

**R477. Human Resource Management, Administration.**

**R477-4. Filling Positions.**

**R477-4-1. Authorized Recruitment System.**

- (1) Agencies shall use the DHRM approved recruitment and selection system unless an alternate system has been pre-approved by DHRM.
- (2) Agency management shall notify DHRM of filling any position at least 3 working days prior to the employee's start date.

**R477-4-2. Career Service Exempt Positions.**

- (1) The Executive Director, DHRM, may approve the creation and filling of career service exempt positions, as defined in Section 67-19-15.
- (2) Agencies may use any pre-approved process to select an employee for a career service exempt position. Appointments may be made without competitive examination, provided job requirements are met.
- (3) Appointments to fill an employee's position who is on approved leave shall only be made temporarily.
- (4) Appointments made on a temporary basis shall be career service exempt and:
  - (a) be Schedule IN, in which the employee is hired to work part time indefinitely and shall work less than 1560 hours per fiscal year; or
  - (b) be Schedule TL, in which the employee is hired to work on a time limited basis.
- (5) An employee appointed under Subsection (4) may, at the discretion of management, be offered benefits if working a minimum of 40 hours per pay period.
- (6) If the required work hours of the position meet or exceed 1,560 hours per fiscal year for Schedule IN or if the position exceeds anticipated time limits for Schedule TL, agency management shall consult with DHRM to review possible alternative options.
- (7) Career service exempt appointments may only be considered for conversion to career service when the appointment was made from a hiring list under Section R477-4-8.
- (8) Agency management shall ensure that new hire appointees in Schedules AB, AC, AD, AR, and AS submit a disclosure statement under Section 67-16-7 and submit to a background check.

**R477-4-3. Career Service Positions.**

- (1) Selection of a career service employee shall be governed by the following:
  - (a) DHRM business practices;
  - (b) career service principles as outlined in Section R477-2-3;
  - (c) equal employment opportunity principles;
  - (d) Section 52-3-1; and
  - (e) the Americans With Disabilities Act, 42 U.S.C. 12102.

**R477-4-4. Recruitment and Selection for Career Service Positions.**

- (1) Prior to initiating recruitment, agencies may administer any of the following personnel actions:
  - (a) reemployment of a veteran eligible under USERRA;
  - (b) reassignment within an agency initiated by an employee's reasonable accommodation request under the ADA;
  - (c) fill a position as a result of return to work from long term disability or workers compensation at the same or lesser salary range;
  - (d) reassignment or transfer made in order to avoid a reduction in force, or for reorganization or bumping purposes;
  - (e) reassignment, transfer, or career mobility of qualified employees to better utilize skills or assist management in meeting the organization's mission;
  - (f) reclassification; or
  - (g) conversion from schedule A to schedule B as authorized by Subsection R477-5-1(3).
- (2) Agencies shall use the DHRM approved recruitment and selection system for any career service position vacancy. This includes recruitments open within an agency, across agency lines, or to the general public. Recruitments shall comply with federal and state laws and DHRM rules and procedures.
  - (a) Recruitment announcements shall include the following:
    - (i) information about the DHRM approved recruitment and selection system; and
    - (ii) opening and closing dates.
  - (b) Recruitments for career service positions shall be posted for a minimum of three business days, excluding state holidays.
- (3) An agency may carry out the following steps for recruitment and selection of vacant career service positions concurrently. Management may make appointments according to the following order:
  - (a) from the reappointment register created prior to March 2, 2009, provided the applicant applies for the position and meets minimum qualifications.
  - (b) from a hiring list of qualified applicants for the position, or from another process pre-approved by the Executive Director, DHRM.

**R477-4-5. Transfer and Reassignment.**

- (1) Positions may be filled through a transfer or reassignment.
  - (a) The receiving agency shall verify the employee's career service status and that the employee meets the job requirements for the position.
  - (b) Agencies receiving a transfer or reassignment of an employee shall accept that employee's previously accrued sick, annual, and converted sick leave on the official leave records.
  - (c) A transfer may not include an increase but may include a decrease in actual wage.
  - (d) A reassignment may not include a decrease in actual wage except as provided in federal or state law.
  - (e) An employee who is transferred or reassigned to a position where the employee's current actual wage is above the salary range maximum of the new position, is considered to be above maximum and may not be eligible for a longevity increase. Employees shall be eligible for a longevity increase only after they have been above the salary range maximum for 12 months and other longevity criteria are met.
  - (f) An employee with a wage that is above the salary range maximum because of a longevity increase who is transferred or reassigned and remains at or above the salary range maximum, shall receive their next longevity increase three years from the date they received the most recent increase if they receive a passing performance appraisal rating within the previous 12 months.
- (2) A reassignment or transfer may include assignment to:
  - (a) a different job or position with an equal or lesser salary range maximum;
  - (b) a different work location; or

- (c) a different organizational unit.

**R477-4-6. Rehire.**

(1) A former employee shall compete for career service positions through the DHRM approved recruitment and selection system and shall serve a new probationary period, as designated in the official job description.

(2) Employees rehired under the Phased Retirement Program under Section 49-11-13 shall be:

- (a) classified as time-limited (Schedule TL) for the duration of a phased retirement employment period; and
- (b) placed at or below the employee's wage at the time of retirement. Employees cannot be placed below the minimum of the established salary range of the job.

**R477-4-7. Examinations.**

(1) Examinations shall be designed to measure and predict applicant job performance.

(2) Examinations shall be based on documented job related criteria and include the following:

- (a) an initial, impartial screening of the individual's qualifications;
  - (b) an impartial evaluation and results; and
  - (c) reasonable accommodation for qualified individuals with disabilities.
- (3) Examinations and ratings shall remain confidential and secure.

**R477-4-8. Hiring Lists.**

(1) The hiring list shall include the names of applicants to be considered for appointment or conditional appointment to a specific job, job series, or position.

(a) An individual shall be considered an applicant when the individual applies for a particular position identified through a specific recruitment.

(b) Hiring lists shall be constructed using a DHRM approved recruitment and selection system.

(c) Applicants for career service positions shall be evaluated and placed on a hiring list based on job, job series, or position related criteria.

(d) Applicants included on a hiring list shall be examined with the same examination or examinations.

(2) An individual who falsifies any information in the job application, examination or evaluation processes may be disqualified from further consideration prior to hire, or disciplined if already hired.

(3) The appointing authority shall demonstrate and document that equal consideration was given to applicants on a hiring list whose final score or rating is equal to or greater than that of the applicant hired.

(4) The appointing authority shall ensure that any employee hired meets the job requirements as outlined in the official job description.

**R477-4-9. Job Sharing.**

Agency management may establish a job sharing program as a means of increasing opportunities for part-time employment. In the absence of an agency program, individual employees may request approval for job sharing status through agency management.

**R477-4-10. Internships.**

Interns or students in a practicum program may be appointed with or without competitive selection. Intern appointments shall be to temporary, career service exempt positions.

**R477-4-11. Volunteer Experience Credit.**

Documented job related volunteer experience shall be given the same consideration as similar paid employment in satisfying the job requirements for career service positions.

(1) Volunteer experience may not be substituted for required licensure, POST certification, or other criteria for which there is no substitution in the job requirements in the job description.

(2) Court ordered community service experience may not be considered.

**R477-4-12. Reorganization.**

When an agency is reorganized, but an employee's position does not change substantially, the agency may not require the employee to compete for his current position.

**R477-4-13. Career Mobility Programs.**

(1) A career mobility is a temporary assignment of an employee to a different position for purposes of professional growth or fulfillment of specific organizational needs. Career mobility assignments may be to any salary range.

(2) Agencies may provide career mobility assignments inside or outside state government in any position for which the employee qualifies.

(3) An employee or agency may initiate a career mobility.

(a) Career mobility assignments may be made without going through the competitive process but shall remain temporary.

(b) Career mobility assignments shall only become permanent if:

(i) the position was originally filled through a competitive recruitment process; or

(ii) a competitive recruitment process is used at the time the agency determines a need for the assignment to become permanent.

(4) Agencies shall use written career mobility contract agreements between the employee and the supervisor to outline any program provisions and requirements. The career mobility shall be both voluntary and mutually acceptable.

(5) A participating employee shall retain any rights, privileges, entitlements, career service status subject to R477-5-2, and benefits from the previous position while on career mobility.

(a) If a reduction in force affects a position vacated by a participating employee, the participating employee shall be treated the same as other RIF employees.

(b) If a career mobility assignment does not become permanent at its conclusion, the employee shall return to the previous position or a similar position at a salary rate described in Subsection R477-6-6(10).

(6) An employee who has not attained career service status prior to the career mobility program cannot permanently fill a career service position until the employee obtains career service status through a competitive process.

**R477-4-14. Assimilation.**

An employee assimilated by the state from another government career service system to fill a Schedule B position shall receive career service status after completing a probationary period if originally selected through a competitive examination process judged by the Executive Director, DHRM, to be equivalent to the process prescribed in DHRM Rules.

- (1) Assimilation agreements shall specify whether there are employees eligible for reemployment under USERRA in positions affected by the agreement.
- (2) An assimilated employee shall accrue leave at the same rate as other career service employees with the same seniority.

**R477-4-15. Hiring of Administrative Law Judges.**

(1) Section 67-19e-104.5 applies to hiring Administrative Law Judges. Section 67-19e-104.5 does not apply to:

- (a) an administrative law judge who is appointed by the governor; or
- (b) procurement of administrative law judge service under Section 63G-6a-116.

(2) The hiring panel shall consist of:

- (a) the head or designee of the hiring agency;
- (b) the Executive Director, DHRM, or designee; and
- (c) the head of another agency, as appointed by the Executive Director, DHRM, who may select a designee to serve on her or his behalf.

(3) Only the agency heads described in Subsection (2) may designate another individual to serve on the hiring panel on the agency head's behalf in consultation with the designee of the Executive Director, DHRM.

(4) In addition to the panel members established in Subsection (2), the hiring agency may select one or more additional subject matter experts to serve on the panel, in consultation with DHRM.

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