

Effective 5/5/2021

**Part 1
General Provisions**

63A-17-101 Title.

This chapter is known as the "Utah State Personnel Management Act."

Renumbered and Amended by Chapter 344, 2021 General Session

63A-17-102 Definitions.

As used in this chapter:

- (1) "Agency" means any department or unit of Utah state government with authority to employ personnel.
- (2) "Career service" means positions under schedule B as defined in Section 63A-17-301.
- (3) "Career service employee" means an employee who has successfully completed a probationary period of service in a position covered by the career service.
- (4) "Career service status" means status granted to employees who successfully complete probationary periods for competitive career service positions.
- (5) "Classified service" means those positions subject to the classification and compensation provisions of Section 63A-17-307.
- (6) "Controlled substance" means controlled substance as defined in Section 58-37-2.
- (7)
 - (a) "Demotion" means a disciplinary action resulting in a reduction of an employee's current actual wage.
 - (b) "Demotion" does not mean:
 - (i) a nondisciplinary movement of an employee to another position without a reduction in the current actual wage; or
 - (ii) a reclassification of an employee's position under the provisions of Subsection 63A-17-307(3) and rules made by the department.
- (8) "Director" means the director of the division.
- (9) "Disability" means a physical or mental disability as defined and protected under the Americans with Disabilities Act, 42 U.S.C. Section 12101 et seq.
- (10) "Division" means the Division of Human Resource Management, created in Section 63A-17-105.
- (11) "Employee" means any individual in a paid status covered by the career service or classified service provisions of this chapter.
- (12) "Examining instruments" means written or other types of proficiency tests.
- (13) "Human resource function" means those duties and responsibilities specified:
 - (a) under Section 63A-17-106;
 - (b) under rules of the division; and
 - (c) under other state or federal statute.
- (14) "Market comparability adjustment" means a salary range adjustment determined necessary through a market survey of salary data and other relevant information.
- (15) "Probationary employee" means an employee serving a probationary period in a career service position but who does not have career service status.

- (16) "Probationary period" means that period of time determined by the division that an employee serves in a career service position as part of the hiring process before career service status is granted to the employee.
- (17) "Probationary status" means the status of an employee between the employee's hiring and the granting of career service status.
- (18) "Structure adjustment" means a division modification of salary ranges.
- (19) "Temporary employee" means career service exempt employees described in Subsection 63A-17-301(1)(r).
- (20) "Total compensation" means salaries and wages, bonuses, paid leave, group insurance plans, retirement, and all other benefits offered to state employees as inducements to work for the state.

Amended by Chapter 209, 2022 General Session

63A-17-103 Principles guiding interpretation of chapter and adoption of rules -- Merit principles.

- (1) The division shall establish a career service system designed in a manner that will provide for the effective implementation of the following merit principles:
 - (a) recruiting, selecting, and advancing employees on the basis of their relative ability, knowledge, and skills, including open consideration of qualified applicants for initial appointment;
 - (b) providing for equitable and competitive compensation;
 - (c) training employees as needed to assure high-quality performance;
 - (d) retaining employees on the basis of the adequacy of their performance and separating employees whose inadequate performance cannot be corrected;
 - (e) fair treatment of applicants and employees in all aspects of human resource administration without regard to race, color, religion, sex, national origin, political affiliation, age, or disability, and with proper regard for their privacy and constitutional rights as citizens;
 - (f) providing information to employees regarding their political rights and the prohibited practices under the Hatch Act; and
 - (g) providing a formal procedure for advancing grievances of employees:
 - (i) without discrimination, coercion, restraint, or reprisal; and
 - (ii) in a manner that is fair, expeditious, and inexpensive for the employee and the agency.
- (2) The career service system described in Subsection (1) may not prescribe a minimum educational requirement for employment, except when a minimum educational qualification is legally required to perform the duties of the position.
- (3) As part of the career service system described in Subsection (1), the department shall:
 - (a) consider comparable experience or ability as equal to education in determining a candidate's satisfaction of minimum qualifications, except when a minimum educational qualification is legally required to perform the duties of the position; and
 - (b) ensure that position descriptions and job postings published by agencies for career service positions are based on the specific skills and competencies required to perform those jobs.
- (4) Within existing resources, the department shall create supporting materials that may be used by a political subdivision that chooses to implement competency-based hiring principles that are the same as or similar to those principles described in Subsections (2) and (3).
- (5) The principles in Subsections (1) through (3) shall govern interpretation and implementation of this chapter.

Amended by Chapter 53, 2021 General Session
Renumbered and Amended by Chapter 344, 2021 General Session

63A-17-104 Discriminatory or prohibited employment practices.

The state, the state's officers, and employees shall be governed by the provisions of Section 34A-5-106 of the Utah Antidiscrimination Act concerning discriminatory or prohibited employment practices.

Renumbered and Amended by Chapter 344, 2021 General Session

63A-17-105 Division of Human Resource Management created -- Director -- Staff.

- (1) There is created within the department, the Division of Human Resource Management.
- (2)
 - (a) The division shall be administered by a director appointed by the executive director, with the approval of the governor.
 - (b) The director shall be a person with experience in human resource management and shall be accountable to the executive director for the director's performance in office.
- (3) The director shall advise the governor on human resource matters.

Renumbered and Amended by Chapter 344, 2021 General Session

63A-17-106 Responsibilities of the director.

- (1) As used in this section, "miscarriage" means the spontaneous or accidental loss of a fetus, regardless of gestational age or the duration of the pregnancy.
- (2) The director shall have full responsibility and accountability for the administration of the statewide human resource management system.
- (3) Except as provided in Section 63A-17-201, an agency may not perform human resource functions without the consent of the director.
- (4) Statewide human resource management rules made by the division in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, shall take precedence if there is a conflict with agency rules, policies, or practices.
- (5) The division may operate as an internal service fund agency in accordance with Section 63J-1-410 for the human resource functions the division provides.
- (6) The director shall:
 - (a) develop, implement, and administer a statewide program of human resource management that will:
 - (i) aid in the efficient execution of public policy;
 - (ii) foster careers in public service for qualified employees; and
 - (iii) render assistance to state agencies in performing their missions;
 - (b) design and administer the state pay plan;
 - (c) design and administer the state classification system and procedures for determining schedule assignments;
 - (d) design and administer the state recruitment and selection system;
 - (e) administer agency human resource practices and ensure compliance with federal law, state law, and state human resource rules, including equal employment opportunity;
 - (f) consult with agencies on decisions concerning employee corrective action and discipline;
 - (g) maintain central personnel records;

- (h) perform those functions necessary to implement this chapter unless otherwise assigned or prohibited;
 - (i) perform duties assigned by the governor, executive director, or statute;
 - (j) make rules for human resource management, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;
 - (k) establish and maintain a management information system that will furnish the governor, the Legislature, and agencies with current information on authorized positions, payroll, and related matters concerning state human resources;
 - (l) conduct research and planning activities to:
 - (i) determine and prepare for future state human resource needs;
 - (ii) develop methods for improving public human resource management; and
 - (iii) propose needed policy changes to the governor;
 - (m) study the character, causes, and extent of discrimination in state employment and develop plans for its elimination through programs consistent with federal and state laws governing equal employment opportunity in employment;
 - (n) when requested by charter schools or counties, municipalities, and other political subdivisions of the state, provide technical service, training recommendations, or advice on human resource management at a charge determined by the director;
 - (o) establish compensation policies and procedures for early voluntary retirement;
 - (p) confer with the heads of other agencies about human resource policies and procedures;
 - (q) submit an annual report to the executive director, the governor, and the Legislature; and
 - (r) assist with the development of a vacant position report required under Subsection 63J-1-201(2)(b)(vi).
- (7)
- (a) After consultation with the executive director, the governor, and the heads of other agencies, the director shall establish and coordinate statewide training programs, including training described in Subsection (7)(e).
 - (b) The programs developed under this Subsection (7) shall have application to more than one agency.
 - (c) The division may not establish training programs that train employees to perform highly specialized or technical jobs and tasks.
 - (d) The division shall ensure that any training program described in this Subsection (7) complies with Title 63G, Chapter 22, State Training and Certification Requirements.
 - (e)
 - (i) As used in this Subsection (7)(e):
 - (A) "Employee" means the same as that term is defined in Section 63A-17-112.
 - (B) "Supervisor" means an individual in a position at an agency, as defined in Section 63A-17-112, that requires the regular supervision and performance evaluation of an employee.
 - (ii) A supervisor shall attend the training:
 - (A) within six months of being promoted or hired to the position of supervisor; and
 - (B) at least annually.
 - (iii) Training attendance and the effective use of training information and principles shall be considered in an evaluation of a supervisor's job performance.
 - (iv) The training shall include:
 - (A) effective employee management and evaluation methods based on the pay for performance management system described in Section 63A-17-112;
 - (B) instruction to improve supervisor and employee communications;

- (C) best practices for recognizing and retaining high-performing employees;
- (D) best practices for addressing poor-performing employees; and
- (E) any other information and principles identified by the division to improve management or organizational effectiveness.

- (8)
 - (a)
 - (i) The division may collect fees for training as authorized by this Subsection (8).
 - (ii) Training funded from General Fund appropriations shall be treated as a separate program within the department budget.
 - (iii) All money received from fees under this section will be accounted for by the department as a separate user driven training program.
 - (iv) The user training program includes the costs of developing, procuring, and presenting training and development programs, and other associated costs for these programs.
 - (b)
 - (i) Funds remaining at the end of the fiscal year in the user training program are nonlapsing.
 - (ii) Each year, as part of the appropriations process, the Legislature shall review the amount of nonlapsing funds remaining at the end of the fiscal year and may, by statute, require the department to lapse a portion of the funds.
- (9) Rules described in Subsection (6)(j) shall provide for at least three work days of paid bereavement leave for an employee:
 - (a) following the end of the employee's pregnancy by way of miscarriage or stillbirth; or
 - (b) following the end of another individual's pregnancy by way of a miscarriage or stillbirth, if:
 - (i) the employee is the individual's spouse or partner;
 - (ii)
 - (A) the employee is the individual's former spouse or partner; and
 - (B) the employee would have been a biological parent of a child born as a result of the pregnancy;
 - (iii) the employee provides documentation to show that the individual intended for the employee to be an adoptive parent, as that term is defined in Section 78B-6-103, of a child born as a result of the pregnancy; or
 - (iv) under a valid gestational agreement in accordance with Title 78B, Chapter 15, Part 8, Gestational Agreement, the employee would have been a parent of a child born as a result of the pregnancy.

Amended by Chapter 166, 2022 General Session
Amended by Chapter 169, 2022 General Session
Amended by Chapter 177, 2022 General Session
Amended by Chapter 209, 2022 General Session

63A-17-107 Services and fees -- Submission to rate committee.

The director shall, before charging a rate for services provided by the division's internal service fund to an executive branch agency:

- (1) submit the proposed rates and cost analysis to the rate committee established in Section 63A-1-114; and
- (2) obtain the approval of the Legislature as required under Section 63J-1-410.

Amended by Chapter 169, 2022 General Session

63A-17-108 Severability of provisions -- Compliance with requirements for federally aided programs.

- (1) If any provision of this chapter or of any regulation or order issued thereunder or the application of any provision of this chapter to any person or circumstance is held invalid, the remainder of this chapter and the application of provision of this chapter or regulation or orders issued under it to persons or circumstances other than those to which it is held invalid shall still be regarded as having the force and effect of law.
- (2) If any part of this chapter is found to be in conflict with federal requirements which are a condition precedent to the allocation of federal funds to the state, the conflicting part of this chapter shall be inoperative solely to the extent of the conflict and with respect to the agencies directly affected, and such findings shall not affect the operation of the remainder of this chapter in its application to the agencies concerned.
- (3) Notwithstanding any provisions in this chapter to the contrary, no regulation shall be adopted which would deprive the state or any of its departments or institutions of federal grants or other forms of financial assistance, and the rules and regulations promulgated hereunder shall include standards, provisions, terms, and conditions for personnel engaged in the administration of federally aided programs, which shall, in all respects, comply with the necessary requirements for a qualified human resource system under the standards applicable to personnel engaged in the administration of federally aided programs.

Renumbered and Amended by Chapter 344, 2021 General Session

63A-17-109 Study of wildland fire related pay plans.

By no later than June 30, 2021, the division shall complete a comprehensive comparison of federal, state, and municipal wildland fire agencies or departments to recommend whether salary ranges should be adjusted for state employed wildland firefighters.

Enacted by Chapter 97, 2021 General Session

63A-17-110 State pay plans for DNR peace officers and wildland firefighters.

- (1) As used in this section:
 - (a) "DNR peace officer" means an employee of the Department of Natural Resources who is designated as a peace officer by law.
 - (b) "Wildland firefighter" means an employee of the Division of Forestry, Fire, and State Lands who is:
 - (i) trained in firefighter techniques; and
 - (ii) assigned to a position of hazardous duty.
- (2) The director shall:
 - (a) establish a specialized state pay plan for DNR peace officers and wildland firefighters that:
 - (i) meets the requirements of Section 63A-17-307;
 - (ii) distinguishes the salary range for each DNR peace officer and wildland firefighter classification;
 - (iii) includes for each DNR peace officer and wildland firefighter classification:
 - (A) the minimum qualifications; and
 - (B) any training requirements; and
 - (iv) provides standards for:
 - (A) performance evaluation; and
 - (B) promotion; and

- (b) include, in the plan described in Subsection 63A-17-307(5), recommendations on funding and salary increases for DNR peace officers and wildland firefighters.

Amended by Chapter 169, 2022 General Session

Amended by Chapter 274, 2022 General Session

63A-17-111 Teleworking progress report.

(1) As used in this section:

- (a) "Mandatory action day" means a day where notice has been issued at least 48 hours in advance by the director of the Division of Air Quality that the concentration of air pollutants measured in a county are predicted to reach or exceed levels of air pollution that are unhealthy for sensitive groups.
- (b) "Special circumstance day" means a day where predicted heavy snowfall or other situations pose a risk to employee safety or employee health as determined by the Governor's Office of Planning and Budget or a designee of the Governor's Office of Planning and Budget.
- (c) "Surge telework eligible" means all employment positions identified as telework eligible and employment positions identified as able to telework temporarily for mandatory action days or special circumstance days.
- (d) "Surge teleworking" means an employee who temporarily teleworks on a mandatory action day or a special circumstance day.
- (e) "Telework" or "Teleworking" means an employee working from home, or from an approved worksite other than the location from which the employee would otherwise work, through the use of a computer, the Internet, a telephone, or other technology to complete work-related duties and maintain contact with colleagues, clients, or a central office as needed.

(2)

- (a) The division shall assist each state agency with identifying positions that are surge telework eligible.
 - (b) The division may identify and distribute to each state agency strategies and best practices to increase the use of teleworking by the agency's employees during mandatory action days and special circumstance days.
- (3) The Governor's Office of Planning and Budget or a designee of the Governor's Office of Planning and Budget shall inform each state agency in a timely manner of mandatory action days and special circumstance days.
- (4) On or before October 1 of each year, the division shall provide a written report to the Economic Development and Workforce Services Interim Committee describing:
- (a) the number of employees and the percentage of employees from each agency that are identified as telework eligible and surge telework eligible;
 - (b) except for the initial written report on or before October 1, 2021, the number of employees and the percentage of employees from each agency that have teleworked during mandatory action days and special circumstance days during the previous fiscal year;
 - (c) for each agency that has not met the target goal of 90% of surge telework eligible employees teleworking on mandatory action days or special circumstance days, impediments to achieving the target goals and recommended strategies to achieve the target goals in the future; and
 - (d) for each agency, recommendations for any actions by the Legislature to increase the number and percentage of surge telework eligible employees.

Enacted by Chapter 192, 2021 General Session

63A-17-112 Pay for performance management system -- Employees paid for performance.

- (1) As used in this section:
 - (a)
 - (i) "Agency" means, except as provided in Subsection (1)(a)(ii), the same as that term is defined in Section 63A-17-102.
 - (ii) "Agency" does not include the State Board of Education, the Office of the State Treasurer, Office of the State Auditor, Office of the State Attorney General, Utah System of Higher Education, the Legislature, the judiciary, or, as defined in Section 63E-1-102, an independent entity.
 - (b)
 - (i) "Employee" means an employee of an agency.
 - (ii) "Employee" does not include an individual in a schedule AB, as described in Section 63A-17-301, position.
 - (c) "Pay for performance" means a plan for incentivizing an employee for meeting or exceeding production or performance goals, in which the plan is well-defined before work begins, eligible work groups are defined, specific goals and targets for the employee are determined, measurement procedures are in place, and specific incentives are provided when goals and targets are met.
 - (d) "Pay for performance management system" means the system described in Subsection (2).
- (2) The division shall establish and, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, make rules for the administration of a pay for performance management system.
- (3) The pay for performance management system shall include:
 - (a) guidelines and criteria for an agency to adopt pay for performance policies and administer pay based on an employee's performance in furtherance of the agency's mission;
 - (b) employee performance ratings;
 - (c) requirements for written employee performance standards and expectations;
 - (d) supervisor verbal and written feedback based on the standards of performance and behavior outlined in an employee's performance plan; and
 - (e) quarterly written evaluation of an employee's performance.
- (4) In consultation with the division, no later than July 1, 2023, each agency shall:
 - (a) adopt pay for performance policies based on the performance management system; and
 - (b) subject to available funds and as necessary, adjust an employee's wage to reflect:
 - (i) subject to Subsection (5), for a classified service employee, the salary range of the position classified plan for the employee's position; and
 - (ii) an increase, decrease, or no change in the employee's wage:
 - (A) commensurate to an employee's performance as reflected by the employee's evaluation conducted in accordance with the pay for performance management system; and
 - (B) in an amount that is in accordance with the guidelines and criteria established for a wage change in the pay for performance management system.
- (5) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the division shall make rules authorizing a classified service employee to receive a wage that exceeds the salary range of the classified service employee's position classified plan if warranted based on the classified employee's performance rating.

Enacted by Chapter 209, 2022 General Session

