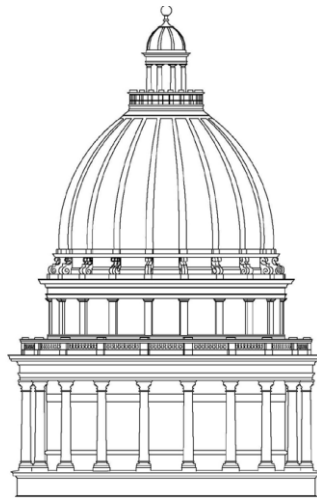REPORT TO THE

UTAH LEGISLATURE

Number 2021-15

An In-Depth Follow-Up of the State's Career Service System

November 2021

Office of the
LEGISLATIVE AUDITOR GENERAL
State of Utah

November 16, 2021

TO: THE UTAH STATE LEGISLATURE

Transmitted herewith is our report, **An In-Depth Follow-Up of the State's Career Service System** (Report #2021-15). An audit summary is found at the front of the report. The objectives and scope of the audit are explained in the Introduction.

We will be happy to meet with appropriate legislative committees, individual legislators, and other state officials to discuss any item contained in the report in order to facilitate the implementation of the recommendations.

Sincerely,

Kade Minchey

Auditor General

IN-DEPTH FOLLOW-UP

State's Career Service System

▶ **AUDIT REQUEST**

The Legislative Audit Subcommittee requested that we conduct a follow-up of the 2010 *A Limited Review of the State's Career Service System* Audit and:

- Update relevant figures

- Report on the impact of H.B. 140, 2010 General Session

- Update the comparison between Utah's personnel system and other states' systems

- Provide information for legislative study on career service status of certain employees

▶ **BACKGROUND**

A career service employee is someone who has successfully completed a probationary period of service in a position covered by the career service system.

The Utah State Personnel Management Act outlines guiding principles for career service employees concerning recruitment, advancement, retention, and separation based on performance.

Almost two-thirds of the approximately 24,000 state employees are considered to be career service employees.

In 2010, House Bill 140 made changes to the Utah State Personnel Management Act, but the previous audit could not address its impact on Utah's career service system.

KEY FINDINGS

✓ H.B. 140 (2010) made considerable changes to the Grievance Procedure by decreasing the number of steps in the grievance process and limiting the time frame for evidentiary hearings of the Career Service Review Office.

✓ The audit team did not identify a best practice for the use of at-will versus career service status. Rather, states appear to implement systems that address their individual needs.

✓ Almost all states that transitioned to at-will personnel systems still have a grievance process and "for cause" termination.

✓ Improved management training can enhance employee performance and the processes for discipline, performance improvement, and dismissal can be better followed.

RECOMMENDATIONS

Legislature

✓ Consider our comparative information on other state personnel systems shown in Ch. III for any future legislative discussions.

Division of Human Resource Management

✓ Continue to create and encourage management training programs for all supervisors and above.

✓ Review its overall tracking of management training.

✓ Evaluate the effectiveness of management training efforts and consider making the programs on-going and more frequent.

✓ Provide agency and division directors with a yearly report of managers' and supervisors' use of the current performance tracking system.

State Agencies

✓ We reiterate our 2010 recommendation that state agencies require management training for all new and current managers.

REPORT SUMMARY

H.B. 140 (2010) removed several steps from the grievance process

Previous to this change, there was no time limit for Career Service Review Office's evidentiary hearings; now the hearings must be scheduled within 150 days after jurisdiction is determined. Before H.B. 140, the average time for the Career Service Review Board to decide a case was 297 days; after H.B.140, the average time for this process was 169 days. Now, more grievances are being resolved at the department level rather than being appealed to the CSRO. Meaning, most grievances are resolved in 40 to 50 days.

States appear to implement systems that address their individual needs
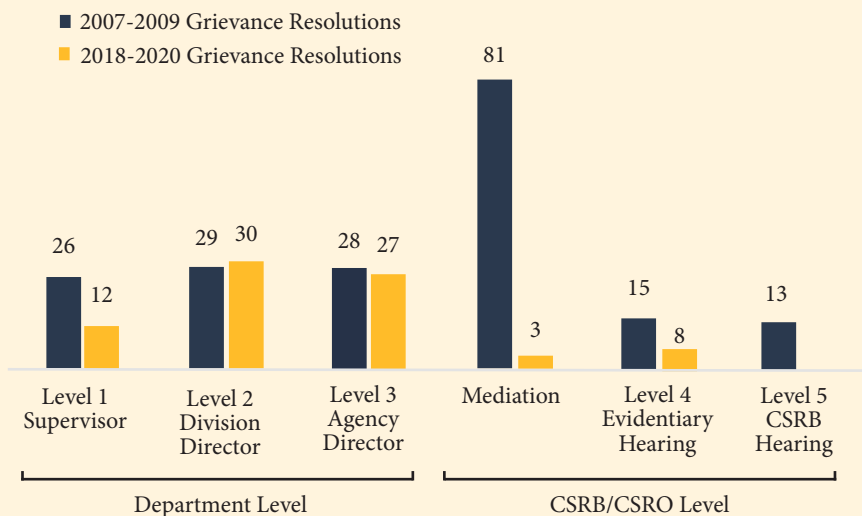
The audit team did not identify a best practice for the use of at-will versus career service status. But in a limited state review, they appear to implement systems that address their individual needs. Utah's personnel system is similar to that of most neighboring states. Almost all states that transitioned to at-will personnel systems still have a grievance process and "for cause" terminations. Additionally, among some large, private companies in Utah, the grievance processes and "for cause" termination requirement are similar to what is seen among state personnel systems. It appears that states legislatively implement various personnel systems based on the state's needs rather than specific trends.

Managment training needs greater implementation by DHRM and state agencies

Only 30 percent of state managers have had any type of DHRM management training. At a minimum, manager training should include proper discipline, performance evaluation, and performance improvement of subordinates. Regardless of whether the Legislature decides to make personnel system changes discussed in Chapter III, increasing the proportion of trained managers should still be considered as a means of improving employee performance. Utah Performance Management system, the management tool used to track employee performance plans, use has increased only marginally in more than 10 years. Employee performance plans provide a mechanism for management to evaluate and improve employee performance, especially for poor-performing employees.

Figure 2.2 in the report shows grievance resolutions are more common at the department level, rather than at the CSRO level. Approximately 88 percent of grievances were resolved at the department level from 2018 to 2020. H.B. 140 removed Level 5 from the grievance process.

Legend:
- 2007-2009 Grievance Resolutions
- 2018-2020 Grievance Resolutions

	2007-2009	2018-2020
Level 1 Supervisor	26	12
Level 2 Division Director	29	30
Level 3 Agency Director	28	27
Mediation	81	3
Level 4 Evidentiary Hearing	15	8
Level 5 CSRB Hearing	13	

Department Level: Level 1 Supervisor, Level 2 Division Director, Level 3 Agency Director

CSRB/CSRO Level: Mediation, Level 4 Evidentiary Hearing, Level 5 CSRB Hearing

REPORT TO THE
UTAH LEGISLATURE

Report No. 2021-15

An In-Depth Follow-Up of the State's Career System

November 2021

Audit Performed By:

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Audit Staff	Abigail Armstrong

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Chapter I
Introduction

This report is a follow-up of our 2010 audit report, *A Limited Review of the State's Career Service System*[1]. The Legislature asked us to update the data presented in our previous review of the career service system. As was the case in 2010, the majority of employees in the Utah state government are classified as career service employees. Statutorily, a career service employee is someone who "has successfully completed a probationary period of service in a position covered by the career service."[2] Almost two-thirds of the approximately 24,000 state employees are considered to be career service (or merit) employees. The Utah State Personnel Management Act outlines guiding principles for career service employees concerning recruitment, advancement, retention, and separation based on performance. A concern from the 2010 report was the difficulty in dismissing career service employees identified by management as poor performers.

In 2010, House Bill 140 (H.B. 140) made changes to the Utah State Personnel Management Act, which governs career service employment. When our 2010 report on career service was released, it was unknown what impact this bill would have on the career service system and the ability to remove poor performers. As discussed in Chapter II of this report, H.B. 140 decreased the grievance process timeline and allowed a larger percentage of grievances to be solved at the department level. Other impacts are the comparatively small number of identified poor performers filing grievances and an increase in dismissals of career service employees, whose dismissal rates are now more similar to those of non-career service employees.

This introductory chapter shows that Utah's career service principles and workforce composition have not changed significantly since the 2010 report. The number of career service employees in 2021 is similar to that of 2010. This chapter also shows that the recommendations and legislative options specified in the 2010 report were not fully implemented. However, in connection with legislative options presented in the 2010 review, a 2021 proposed bill, H.B. 280,

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[1] A Limited Review of the State's Career Service System, July 2010 (#2010-08)
[2] *Utah Code* 67-19-1(3)

sought to make the position of supervisor and above exempt from the career service system, but the bill did not pass.

Utah's Career Service System
Remains Unchanged Since 2010

The principles and workforce composition of Utah's Career Service personnel system have not changed since the 2010 audit report. The federal government requires states' personnel system to have merit principles for states to review federal funding for specific programs. Some of these principles require open and fair recruiting practices and appropriate discipline and dismissal for inadequate performance. Utah continues to follow these merit principles. As of 2021, the number of Utah's career service (schedule B) employees and the number of total employees are similar to what was seen in 2010.

Merit Principles Are Required for Federal Funding

The *Code of Federal Regulations*[3] requires a state's personnel system to have merit principles in order for a state to receive federal funding for the administration of some federally funded programs. The merit principles require:

- Open and fair recruiting practices
- Equitable and adequate compensation
- Retention of quality employees, appropriate discipline for inadequate performance, and dismissal when necessary
- Fair treatment following federal equal employment and opportunity, and nondiscrimination laws
- Protection from partisan coercion

The Percentage of Career Service Employees Has Been Consistent Since 2010

The number of state employees who have career service status has not changed much since 2010. Career service employees are classified as schedule B in the Utah State Personnel Management Act and make up almost two-thirds of all employees. The remainder of employees are considered career service exempt. Figure 1.1 lists the employee

Career service employees are classified as schedule B in the Utah State Personnel Management Act and make up almost two-thirds of all employees.

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[3] CFR§ 2.4

An In-Depth Follow-Up of the State's Career Service System (November 2021)

classification schedules and shows that the number of career service (schedule B) employees is similar in 2010 and 2021.

Figure 1.1 Nearly Two-Thirds of State Employees Are Career Service Employees. The current percentage of career service employees (schedule B) is similar to the 66 percent from 2010. The number of schedule A (at-will) employees is also shown.

Employee Classification	2010 Employees	2021 Employees
AA - Elected Officials	110	97
AB - Appointed Executives	36	34
AC - Governor's Office	88	341
AD - Executive Directors' Office	310	299
AE - State Board of Education Exempt	550	505
AF/IN - Part-Time Employees	84	1,356
AG - Attorney General's Office	430	534
AH - Teaching Staff of State Institutions/ USDB	295	269
AL/AI/AJ/TL - Temporary/ Time Limited	2,957	2,111
AM - Dept of Community & Culture and GOED Executives/ Professionals	44	*
AN - Legislative Employees	248	239
AO - Judiciary Employees	1,134	1,017
AP - Judiciary Judges	129	148
AQ - Member of State and Local Boards	886	738
AR - Statewide Policymakers	98	160
AS - Other Appointed Employees	45	184
AT - DTS Employees	626	645
AU - Patients/ Inmates	173	75
Schedule A Subtotal	**8,243**	**8,752**
Schedule B Subtotal – Career Service	**15,784**	**15,532**
TOTAL	**24,027**	**24,284**

Source: Division of Human Resource Management.
*Data not provided.

There are currently 15,532 career service employees, representing the largest classification in the Utah state government workforce. The other 8,752 employees are schedule A status and, by statute, are career service exempt (at-will). This means the employee can be dismissed for any or for no reason without the right of appeal, except for reasons that violate state or federal law.

Recommendations from Previous Audit
Were Not Fully Implemented or Considered

The recommendations presented in the 2010 Audit addressed accountability measures for the Department of Human Resource Management (DHRM) and a uniform approach for training managers directed at state agencies. As figure 1.2 shows, the recommendations presented to DHRM and state agencies were either partially implemented or not implemented.

The recommendations presented to DHRM and state agencies in our 2010 report were either partially implemented or not implemented.

Figure 1.2 Recommendations Made to DHRM and State Agencies in the 2010 Audit Were Only Partially Implemented. The DHRM recommendations address training for managers to improve management of employee performance.

2010 Audit Recommendations	Current Status
State agencies: Require all new managers to attend the DHRM training course on how to be effective managers.	**Partially Implemented**. Only some agency managers attended training. Also, there are no institutional requirements that would make trainings consistent across the executive branch.
DHRM: Place greater emphasis on encouraging all managers in the state to attend their training course, "The Art and Science of Supervisors."	**Partially Implemented**. DHRM has updated its training on leadership skills for supervisors, Certified Public Manager, and ad hoc training.
DHRM: Consider whether management training should be required for all managers in the state.	**Partially Implemented**. Management training has increased, but it does not include performance management training for supervisors or annual refreshers.
DHRM: Ensure that all agency managers use Utah Performance Management (UPM).	**Not Implemented**. All agencies were required to use this tool starting in 2010, but there is no accountability system to ensure managers are using the system.

Source: Auditor generated.

Career service employees identified as poor performers need to be properly managed through performance evaluations and performance improvement plans. Management training is a mechanism to improve employee performance and reinforce processes for discipline, performance improvement, and dismissal. However, as explained in Chapter IV, many of the previous recommendations for management training and improvement were only partly followed.

Figure 1.3 summarizes our 2010 recommendations that addressed potential changes to the overall personnel system and accompanying legislative consideration over the last decade. During the 2021 Legislative Session, H.B. 280 proposed removing the career service status for the positions of supervisor and above, but the bill did not pass. Beyond the efforts of H.B. 280, maintaining and improving the current system is the only recommendation that was partially implemented.

Management training is a mechanism to improve employee performance and reinforce processes for discipline, performance improvement, and dismissal.

Figure 1.3 Previous Recommendations to the Legislature Were Not Implemented. The recommendation to maintain the current system with improvements was only partially implemented.

2010 Legislative Options Recommended for Consideration	Current Status
Maintain Utah's current personnel system with improvements in performance management tools.	**Partially Implemented**, but with no significant changes in the past 10 years.
Adopt a procedure like that in the judicial branch, in which an employee could be dismissed after being formally disciplined twice.	**No change.**
Implement changes that have been made in other states, including the following: Phasing out of career service status for supervisors and higher positions.	During the 2021 General Session, Rep. Christofferson presented H.B. 280, which provides that a state employee hired in a supervisor position is exempt from the career service system. Ultimately, the House filed, without passage, H.B. 280 2nd Sub., which would create the State Career Service Review Task Force to make recommendations on the career service system.
Phasing out of career service status for employees who change positions within the state system.	**No change.**
Requiring all new employees to be hired at will.	**No change.**

Source: Auditor generated.

In Chapter III we present the Legislature with updated information on systems that exist in other states. As in our 2010 review, we do not take a position on the legislative policy options.

We do not take a position on the legislative policy options, but we do provide information for legislative study.

Audit Scope and Objectives

This report is a follow-up review of the 2010 audit report, *A Limited Review of the State's Career Service System.* Legislative efforts such as H.B. 280, which was proposed in the 2021 General Session, have sought to make changes to Utah's career service system. This

audit update was requested to provide information for legislative study on career service status of certain employee positions. As part of the scope of this audit, we were asked to address four main areas:

- Update all relevant figures in the report, particularly the current classification of all state employees.
- Report on the impact of career service changes from H.B. 140 (2010 General Session), which changed the Utah State Personnel Management Act but had not gone into effect at the time of the legislative audit.
- Update the comparisons between Utah's personnel system and systems of other states shown in the report.
- Present information on other personnel system options that may exist with regard to H.B. 280 (2021 General Session).

Specific information and audit findings are described in the following chapters:

- Chapter I contains an introduction, background, and status of recommendations from the 2010 audit.
- Chapter II describes changes and some impacts to the career service system that are a result of H.B. 140.
- Chapter III compares Utah's personnel system with that of western states and select other states that have primarily at-will personnel systems and provide information for legislative study.
- Chapter IV reports on the usage of Utah's current management training and employee performance plan and provides recommendations for enhancing accountability and uniform training.

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Chapter II
House Bill 140 in 2010 Changed the Grievance Process

At the time of our previous audit in 2010, the impacts of H.B. 140[4] were unknown. However, managers from the Department of Human Resource Management (DHRM) believed the legislation would have a positive impact on the career service system. For example, it might increase manager involvement in performance management and decrease the time it would take to resolve grievances beyond the department level. Our review of current data shows that:

- H.B. 140 shortened the timeline of the grievance process, allowing a larger percentage of grievances to be resolved at the department level.

- Over the last five years, only a small number of poor-performing employees filed grievances for their disciplinary or management action.

- As of 2021, executive branch agency managers have dismissed a higher percentage of career service employees, compared with dismissals in 2009.

This chapter identifies several impacts of H.B. 140 and provides an update on how career service employees have been affected following the bill's enactment. This information, together with personnel system criteria from other states provided in Chapter III and management improvements addressed in Chapter IV, can assist the Legislature in deciding whether recent changes are sufficient for the management of poor-performing employees or if further changes are needed for the current personnel system.

This chapter identifies several impacts of H.B. 140 and provides an update on how career service employees have been affected following the bill's enactment.

This information can assist the Legislature in deciding whether recent changes are sufficient or if further changes are needed for the current personnel system.

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[4] H.B. 140 Human Resource Management Amendments, https://le.utah.gov/~2010/bills/static/HB0140.html

H.B. 140 Shortened the Grievance Process

H.B. 140 made considerable changes to the Grievance Procedures by decreasing the number of steps in the grievance process and limiting the time frame for evidentiary hearings of the Career Service Review Office (CSRO). The bill replaced the Career Service Review Board (CSRB) with the CSRO and designated the CSRO as the final administrative body authorized to consider career service employee grievances. The bill also removed certain processes from the CSRO's jurisdiction, including grievances for promotions and written reprimands. The grievance process no longer includes a verbal grievance to the immediate supervisor. Previously, there was no time limit for CSRO evidentiary hearings; now the hearings must be scheduled within 150 days after jurisdiction is determined. Figure 2.1 demonstrates H.B. 140's impact on the grievance process.

Previously, there was no time limit for CSRO evidentiary hearings; now the hearings must be scheduled within 150 days after jurisdiction is determined.

Figure 2.1 H.B. 140 Reduced Steps and Set Limits on the Grievance Process. The most substantial change to the grievance process is the 150-day time limit for CSRO evidentiary hearings. This figure demonstrates every step that is available for career service employees that meet the jurisdiction for grievances.
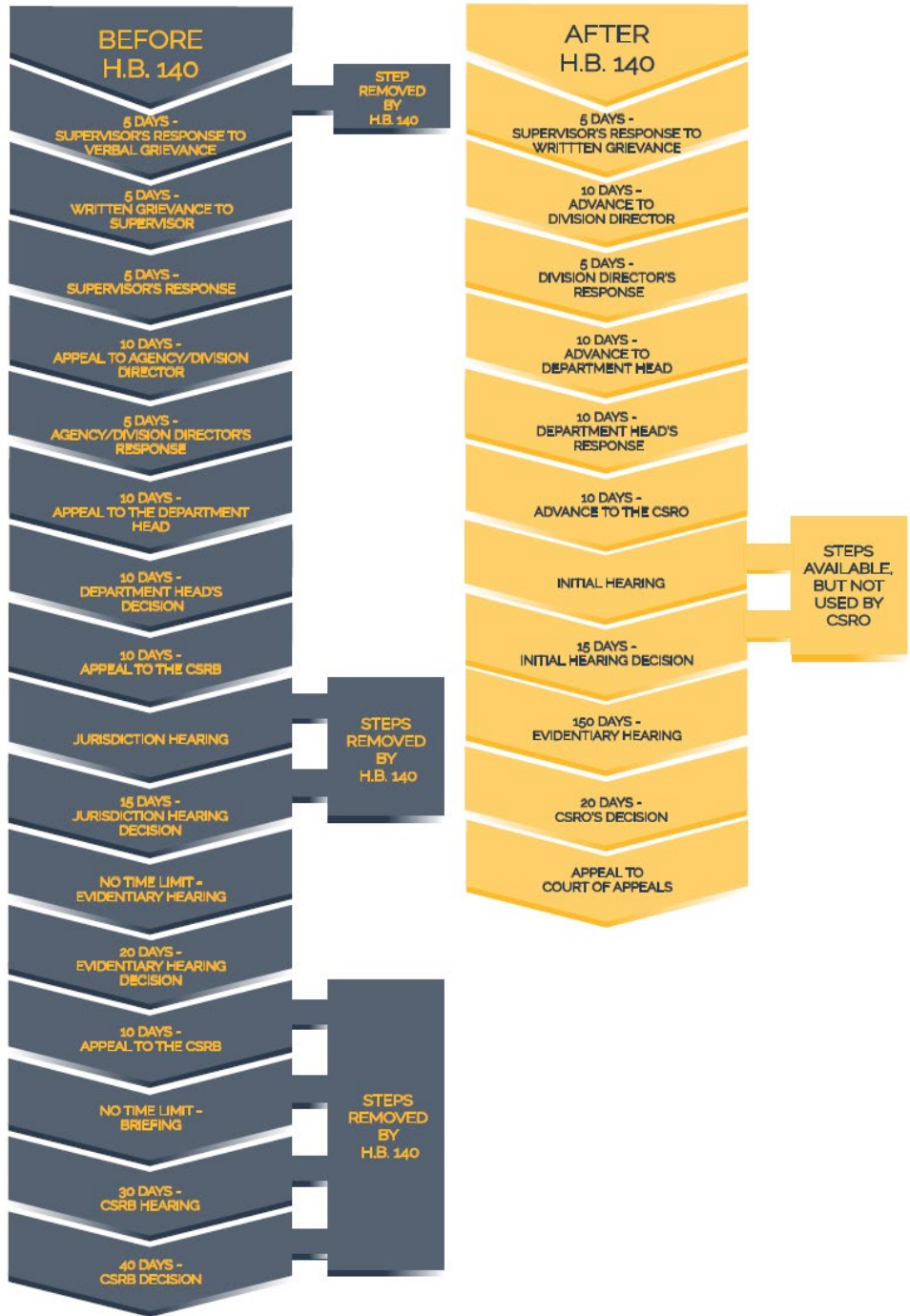
H.B. 140 removed several steps from the grievance process.

Source: Auditor generated.

The revised grievance process not only eliminated several steps but also enforced a time limit of 150 days for evidentiary hearings before the CSRO. Before H.B. 140 there was no time limit for conducting hearings with the CSRB, which resulted in the scheduling of hearings taking from five months to one year.

The CSRO provided us with a limited sample[5] of grievance cases before and after H.B. 140. Before H.B. 140, the average time for a grievance to be filed with the CSRB and then decided on was 297 days. After H.B. 140, the average time for this process was 169 days.

DHRM was unable to provide data on the average time for a grievance to be resolved before and after H.B. 140. We recommend that DHRM regularly track the frequency and time frame for grievance resolutions.

More Grievances Are Being Resolved at the Department Level

Since H.B. 140 was enacted, more grievances are being resolved at the department level rather than being appealed to the CSRO. This means that most grievances are resolved in 40 to 50 days. As Figure 2.2 shows, 88 percent of cases were resolved at the department level between 2018 and 2020, compared with 43 percent from 2007 to 2009 (before H.B. 140).

Before H.B 140, the average time for the CSRB to decide a case was 297 days; after H.B. 140, the average time for this process was 169 days.

Most grievances are resolved in 40 to 50 days.

[5] The sample consisted of the last 10 cases before H.B. 140 was enacted and the most recent 10 cases after H.B. 140.

Figure 2.2 Currently, Grievance Resolution Is More Common at the Department Level Than It Was before H.B. 140.
Approximately 88 percent of grievances were resolved at the department level from 2018 to 2020. H.B. 140 removed Level 5 from the grievance process.
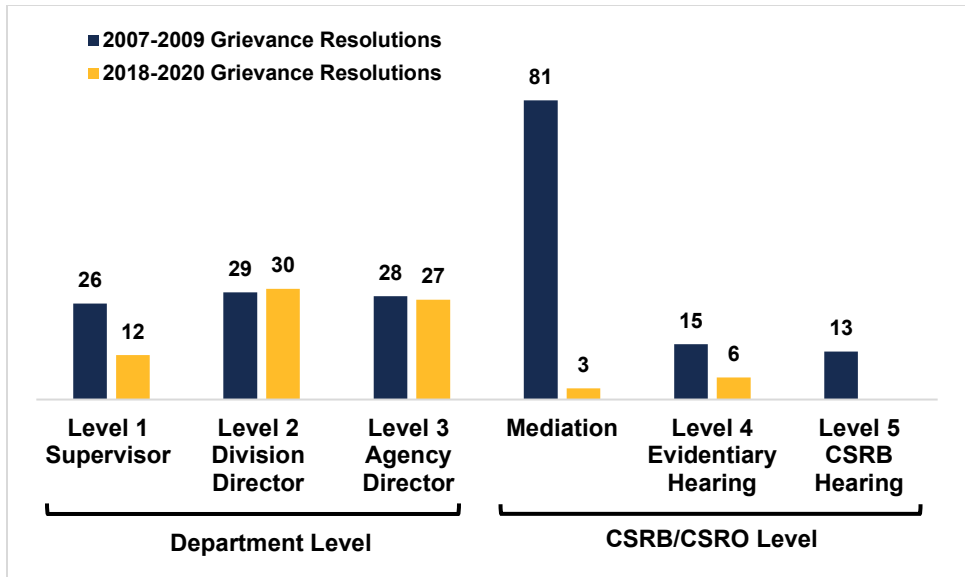
Source: DHRM and CSRO.

Before H.B. 140, 57 percent (n=109) of eligible grievances were appealed to the CSRB from 2007 to 2009. Comparatively, only 12 percent (n=9) of eligible grievances were appealed to the CSRO from 2018 to 2020. This decrease may be due to the limits placed on what is eligible to be grieved.

In 2015 the Attorney General's Office implemented consultation prescreening of grievance cases. Both the Attorney General's Office and the Department of Risk Management suggest this has also helped with grievance resolutions. Even though these offices note the importance of consultation prescreening, the data available does not allow us to isolate its effect on grievance resolutions.

From our sample, 57 percent of eligible grievances were appealed to the CSRB prior to 2010, whereas only 13 percent of eligible grievances were appealed to the CSRO from 2018 to 2020.

Only 28 career service
employees who were
identified as poor
performing used the
grievance process
from 2017 to 2021.

A Small Number of Employees Identified as Poor Performers Entered the Grievance Process

Only 28 career service employees who were identified as poor performing used the grievance process from 2017 to 2021. Of these, 64 percent are no longer employed with the Utah state government. The grievances filed by poor-performing employees averaged fewer than ten per year over the last five years. Only five employees who challenged the performance improvement efforts by management are still employed with Utah. Depending on those five employees' original performance issue being grieved, the action may have warranted a disciplinary action but not dismissal.

Some supervisors in Utah may believe that elements of the career service system, such as the grievance process, hinder the removal of poor-performing employees. The data gathered from 2017 to 2021 show only a small number of poor-performing employees who filed grievances, and majority of these employees are no longer state employees. Managers' failure to take proper action on poor-performing employees to improve their performance, or remove them, if necessary, is discussed in Chapter IV.

Dismissal of Career Service Employees Has Increased Since 2010

Based on data received from DHRM, the percentage of career service employees dismissed by executive branch managers was 1.2 percentage points higher in 2021 than it was in 2009. This makes the current dismissal rate for career service employees more similar to the dismissal rate of non-career service (at-will) employees. As Figure 2.3 shows, an average of .4 percent of career service employees were dismissed for cause in 2009; this percentage increased to 1.6 percent in 2021.

Figure 2.3 Dismissal Rates of Career Service Employees Are Now More Similar to Dismissal Rates of Non-Career Service Employees Than in 2009. Nearly 200 more career service employees were dismissed in 2021 than in 2009.

	Average Number of Employees		Average Number of Employees Dismissed for Cause		Average Percent Dismissed for Cause	
	FY 2009	FY 2021	FY 2009	FY 2021	FY 2009	FY 2021
Executive Branch Career Service	15,784	15,532	58	251	0.4%	1.6%
Executive Branch Non-Career Service	8,259	8,752	140	178	1.7%	2.0%

Source: DHRM.

In 2021, the average percentage of career service employees dismissed for cause (1.6 percent) more closely matches the percentage of non-career service dismissed (2.0 percent) than in 2009. Career service employees are now being dismissed at roughly the same rate as that of non-career service employees in 2009. While the increased dismissal rate for career service personnel may not be related to H.B. 140, recent trends show that career service employees can be dismissed at rates similar to those of non-career or at-will employees.

Overall, H.B. 140 impacted the grievance process by reducing procedural steps and limiting the timeline. A larger percentage of grievances are now resolved at the department level—most within 50 days. Within the last five years, relatively few poor-performing employees filed grievances over their disciplinary or management action, and majority of these are no longer state employees. Additionally, from 2009 to 2021, agency managers increased the percentage of career service employees that are dismissed.

The changes established by H.B. 140 affected several elements of the career service system—particularly the grievance process. This legislation was one part of improvements to be further considered along with information we present in Chapters III and IV.

While the increased dismissal rate for career service personnel may not be related to H.B. 140, recent trends show that career service employees can be dismissed at rates similar to those of non-career or at-will employees.

Recommendation

1. We recommend that the Division of Human Resource Management regularly track the frequency and time frame of grievance resolutions.

Chapter III
Varied Personnel Systems Exist in Other States, but Most Retain a Grievance Process

Utah and its neighboring states maintain personnel systems that have a majority of career service employees and include grievance processes for eligible employees. Some states—most recently Arizona and Missouri—adopted personnel systems that prioritize at-will employment while maintaining the merit principles[6] required for federal funding. In discussions with other states, we were not able to identify best practices for state personnel systems regarding the proportion of at-will versus career service employees. However, grievance processes and "for cause" termination documentation are used in both career service and at-will personnel systems.

Our limited review in 2010 included comparative information on some states' personnel systems. This chapter provides an updated overview of a select number of states regarding at-will employment. We also review different approaches implemented by some states to transition career service employees to at-will employees. In light of recent bills and the Legislature's request for this audit, we anticipate that the Legislature will discuss changes to Utah's personnel system. We provide this comparative information to serve as a reference for that discussion.

In light of recent bills and the Legislature's request of this audit, we anticipate that the Legislature will discuss changes to Utah's personnel system. We provide this comparative information to serve as a reference for that discussion.

This limited review is a comparison of 11 states interviewed by the audit team. Our goal was to expand the 2010 limited review and provide updates and new information. However, we report only on states that responded to our information request. We contacted Utah's neighboring states, along with states that have predominantly at-will personnel systems, and other states suggested by Human Resource experts. This review is not an exhaustive comparison of all states' personnel systems. Rather, the audit team contacted 13 states[7] that

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[6] Merit principles are explained in Chapter I of this report.
[7] The audit team reached out to the following states: Arizona, Arkansas, Colorado, Florida, Georgia, Idaho, Missouri, Nevada, Oregon, South Carolina, Tennessee, Texas, and Washington.

met our criteria, and 11 of those states responded and were interviewed. We also interviewed several large, private companies in Utah as suggested by state Human Resource experts.

There Is Variation in States' Use of At-Will Employment Status

The audit team did not identify a best practice for the use of at-will versus career service status. Rather, states appear to implement systems that address their individual needs.

From the 11 states we interviewed, we did not identify a best practice in the use of at-will versus career service status for state employees. Rather, states appear to implement systems that best address their individual needs. Utah and most of its neighboring states are similar in that the majority of personnel are in career service positions. Of the states we interviewed that are predominantly at-will, one reason for transitioning to at-will was to increase flexibility and talent acquisition. Except for Missouri, these states still maintain a grievance process and a "for cause" termination policy for all employees. Also, some states that transitioned to at-will employment continue to maintain career service status for federally funded positions. Missouri was the only state interviewed that received legal challenges for its transition to an at-will personnel system.

Several large, private, Utah companies we interviewed uphold grievance processes and "for cause" termination, similar to personnel systems of states. Regardless of the workforce composition or changes to a personnel system, most private companies and states we interviewed maintain a grievance process and require "for cause" documentation when terminating an employee.

Most Western States Maintain Personnel Systems with a Majority of Career Service Employees

In Utah and its neighboring states (except for Arizona), most government employees have career service status. As Figure 3.1 shows, these states maintain personnel systems with a majority of career service employees and a grievance process for eligible employees. There is not a specific personnel composition, grievance process, or list of common grievable actions that are prevalent among these states.

Figure 3.1 Utah's Personnel System Is Similar to That of Most Neighboring States. Utah's proportion of career service personnel (64 percent) is in the middle range; Colorado has the highest percentage of career service employees, and Idaho has the lowest. The Grievable Actions demonstrate what is grievable at the highest level for each state's career service grievance system.

STATE	GRIEVANCE PROCESS	GRIEVABLE ACTIONS
UTAH — 64% Career Service	Yes- only career service employees are eligible for the formal grievance process. At-will employees may submit complaints.	• Dismissal • Demotion • Suspension • Reduction in force • Dispute for position abandonment • Wage grievance (if not within range of position) • Violation of Title 63A Ch.17 • Equitable administration of specific benefits
COLORADO — 99% Career Service	Yes- all employees are eligible for the grievance process.	All workplace actions except: • Disciplinary actions • Actions that adversely affect pay, status, or tenure • Selection disputes • Performance management disputes not resulting in disciplinary action • Coverage designation disputes • In-range salary movements • Issues about leave sharing • Discretionary pay differentials • Hazardous duty premium pay
IDAHO — 60% Career Service	Yes- only classified (career service) employees are eligible for the grievance process.	• Disciplinary Dismissal • Demotion • Suspension
NEVADA — 78% Career Service	Yes- only permanent classified (career service) employees are eligible for the grievance process.	Anything relating to the employee-employer relationship, including: • Compensation • Working hours • Working conditions • Membership in an organization of employees • Regulation or disagreement of a contested report on performance
OREGON — 84% Career Service	Yes- only classified (career service) employees are eligible for the grievance process.	• Reduction • Dismissal • Suspension • Demotion

Source: Auditor generated.

Of the states we interviewed, Colorado has the highest (99 percent) and Idaho has the lowest (60 percent) amount of career service employees. Utah is in the middle, with 64 percent career service and 36 percent at-will employees. Most of the states allow employees to file a grievance over disciplinary actions, demotions or suspensions. Colorado is the only state that specifies disciplinary actions cannot be grieved. Notably, Arizona converted to an at-will personnel system in 2012, which we discuss further in this chapter.

Several States Transitioned to At-Will Personnel Systems

States' reasons for transitioning to an at-will personnel system appear to be related to increasing autonomy in hiring and flexibility in disciplining poor-performing employees.[8] Some states indicated flexibility for recruitment and management as reasons for transitioning, based on the opinion that at-will personnel systems create a more talented and nimble workforce.

We interviewed five of the six states that have primarily at-will personnel systems. Figure 3.2 shows states that either transitioned to at-will or, in the case of Arkansas, always had an at-will personnel system. Our 2010 audit report highlighted three states—Florida, Georgia, and Texas—for not having traditional career service systems. Those states have maintained the same systems explained in the 2010 report. Furthermore, Arizona and Missouri transitioned to personnel systems with a majority of at-will employees within the last 10 years.

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[8] A *Governing Magazine* study (2002) cited similar reasons that led states to transition to at-will personnel systems: decreased time to complete key personnel transactions (hiring and dismissing employees) and no unusual spikes in political hiring and firing.

Figure 3.2 Predominantly At-Will States Make Use of Grievance Processes and Grievable Actions. Four of the five at-will states we interviewed maintain a grievance process for all employees.

STATE	GRIEVANCE PROCESS	GRIEVABLE ACTIONS
TEXAS 100% At-Will	Yes- all employees are eligible for the grievance process.*	• Suspension w/out pay for disciplinary reasons • Involuntary demotion for disciplinary reasons • Dismissal for disciplinary reasons • Issuance of a written reprimand to an employee
ARKANSAS 100% At-Will	Yes- all employees are eligible for the grievance process.	• Termination w/out pay • Suspension w/out pay
GEORGIA 98% At-Will	Yes- all regularly apointed employees are eligible for the grievance process.	• Unlawful discrimination against an employee • Dismissal • Suspension • Demotion • Disciplinary salary reduction • Relocation • Reduction in force • Unjust coercion or reprisal • Other alleged violations of the rules of the board • Forfeiture of employment • Other voluntary separations
MISSOURI 90% At-Will	Yes- only merit (career service) employees may use the grievance process.	If the • Dismissal • Suspension • Demotion Was for • political • religious • racial reasons
ARIZONA 100% At-Will	Yes- covered (career service) employees** have a grievance process and uncovered (at-will) employees have a complaint process.	Anything related to the Equal Employement Opportunity Commission

Source: Auditor generated.
*Texas is a decentralized Human Resource System, so to create a comparison the audit team used the largest department's, Department of Health and Human Services, grievance process.
** Arizona's legislation still addresses covered employees for those that maintained covered employment in 2012, but the positions were gradually phased out.

Starting in 2012, Arizona Eliminated the Career Service Designation for All New State Employees

The majority of Arizona employees, except for those connected to federal programs, are considered "uncovered" or at-will. In 2012, the Arizona state government legislatively required that all new hires, employees with a specific grade level, and all employees who were transferred, demoted, or promoted would be converted to at-will status. Employees who transferred to at-will positions received an incentive.

The audit team asked whether the transition to at-will employment spawned any legal challenges. In Arizona, there were no lawsuits that came as a result of this transition; it is believed that this is because the changes were legislatively appropriated, and because employees were provided with an incentive. Arizona now uses guiding principles, which are similar to the merit principles and apply to all employees. Both career service and at-will employees have a grievance and complaint process. Arizona also implemented a "pay-for-performance" plan with an accompanying compensation guideline.

In 2018, Missouri Revoked Career Service Status for the Majority of State Employees

Most Missouri employees are at-will, except for grant-in-aid employees, who are required to be career service because of federally funded programs. Missouri transitioned to an at-will system in August 2018. The Missouri Legislature mandated the transition and did not provide incentives for the status change.

Missouri currently has pending legal suits due to transitioning to an at-will system. Of the states we interviewed, Missouri is the only one that is predominantly at-will and does not maintain a grievance or complaint process for at-will employees. Missouri's previous system included a rigid hiring process, which was the motivation to change to an at-will personnel system that allows more flexibility in recruitment and management.

The Grievance Process and "For Cause" Terminations Are Still Used for At-Will Employment

Grievance processes are present in most states, regardless of their personnel system. Appendix A compares the grievance process for each state interviewed. Maintaining a grievance process is an important similarity among states that have at-will and career service personnel systems. The grievance process, or due process, is an established component of the perceived job security that career service systems provide. Some suggest the transition to at-will systems—to gain decentralization, accountability, and flexibility—is eroding the due process rights of civil servants. However, we found that almost all states that transitioned to at-will either maintain or restructured their grievance process and "for cause" terminations.

States with at-will personnel systems still require proper documentation and due process when terminating an at-will employee. The following are examples of some states' due process requirements:

- Texas requires managers to communicate with employee relations staff and attorneys in drafting a memo file when terminating an employee for cause.

- Georgia specifies that agencies should have documentation and a summary of the manager's judgment to ensure the termination has a reason.

- Missouri requires documentation, reviewed by the agency's legal team, for terminations to be considered suitable.

Among some private companies in Utah, the grievance processes and "for cause" termination requirements are similar to what is seen among state personnel systems. Executives from the University of Utah Human Resource division suggested that private and public sector personnel systems have similar elements. Therefore, we contacted three large, private companies in Utah to determine if their personnel systems are similar to those of the public sector.

A large healthcare firm in Utah adheres to "for cause" terminations and the acceptance of grievances by both management and the Human Resources department. A large financial institution

Almost all states that transitioned to at-will personnel systems still have a grievance process and "for cause" terminations.

Among some private companies in Utah, the grievance processes and "for cause" termination requirements are similar to what is seen among state personnel systems.

that has 2,500 Utah employees uses a progressive discipline policy and restricts the approval of terminations to the senior vice president of Human Resources. Also, the financial institution has a grievance process that includes three separate entities to grieve to and an official appeal process that includes the board of directors. A production company with 1,800 Utah employees uses progressive discipline and a grievance process through the union. The union requires employee protections that are similar to those of Utah's career service system.

Other States Reflect a Range of Legislative Changes Regarding Personnel Systems

Even though our audit process did not identify best practices for state personnel systems regarding at-will versus career service status, we wanted to provide other relevant information in anticipation of legislative policy discussions. Figure 3.3 provides examples of states' reasons for enacting change and an indication of states that enacted that option. While the following figure is not an exhaustive list, it addresses some of the most common changes.

Figure 3.3 Several Legislative Changes Have Been Made to Other States' Career Service Systems. Information on best practices for states' personnel systems was not identified in this audit.

POTENTIAL LEGISLATIVE OPTIONS	REASONS FOR ENACTING	STATES THAT ENACTED
Maintain no changes	COLORADO MAINTAINED ITS CAREER SERVICE SYSTEM BECUASE IT POSES NO ISSUES FOR THE STATE.	ID, NV, CO, UT, OR, TN
Eliminate Career Service for Supervisors and above	FLORIDA ENACTED THIS OPTION BECAUSE THEY BELIEVED THE ORIGINAL SYSTEM DEMOTIVATED MANAGERS AND MADE HR PROCESSES CUMBERSOME.	AZ, FL
Require new employees to be at-will / Require current employees who change positions to be at-will	GEORGIA ENACTED THESE OPTIONS BECAUSE THEY BELIEVED THE CAREER SERVICE SYSTEM WAS OVERLY TIME-CONSUMING AND COSTLY TO THE STATE.	AZ, GA
Provide an incentive for employees who transitioned to at-will	ARIZONA ENACTED THIS AND ADDITIONAL OPTIONS BECAUSE THEY BELIEVED IT WOULD CREATE A NIMBLER WORKFORCE AND FLEXIBLE PERSONNEL SYSTEM.	AZ
Require all employees to be at-will without an incentive	MISSOURI ENACTED THIS OPTION BECAUSE THEIR ORIGINAL HIRING PROCESS WAS TOO RIGID AND IT DETERRED TALENT.	MO

Source: Auditor generated.

As shown in Figure 3.3, states have implemented various legislative changes for addressing their career service personnel system. Notably, Georgia stated the switch to a completely at-will system made many of state employees concerned about terminations. Missouri noted that it switched to completely at-will employees to simplify administrative processes and increase flexibility for recruiting and management. It appears that states legislatively implement various personnel systems based on the state's needs rather than specific trends. If the Utah Legislature considers any changes to the state's personnel system, maintaining due process and "for cause" in terminations, as well as maintaining some form of grievance process, should be considered.

Recommendation

1. We recommend that the Legislature consider this chapter's comparative information on other state personnel systems, which we provide as a reference for any legislative discussion regarding Utah's personnel system. Specifically, the Legislature could consider options enacted by other states presented in Figure 3.3.

Chapter IV
Management Training Needs Greater Implementation

Our 2010 recommendations to train all managers were not fully implemented by state agencies and the Division of Human Resource Management (DHRM). Manager training has not substantially increased since 2010. Currently, just 30 percent of managers have some form of management training from DHRM. Correspondingly, 16 percent of employees have active performance plans filled out by their managers in the Utah Performance Management (UPM) system, a marginal increase since 2010. While DHRM supports the use of the UPM system they are currently seeking legislative funding to upgrade the system. Employees identified as poor-performing need to be properly managed through performance appraisals and performance improvement plans which are tracked in the UPM system. Management training is a mechanism to improve employee performance and reinforce processes for discipline, performance improvement, and dismissal.

To improve implementation and demonstrate the critical need for effective management, we reiterate our recommendation from 2010 that state agencies require all new and current managers to attend management training courses. We also recommend that DHRM continue to encourage management training programs for all supervisors and above. Additionally, data on manager training and actual UPM usage were difficult to obtain. DHRM needs to better track these data and evaluate the effectiveness of management training programs. Because data tracking has not been consistent or complete since our 2010 review, we are unable to fully comment on the quality of management training and its impact. Going forward, better data management may help facilitate efficiency and identify areas of improvement for management performance.

Management training is a mechanism to improve employee performance and reinforce processes for discipline, performance improvement, and dismissal.

Participation in Management Training Has Improved Little Since 2010

Our audit update reveals that only 30 percent of state managers have had any type of management training from DHRM. However, our 2010 report recommended that state agencies require all new managers to attend the DHRM training course on how to be effective managers. As we stated in our 2010 report:

> Increasing manager knowledge is one way that state agencies could improve employee performance and dismiss poor-performing employees more quickly.[9]

To improve the management of those identified as poor performers, managers need to be effectively trained and required to use performance management practices and tools. Some states and large local employers we interviewed require such training for managers. DHRM cannot require that agency managers obtain certain trainings. However, we recommend that DHRM continue to create and encourage management training programs for all supervisors and above.

Management Training Has Improved but Less Than One Third of Managers Have Had Any Type of Training

The percent of managers having received some type of management training went from 8 percent in 2010 to 30 percent in 2021. Figure 4.1 compares the percentage of supervisors who received some type of management training for years 2010 and 2021.

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[9] A Limited Review of the State's Career Service System, July 2010 (#2010-08)

Figure 4.1 Percent of Supervisors Who Received Some Type of Management Training by Agency, in 2010 and 2021. According to DHRM available data participation in management training has improved since 2010, however most agencies fail to provide even 50 percent of their managers with management training. Agencies may be providing manager training not tracked by DHRM.

Agency	2010	2021
Alcoholic Beverage Control	0%	41%
Board of Education	3%	24%
Board of Pardons & Parole	0%	11%
Career Service Review Board/Office	0%	0%
Department of Administrative Services	4%	35%
Department of Agriculture and Food	0%	21%
Department of Commerce	6%	23%
Department of Community & Culture	6%	-
Department of Corrections	3%	23%
Department of Environmental Quality	23%	42%
Department of Health	7%	34%
Department of Heritage and Arts	-	34%
Department of Human Resource Management	62%	84%
Department of Human Services	1%	33%
Department of Insurance	38%	52%
Department of Natural Resources	3%	15%
Department of Public Safety	2%	36%
Department of Technology Services	2%	36%
Department of Transportation	3%	28%
Department of Veterans' Affairs	0%	0%
Department of Workforce Services	7%	42%
Financial Institutions	0%	55%
Labor Commission	91%	48%
Public Lands Policy Coordinating Office	0%	0%*
Public Service Commission	0%	25%
Tax Commission	86%	46%
Utah National Guard	0%	9%
TOTAL	**8%**	**30%**

Source: DHRM, -Data was not provided.
*H.B. 368 State Planning Agencies Amendments from the 2021 General Session moved the Public Lands Coordinating Office to be within the Department of Natural Resources.

Though most agencies appear to have improved the percent of managers receiving training, we used a broader definition of management training for 2021 since the prior training program is no longer available.

Figure 4.1 shows that the percentage of managers who received DHRM management training increased three times. However, the 2021 numbers are based on a broad definition of what constitutes management trainings provide by DHRM, such as Leadership Skills for Supervisors, Certified Public Manager (CPM) training, Supervisor's Survival Guide and other ad hoc training[10]. The 2021 numbers also do not include management training that may have been provided by an agency other than DHRM. The 2010 data numbers represent only one type of training: participation in "The Art of Science and Supervision", which is a three-day training course for agency managers, previously provided by DHRM. Even though 30 percent of state supervisors are trained, this figure does not necessarily represent the completion of a required minimum set of supervisor trainings by managers.

At a minimum manager training should include proper discipline, performance evaluation and performance improvement of subordinates. We reiterate what we stated in our 2010 review, which is still pertinent today:

> While we recognize that merely attending training does not guarantee good management skills, we believe that agency managers in Utah could more effectively evaluate employees by attending DHRM's training course.[11]

DHRM does not have the authority to require agency managers to complete manager training programs. Individual agencies can require management training and can specify the type of training needed for their managers, and the training may be provided by DHRM. This decentralization of personnel training may have contributed to the low percentage of managers receiving any type of management training from DHRM. Regardless of whether the Legislature decides to make personnel system changes discussed in Chapter III, increasing the proportion of trained managers should still be considered as a means of improving employee performance.

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[10] Other DHRM management trainings include Leading People, Managing Employees Within the Law, Best Practices in Hiring, New Employee Onboarding, Diversity, Equity, and Inclusion, Performance Management and Discipline, and Performance Improvement.

[11] *A Limited Review of the State's Career Service System*, p. 23.

Some States and Large Utah Employers
Require Management Training

In our survey of local western states, we found that Nevada and Idaho's agencies require managers to undergo mandatory training. Texas is an at-will state that also requires mandatory training for managers. Of the three large, private Utah employers we interviewed, two require and one enforces training for managers. The effectiveness of employees and the organization are greatly impacted by the engagement of managers in the organization.

As mentioned, we recognize that some state agencies may have their own management training regimen that is not addressed in this chapter. However, given the low usage of DHRM management training we reiterate our recommendation from 2010 that state agencies require all new and current managers to attend management training courses. We also recommend that DHRM:

- continue to create and encourage management training programs for all supervisors and above,

- regularly track the percentage of managers who have received the encouraged management training and report the results to executive management of all agencies,

- evaluate the effectiveness of management training efforts and consider making the programs on-going and more frequent as needed.

Most Managers Do Not Use the Utah Performance Management System

Our 2010 audit recommended that DHRM ensure that all agency managers use the Utah Performance Management (UPM) software. However, utilization of the system has only occurred for 16 percent of employees. UPM is a management tool for managers to help improve employee performance by tracking employee performance plans. The DHRM rule says that:

We recognize that some state agencies may have their own management training regimen that is not addressed in this chapter.

UPM is a management tool for managers to track their employee performance plans, to help improve employee performance.

> Agency management shall utilize the Utah Performance Management (UPM) system for employee performance plans and evaluations.[12]

Nevertheless, not all agencies are required to use the UPM system. DHRM management supports the use of the UPM system but is also seeking to modernize the performance management system.

As Figure 4.2 shows, management use of the UPM system across most state agencies is very limited and has not improved since 2010.

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[12] Administrative Rule R477-10-1

Figure 4.2 The Overall Percentage of Employees with a Performance Plan in the UPM System Has Increased Only Marginally in More Than 10 Years. Employee performance plans are considered an important tool that managers should use to manage and help employees improve their performance.

Agency	2010 Percentage of Plans Activated	2021 Percentage of Plans Activated
Alcoholic Beverage Control	0.0%	0.9%
Board of Education	7.0%	4.7%
Board of Pardons & Parole	5.0%	50.0%
Career Service Review Office/Board	0.0%	0.0%
Department of Administrative Services	17.0%	13.8%
Department of Agriculture and Food	0.0%	8.0%
Department of Commerce	0.0%	38.1%
Department of Community and Culture	0.0%	-
Department of Corrections	22.0%	25.7%
Department of Environmental Quality	0.0%	20.6%
Department of Health	1.0%	19.1%
Department of Heritage and Arts	-	23.0%
Department of Human Resource Management	98.0%	9.6%
Department of Human Services	3.0%	32.9%
Department of Insurance	26.0%	37.6%
Department of Natural Resources	13.0%	15.1%
Department of Public Safety	2.0%	6.4%
Department of Technology Services	95.0%	0.0%
Department of Transportation	0.0%	15.4%
Department of Veterans' Affairs	0.0%	21.9%
Department of Workforce Services	38.0%	1.6%
Financial Institutions	0.0%	3.9%
Labor Commission	0.0%	7.9%
Public Lands Policy Coordinating Office	0.0%	0.0%*
Public Service Commission	0.0%	0.0%
Tax Commission	39.0%	0.3%
Utah National Guard	0.0%	0.0%
Total	**14%**	**16%**

Source: DHRM, some agencies included in our prior 2010 report were excluded here because they are no longer required to use UPM.
*H.B. 368 State Planning Agencies Amendments from the 2021 General Session moved the Public Lands Coordinating Office to be within the Department of Natural Resources.

As Figure 4.2 shows, only a few agencies are regular users of UPM, and most agencies do not use the system at all. We have been told that some staff at one agency do not have regular access to computers and that may explain their low use of the UPM system, but not likely all the low percentages. Also, some agencies may use performance plans but are not entering them into the system. The current system is over ten years old and DHRM says they are currently seeking to replace the current performance appraisal system to "help build a more performance-driven organization". Regardless of the cause for the low usage of the current system, the use of this or a similar system will remind managers of the need for yearly evaluations and performance plans.

Employee performance plans provide a mechanism for management to evaluate and improve employee performance, especially for poor-performing employees. Among other things the performance management rule[13] requires that management:

- Write performance standards and expectations for each employee in a performance plan.

- Provide an employee with regular verbal and written feedback based on the standards of performance and behavior outlined in their performance plan.

- Evaluate an employee's performance in writing each fiscal year.

Required management training should include instruction on the effective use of performance evaluations and tracking. To further encourage the use of performance evaluations and tracking progress, we recommend that DHRM provide agency and division directors with a yearly report of managers' and supervisors' use of the most current performance tracking system in use.

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[13] Administrative Rule R477-10-1

Recommendations

1. We reiterate our recommendation from 2010 that state agencies require all new and current managers to attend management training courses.

2. We recommend that the Division of Human Resource Management review its overall tracking of management training, the data used in the Utah Performance Management (UPM) system, and other essential data for completeness, accuracy, and system reliability.

3. We recommend that the Division of Human Resource Management continue to create and encourage management training programs for all supervisors and above.

4. We recommend that the Division of Human Resource Management regularly track the percentage of managers who have received encouraged management trainings and report the results to agency and division management.

5. We recommend that the Division of Human Resource Management evaluate the effectiveness of management training efforts and consider making the programs on-going and more frequent as needed.

6. We recommend that the Division of Human Resource Management provide agency and division directors with a yearly report of managers' and supervisors' use of the most current performance tracking system in use.

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Appendices

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Appendix A:

Complete List of Audit Recommendations

This report made the following eight recommendations. The numbering convention assigned to each recommendation consists of its chapter followed by a period and recommendation number within that chapter.

Recommendation 2.1

We recommend that the Division of Human Resource Management regularly track the frequency and time frame of grievance resolutions.

Recommendation 3.1

We recommend that the Legislature consider this chapter's comparative information on other state personnel systems, which we provide as a reference for any legislative discussion regarding Utah's personnel system. Specifically, the Legislature could consider options enacted by other states presented in Figure 3.3.

Recommendation 4.1

We reiterate our recommendation from 2010 that state agencies require all new and current managers to attend management training courses.

Recommendation 4.2

We recommend that the Division of Human Resource Management review its overall tracking of management training, the data used in the Utah Performance Management (UPM) system, and other essential data for completeness, accuracy, and system reliability.

Recommendation 4.3

We recommend that the Division of Human Resource Management continue to create and encourage management training programs for all supervisors and above.

Recommendation 4.4

We recommend that the Division of Human Resource Management regularly track the percentage of managers who have received encouraged management trainings and report the results to agency and division management.

Recommendation 4.5

We recommend that the Division of Human Resource Management evaluate the effectiveness of management training efforts and consider making the programs on-going and more frequent as needed.

Recommendation 4.6

We recommend that the Division of Human Resource Management provide agency and division directors with a yearly report of managers' and supervisors' use of the most current performance tracking system in use.

Appendix B:

A Comparison of Grievance Processes for States Interviewed (2021)

UTAH

- 5 DAYS - SUPERVISORS' WRITTEN GRIEVANCE RESPONSE
- 10 DAYS - ADVANCE TO THE DIVISION DIRECTOR
- 5 DAYS - DIVISION DIRECTOR'S RESPONSE
- 10 DAYS - ADVANCE TO THE AGENCY DIRECTOR
- 10 DAYS - AGENCY DIRECTOR'S RESPONSE
- 10 DAYS - ADVANCE TO THE CSRO
- 150 DAYS - EVIDENTIARY HEARING
- 20 DAYS - CSRO'S DECISION
- APPEAL TO COURT OF APPEALS

ARKANSAS

- 5 DAYS - AFTER TERMINATION, GRIEVANCE SUBMISSION
- EMPLOYEE AND DEPARTMENT MEDIATION
- 15 DAYS - ADMINISTRATIVE REVIEW HEARING
- 7 DAYS - RECOMMENDATIONS TO GRIEVANCE OFFICER
- 10 DAYS - GRIEVANCE APPEAL FORM
- 25 DAYS - APPEAL HEARING
- 10 DAYS - WRITTEN RECOMMENDATION
- 7 DAYS - APPEAL TO THE EMPLOYEE GRIEVANCE APPEAL PANEL
- 7 DAYS - AGENCY RESPONSE TO APPEAL
- 15 DAYS - SECRETARY'S DECISION

COLORADO

- 10 DAYS - EMPLOYEE INITIATES GRIEVANCE
- 14 DAYS - STEP 1 DISCUSSION
- 14 DAYS - STEP 1 DECISION
- 10 DAYS - EMPLOYEE DISPUTE OF WRITTEN DECISION
- 28 DAYS - CASE MEETING WITH APPOINTED AUTHORITY
- 14 DAYS - STEP 2 DECISION BY THE DEPARTMENT
- 10 DAYS - EMPLOYEE APPEAL TO THE BOARD

GEORGIA

- 10 DAYS - EMPLOYEE INITIATES GRIEVANCE
- 7 DAYS - ADMINISTRATIVE LAW JUDGE HEARING DATE
- 30 DAYS - THE HEARING HELD AFTER THE FILED APPEAL
- 30 DAYS - INITIAL DECISION BY THE ADMINISTRATIVE LAW JUDGE
- 30 DAYS - APPEAL FOR BOARD REVIEW
- BOARD DECISION

IDAHO

- INTERNAL PROBLEM-SOLVING PROCEDURE
- 35 DAYS - EMPLOYEE FILES AN APPEAL
- 15 DAYS - HEARING OFFICER SETS HEARING DATE
- HEARING OFFICER'S DECISION
- 35 DAYS - PETITION TO THE OFFICE OF THE COMMISSION
- THE COMMISSION'S DECISION

MISSOURI

- 30 DAYS - EMPLOYEE APPEALS TO THE COMMISSION
- COMMISSION HEARING PROCESS

NEVADA

- 20 DAYS - EMPLOYEE INITIATES GRIEVANCE WITH SUPERVISOR
- 10 DAYS - SUPERVISOR'S DECISION
- 10 DAYS - EMPLOYEE APPEAL TO THE DEPARTMENT HEAD
- 10 DAYS - DEPARTMENT HEAD'S DECISION
- 10 DAYS - APPEAL TO DEPARTMENT'S HIGHEST ADMINISTRATOR
- 10 DAYS - DEPARTMENT'S HIGHEST ADMINISTRATOR'S DECISION
- 10 DAYS - REQUEST TO EMPLOYEE-MANAGEMENT COMMITTEE
- 45 DAYS - HEARING
- 45 DAYS - EMPLOYEE-MANAGEMENT DECISION

OREGON

- 30 DAYS - AFTER OCCURENCE, EMPLOYEE CAN APPEAL
- 30 DAYS - BOARD SHALL HEAR APPEAL

TENNESSEE

- 14 DAYS - EMPLOYEE INITIATES COMPLAINT
- 15 DAYS - APPOINTING AUTHORITY ISSUES DECISION
- 14 DAYS - EMPLOYEE APPEALS TO THE COMMISSIONER
- 30 DAYS - COMMISSIONER'S WRITTEN DECISION
- 14 DAYS - EMPLOYEE'S WRITTEN APPEAL TO THE BOARD OF APPEALS
- 10 DAYS - ADMINISTRATIVE JUDGE DETERMINES PROCEDURAL REQUIREMENTS
- 110 DAYS - THE BOARD'S FINAL DECISION

TEXAS*

- 14 DAYS - AFTER OCCURENCE, EMPLOYEE INITIATES
- 30 DAYS - ADMINISTRATIVE LAW JUDGE SCHEDULES HEARING
- HEARING
- HEARING DECISION

ARIZONA

- 10 DAYS - EMPLOYEE SUBMITS A GRIEVANCE
- 10 DAYS - MANDATORY ORAL DISCUSSION
- 10 DAYS - ASSISTANT DIRECTOR ISSUES A WRITEN RESPONSE
- 5 DAYS - EMPLOYEE ELEVATE GRIEVANCE TO STEP 2
- 10 DAYS - DIRECTOR'S WRITTEN RESPONSE

Source: Auditor Generated
*Texas is a decentralized Human Resource System, so to create a comparison the audit team used the largest department's, Department of Health and Human Services, grievance process.

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Agency Response

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State of Utah

SPENCER J. COX
Governor

DEIDRE M. HENDERSON
Lieutenant Governor

Department of Government Operations
Executive Director's Office

JENNEY REES
Executive Director

KENNETH A. HANSEN
Deputy Director

MARILEE P. RICHINS
Deputy Director

Nov 5, 2021

Kade R. Minchey CIA, CFE, Auditor General
Office of the Legislative Auditor General Utah State Capitol Complex
Rebecca Lockhart House Building, Suite W315
P.O. Box 145315
Salt Lake City, UT 84114-5315

Dear Mr. Minchey,

I have reviewed the Report #2021-15, An In-depth Follow Up of the State's Career System.
We within the Division of Human Resource Management and the Department of Government Operations
thank you for the opportunity to work with you on the efforts surrounding manager training, performance
management, and state personnel systems. It is with great pride and privilege that we serve in our roles to
strengthen our employees. Your audit, counsel, and feedback have provided us with continued
opportunities to grow and improve while helping strengthen our state workforce.

We are aligned to the recommendations in this 2021 audit, as we were aligned to the recommendations in
the original 2010 audit.

As we attempt to modernize our state workforce under the direction of Governor Cox and our State
Legislators, we acknowledge that the responsibility to attract, retain, develop, and reward our executive
branch employees sits heavily on our supervisors' and managers' shoulders. Their skillset, knowledge,
and abilities are key to the state's future and prosperity. This report delivers exceptional value in that
charge.

The teams from our division and department remain committed to delivering value through service,
engagement, accountability, and trust.

Sincerely,

Jenney Rees

Jenney Rees
Executive Director

CHAPTER II

Recommendation 2.1 We recommend that the Division of Human Resource Management regularly track the frequency and time frame of grievance resolutions

Department Response: DHRM agrees with this recommendation.

What: DHRM agrees with this recommendation and notes that grievance resolutions flow through stakeholders outside of DHRM's reporting lines, agency protocols and the Career Service Review Office. Therefore, tracking grievance resolution requires improving DHRM's logging of activity / outcomes and improving the working agreements with outside stakeholders.

How: DHRM will work with its Center For Excellence team to develop an efficient and effective process to track grievances in a manner that will provide data regarding the frequency and time frame for grievance resolutions. The plan should include:
- A review of accuracy of grievance data logs
- Identification of gaps to plans to resolve gaps
- Field office, in partnership with DHRM leadership and Career Service Review Office will review resolution plans
- Logging methods can be leveraged to grow IT business requirements to modernize this tracking process

When: This can be completed prior to the end of FY 2022.

Accountability Contact: Jeff Mulitalo, DHRM Deputy Director, jmulitalo@utah.gov, 801-927-8236

CHAPTER III

No recommendations for DHRM.

CHAPTER IV

Recommendation 4.1 We reiterate our recommendation from 2010 that state agencies require all new and current managers to attend management training courses

Department Response: From 2010 to 2021, the audit has enforced the principle of agency leaders needing to require their managers to participate in manager development. If agency leaders haven't yet prioritized this responsibility, we will recommend senior leaders require manager training at all levels. We will continue conversations with the Governor's Office and senior leaders to find the right avenue for authority, which could include an executive order.

Recommendation 4.2 We recommend that the Division of Human Resource Management review its overall tracking of management training, the data used in the Utah Performance Management (UPM) system, and other essential data for completeness, accuracy, and system reliability.

Department Response: DHRM agrees with this recommendation.

Context:
- Management training is currently not required
- Management training is currently created & delivered
  - By DHRM
  - And in some cases by agencies
- UPM is a dated and antiquated system
  - As DHRM has consolidated into the Department of Government Operations (DGO), has aligned with the Division of Technology Services (DTS) to improve our systems from a Human Capital Management perspective.
  - Our customer agencies have provided feedback that the UPM system is cumbersome and challenging to use. In the Governor's transition report it states DHRM "should secure funding for a full technology upgrade".
What: DHRM will commence a review to:
- Define 'manager training' with standardized components that include, at a minimum
  - Proper and equitable hiring/interviewing practices
  - Performance management & evaluations
    - That identify and progress strong performers
    - That identify and address poor performers
  - Communication strategies for supervisors
  - Progressive discipline & performance improvement
  - Organizational effectiveness
  - Any other principles identified by division/agency leadership
  - **Note:** This review will not include manager training that is currently required by law or executive order because DHRM already tracks and provides agency

management with reports regarding employee completion of the following trainings:

- ■ Ethics
- ■ Respect in the Workplace
- ■ Respect in the Workplace for Supervisors
- ■ Leading with Integrity

How: This seems to be a two path process:

1. DHRM will review UPM tracking, data, and system reliability that includes causal analysis.
2. DHRM will partner with customer agencies to coordinate (and potentially consolidate) training systems and tracking that are external to DHRM scope.
   ○ This may include work coordinated with DTS

When: Formal kick off and collaboration will begin promptly after the 2022 General Session with a deadline to work requests into the Governor's budget recommendations.

Accountability Contact: Jeff Mulitalo, DHRM Deputy Director, jmulitalo@utah.gov, 801-927-8236

Recommendation 4.3 We recommend that the Division of Human Resource Management continue to create and encourage management training programs for all supervisors and above.

Department Response: We agree with this recommendation that DHRM should continue in the creating training programs.

What: DHRM will develop a plan that includes:

1. Stronger communication and branding to our customer agencies about our training programs
2. Ensuring our training programs are easy to access, leverage, and participate in, which includes use of the following trainings:
   ○ The Supervisor's Survival Guide
   ○ The Leadership Skills for Supervisors Training
   ○ The "Off the Shelf" Series
   ○ C.L.I.P. Feedback/Coaching Instrument, and
   ○ Customizable training delivery options
   ○ And/or other trainings as created by DHRM

How: *Communication & Marketing*: To ensure there is a stronger communication and brand presence for these resources, DHRM has hired a full time internal "Employer Brand Manager" that will help us create marketing strategies that speak to the agency leadership and directly to the supervisor.

Governor Development Program: As Governor Cox solidifies his leadership in this space, his OneUtah road map states: "Increase supervisor accountability by improving performance management culture, system, and process".

In response to this recommendation and ask from the Governor, DHRM has created a charter goal that will 'deliver a governor branded leadership development program for state employees".

When: Within this 2021-2022 fiscal year we will have stronger communications standards established and a pilot of the leadership development program in place by the end of the calendar year 2022.

Accountability Contact: John Barrand, Division Director DHRM, jbarrand@utah.gov, 385-210-4417

Recommendation 4.4 We recommend that the Division of Human Resource Management regularly track the percentage of managers who have received 'encouraged management training' and report the results to the agency and division management.

Department Response: DHRM agrees with this recommendation.

What: DHRM will continue to develop a stronger attendance and participation tracking process, and communication loop that reports back to agency leaders that includes reporting to agency leadership. (see recommendation 4.6 below)
Given there are different sources of information to gather, DHRM will need to evaluate and develop the reporting process for:

1. 'Encouraged training'- there is not a consistent formal tracking process to capture attendance, given that some trainings are ad-hoc, in person, remote with no registration required, e-learning, off the shelf, or 1:1's.
2. Agency specific training that DHRM does not have insight into for content validation nor completion.

How: The 'how' for this recommendation is tied closely to the recommendations of 4.2 and 4.6 in this audit response.
To consider tracking, DHRM will review UPM tracking, data, and system reliability that includes causal analysis.
DHRM will partner with customer agencies to coordinate (and potentially consolidate) training systems and tracking that are external to DHRM scope.
  ○ This may include work coordinated with the DTS
For reporting, DHRM is currently doing this and has been for several years. Agency leadership and managers receive annual reports on usage of UPM. Some agencies receive reports on a more frequent basis (i.e. twice a year or quarterly) per their preference.

When: Ongoing with iterations being recommended by DHRM leadership on a regular basis as technology and process change.

Accountability Contact: Dan Chase, DHRM Director Leadership and Development, dchase@utah.com, 808-386-9839

Recommendation 4.5 We recommend that the Division of Human Resource Management evaluate the effectiveness of management training efforts and consider making the programs on-going and more frequent as needed.

Department Response: DHRM agrees with this recommendation

What: Going forward, DHRM will consistently issue formative evaluations to training participants

Formative evaluations assess:
- participant satisfaction and engagement with the development opportunity
- and serve as a feedback tool to improve the design and delivery of training

However, it is important to distinguish between formative and summative evaluations.

Summative evaluations assess if:
- the participant's behavior has changed and is sustained as a result of their participation in a development opportunity, and
- the participant's changed behavior has a positive, demonstrable impact on desirable organizational outcomes (e.g. increased profits, less turnover, ROI, etc.)

Training evaluation at a summative (as opposed to formative) level is notoriously difficult. This is especially true given that DHRM does NOT get to control the variables (i.e. agency support and reinforcement of the training, rewards for behavioral adjustments) that have a significant impact on the effectiveness and transfer of training.

DHRM has already increased the number of virtual, self-paced training opportunities, and will continue to expand this "library" of virtual training opportunities. These types of courses are always available and can be taken as often as participants feel necessary. The primary drawback is that virtual delivery often lacks the impact of live delivery.

How: DHRM will increase our marketing efforts and ensure we have an up-to-date long term calendar that employees, supervisors, and managers can look to for training opportunities.
        DHRM will also continue to negotiate the balance of large format live training, small format live training, hybrid, and online training. All have pros/cons associated, but we will assess the value of each.

When:

Marketing efforts revamped and formative evaluations introduced by end of April 2022

Summative evaluation project will formally kick off in Q3 2022

Accountability Contact: Dan Chase, DHRM Director Leadership and Development, dchase@utah.com, 808-386-9839

Recommendation 4.6 We recommend that the Division of Human Resource Management provide agency and division directors with a yearly report of managers' and supervisors' use of the most current performance tracking system in use.

Department Response: DHRM agrees with this recommendation

What: DHRM will continue to report on managers' and supervisors' use of the performance management system.

How: DHRM will continue to distribute agency reports via email to agency leadership, field HR support, and agency managers.

When: DHRM is currently doing this and has been for several years. Agency leadership and managers receive annual reports on usage of UPM. Some agencies receive reports on a more frequent basis (i.e. twice a year or quarterly) per their preference.

Accountability Contact: Jean Mills-Barber, DHRM Field Services Director, jeanmills@utah.gov, 801-638-7721