**R477. Government Operations, Human Resource Management.**

**R477-2. Administration.**

**R477-2-1. Rules Applicability.**

Title R477 applies to the executive branch of Utah State Government and its career service and career service exempt employees. Other entities may be covered in specific sections as determined by statute. Any inclusions or exceptions to Title R477 are specifically noted in applicable sections. Entities which are not bound by mandatory compliance with Title R477 include:

(1) members of the Legislature and legislative employees;

(2) members of the judiciary and judicial employees;

(3) officers, faculty, and other employees of state institutions of higher education;

(4) officers, faculty, and other employees of the public education system, other than those directly employed by the State Board of Education;

(5) employees of the Office of the Attorney General;

(6) elected members of the executive branch and their Schedule A employees;

(7) employees of independent entities, quasi-governmental agencies and special service districts; and

(8) employees in any position that is designated by statute to be exempt from Title 63A, Chapter 17, Utah State Personnel Management Act or Title R477.

**R477-2-2. Compliance Responsibility.**

Management shall comply with Title R477.

(1) Except where prohibited by statute, the DHRM Division Director may authorize exceptions to Title R477 when:

(a) applying the rule prevents the achievement of legitimate government objectives; or

(b) applying the rule infringes on the legal rights of an employee.

(2) Agency personnel records, practices, policies and procedures, employment, and actions shall comply with Title R477, and are subject to compliance audits by DHRM.

**R477-2-3. Fair Employment Practice and Discrimination.**

State personnel actions shall provide equal employment opportunity for individuals.

(1) Employment actions including appointment, tenure or term, condition, or privilege of employment shall be based on the ability to perform the essential duties, functions, and responsibilities assigned to a particular position.

(2) Employment actions may not be based on race, religion, national origin, color, sex, age, disability, pregnancy, sexual orientation, gender identity, or protected activity under the antidiscrimination statutes, political affiliation, military status or affiliation, or any other non-job related factor, except under Subsection 63A-17-301(2)(b)(ii).

(3) An employee who alleges unlawful discrimination may:

(a) follow the procedures in Section R477-15-3; or

(b) file a charge with the Utah Labor Commission Antidiscrimination and Labor Division within 180 days of the alleged harm, or directly with the Equal Employment Opportunity Commission within 300 days of the alleged harm.

(4) A state official may not impede any employee from timely filing a discrimination complaint in accordance with state or federal requirements.

**R477-2-4. Control of Personal Service Expenditures.**

(1) The Governor's Office of Planning and Budget, the Division of Human Resource Management, and the Division of Finance share responsibility for the statewide control of personal service expenditures.

(2) The DHRM Division Director or designee shall approve changes in job identification numbers, salary ranges, or number of positions listed in the position management report.

(3) No person shall be placed or retained on an agency payroll unless that person occupies a position listed in an agency's approved position management report.

**R477-2-5. Records.**

Title 63G, Chapter 2, Government Records Access and Management Act (GRAMA) and applicable federal laws govern access to and privacy of personnel records maintained by DHRM. DHRM shall designate and classify any records and record series it maintains under the GRAMA statute.

(1) DHRM shall maintain an electronic record for each employee that contains the following, as appropriate:

(a) Social Security number, date of birth, home address, and private phone number;

(b) performance records; and

(c) records of actions affecting employee salary history, classification history, title and salary range, employment status, and other personal data.

(2) Personally identifiable information in Subsection (1)(a) is classified as private under GRAMA. An agency may have access to this information and shall maintain the privacy of the information.

(3) DHRM shall maintain, on behalf of agencies, personnel files.

(4) DHRM shall maintain, on behalf of agencies, a confidential medical file. Confidentiality shall be maintained in accordance with applicable regulations. Information in the medical file is private, controlled, or exempt in accordance with Title 63G, Chapter 2, Government Records Access and Management Act.

(5) An employee has the right to review the employee's personnel file, upon request, in the presence of a DHRM representative. An employee may request corrections, amendments to, or challenge any information in the employee's electronic or hard copy personnel record by sending a written request to management.

(6) Management shall remove from the employee's personnel file all forms, documents, and records pertaining to a disciplinary action when that action is rescinded or otherwise vacated by proper authority.

(7) DHRM shall retain records according to the applicable record retention schedule.

(8) The former agency shall transfer the employee's personnel file, medical, and I-9 records to the new agency when an employee transfers from one agency to another.

(9) An employee who violates confidentiality is subject to disciplinary action and may be personally liable.

(10) Records related to conduct for which an employee may be disciplined under Subsection R477-11-1(1) are classified as private records under Subsection 63G-2-302(2)(a).

(11) If disciplinary action under Subsection R477-11-1(4) has been sustained and all time periods for administrative appeal have expired, the documents issued in the disciplinary process are classified as public records under Subsection 63G-2-301(3)(o).

**R477-2-6. Release of Information in a Reference Inquiry.**

Reference checks or inquiries made regarding current or former public employees, volunteers, independent contractors, and members of advisory boards or commissions can be released if the information is classified as public, or if the subject of the record has signed and provided a current reference release form for information authorized under Title 63G, Chapter 2, Government Records Access and Management Act.

(1) The employment record is the property of Utah State Government with all rights reserved to utilize, disseminate, or dispose of in accordance with Title 63G, Chapter 2, Government Records Access and Management Act.

(2) Additional information may be provided if authorized by law.

**R477-2-7. Employment Eligibility Verification (Immigration Reform and Control Act -- 1986).**

Employees newly hired, rehired, or placed through reciprocity with or assimilation from another career service jurisdiction shall provide verifiable documentation of their identity and eligibility for employment in the United States by completing all sections of the Employment Eligibility Verification Form I-9 as required under the Immigration Reform and Control Act of 1986, Pub. L. No. 99 603.

**R477-2-8. Public Officers Supervising a Relative or Household Member.**

(1) A public officer may not appoint, directly supervise, or make salary, performance, disciplinary, or other employment matter decisions regarding a family member, including a household member.

(2) A public officer supervising a family member, including a household member, shall make a complete written disclosure of any such relationship to the agency head and be recused from any employment matter discussions or decisions relating to the family member, including a household member.

**R477-2-9. Employee Liability.**

An employee who becomes aware of any occurrence which may give rise to a lawsuit, who receives notice of claim, or is sued because of an incident related to state employment, shall give immediate notice to management and to the Department of Government Operations, Division of Risk Management.

(1) In most cases, under Title 63G, Chapter 7, Governmental Immunity Act, an employee shall receive defense and indemnification unless the case involves fraud, malice, or the use of alcohol or drugs by the employee.

(2) Before an agency may defend its employee against a claim, the employee shall make a written request for a defense to the agency head under Subsection 63G-7-902(2).

**R477-2-10. Alternative Dispute Resolution.**

Management may establish a voluntary alternative dispute resolution program under Title 63G, Chapter 5, Governmental Dispute Resolution Act.

**KEY: administrative responsibility, confidentiality of information, fair employment practices, public information**

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