.
 - (iii) If an employee does not return from leave or is unable to perform an essential function of the position that the employee held prior to the commencement of FMLA, OFLA or both, with or without reasonable accommodation, the employee may be subject to termination under applicable law, rule, policy or collective bargaining agreement.
- (B) An agency has no obligation to continue to employ an employee who has exhausted his or her FMLA and OFLA leave if the employee cannot return to the position he or she held prior to FMLA and OFLA, or cannot perform an essential function of the position, with or without reasonable accommodation.⁵ The following exceptions apply:
 - (i) An employee who cannot return to work after exhausting his or her FMLA and OFLA leave entitlement, who still has sick leave, must notify the agency of the need to continue his or her absence using accrued sick leave according to State HR Policy 60.000.01 Sick Leave with Pay, an applicable agency policy, or an applicable collective bargaining agreement.
 - (ii) An agency has the option to grant an employee's request to extend an absence when continuing the leave does not impose undue hardship on the agency and it complies with law, policy, applicable collective bargaining agreement, and reasonable accommodation provisions of the Americans with Disabilities Act Amendments Act (ADAAA). An agency may request that the employee provide medical certification that verifies the need for continued leave.

- (16)**Effect on seniority, salary increases and recognized service date:** Use of FMLA and OFLA does not affect an employee's seniority, eligibility for salary increases or the employee's recognized service date. The agency treats an employee using FMLA or OFLA leave as if the employee is not on leave, up to the point where the employee's FMLA and OFLA entitlement ends. Unpaid leave affects an employee's PERS retirement benefits.

- (17)**FMLA and OFLA recordkeeping:** An agency maintains records of the FMLA and OFLA leave taken by its employees according to the recordkeeping requirements and purging schedules of OAR 166-300-0035(3)(5)(6). An agency keeps FMLA and OFLA medical records in a locked file, separate from an employee's personnel file. **If an employee who is on FMLA or OFLA transfers to another agency, the sending agency does not send the employee's medical file, instead the sending agency provides number of hours worked in the past 12**

⁵ An employee has reinstatement rights under FMLA and OFLA as long as the employee returns immediately (the next business day for an employee on full-day leave) after the employee's leave entitlement ends and can perform all essential functions of the position. An agency may still have an obligation to employ the person but it is no longer under FMLA and OFLA.

months and any FMLA or OFLA taken in the past 12 months. At the employee's request, the agency may provide a copy of the medical file to the employee. The employee may choose to provide a copy of the file to the receiving agency.

- (18) An agency may send all Eligibility and Designation letters to the employee through email at work before and after the time the employee is on FMLA or OFLA leave. The agency may send eligibility and designation letters through the employee's personal email if the employee wants to provide their personal email address during the time the employee is on FMLA or OFLA leave. Otherwise, Eligibility and Designation letters are delivered in person or sent through the mail. An agency may not send an employee's completed medical certification in an unprotected manner through email. However, the agency is not prohibited from receiving medical documentation via email if the employee chooses to provide it in this manner.
- (19) Refer to the appropriate federal and state laws for situations regarding family and medical leave not covered in the policy.

State of Oregon
DEPARTMENT OF ADMINISTRATIVE SERVICES
Human Resource Services Division



State Policy: 60.000.20 Alternative Leave Provisions

| **APPLICABILITY:** Management service and unclassified executive service employees

REFERENCE: ORS 240.145(3); 240.205(4); 240.250; 240.551

(1) **Policy:** Alternative sick leave and vacation benefits may be granted to accomplish recruitment objectives. Accordingly:

- (a) The agency head may grant alternative sick leave and vacation benefits to eligible employees appointed from outside Oregon state service where necessary to accomplish recruitment objectives.
 - (b) The following leave alternatives shall be appropriate substitutes for standard leave provisions as long as the employee remains in the position to which originally appointed. If the employee leaves the original position, the agency head shall determine the appropriate vacation leave accrual rate and vacation and sick leave transfer balances consistent with policy.
 - (A) At the time of appointment, an immediate eligibility for 30 working days (240 hours) of paid sick leave may be made available to be used during the first 30 months of employment. The 240 hours may be drawn upon but not increased during the first 30 months of employment.
 - (B) Upon appointment, vacation leave may accrue at 11.34 hours per month to a maximum of 136 hours per year for the first 10 years of employment. After 10 years of employment, the accrual rate may be increased to correspond with the standard leave accrual rates.
 - (C) Upon appointment, an immediate eligibility for 40 hours of vacation leave may be granted and hours used will be applied against the appointee's annual (136 hours) vacation leave. This vacation benefit may be used only once and only during the first year of employment. In any event, a new appointee may take vacation as it accrues.
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Performance Measure: Alternate sick leave and vacation benefits are granted only to accomplish recruitment objectives.

Performance Standard: 100%

SUBJECT: Military Leave	NUMBER: 60.000.25
DIVISION: Chief Human Resources Office	EFFECTIVE DATE: 2/20/2015

APPROVED: Signature on file with Chief Human Resources Office

POLICY STATEMENT: This policy addresses the circumstances under which Oregon state government grants military leave with or without pay to state employees.

AUTHORITY: ORS 399.065, 399.075, ORS 659A.086 to 659A.088, ORS 408.238 to 408.290 and USERRA 38 USC 4301-4335

APPLICABILITY: All employees, where not in conflict with collective bargaining agreements

ATTACHMENTS: The Uniformed Services Employment and Reemployment Act (USERRA), Notice of Rights

DEFINITIONS: See State HR Policy 10.000.01 Definitions and OAR 105-010-0000

POLICY:

(1) Federal Annual Active Duty for Training Leave with Pay under ORS 408.290

- (a) Eligible employees called to annual active duty for training or active duty in lieu of training shall be granted military training leave with pay for all regular workdays that fall within a period not to exceed 15 calendar days in any federal training year. Weekend drill obligations are not considered federal active duty for training under this policy.
- (b) In order to be eligible for federal annual active duty for training leave with pay under ORS 408.290, an employee:
 - (A) has been employed with the State of Oregon or its counties, municipalities or other political subdivisions for 6 months or more immediately preceding application for military leave;
 - (B) is a member of any National Guard, National Guard Reserve or of any reserve component of the Armed Forces of the United States or of the United States Public Health Service; and
 - (C) has provided advance written or verbal notice of the absence, except in instances involving "military necessity" or where the giving of notice is otherwise impossible or unreasonable.
- (c) To receive pay for the annual active duty for training, the employee must provide, before, during or after the leave, and at the agency's request, confirming documentation which indicates the call-up was for annual active duty for training or active duty in lieu of annual training. The agency shall request confirming documentation (military orders, training/drill schedule or other official documents) for the absence.
- (d) The federal training year for the purpose of this policy is the federal fiscal year (October 1 through September 30).

Military Leave**60.000.25**

- (e) If an eligible employee is called to active duty for a period longer than 15 calendar days, the employee is paid for all regular workdays that fall within the first 15 days, only if such time is served for the purpose of discharging an obligation of annual active duty for training as described above.
- (f) If the employee has been on military active duty for training leave for 15 days or less, the employee shall return to work at the beginning of the first regularly scheduled work period following completion of service, after allowance for safe travel home and an 8-hour rest period.

(2) Federal/State Military Leave Without Pay**(a) Military Leaves of Absence**

- (A) An employee shall be entitled to military leave without pay for military duty when an employee is a member of the organized militia of Oregon, or a member of an organized militia of another state, and is called into active service. An agency shall grant an employee a leave of absence for military duty that continues through the applicable decompression time. Military duty means training and involuntary or voluntary service performed by an inductee, enlistee or reservist or any entrant into a temporary component of the Uniform Services of the United States, and authorized time spent reporting for and returning from such training or service, or, if a rejection occurs, from the place reported to. Decompression time means the applicable period of time after military service during which the employee is entitled to request reemployment under USERRA. (See Section (3) Reemployment Rights)
- (B) Leave shall be granted in accordance with ORS 408.240, ORS 399.065, 399.075 and ORS 659A.086. The employee shall provide verbal or written notice of military service to the agency. The agency shall request confirming documentation (military orders or other official documents) for the absence. The employee may provide the documents prior to, during, or upon completion of the military training leave. In instances involving "military necessity" or where the giving of notice is otherwise impossible or unreasonable, the employee will be relieved of this obligation.
- (C) An employee may only be paid during active military leave or applicable decompression time if:
 - (i) the employee elects to use accrued vacation leave, personal leave and compensatory time;
 - (ii) the employee is an FLSA exempt employee who works any part of a workweek while on temporary military leave (defined as up to 3 months); or
 - (iii) the employee receives supplemental income through the Military Donated Leave Program State HR Policy 60.020.05.
- (D) If the employee is a member of the Oregon organized militia and is called to active state duty under ORS 399.065 and 399.075, the employee shall be paid in accordance with that statute. Otherwise, military leave and applicable decompression time is without pay. (For pay during Federal Active Duty Training Leave see Section (1)(a) – (d)).
 - (i) Accrued leave does not have to be exhausted before leave without pay is granted for military leave or subsequent decompression time.
 - (ii) While the employee is on military leave without pay, he or she will not accrue vacation, sick or personal business leave but shall receive full credit for time spent on military leave and subsequent decompression time.
 - (iii) An FLSA exempt employee who works any part of a work week while on temporary military leave (defined as up to 3 months), shall receive a full week's salary for that particular week. However, the agency will only pay the difference between the amount received from the employee's military

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pay and the state salary due for that particular week. During such week, the employee shall receive full credit toward accrual of sick and vacation leave hours and will be paid for any holiday occurring during the week.

- (b) An employee who entered or re-entered active military leave on or after January 1, 2006, shall receive up to 24-months of employer-paid health plan coverage to begin the date the employee's active health plan coverage ends.
- (c) An employee who entered or re-entered active military leave prior to January 1, 2006, shall have his or her employer-paid health plan coverage extended from 12 to 24 months if on January 1, 2006:
 - (A) The employee was still on active military leave or applicable decompression time; *and*
 - (B) The employee had not exhausted his or her initial 12-month entitlement to employer-paid health plan coverage.
 - (C) The employee's employer-paid health plan coverage would begin the date the employee's active health plan coverage ends.
- (d) Upon exhausting the employer-paid health plan coverage, the employee may elect to continue his or her health plan coverage at his or her own expense. For more information on this process, contact the agency payroll office.
- (e) An employee who entered or re-entered active military leave prior to January 1, 2006, does not have entitlement to more than 12-months of employer-paid health plan coverage if prior to January 1, 2006:
 - (A) The employee's military leave and applicable decompression time ended;
 - (B) The employee exhausted his or her initial 12-month employer-paid health plan coverage;
 - (C) The employee elected to continue his or her own health plan coverage at his or her own expense; or
 - (D) The employee declined to continue his or her health plan coverage, at his or her own expense, after exhausting his or her initial 12-months of employer-paid health plan coverage.

(3) Reemployment Rights

- (a) State Active Duty - For employees who are members of the Oregon militia and are called into active service of the state by the Governor under ORS 399.065 and 399.075 and for employees who are members of the organized militia of another state and are called into active service of the state by that state's Governor.
 - (A) To be eligible for reemployment an employee shall report back to work within seven calendar days from the last day of state active duty.
 - (B) Upon meeting the requirement for reemployment, the employee shall be restored to the employee's position or an equivalent position without loss of seniority or other benefits.
- (b) Federal Active Duty - other than Federal Annual Active Duty for Training under 408.290
 - (A) To be eligible for reemployment an employee shall:
 - (i) have performed military duty as defined above in Section (2)(a)(A); *and*
 - (ii) have given proper advance notice of the military duty, unless no notice is required; *and*

- (iii) have performed military duty that did not exceed five years. Exceptions to the five-year requirement shall be made if the service is necessary to complete an initial period of obligated service, or the employee cannot return because the period of additional duty was imposed by law or resulted from inability of the employee to obtain a release relieving the employee from active duty and the inability to obtain the release was through no fault of the employee; *and*
 - (iv) have made application for reemployment either verbally or in writing within 90 days after the employee is relieved from military duty, unless the employee was hospitalized or convalescing due to military duty and the hospitalization/convalescence continued after discharge. An employee then has up to two years to make application for reemployment. This will be extended to accommodate a circumstance beyond an individual's control that would make applying for reemployment within the two-year period impossible or unreasonable; *and*
 - (v) have separated from the service with an honorable discharge; *and*
 - (vi) return or make application for reemployment within the applicable decompression time following release from military duty as follows:
 - (I) Service of 1 to 30 days: the employee shall return to work at the beginning of the first regularly scheduled work period that begins on the next calendar day following completion of military duty, after allowance for safe travel from the military duty location and an eight-hour rest period; or if returning at that time is impossible or unreasonable through no fault of the employee, then the employee shall return to work as soon as possible after the end of the eight-hour rest period;
 - (II) Service of 31 to 180 days: the employee shall make application for reinstatement 14 days after release from military duty; or if making application for reinstatement within 14 days is impossible or unreasonable through no fault of the employee, then the employee shall make application on the next calendar day on which it is possible to do so; or
 - (III) Service of 181 or more days: the employee shall make application for reinstatement within 90 days after release from military duty.
- (c) Upon reemployment, the agency shall request the employee to provide documentation showing that:
- (A) the employee's application for reemployment is timely;
 - (B) the employee has not exceeded the five-year service limitation or documentation of an exception under federal or state law; *and*
 - (C) the employee's separation from military duty was not a disqualifying discharge or under other than an honorable condition
- (d) Application for reemployment means the returning service member communicates to the agency that he or she is a former employee returning from military duty.
- (A) Upon meeting the requirements for reemployment, the agency shall restore the employee to his or her former position without loss of seniority, status or other benefits as if the employee had remained continuously employed. If the employee is not qualified to perform the duties of such position by reason of military duty, but is qualified to perform the duties of any other position within the agency, equal to or lower than the employee's current position, the employee shall be restored to such other position. The other position will provide the employee with like seniority, status and pay, or the nearest approximation thereof, consistent with the circumstances in the case.
 - (B) For an employee reemployed after military leave, his or her vacation accrual rate, salary eligibility date, and service credits shall be treated as though the employee had remained continuously

Military Leave

60.000.25

employed. An employee who has not completed trial service at the time military leave begins may, under certain circumstances, be required to complete the trial service upon return from military leave. Contact the Chief Human Resources Office Policy Unit or Labor Relations Unit for further information.

(C) For the purpose of calculating an employee's eligibility for Family and Medical Leave (under the Federal Family Medical Leave Act and Oregon Family Leave Act), months and hours the employee would have worked, but for his or her military service, should be combined with the months employed and the hours actually worked to meet the eligibility requirements.

(D) Immediately upon reemployment of an employee from military leave or decompression time, the agency shall contact PERS Centralized Unit at DAS to determine eligibility for retroactive retirement benefits.

(4) Protection from Discrimination/Retaliation/Discharge

(a) An employee shall not be discriminated or retaliated against based upon a service obligation, military status or the taking of military leave.

(b) A reemployed employee shall not be discharged without cause within one year of such reemployment.



YOUR RIGHTS UNDER USERRA

THE UNIFORMED SERVICES EMPLOYMENT AND REEMPLOYMENT RIGHTS ACT

USERRA protects the job rights of individuals who voluntarily or involuntarily leave employment positions to undertake military service or certain types of service in the National Disaster Medical System. USERRA also prohibits employers from discriminating against past and present members of the uniformed services, and applicants to the uniformed services.

REEMPLOYMENT RIGHTS

You have the right to be reemployed in your civilian job if you leave that job to perform service in the uniformed service and:

- ☆ you ensure that your employer receives advance written or verbal notice of your service;
- ☆ you have five years or less of cumulative service in the uniformed services while with that particular employer;
- ☆ you return to work or apply for reemployment in a timely manner after conclusion of service; and
- ☆ you have not been separated from service with a disqualifying discharge or under other than honorable conditions.

If you are eligible to be reemployed, you must be restored to the job and benefits you would have attained if you had not been absent due to military service or, in some cases, a comparable job.

RIGHT TO BE FREE FROM DISCRIMINATION AND RETALIATION

If you:

- ☆ are a past or present member of the uniformed service;
- ☆ have applied for membership in the uniformed service; or
- ☆ are obligated to serve in the uniformed service;

then an employer may not deny you:

- ☆ initial employment;
- ☆ reemployment;
- ☆ retention in employment;
- ☆ promotion; or
- ☆ any benefit of employment

because of this status.

In addition, an employer may not retaliate against anyone assisting in the enforcement of USERRA rights, including testifying or making a statement in connection with a proceeding under USERRA, even if that person has no service connection.

HEALTH INSURANCE PROTECTION

- ☆ If you leave your job to perform military service, you have the right to elect to continue your existing employer-based health plan coverage for you and your dependents for up to 24 months while in the military.
- ☆ Even if you don't elect to continue coverage during your military service, you have the right to be reinstated in your employer's health plan when you are reemployed, generally without any waiting periods or exclusions (e.g., pre-existing condition exclusions) except for service-connected illnesses or injuries.

ENFORCEMENT

- ☆ The U.S. Department of Labor, Veterans Employment and Training Service (VETS) is authorized to investigate and resolve complaints of USERRA violations.
- ☆ For assistance in filing a complaint, or for any other information on USERRA, contact VETS at **1-866-4-USA-DOL** or visit its **website at <http://www.dol.gov/vets>**. An interactive online USERRA Advisor can be viewed at <http://www.dol.gov/elaws/userra.htm>.
- ☆ If you file a complaint with VETS and VETS is unable to resolve it, you may request that your case be referred to the Department of Justice or the Office of Special Counsel, as applicable, for representation.
- ☆ You may also bypass the VETS process and bring a civil action against an employer for violations of USERRA.

The rights listed here may vary depending on the circumstances. The text of this notice was prepared by VETS, and may be viewed on the internet at this address: <http://www.dol.gov/vets/programs/userra/poster.htm>. Federal law requires employers to notify employees of their rights under USERRA, and employers may meet this requirement by displaying the text of this notice where they customarily place notices for employees.



U.S. Department of Labor
1-866-487-2365



U.S. Department of Justice



Office of Special Counsel

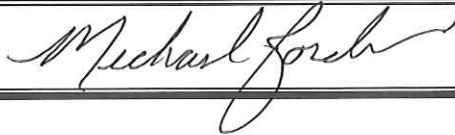


1-800-336-4590

Publication Date—October 2008

SUBJECT: Expression of Milk and Unpaid Rest Periods	NUMBER: 60.000.30
DIVISION: Chief Human Resource Office	EFFECTIVE DATE: 11/25/13

APPROVED:



POLICY STATEMENT: Oregon state government provides a private location and unpaid rest periods to lactating employees to express milk.

AUTHORITY: ORS 243.650, 240.145, 240.250, 653.077, OAR 105-010-0000 and 839-020-0051, **29 USC 207 § 7(r)**

APPLICABILITY: All employees (including temporary employees).

ATTACHMENTS: None

DEFINITIONS: See State HR Policy 10.000.01, Definitions; OAR 105-010-0000 and ORS 243.650

Reasonable Efforts: Efforts that do not impose an undue hardship on the operation of an agency's business.

Reasonable Rest Period: **An amount of time sufficient to allow employee to express milk. The frequency and duration of breaks will likely vary depending upon the individual mother's related needs.**

Expression of Milk: Lactation by manual or mechanical means; does not include breastfeeding.

Private Location: A place, other than a restroom or toilet stall, in close proximity to the employee's work area for the employee to express milk without intrusion or view by other employees or the public. The private location may include: the employee's work area; a room connected to a restroom, such as a lounge; an empty or unused office, a conference room, or a storage space with a door that closes and covered windows, if any. A sign such as "DO NOT DISTURB" should hang on the door when the room is in use.

Close Proximity: Within walking distance from the employee's work area that does not noticeably shorten the rest or meal period. If a private location is not within close proximity to the employee's work area, the agency may not include

the time taken to travel to and from the location as part of the break period.

POLICY

1. **When the employer receives notification an** employee intends to express milk, the agency must consider the immediacy of the employee's need when preparing to comply with this policy.
 - (A) The agency must make reasonable efforts to provide a location for the employee to express milk in private without intrusion by other employees or the public.
 - (B) An employee may bring a cooler or container to work to store the expressed milk and the agency must accommodate the container. The agency may allow, but cannot require, the employee to use an available refrigerator to store the expressed milk.
2. The agency must give the employee a reasonable rest period to express milk for her child up to the age of 18 months.
 - (A) The agency must treat the rest periods used by the employee to express milk as paid rest periods for the amount of time the agency is required to provide paid rest periods.
 - (B) If feasible, the employee will take the rest period to express milk at the same time as the rest periods or meal periods otherwise provided to the employee. If not feasible, the employee may express milk during an unpaid rest period.
 - (C) If an employee takes unpaid rest periods, the agency may allow the employee to work before or after her normal shift to make up the amount of time used during the unpaid rest period.
 - (D) If the employee does not work to make up the amount of time used during the unpaid rest period, the agency is not required to compensate the employee for that time. The employee may use, but is not required to use, accrued paid leave or compensatory time.
 - (E) For the purpose of calculating hours for health insurance purposes, unpaid rest periods used by the employee to express milk count as time worked. The employee must use the appropriate leave without pay code for the unpaid portion of the rest periods.

SUBJECT: Holiday Leave with Pay	NUMBER: 60.010.01
DIVISION: Human Resource Services Division	EFFECTIVE DATE: 04/09/10
APPROVED: Signature on file with Human Resource Services Division	

POLICY STATEMENT: [Oregon state government provides paid leave on legal holidays and other days, as appropriate.](#)

AUTHORITY: [ORS 187.010; 187.020; 240.240; 240.551](#)

APPLICABILITY: [All employees subject to ORS 240, State Personnel Relations Law, except temporary employees and employee represented by a collective bargaining agreement](#)

ATTACHMENTS: [None](#)

DEFINITIONS: [See HRSD State Policy 10.000.01, Definitions; and OAR 105-010-0000](#)

POLICY:

(1) [The following are paid legal holidays:](#)

- (a) [New Year's Day on January 1](#)
- (b) [Martin Luther King Jr's Birthday on the third Monday in January](#)
- (c) [President's Day on the third Monday in February](#)
- (d) [Memorial Day on the last Monday in May](#)
- (e) [Independence Day on July 4](#)
- (f) [Labor Day on the first Monday in September](#)
- (g) [Veterans Day on November 11](#)
- (h) [Thanksgiving Day on the fourth Thursday in November](#)
- (i) [Christmas Day on December 25](#)
- (j) [Every day appointed by the Governor as a holiday](#)
- (k) [Every day appointed by the President of the United States as a day of mourning, rejoicing, or other special observance only when the Governor also appoints that day as a holiday](#)
- (l) [At the discretion of the Governor, a day of paid leave in conjunction with Thanksgiving, Christmas or New Year's Day.](#)

(2) Holiday Observance

- (a) Whenever a holiday falls on Sunday, the state recognizes the following Monday as a holiday; and whenever a holiday falls on Saturday, the state recognizes the preceding Friday as a holiday.
- (b) A day appointed by the Governor as a holiday.
- (c) A day appointed by the President of the United States and subsequently by the Governor as a day of mourning, rejoicing or other special observance is observed on the appointed day.

(3) Holiday Leave Application

- (a) A full time employee receives eight hours of time off with pay for each legal holiday. A full-time employee on leave without pay receives time off with pay on a pro-rata basis for each legal holiday.
- (b) A part-time employee receives time off with pay on a pro-rata basis for each legal holiday.
- (c) Unrepresented temporary employees are not eligible for time off with pay on a legal holiday.
- (d) If an employee is on vacation or sick leave when a legal holiday occurs, code that day as holiday leave.

(4) Holidays and Alternate Work Schedules

- (a) An appointing authority may adjust an employee's irregular or flexible work schedule for the eight hours of paid holiday leave.
- (b) When a legal or recognized holiday falls on an employee's regularly scheduled day off, other than Saturday or Sunday, the employee may receive eight hours of compensatory time or schedule his or her day off for another day in the same pay period. If necessary, schedule it no later than the following pay period.
- (c) At the option of the appointing authority, an employee who normally works a rotating shift must observe a holiday on the actual day specified in section (1) above even though the holiday may fall on Saturday or Sunday.
- (d) The agency head may designate an alternate day of observance for any of the above listed holidays for all employees of the agency. When an approved alternate day of observance falls on a normal state business day, the agency maintains the minimum staff coverage unless the agency has effectively communicated to the public that the agency is closed in observance of a holiday on an alternate day.

(5) Working on a Holiday

- (a) An employees, whether FLSA exempt or non-exempt, may work on a holiday only when required by his or her supervisor. The employee receives compensation at time and one-half in addition to paid holiday leave. An appointing authority may choose to pay for work on a holiday in cash or compensatory time. Employees may save compensatory time according to State HR Policy 20.005.20 Fair Labor Standards Act. Employees who work on a holiday without supervisory approval may be subject to disciplinary action.
- (b) Unrepresented temporary employees whom management requires to work on a holiday receive straight time pay.

(6) Transfer, Hire or Separation and Holidays

- (a) When an employee moves between agencies without separation and a holiday occurs between the separation date in one agency and the subsequent hire date in another agency, the gaining agency is liable for compensation for the holiday.
- (b) If an employee is hired or terminated on a holiday, the employee receives pay for the holiday.

(7) Governor's Leave: refer to HR State Policy 60.000.10 Special Leaves with Pay.

SUBJECT: Temporary Interruption of Employment **NUMBER: 60.015.01**

DIVISION: Chief Human Resources Office **EFFECTIVE DATE: 02/24/15**

APPROVED: Signature on file with Chief Human Resources Office

**POLICY
STATEMENT:**

State agencies curtail services and close facilities only under hazardous conditions or inclement weather that interfere with normal agency operations.

AUTHORITY:

ORS 240.145(3); 240.250; 240.551

APPLICABILITY:

All employees except where covered by an applicable collective bargaining agreement

DEFINITIONS:

See State HR Policy 10.000.01 Definitions and OAR 105-010-0000

“Curtailment” means a temporary change in agency operations due to extreme conditions. Curtailment may involve continuing some but not all of an agency’s services.

“Closure” means a temporary stoppage of agency operations due to extreme conditions.

“Chief Operating Officer” means the director of the Department of Administrative Services or his or her authorized designee; referred to in this policy as the COO.

“Designated official” means a person authorized to curtail operations or close a building. Depending on whether the closure or curtailment is regional or local, the designated official is the COO, an Oregon Department of Transportation (ODOT) designee, or an agency head.

“Essential personnel” means individuals assigned by an agency head as essential to operations during curtailment or closure.

“Hazardous conditions” means internal or external environmental conditions having natural or manmade causes; examples include presence of hazardous chemicals, flood, fire, earthquake, tsunami, or contagious illness.

“Inclement weather” means extreme weather conditions that interfere with normal agency operations.

“Portland Metro Area” includes but is not limited to the following cities: Beaverton, Clackamas, Clatskanie, Gresham, Hillsboro, Lake Oswego, Milwaukie, Oregon City, Portland, Rainier, Saint Helens, Scappoose, Tigard, Troutdale, Vernonia

“Salem Metro Area” includes but is not limited to the following cities: Albany, Dallas, McMinnville, Monmouth, Independence, Sublimity, Salem, Keizer, Woodburn.

“Telecommuting” means a mutually agreed upon work option between the agency and the employee in which the employee works at an alternate worksite on a regular basis on specified days.

“Teleworking means a mutually agreed upon work option between the agency and the employee in which the employee works at an alternate worksite on an occasional irregular basis with the reminder of his or her time at the central worksite.

POLICY:**(1) Curtailments and Closures**

- (a) A designated official may curtail agency operations or close facilities (excluding 24-hour operations) for hazardous conditions, inclement weather, or other situations requiring assurance of the health or safety of employees or the public. The decision to close or curtail operations is based on available information such as road conditions announced by ODOT, weather forecasts, public health alerts, building conditions, accessibility of exits and parking areas, and discussions with local government officials regarding the status of their building conditions.

(b) In the event of INCLEMENT WEATHER the following designated officials make the decision to close or curtail operations:

- (A) In the Portland Metro and Salem Metro areas: The COO makes the decision to close or curtail operations. The COO:
- (i) Consults with appropriate agency representatives, state office building managers, ODOT officials and local government officials.
 - (ii) Decides the scope of curtailment or closure based on travel and weather conditions.
 - (iii) Authorizes individual agency exceptions for specific buildings based on a request of the agency head for the impacted site.
 - (iv) Instructs DAS Communications to provide closure and curtailment decisions to employees and the media.
- (B) Outside the Portland Metro and Salem Metro areas: The designated officials for ODOT determine the scope of curtailment or closure based on travel and weather conditions. The ODOT designee notifies DAS Communications and the media of closure decisions.

(c) In the event of HAZARDOUS CONDITIONS the following designated officials make the decision to close or curtail operations:

- (A) Regional Decisions: The COO may curtail state operations or close worksites or facilities when hazardous conditions exist for multiple state agencies in a region (city, county, or portions of multiple counties). The COO:
- (i) Consults with appropriate agency representatives, state office building managers, state Public Health personnel, or other agencies as applicable to the circumstances.
 - (ii) Decides the scope of curtailment or closure.
 - (iii) Instructs DAS Communications to provide notice of the closure to the media and others as relevant.
- (B) Local Area Decisions: An agency head, or his or her authorized designee, may authorize curtailment of agency operations or close agency worksites or facilities. The agency head:
- (i) Consults with the Operations section of the DAS Enterprise Asset Management division, state office building managers, state Public Health personnel, and other agencies as applicable to the circumstances.

- (ii) Decides the scope of curtailment or closure.
- (iii) Provides notice of the closure or curtailment to the COO, the media and agency employees.
- (iv) Twenty-four Hour Facilities: The agency head or his or her authorized designee for facilities operating on a 24-hour basis (e.g., state hospitals, correctional facilities, state operated group homes, and state operated school facilities) decides who must report to work. An employee uncertain of his or her need to report to work should contact their supervisor. Agencies with 24-hour facilities maintain plans describing their procedures.

(2) Reporting Curtailed Operations or Closures¹

- (a) When a designated official curtails or closes operations, he or she notifies the COO office by phone at 503-378-3104 and e-mail² at building.closures@oregon.gov. DAS Communications posts the curtailment or closure notice on the DAS website.
- (b) If a designated official curtails or closes operations during normal business hours, he or she notifies local agency heads or area managers and media outlets as appropriate.
- (c) If a designated official curtails or closes operations before the start of the workday, he or she notifies the media outlets by 5:00 a.m. or as soon as possible if the closure decision occurs after 5:00 a.m. Notification to appropriate state agency offices are made through the media, by electronic mail, or website posting.
- (d) Each agency establishes its own communication procedures to notify employees whose shift begins prior to media postings, when a curtailment of operations or closure occurs.
- (e) Each agency establishes local media outlets, where appropriate, to contact in the event of agency curtailment of operations or closure. Agencies provide this information to employees through posting or another method determined by the agency head.
- (f) Essential personnel are required to report to work in the event of curtailment or closure, unless informed otherwise by the agency head or his or her designee.³

(3) Notification to Employees of Curtailed Operations or Closures

- (a) Employees should rely upon major and local media outlets for information about unplanned curtailment of agency operations or closures.
- (b) Additional information about curtailments and closures is on the DAS website:
http://oregon.gov/DAS/Pages/bldg_close/index.aspx.
- (c) Agencies may develop additional internal procedures for notifying employees and the public of unplanned curtailment of operations or closures.

¹"Quick Card for Directors/Building Closures" is a quick reference to an agency director and his or her designee to use each time he or she curtails operations or closes a building. "Quick Cards" are available through DAS Communications.

²An agency head making a local decision to curtail operations or close a building includes this information in his or her e-mail: time of closure, name and address of building, names of agencies occupying the building, date predicted to reopen, alternate worksite or instructions for the public or employees, any security concerns that require the address or information to be excluded from the notice, and whether the agency wishes DAS to notify the media.

³ An agency head or his or her designee notifies essential personnel in advance of curtailment or closure that they are essential personnel and they are required to report to work during a curtailment or closure. Essential personnel are likely identified in the agency's business continuity plan.

- (4) Paid and Unpaid Leave Considerations: The following are general guidelines related to employee leave in the event of curtailment of operations or closure. The "Guide for Leave-Related Questions for Temporary Interruption of Employment" located in the policy toolkit provides samples of situation-specific information.
- (a) When an agency or worksite is **OPEN** for operation, employees are expected to report to work.
- (A) An employee, whether FLSA-exempt or non-exempt, who does not report to work or leaves work prior to the end of a shift due to hazardous conditions or inclement weather, uses appropriate accrued leave with pay or leave without pay for those absences. (An employee uses agency call-in procedures if he or she will not report to work or will be late.)
 - (B) A permanent and limited duration employee who reports to work and is directed to leave, is paid miscellaneous paid leave for the remainder of his or her scheduled shift.
 - (C) A temporary employee who reports to work and is directed to leave, is paid only for actual time worked.
 - (D) If an agency is open but closes later in the day, an employee who did not report to work or left work prior to the end of the shift before the closure, because of hazardous conditions or inclement weather, uses appropriate accrued paid leave or leave without pay for the day. (Exception: an FLSA-exempt employee receives miscellaneous paid leave for the period of the closure.)
- (b) When the agency or worksite is **CLOSED**, employees do not report to work, except for employees who are "essential personnel" or otherwise directed to report.
- (A) An FLSA-exempt employee receives miscellaneous paid leave for periods of less than one full work week. If the closure lasts for the employee's full work week, the employee uses his or her appropriate accrued paid leave or leave without pay.
 - (B) An FLSA non-exempt employee uses appropriate accrued paid leave or leave without pay. At the discretion of the agency, the employee may adjust his or her work hours in order to make up time within the same work week as the hours missed.
- (5) A temporary interruption of employment caused by curtailment of agency operations or closure is not considered a layoff when the interruption does not exceed 15 calendar days and all employees are returned to work.
- (6) Leave-related questions should be directed to the agency's human resources staff.

SUBJECT: Military Donated Leave Program	NUMBER: 60.020.05
DIVISION: Human Resource Services Division	EFFECTIVE DATE: 1/1/10

APPROVED: Signature on file with the Human Resource Services Division

POLICY STATEMENT: Oregon **state government** administers a donated leave program to supplement military **salary of eligible employees**.

AUTHORITY: ORS 240.015; 240.145(3); 240.250; 240.551; 399.230; 408.240

APPLICABILITY: All state employees

ATTACHMENTS: MDLP Toolkit

DEFINITIONS: See State **HR** Policy 10.000.01 Definitions; OAR 105-010-0000 Definitions

Authorized representative: a person who receives power of attorney from an eligible state employee to handle employment issues on his or her behalf.

Average overtime: any hours attributable to overtime hours for all employees in the classification and representation code during a calendar year.

Total state compensation: the total of an employee's base salary, differentials and average overtime.

Total gross active military compensation: the total compensation including allowances, differentials and entitlements.

POLICY:

(1) Military Donated Leave Program (MDLP) Administration

- (a) Each agency director administers State HR Policy 60.020.05.
- (b) MDLP provides financial assistance to eligible active military duty employees who apply for the assistance. State employees may donate accrued vacation and compensatory time to fund the program.
- (c) This policy does not guarantee disbursement to anyone who applies for MDLP. MDLP funds may vary from month to month as donations fluctuate.
- (d) Eligibility: To be eligible, an employee must meet all of the following criteria:
 - (A) The employee must hold regular status (i.e. the employee must have completed initial trial service).

- (B) The employee must hold active military duty status, whether voluntarily or involuntarily. An employee who is engaged in annual training is not eligible for the MDLP. Similarly, an employee is not eligible if he or she is on active duty that discharges the annual training obligation.
- (C) The employee must be in leave without pay during active military duty status
Note: Employees may choose to use accrued leave before electing military leave without pay status. Refer to State HR Policy 60.000.25 Military Leave.
- (D) The employee's total state compensation must exceed the employee's total gross active military compensation.
- (e) Documentation Requirements: The employee, or his or her authorized representative, submits the required documents to the employee's agency human resource office within three months following the month in which reimbursement is being requested. The disbursement request must include all of the following:
 - (A) A copy of military orders; if application occurs within three months after active military duty concludes, submit DD214/215.
 - (B) A completed MDLP Disbursement Request. If an employee has designated an authorized representative, a copy of the Power of Attorney documentation authorizing the identified individual act on the employee's behalf must accompany the application. Power of Attorney documentation must contain language that specifically grants permission to handle employment issues on behalf of the employee. HR consults with Department of Justice, Labor and Employment Section for power of attorney confirmation.
 - (C) Leave and Earning Statement (LES) for each month of active duty reimbursement that employee requests. Note: Military employees receive pay twice a month, on the first and fifteenth calendar day. The salary comparison for eligibility is based on a full month.
- (f) Eligible employees qualify for disbursements up to the difference between their total gross active military compensation and their total state compensation. DAS State Payroll reports disbursements under this policy as taxable income.
- (g) Disbursement requests with complete information are processed in the order received. Disbursements occur on the first of each month in accordance with the DAS State Payroll process timelines.
- (h) MDLP disbursements are made either through previously authorized direct payroll deposit or to the authorized representative as identified on the MDLP Disbursement Request Form with approved Power of Attorney documentation.
- (i) Employees may not receive disbursements for the time period from the last day of active duty to the date the employee reports to work, or when the employee terminates state employment.

- (j) Agencies retain all MDLP Administration documentation referred to in this section for three years from date of an employee's request. Payroll documentation processed at the agency is maintained at each agency in accordance with the payroll retention schedule.

(2) Donations to the Military Donated Leave Program

- (a) All state employees may donate available accrued vacation leave or compensatory time, not sick leave, to the program.
- (b) Donations must be made in increments of whole hours.
- (c) Donors must complete and sign a Donation Authorization Form and submit the form to their agency payroll offices for processing.
- (d) Agency payroll offices deduct donate leave from the donor's leave bank and deposits the value of the leave in the MDLP fund. To calculate the value of donated leave to the MDLP, multiply the donor's base hour rate or equivalent hourly rate of pay by the number of hours donated.
- (e) Agency payroll offices retain all MDLP donation documentation in accordance with the payroll retention schedule.

(3) Terms and conditions

- (a) This state policy prohibits retaliation, including but not limited to intimidation and coercion, against any employee who asks about, requests disbursement, donates leave or uses any provision of this policy. Retaliation is grounds for disciplinary action up to and including termination.
- (b) DAS HRSD retains the right to modify, change or discontinue the MDLP at its discretion.

SUBJECT: Donated Leave	NUMBER: 60.025.01
DIVISION: Human Resource Services Division	EFFECTIVE DATE: 6/7/10
APPROVED: Signature of file with Human Resource Services Division	

POLICY STATEMENT: The state of Oregon recognizes the importance of **replacing income and continuing benefits when an employee or an employee's eligible family member suffers** serious, long-term health problems.

AUTHORITY: ORS 240.015; 240.145(3); 240.250; 240.551; 659.030(1)(b); OAR 166-300-0035

APPLICABILITY: **All employees subject to ORS 240, State Personnel Relations Law, except temporary employees and employees represented by a collective bargaining agreement**

ATTACHMENTS: Interagency Donated Leave Transfer (PD625)

DEFINITIONS: **Family member: This term applies to the employee's spouse or domestic partner, and the following for the employee and his or her spouse or domestic partner:**

- **Parent (includes one who stood in loco parentis (in place of a parent) when the employee was a child)**
- **Child (and child's spouse) (includes a child whom the employee stood in loco parentis)**
- **Sibling (and sibling's spouse)**
- **Grandparent**
- **Grandchild**
- **The above include step, adoptive and foster**
- **Members of the immediate household**

Parental Leave: Leave from work that is taken for the birth, adoption or placement of a foster child. As used in this policy, Parental Leave does not include pregnancy-related disability, post-partum serious illnesses of either the child or the parent.

See also HRSD State Policy 10.000.01, Definitions; and OAR 105-010-0000

POLICY

(1) State agencies administer a donated leave program **that** allows state employees to support other state employees in serious need **by donating** paid leave time. **For bereavement donated leave, refer to State HR Policy 60.000.10.**

(a) Program Administration

(A) The appointing authority administers **this policy** as the agency's program. **The policy allows** an employee to donate vacation leave, compensatory time or both to an eligible employee.

- (B) The agency may only apply donated leave to an eligible employee as the need occurs and donations received. The agency credits the recipient of donated leave at his or her regular rate of pay. The amount of leave transferred to the recipient may not exceed the equivalent of the recipient's normal rate of pay. The agency must establish a process to ensure only the appropriate number of hours is transferred. Unaccepted donated leave (i.e., hours never converted to the recipient's sick leave account) will remain in the donor's leave account.
 - (C) Unless health insurance contributions are mandatory according to the Family & Medical Leave Act (FMLA), leave donations must first reimburse the agency for its insurance contribution. The agency will then apply the remainder to the employee's salary. The employee assumes the tax liability for the full value of the donation.
 - (D) If the recipient of donated leave needs more leave than the initial amount time requested, he or she may submit subsequent requests for donated leave and updated medical certification.
 - (E) The agency must consider time taken under this program to be sick leave with pay. The agency must consider these hours to be time worked for purposes of leave accrual and holiday pay.
- (b) **Eligibility and Request** for Donated Leave
- (A) A regular status employee may request and be eligible to receive donated leave under either of the following circumstances:
 - (i) To recover from or seek treatment for a serious health condition that is expected to continue for at least 15 consecutive calendar days after an employee has used all accumulated leave; and for which the total absence is expected to last at least 30 consecutive calendar days or;
 - (ii) To care for or seek treatment for a family member with a serious health condition which is expected to continue for at least 15 consecutive calendar days following the employee's exhaustion of accumulated leave and the total absence is expected to last at least 30 consecutive calendar days
 - (B) An eligible employee must submit a written request for donated leave to the appointing authority.
 - (i) If an employee is unable to submit a written request, the appointing authority may accept a written request from a family member or other responsible party.
 - (ii) The request must include the specific amount of time requested based on the projected need.
 - (iii) A certification from an attending physician or practitioner must accompany the request, verifying that a qualifying medical need exists for either the employee or a family member. The certification must state the estimated amount of time the employee will need away from work; it must also be consistent with the amount of time the employee requests. Medical certification obtained for other purposes such as FMLA or OFLA may also be used for the purpose of verifying an employee's eligibility to receive donated leave.
 - (C) An employee may not request donated leave for short-term or sporadic conditions or illnesses that are common, expected, or anticipated. This includes, but is not limited to, sporadic, short-term recurrences of chronic allergies or conditions, short-term absences due to contagious diseases, short-term, recurring medical or therapeutic treatments. Each situation must be examined and decided on a case-by-case basis and must be handled consistently and equitably within an agency.
 - (D) An employee may not request donated leave when they are eligible to receive or are receiving workers' compensation, and are not on parental leave.

(E) Donated leave can impact long- and short-time disability benefits. Before applying for donated leave while receiving disability benefits, consult the agency payroll office for information on how donated leave will impact your specific circumstances.

(c) Donations within the same Agency:

(A) A **regular status** employee **who works within the same agency as the recipient may voluntarily** donate vacation leave, compensatory time, or both **to an eligible employee's sick leave account.**

(B) The donor must submit **a written request** to donate leave to an eligible employee. The donor's **request** must **be processed as per agency program procedures** before the **transfer of** leave **occurs. A donor may not donate time that he or she has lost due to leave accrual limits set by HRSD state rule or policy.**

(C) An employee may donate leave only in one-hour increments to a recipient. The agency will base the amount of donated hours on the conversion of the donor's salary rate to sick leave hours at the recipient's base rate of pay.

(D) Donated hours transfer from the donor's accrued leave as needed by the recipient. If total leave donated exceeds the total amount of leave accepted, the unaccepted leave remains in the donor's accrued leave balance.

(f) Donations between Agencies:

(A) **An employee with regular status in a different agency** may, subject to the approval of both agencies, donate leave to an eligible **recipient** by completing and signing the Interagency Donated Leave Transfer form (PD 625) and submitting it to their agency's appointing authority **or designee.**

(B) An appointing authority **or designee** may disallow the transfer of donated leave between **agencies** for legitimate business reasons including, but not limited to, restrictions on the use of dedicated funding sources.

(g) Documentation Requirements. Agencies maintain the following documentation **in the separate confidential medical file** for each request for donated leave for a period of four years from the date of the request:

(A) Employee's request to receive donated leave with supporting medical certification

(B) Appointing authority (or designee) approval or denial of request for donated leave

(C) The donor's authorization to donate leave with appropriate signatures, including the appointing authority **or** designee, payroll staff, and number of hours donated

(D) Record of total leave accepted by receiving employee.

(2) Policy Clarification:

(a) Agencies inform employees that the use of donated vacation leave or compensatory time as sick leave may offset disability payments. The following language is suggested for inclusion on agency donated leave request forms: "I understand that my use of donated vacation leave or compensatory time as sick leave may offset the receipt of any disability payments."

(b) Donated leave may be taken on an intermittent basis for the same condition and only after an employee has met the initial eligibility criteria listed in (1)(b).

(c) Reduced Work Schedules: An employee **meets the eligibility requirements in (1)(b)(A) when a** serious health condition requires a reduced work schedule resulting in partial day absences in excess of 15 calendar

days following the exhaustion of accrued leave and whose absence related to the condition exceeds 30 calendar days, (whether partial or full days) in combination of paid and unpaid leave.

-
- (1) Performance Measure: Percent of time donated leave is used to pay for employee insurance and other benefits when the employee is on an approved donated leave not covered by FMLA
- Performance Standard: 100 percent
- (2) Performance Measure: Percent of time all required documentation is completed and maintained for four years in appropriate payroll files.
- Performance Standard: 100 percent

Interagency Donated Leave Transfer (PD 625)

I _____ voluntarily authorize _____ to deduct from my
(Name of Employee/Donor) (Donor's Agency Name)
accrued vacation and/or compensatory leave balance(s) the number of hours indicated below to be
used to provide additional hours of paid leave to the person designated. I understand that hours
donated, once transferred, **are** not be recoverable.

Hours Donated: Vacation _____ Compensatory _____

I donate these hours to _____ at _____
(Name of individual/donee) (Donee's agency)

Signature of Donor: _____ Date: _____

Donor Employee I.D. Number: _____

Donor's Agency HR/Payroll Office Use Only

Approved _____ Disapproved _____

Agency Head Signature: _____ Date: _____

Approved _____ Disapproved _____

Appointing Authority Signature: _____ Date: _____

Donor's Base/Hourly Rate _____

Number of Hours Donated _____

Date Request Processed _____

Signature of Payroll Processor: _____ Date: _____

Receiving Agency HR/Payroll Office Use Only

Approved _____ Disapproved _____

Agency Head Signature: _____ Date: _____

Approved _____ Disapproved _____

Appointing Authority Signature: _____ Date: _____

Donor's Base/Hourly Rate _____

Number of Hours Donated _____

Date Request Processed _____

Signature of Payroll Processor: _____ Date: _____

SUBJECT: Management Service Discipline and Dismissal	NUMBER: 70.000.02
DIVISION: Chief Human Resources Office	EFFECTIVE DATE: 1/1/2015
APPROVED: Signature on file with Chief Human Resources Office	

POLICY STATEMENT:

An Oregon state government employee in management service is subject to disciplinary action up to and including dismissal from state service if the employee is unwilling or unable to fully and faithfully perform the duties of the position satisfactorily. The employee may be dismissed from state service for misconduct, inefficiency, incompetence, insubordination, indolence, malfeasance or other unfitness to render effective service even if eligible for restoration to classified service.

AUTHORITY:

ORS 240.145(3); 240.212; 240.555; 240.570(3)(4)(5); 243.650(6)(16)(23)

APPLICABILITY:

Management service employees, excluding limited duration positions

ATTACHMENTS:

None

DEFINITIONS:

Constitutionally protected right: any right provided for by the constitution of the state of Oregon or the United States of America such as but not limited to an individual's rights to property, liberty and privacy.

Management service employee with immediate prior former regular status in the classified service: A management service employee who was a classified employee and held regular status immediately before (or within one work day) entering management service.

Management service employee without immediate prior former regular status in the classified service: A management service employee who was never in classified service, or whose former classified service ended more than one work day before entering management service.

See also State HR Policy 10.000.01, Definitions; and OAR 105-010-0000.

POLICY

- (1) **Management Service Discipline and Removal (ORS 240.570 (3)):** A management service employee, as specified below in (1)(a) through (f), may receive a reprimand, salary reduction, suspension, demotion, removal or dismissal from management service if the employee is unable or unwilling to fully and faithfully perform the duties of the position satisfactorily. The reasons for such discipline may be deficient performance or conduct (including acts or omissions on or off the job) which affect the employee's suitability for the management service position. Final disciplinary actions taken under this policy include the notice of the employee's appeal rights in (4)(f) below.

- (a) **Reprimand:** A supervisor of a management service employee, whether or not the supervisor is also an appointing authority, may issue a reprimand when appropriate. The reprimand is in writing and informs the

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employee of the misconduct or performance supporting the reprimand and the potential for further discipline if the employee does not correct the conduct or performance.

- (b) Salary reduction: A salary reduction of one or more steps for a period of time necessary to improve and monitor improvement of the conduct or performance. The appointing authority notifies the employee of the potential for further discipline if the employee does not correct the misconduct or performance. Salary reductions are not imposed for employees who are exempt under the Fair Labor Standards Act (FLSA).
- (c) Reprimand in lieu of salary reduction: This action represents a level of discipline equal to a salary reduction but does not, due to the employee's FLSA exempt status, impose an economic sanction. An appointing authority issuing this form of discipline should give the employee notice within the written disciplinary action that were it not for the employee's FLSA exempt status, the action would have resulted in a reduction in pay.
- (d) Suspension without pay: Suspension without pay occurs for a specified period of time. For employees exempt under the FLSA, the suspension must be in increments of 40-hour work weeks. The appointing authority notifies the employee of the potential for further discipline if the employee does not correct the conduct or performance.
- (e) Demotion: Demotion with a commensurate, permanent reduction in salary is available when an appropriate vacancy, as determined by the agency, exists at a lower level. The appointing authority notifies the employee of the potential for further discipline if the employee does not correct the conduct or performance while performing the new job duties. The appointing authority does not use disciplinary demotion if the employee is not qualified for a vacancy in the lower classification or if such action would cause a regular employee in the lower classification to be laid off.
- (f) Removal/Dismissal: A management service employee with immediate prior former regular status in classified service who is removed from management service for the reasons listed in ORS 240.570 (inability or unwillingness) is restored to classified service under State HR Policy 50.030.01 Restoration of Management Service Employees, if the employee has restoration rights pursuant to ORS 240.570(5)(b). **NOTE: In the 2014 Legislative Session, SB 1567 amended ORS 240.570 and limited restoration rights. Under SB 1567, an employee appointed to management service prior to January 1, 2015 has restoration rights for three years from the date of appointment to management service if (a) the employee has immediate prior former regular status in classified service, and (b) the employee was not dismissed from management service for a reason(s) specified in ORS 240.555. Under SB 1567, employees appointed to management service on or after January 1, 2015 have no restoration rights.**

A management service employee without immediate prior former regular status in classified service who is removed from management service for the reasons listed in ORS 240.570 (inability or unwillingness) is removed from the management service and dismissed from employment with the state. NOTE: Language **must** indicate in the "Action" section (as noted in (4)(f)(A) of this policy) if the employee is being dismissed from state employment.

- (2) **Management Service Dismissal (ORS 240.555 and 240.570 (5)(b))**: According to ORS 240.570(5)(b), an appointing authority may dismiss a management service employee with immediate prior former regular status in classified service who is eligible for restoration to classified service for the following disciplinary reasons specified in ORS 240.555:
 - (a) Misconduct: conduct an employee knows, or should know, is not proper behavior
 - (b) Inefficiency: failure to produce required results even though the employee is competent to do so
 - (c) Incompetence: absence of the ability or qualifications to perform required tasks

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- (d) Insubordination: refusal to obey an order or directive
- (e) Indolence: behavior indicating an unwillingness to work
- (f) Malfeasance: conduct showing moral turpitude, such as committing an act which is morally wrong and unlawful
- (g) Other unfitness to render effective service: any other employee conduct, quality or condition which tends to interfere with an agency in fulfillment of its mission or that justifies the agency questioning whether it should continue to employ the employee.

- (3) **Management Service Dismissal (ORS 240.570(3)):** According to ORS 240.570(3), an appointing authority may dismiss a management service employee if the employee is unable or unwilling to fully and faithfully perform the duties of the position satisfactorily and the employee has no rights of restoration to an immediate prior former regular status position in classified service. Refer to State HR Policy 50.030.01 Restoration of Management Service Employees for actions involving restoration rights.

(4) Procedures applying to Discipline, Removal and Dismissal actions:

- (a) **Investigation:** The appointing authority or designee investigates the alleged misconduct or deficient performance or other circumstances indicating that grounds may exist for disciplinary action or dismissal. The appointing authority or designee meets with the employee to hear the employee's response to potential charges, deficient performance or other circumstances indicating that grounds may exist for disciplinary action or dismissal. An employee who is the subject of an investigation may, upon the employee's request, have a management service coworker or an attorney present with them at an investigatory meeting or interview. An employee's request for an individual to attend a meeting or interview may not unreasonably delay the meeting or interview. The actual attendance of a management service coworker or an attorney may not obstruct the employer's investigation.
- (b) **Pre-disciplinary Notice:** Prior to imposing a disciplinary action, other than reprimand, under this policy, an agency issues a pre-disciplinary notice giving an employee an opportunity to attend a pre-disciplinary meeting with the appointing authority or designee. The notice will include:
 - (A) The statutory grounds (either ORS 240.570(3) or ORS 240.555 and 240.570(5)), the background and supporting facts to the charges against the employee, including such facts necessary to apprise the employee of the nature of the charges. When an employee does not have restoration rights to a prior classified position and removal from management service under ORS 240.570(3) terminates the employee's state service, the "Action" portion of the pre-disciplinary notice shall state the following:
ACTION: Commencement of process for consideration of removal from management service with effective end of state service.
 - (B) The time, date and place for the pre-disciplinary meeting
 - (C) The consequences of not participating in the pre-disciplinary meeting
 - (D) Notice that the employee may be represented during the pre-disciplinary meeting.
 - (E) When an employee does not have restoration rights to a prior classified position and removal from management service under ORS 240.570(3) terminates the employee's state service, the "Summary" portion of the pre-disciplinary notice shall include one of the following:
 If the above charges are true and you are removed from management service, the action, by operation of law, will terminate your state employment because you do not have immediate prior classified service
OR

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If the above charges are true and you are removed from management service, the action, by operation of law, will terminate your state employment because your removal from management service may be for reasons stated in ORS 240.555.

- (c) Pre-disciplinary Meeting: The pre-disciplinary meeting is the employee's opportunity to refute charges or present mitigating circumstances to the appointing authority or designee. The appointing authority or designee considers the appropriateness of discipline based on the following factors:
 - (A) The seriousness of the employee's conduct or deficient performance
 - (B) The facts obtained at the pre-disciplinary meeting
 - (C) The level of fault
 - (D) The unsuitability of the employee
 - (E) The needs of the agency
 - (F) Other pertinent information
- (d) If new facts are discovered during the pre-disciplinary process:
 - (A) The appointing authority or designee may send a supplemental notice to the employee incorporating the new facts as an additional basis for discipline and give the employee an opportunity to refute the new charges within a reasonable timeframe, if the new facts are unfavorable to the employee.
 - (B) The appointing authority or designee may disregard the new facts and proceed with the original action based on the original charges if the new facts are unfavorable to the employee, or the appointing authority or designee determines that the remaining facts justify dismissal.
 - (C) An appointing authority or designee may withdraw a portion of the charges; however, no withdrawal by the agency of any portion of the charges supporting a dismissal or other disciplinary action requires the agency to rescind the action or take new action.
- (e) If discipline is warranted, the appointing authority or designee determines and imposes the appropriate level of discipline, if any, within 21 calendar days of the date of the pre-disciplinary meeting. If the agency is unable to take disciplinary action within 21 calendar days, the agency will notify the employee of the status of the investigation and set a deadline for its decision.
- (f) Notice of Discipline: The written notice of disciplinary action will contain:
 - (A) Action being taken (reprimand, reprimand in lieu of salary reduction, suspension without pay for a specific period of time, salary reduction, demotion, removal from management service or dismissal). When an employee does not have restoration rights to a prior classified position and removal from management service under ORS 240.570(3) terminates the employee's state service, the "Action" portion of the disciplinary notice shall state the following:

ACTION: Removal from management service with effective end of state service.
 - (B) Effective date: The day the action takes effect. If the notice is mailed, the effective date will be at least three calendar days after the postmark date on the notice.
 - (C) Statutory grounds and causes for the action:
 - (i) For all disciplinary actions listed in section (1)(a) through (f) the statutory grounds are ORS 240.570(3). The cause for the disciplinary action is "Inability or unwillingness to fully and faithfully perform the duties of the position satisfactorily."
 - (ii) For management service dismissal action listed in section (2), the statutory grounds are ORS 240.570(5)(b) and 240.555. The cause for the disciplinary action is one or more of the reasons

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listed in (2) (a-g) for example, "incompetence, indolence or other unfitness to render effective service pursuant to ORS 240.570(5)(b) and 240.555."

- (D) When an employee does not have restoration rights to a prior classified position and removal from management service under ORS 240.570(3) terminates the employee's state service, the "Summary" portion of the disciplinary notice shall include the following:

Your removal from management service terminates your state employment.

- (E) This notice of grievance and appeal rights: "If you choose to contest this disciplinary action, you have the right to file:

- (i) A grievance with the agency head or designee. Your grievance must REACH the agency head or designee within 30 calendar days from the effective date of the disciplinary action.
- (ii) An appeal with the Employment Relations Board (ERB). Your appeal must REACH the ERB no later than 30 calendar days from the effective date of the disciplinary action. Filing a grievance with the agency head or designee DOES NOT extend the 30-day deadline for filing an appeal with the ERB."

- (F) The agency may hand-deliver the written notice of disciplinary action to the affected employee or mail it by both certified or registered mail and regular mail to the employee's last known address.

- (4) Failure of the agency to comply with provisions of this policy in taking any action against an employee does not invalidate the action unless the employee is deprived of a constitutionally protected right and there is not possibility of correcting or reversing the deprivation of the employee's constitutionally protected right. If a potential deprivation of the employee's rights is brought to the attention of the agency, the agency head or designee may rescind the action, may take new action of the same or different nature or may let the action stand.

SUBJECT: Management Service Grievance and Appeal	NUMBER: 70.000.10
DIVISION: Human Resource Services Division	EFFECTIVE DATE: 10/08/08
APPROVED: Signature on file with Human Resource Services Division	

POLICY STATEMENT: Oregon [state government](#) provides employees in the management service with a mechanism to resolve complaints regarding disciplinary and personnel actions taken by the employer.

AUTHORITY: ORS 240.145(3); 240.215(2); 240.250; 240.321(4); 240.560; 240.570(2)(4); 243.650(6)(16)(23)

APPLICABILITY: Management service employees

ATTACHMENTS: None

DEFINITIONS:

Disciplinary Action: reprimand, reprimand in lieu of salary reduction, suspension without pay, reduction in pay and demotion, removal from management service, dismissal from state service.

Non-Disciplinary Personnel Action: those actions specified in ORS 240.570(2)

Grievance: A complaint alleging that an action (disciplinary or non-disciplinary) taken by management is contrary to ORS 240.570(2), 240.570(3) or 240.555.

See also HRSD State Policy 10.000.01, Definitions; and OAR 105-010-000.

POLICY

- (1) Management service employees may contest a disciplinary action by filing:
 - (a) a grievance with the agency head or designee no later than 30 calendar days from the effective date of the disciplinary action or
 - (b) an appeal with the Employment Relations Board (ERB) as provided by ORS 240.560(1) no later than 30 calendar days from the effective date of the disciplinary action or
 - (c) both a timely grievance with the agency head or designee and a timely appeal with the ERB. NOTE: The 30-day deadline for filing with the ERB applies regardless of whether the employee grieves the disciplinary or personnel action to the agency.
- (2) Management service employees may contest non-disciplinary personnel actions taken by the agency for assignment, reassignment, transfer, or removal by filing:
 - (a) a grievance with [the agency's](#) human resource [management](#) within 30 calendar days from the effective date of the personnel action or

- (b) an appeal with the Employment Relations Board (ERB) as provided by ORS 240.560(1) no later than 30 calendar days from the effective date of the personnel action or
 - (c) both a grievance with the agency and an appeal with the ERB. NOTE: The 30-day deadline for filing with the ERB applies regardless of whether the employee grieves the disciplinary or personnel action to the agency.
- (3) The agency does not retaliate against employees who use the grievance or appeal process.
- (4) Employees may have an attorney or a management service coworker present during the grievance review process.
- (5) The agency excuses the employee from work without loss of pay to attend any meeting relating to a grievance when the employer requires the employee's presence.
- (6) Procedures

(a) To contest disciplinary actions:

Grieve to Agency Head or Designee	AND/OR	Appeal to the Employment Relations Board (ERB)
1. Employee files grievance with agency head or designee so that agency receives the grievance within 30 calendar days of the effective date of the disciplinary action.		1. Employee files appeal with the ERB so that the ERB receives appeal within 30 calendar days of the effective date of disciplinary action.
2. Agency head or designee affirms or denies grievance within 15 calendar days of receipt of grievance. Failure of the agency head to respond within 15 calendar days shall constitute a denial of the grievance unless the parties mutually agree in writing to extend the time limits.		2. Agency and employee may agree to request the Conciliation Service Division of ERB to mediate the appeal
		3. The ERB responds to employee and agency head.

- (b) To contest non-disciplinary personnel actions (assignment, reassignment, transfer, or removal for the good of the service or due to reorganization or lack of work):

Grieve to Agency Human Resources Management	AND/OR	Appeal to the Employment Relations Board (ERB)
<ol style="list-style-type: none"> 1. Employee files grievance with Agency HR so that Agency receives grievance within 30 calendar days of the effective date of the non-disciplinary personnel action. 2. Agency HR affirms or denies grievance within 15 calendar days of receipt of the grievance. Failure of agency HR Management to respond within 15 calendar days shall constitute a denial of the grievance unless the parties mutually agree in writing to extend the time limits. 3. Employee may advance grievance to agency head or designee within seven calendar days of receipt of grievance response from Agency HR Management. Employee shall confine the subject matter of the grievance to the original grievance. 4. Agency head or designee shall affirm or deny grievance within 15 calendar days of the receipt of the grievance. Failure of the agency head or designee to respond within 15 calendar days shall constitute a denial of the grievance unless the parties mutually agree in writing to extend the time limits. 		<ol style="list-style-type: none"> 1. Employee files appeal at the ERB so that the ERB receives the appeal within 30 calendar days of the effective date of the non-disciplinary personnel action. 2. Agency HR and employee may agree to request the Conciliation Service Division of ERB to mediate the appeal. 3. The ERB responds to employee and agency HR.

SUBJECT: Classified Unrepresented Discipline and Dismissal

NUMBER: 70.005.02

DIVISION: Human Resource Services Division

EFFECTIVE DATE: 10/08/08

APPROVED: Signature on file with Human Resource Services Division

**POLICY
STATEMENT:**

An employee in the classified unrepresented service of Oregon state government is subject to disciplinary action up to and including dismissal from state service for misconduct, inefficiency, incompetence, insubordination, indolence, malfeasance or other unfitness to render effective service.

AUTHORITY: 240.145(3) 240.316(2)(4); 240.555; 240.560

APPLICABILITY: Regular status classified unrepresented employees

ATTACHMENTS: None

DEFINITIONS: **Constitutionally Protected Right:** any right provided for by the constitution of the state of Oregon or the United States of America such as but not limited to an individual's rights to property, liberty and privacy.

See also HRSD State Policy 10.000.01, Definitions; and OAR 105-010-0000.

POLICY

(1) A regular status classified unrepresented employee may be disciplined for cause.

(a) Cause for discipline may be one or more of the following:

(A) misconduct: conduct an employee knows, or should know, is not proper behavior

(B) inefficiency: failure to produce required results even though the employee is competent to do so

(C) incompetence: absence of ability or qualifications to perform required tasks

(D) insubordination: refusal to obey an order or directive

(E) indolence: behavior indicating unwillingness to work

(F) malfeasance: conduct showing moral turpitude, such as the commission of an act which is morally wrong and unlawful or

(G) other unfitness to render effective service: any other employee conduct, quality or condition which tends to interfere with an agency in fulfilling its mission or that justifies the agency in questioning whether it should continue to employ the employee

- (b) In the disciplining of an employee, specific warning in any reasonable form (whether oral or written) of the agency's concerns and reasonable opportunity to correct the problem shall be given to the employee prior to the imposition of discipline unless the employee knew or should have reasonably known the conduct could lead to disciplinary action.
- (c) The agency head or designee determines the severity of the disciplinary action based upon: the seriousness of the employee's conduct, performance, or behavior; the level of fault; the unsuitability of the employee; the needs of the agency; and other considerations pertinent to the facts warranting discipline, including mitigation or the lack thereof, that weigh upon the discipline imposed. The severity of the discipline must have a reasonable basis in fact.
- (d) Final disciplinary actions taken under this policy include the notice of the employee's grievance and appeal rights in (2) (f) (D) below. The types of disciplinary action which may be taken under this policy are:
 - (A) Reprimand: The reprimand shall be in writing and shall reasonably inform the employee of the conduct, performance, or behavior supporting the reprimand and the potential for further discipline if the employee's conduct, performance or behavior is not corrected. An agency may, but is not required, to provide an employee an opportunity to respond before imposing a reprimand.
 - (B) Salary Reduction: The salary reduction shall be one or more steps within the employee's classification salary range for a period of time determined to be necessary for the employee to improve and the agency to monitor improvement of the conduct, performance, or behavior. Salary reductions shall not be imposed for employees who are exempt under the Fair Labor Standards Act (FLSA). The employee will be notified that if he or she does not correct his or her conduct, performance, or behavior the agency will impose further discipline.
 - (C) Reprimand in lieu of salary reduction: This action is a level of discipline equal to a salary reduction but due to the employee's FLSA exempt status, does not impose an economic sanction. An appointing authority issuing this form of discipline should give the employee notice within the written disciplinary action that were it not for the employee's FLSA exempt status, the action would have resulted in a reduction in pay. The employee will be notified that if he or she does not correct his or her conduct, performance, or behavior the agency will impose further discipline.
 - (D) Suspension without pay: The suspension shall be without pay for a specified period of time. For employees exempt under the FLSA, the suspension must be in increments of 40-hour work weeks. The employee will be notified that if he or she does not correct his or her conduct, performance, or behavior the agency will impose further discipline.
 - (E) Demotion: This option is available when an appropriate vacancy, as determined by the agency, exists at a lower level, with a commensurate permanent reduction in salary. The employee will be notified that if he or she does not correct his or her conduct, performance, or behavior the agency will impose further discipline. Disciplinary demotions shall not be used if an employee is not qualified for employment in the lower class or if such action will cause a regular employee in the lower classification to be laid off.
 - (F) Dismissal: The principles of progressive discipline will usually be followed prior to dismissal. This does not apply when the nature of the employee's conduct, performance, or behavior warrants dismissal absent prior warning or discipline including, but not limited to, conduct, performance, or behavior which the employee knew or reasonably should have known would lead to dismissal.

(2) Procedure

- (a) Investigation: The appointing authority or designee investigates the alleged misconduct or deficient performance or other circumstances indicating that grounds may exist for disciplinary action or dismissal. The appointing authority or designee meets with the employee to hear the employee's response to potential charges, deficient performance or other circumstances indicating that grounds may exist for disciplinary action or dismissal. An employee who is the subject of an investigation may, upon the employee's request, have a coworker or an attorney present with them at an investigatory meeting or interview. An employee's request for

an individual to attend a meeting or interview may not unreasonably delay the meeting or interview. The actual attendance of a management service coworker or an attorney may not obstruct the employer's investigation.

- (b) Pre-disciplinary Notice: Prior to imposing a disciplinary action, other than reprimand, under this policy, an agency issues a pre-disciplinary notice giving an employee an opportunity to attend a pre-disciplinary meeting with the appointing authority or designee. The notice will include:
 - (A) The statutory grounds (ORS 240.555), the background and supporting facts to the charges against the employee, including such facts necessary to apprise the employee of the nature of the charges. Do not include this section for reprimands.
 - (B) The time, date and place for the pre-disciplinary meeting
 - (C) The consequences of not participating in the pre-disciplinary meeting and
 - (D) Notice that the employee may be represented during the pre-disciplinary meeting.
- (c) Pre-disciplinary Meeting: The pre-disciplinary meeting is the employee's opportunity to refute charges or present mitigating circumstances to the appointing authority or designee. The appointing authority or designee considers the appropriateness of discipline based on the following factors:
 - (A) The seriousness of the employee's conduct or deficient performance
 - (B) The facts obtained at the pre-disciplinary meeting
 - (C) The level of fault
 - (D) The unsuitability of the employee
 - (E) The needs of the agency and
 - (F) Other pertinent information
- (d) If new facts are discovered during the pre-disciplinary process:
 - (A) The appointing authority or designee may send a supplemental notice to the employee incorporating the new facts as an additional basis for discipline and give the employee an opportunity to refute the new charges within a reasonable timeframe, if the new facts are unfavorable to the employee.
 - (B) The appointing authority or designee may disregard the new facts and proceed with the original action based on the original charges if the new facts are unfavorable to the employee, or if, in the judgment of the appointing authority or designee, the remaining facts justify discipline.
 - (C) The appointing authority or designee may withdraw a portion of the charges; however, no withdrawal by the agency of any portion of the charges supporting a dismissal or other disciplinary action requires the agency to rescind the action or take new action.
- (e) If discipline is warranted, the appointing authority determines and imposes the appropriate level of discipline, if any, within 21 calendar days of the date of the pre-disciplinary meeting. If the agency is unable to take disciplinary action within 21 calendar days, the agency will notify the employee of the status of the investigation and set a deadline for its decision.
- (f) Notice of Discipline: The written notice of disciplinary action will contain:
 - (A) Action being taken (reprimand in lieu of salary reduction, suspension without pay for a specific period of time, salary reduction, demotion, removal from management service or dismissal)
 - (B) Effective date: The day the action takes effect. If the written notice is mailed, the effective date will be at least three calendar days after the postmark date on the written notice.
 - (C) Statutory grounds (ORS 240.555) and causes (1) (a) (A-G), either singly or in combination, for the action

- (D) This notice of grievance and appeal rights: "If you choose to contest this disciplinary action, you have the right to file:
 - (i) A grievance with the agency head or designee (see HR State Policy 70.005.05). The grievance must REACH the agency head or designee within 30 calendar days from the effective date of the disciplinary action.
 - (ii) An appeal with the ERB (see HR State Policy 70.005.05). Your appeal must REACH the ERB no later than 30 calendar days from the effective date of the disciplinary action. Filing a grievance with the agency head or designee DOES NOT extend the 30-day deadline for filing an appeal with the Employment Relations Board (ERB)."
- (E) The agency may hand-deliver the written notice of disciplinary action to the affected employee or send it by both certified or registered mail and regular mail to the employee's last known address.
- (f) Failure of the agency to comply with provisions of this policy in taking any action against an employee does not invalidate the action unless the employee is deprived of a constitutionally protected right and there is not possibility of correcting or reversing the deprivation of the employee's constitutionally protected right. If a potential deprivation of the employee's rights is brought to the attention of the agency, the agency head or designee may rescind the action, may take new action of the same or different nature or may let the action stand.

SUBJECT: Classified Unrepresented Grievance and Appeal

NUMBER: 70.005.05

DIVISION: Human Resource Services Division

EFFECTIVE DATE: 10/08/08

APPROVED: Signature on file with Human Resource Services Division

POLICY STATEMENT: Oregon state government provides employees with a mechanism to resolve complaints regarding personnel actions taken by the employer.

AUTHORITY: 240.145(3); 240.215(2)

APPLICABILITY: Classified unrepresented employees

ATTACHMENTS: None

DEFINITIONS: See HRSD State Policy 10.000.01, Definitions; and OAR 105-010-0000

POLICY

- (1) A classified unrepresented employee who believes a personnel action taken by the agency is arbitrary, contrary to law, rule or policy, or taken for political reason, may appeal that action to the Employment Relations Board (ERB) under OAR 115-045-0020. The employee may also file a grievance with the agency or may file both an appeal with the ERB and a grievance with the agency concerning a personnel action. Such personnel actions include but are not limited to reprimands of regular status, unrepresented employees in the classified service.
 - (a) Appeals to the ERB must be filed no later than 30 calendar days after the effective date of such action. If an employee chooses to pursue a grievance with the agency and wait for a final decision before appealing the action to the ERB, they may miss the 30 calendar day filing deadline and be precluded from filing an appeal with the ERB. An employee can file a grievance simultaneously with the agency and an appeal with the ERB. NOTE: THE 30-DAY DEADLINE FOR FILING WITH THE ERB APPLIES REGARDLESS OF WHETHER THE EMPLOYEE GRIEVES THE ACTION TO THE AGENCY.
 - (b) A grievance filed with the agency must be filed in writing no later than 30 calendar days after the time the employee knows, or by reasonable diligence should have known, of the act or omission on which the grievance is based.
 - (c) State agencies do not retaliate against employees who use the grievance or appeal process.
 - (d) Employees may have an attorney or a coworker present during the grievance review or appeal process.
 - (e) The agency excuses the employee from work without loss of pay to attend any meeting relating to a grievance when the employer requires the employee's presence.

(2) Procedure

- (a) If the employee decides to file an appeal, it must be filed with the ERB no later than 30 calendar days after the effective date of the action.
- (b) The employee may also file a grievance, in writing, with the immediate supervisor within the 30-day time limitation stated above in (1)(b). If the grievance involves the immediate supervisor, the employee may file the grievance at the next level of management.
- (c) The immediate supervisor shall affirm or deny the grievance, in writing, no later than 15 calendar days after the receipt of the grievance. Failure of the immediate supervisor to respond no later than 15 calendar days constitutes a denial of the grievance unless the parties mutually agree in writing to extend the time limits.
- (d) The employee may advance, in writing, a grievance denied at the immediate supervisor level to the agency head or designee, no later than seven (7) calendar days after the supervisor's written decision was due or received. The employee, if advancing a grievance, shall confine the subject matter of a grievance to that which was presented in the original written grievance.
- (e) The agency head or designee shall affirm or deny the grievance, in writing, no later than 15 calendar days after receipt of the grievance. Failure of the agency head or designee to respond no later than 15 calendar days constitutes a denial of the grievance unless the parties mutually agree in writing to extend the time limits.
- (f) The employee may file, in writing, a discrimination grievance with the state's Affirmative Action Office, the Civil Rights Division of the Oregon Bureau of Labor and Industries, or the federal Equal Employment Opportunity Commission.
- (g) If the employee files an appeal with the ERB, the agency head and the employee may agree to request the Conciliation Service Division of the ERB to mediate the appeal.

Performance Measure: Percent of grievances which received final determination with 60 days

Performance Standard: 100%