

Effective 7/1/2021

Part 3
Classification and Career Service

63A-17-301 Career service -- Exempt positions -- Schedules for civil service positions -- Coverage of career service provisions.

- (1) Except as provided in Subsection (3)(d), the following positions are exempt from the career service provisions of this chapter and are designated under the following schedules:
- (a) schedule AA includes the governor, members of the Legislature, and all other elected state officers;
 - (b) schedule AB includes appointed executives and board or commission executives enumerated in Section 67-22-2;
 - (c) schedule AC includes all employees and officers in:
 - (i) the office and at the residence of the governor;
 - (ii) the Public Lands Policy Coordinating Office;
 - (iii) the Office of the State Auditor; and
 - (iv) the Office of the State Treasurer;
 - (d) schedule AD includes employees who:
 - (i) are in a confidential relationship to an agency head or commissioner; and
 - (ii) report directly to, and are supervised by, a department head, commissioner, or deputy director of an agency or its equivalent;
 - (e) schedule AE includes each employee of the State Board of Education that the State Board of Education designates as exempt from the career service provisions of this chapter;
 - (f) schedule AG includes employees in the Office of the Attorney General who are under their own career service pay plan under Sections 67-5-7 through 67-5-13;
 - (g) schedule AH includes:
 - (i) teaching staff of all state institutions; and
 - (ii) employees of the Utah Schools for the Deaf and the Blind who are:
 - (A) educational interpreters as classified by the division; or
 - (B) educators as defined by Section 53E-8-102;
 - (h) schedule AN includes employees of the Legislature;
 - (i) schedule AO includes employees of the judiciary;
 - (j) schedule AP includes all judges in the judiciary;
 - (k) schedule AQ includes:
 - (i) members of state and local boards and councils appointed by the governor and governing bodies of agencies;
 - (ii) a water commissioner appointed under Section 73-5-1;
 - (iii) other local officials serving in an ex officio capacity; and
 - (iv) officers, faculty, and other employees of state universities and other state institutions of higher education;
 - (l) schedule AR includes employees in positions that involve responsibility:
 - (i) for determining policy;
 - (ii) for determining the way in which a policy is carried out; or
 - (iii) of a type not appropriate for career service, as determined by the agency head with the concurrence of the director;
 - (m) schedule AS includes any other employee:
 - (i) whose appointment is required by statute to be career service exempt;

- (ii) whose agency is not subject to this chapter; or
 - (iii) whose agency has authority to make rules regarding the performance, compensation, and bonuses for its employees;
 - (n) schedule AT includes employees of the Division of Technology Services, designated as executive/professional positions by the director of the Division of Technology Services with the concurrence of the director of the division;
 - (o) schedule AU includes patients and inmates employed in state institutions;
 - (p) employees of the Department of Workforce Services, designated as schedule AW:
 - (i) who are temporary employees that are federally funded and are required to work under federally qualified merit principles as certified by the director; or
 - (ii) for whom substantially all of their work is repetitive, measurable, or transaction based, and who voluntarily apply for and are accepted by the Department of Workforce Services to work in a pay for performance program designed by the Department of Workforce Services with the concurrence of the director of the division;
 - (q) subject to Subsection (6), schedule AX includes employees in positions that:
 - (i) require the regular supervision and performance evaluation of one or more other employees; and
 - (ii) are not designated exempt from career service under any other schedule described in this Subsection (1); and
 - (r) for employees in positions that are temporary, seasonal, time limited, funding limited, or variable hour in nature, under schedule codes and parameters established by the division by administrative rule.
- (2) The civil service shall consist of two schedules as follows:
- (a)
 - (i) Schedule A is the schedule consisting of positions under Subsection (1).
 - (ii) Removal from any appointive position under schedule A, unless otherwise regulated by statute, is at the pleasure of the appointing officers without regard to tenure.
 - (b) Schedule B is the competitive career service schedule, consisting of:
 - (i) all positions filled through competitive selection procedures as defined by the director; or
 - (ii) positions filled through a division approved on-the-job examination intended to appoint a qualified person with a disability, or a veteran in accordance with Title 71A, Chapter 2, Veterans Preference.
- (3)
- (a) The director, after consultation with the heads of concerned executive branch departments and agencies and with the approval of the governor, shall allocate positions to the appropriate schedules under this section.
 - (b) Agency heads shall make requests and obtain approval from the director before changing the schedule assignment and tenure rights of any position.
 - (c) Unless the director's decision is reversed by the governor, when the director denies an agency's request, the director's decision is final.
 - (d)
 - (i) An agency may file a request with the division.
 - (A) to keep a position scheduled as a schedule B position as a schedule B position; or
 - (B) to reschedule a position that is scheduled as a schedule A position as a schedule B position.
 - (ii) The division shall review a request filed under Subsection (3)(d)(i) and approve the request only if the exception is necessary to conform to a requirement imposed as a condition precedent to receipt of federal funds or grant of a tax benefit under federal law.

- (4)
 - (a) Compensation for employees of the Legislature shall be established by the directors of the legislative offices in accordance with Section 36-12-7.
 - (b) Compensation for employees of the judiciary shall be established by the state court administrator in accordance with Section 78A-2-107.
 - (c) Compensation for officers, faculty, and other employees of state universities and institutions of higher education shall be established as provided in Title 53B, Chapter 1, Governance, Powers, Rights, and Responsibilities, and Title 53B, Chapter 2, Institutions of Higher Education.
 - (d) Unless otherwise provided by law, compensation for all other schedule A employees shall be established by their appointing authorities, within ranges approved by, and after consultation with the director.
- (5) An employee who is in a position designated schedule AC and who holds career service status on June 30, 2010, shall retain the career service status if the employee:
 - (a) remains in the position that the employee is in on June 30, 2010; and
 - (b) does not elect to convert to career service exempt status in accordance with a rule made by the division.
- (6)
 - (a) An employee who is hired for a schedule AX position on or after July 1, 2022, is exempt from career service status.
 - (b) An employee who before July 1, 2022, is a career service employee employed in a schedule B position that is rescheduled to a schedule AX position on July 1, 2022, shall maintain the employee's career service status for the duration of the employee's employment in the same position unless the employee voluntarily converts to career service exempt status before July 1, 2023.
 - (c)
 - (i) Subject to Subsection (6)(c)(ii), an employee is exempt from career service status if:
 - (A) before July 1, 2022, the employee was a probationary employee in a schedule B position and had not completed the probationary period; and
 - (B) on July 1, 2022, the schedule B position in which the probationary employee is employed is rescheduled as a scheduled AX position.
 - (ii) An employee described in Subsection (6)(c)(i):
 - (A) is not a probationary employee on or after July 1, 2022; and
 - (B) is exempt from career service status on and after July 1, 2022, unless the employee changes employment to a schedule B position.
 - (d) The division shall disseminate to each employee described in Subsection (6)(b) information on financial and other incentives for voluntary conversion to career-service exempt status.
 - (e) An agency, as defined in Section 63A-17-112, may adopt a policy, created in consultation with the division, for agency review of recommendations that schedule AX employees be suspended, demoted, or dismissed from employment.

Amended by Chapter 397, 2024 General Session

63A-17-302 Implementation of exempt status for Schedule AD and AR employees.

- (1) As used in this section, "appointee" means:
 - (a) a deputy director;
 - (b) a division director;

- (c) any assistant directors and administrative assistants who report directly to a department head, deputy director, or their equivalent; and
 - (d) any other person whose appointment is required by law to be approved by the governor.
- (2) After the effective date of this chapter, any new appointee is a merit exempt employee.
 - (3) Notwithstanding the requirements of this chapter, any appointee who is currently a nonexempt employee does not lose that nonexempt status because of this chapter.
 - (4) The division shall develop financial and other incentives to encourage appointees who are nonexempt to voluntarily convert to merit exempt status.

Renumbered and Amended by Chapter 344, 2021 General Session

63A-17-304 Promotion -- Reclassification -- Market adjustment.

- (1)
 - (a) If an employee is promoted or the employee's position is reclassified to a higher salary range maximum, the agency shall place the employee's salary within the new range of the position.
 - (b) An agency may not set an employee's salary:
 - (i) higher than the maximum in the new salary range; or
 - (ii) lower than the minimum in the new salary range of the position.
- (2) An agency shall adjust the salary range for an employee whose salary range is approved by the Legislature for a market comparability adjustment consistent with Subsection 63A-17-307(5)(b)
 - (i):
 - (a) at the beginning of the next fiscal year; and
 - (b) consistent with appropriations made by the Legislature.
- (3) Division-initiated revisions in the state classification system that result in consolidation or reduction of class titles or broadening of pay ranges:
 - (a) may not be regarded as a reclassification of the position or promotion of the employee; and
 - (b) are exempt from the provisions of Subsection (1).

Amended by Chapter 397, 2024 General Session

63A-17-305 Appointments to Schedule B positions -- Examinations -- Hiring lists -- Probationary service -- Dismissal.

- (1) Each appointment to a position under Schedule B shall be made from hiring lists of applicants who have been selected by competitive procedures as defined by the director.
- (2) The director shall publicly announce information regarding career service positions:
 - (a) for periods of time to be determined by the director; and
 - (b) in a manner designed to attract the highest number of qualified applicants.
- (3) The director shall make rules establishing standards for the development, approval, and implementation of examining processes, including establishing a department approved on the job examination to appoint a qualified person with a disability.
- (4) Applicants for employment to Schedule B positions shall be eligible for appointment based upon rules established by the director.
- (5)
 - (a) The agency head shall make appointments to fill vacancies from hiring lists for probationary periods as defined by rule.
 - (b) The director shall make rules establishing probationary periods.

- (6) A person serving a probationary period may not use the grievance procedures provided in this chapter and in Title 67, Chapter 19a, Grievance Procedures, and may be dismissed at any time by the appointing officer without hearing or appeal.
- (7) Career service status shall be granted upon the successful completion of the probationary period.

Renumbered and Amended by Chapter 344, 2021 General Session

63A-17-306 Dismissals and demotions -- Grounds -- Disciplinary action -- Procedure -- Reductions in force.

- (1) A career service employee may be dismissed or demoted:
 - (a) to advance the good of the public service; or
 - (b) for just cause, including inefficiency, incompetency, failure to maintain skills or adequate performance levels, insubordination, disloyalty to the orders of a superior, misfeasance, malfeasance, or nonfeasance in office.
- (2) An employee may not be dismissed because of race, sex, age, disability, national origin, religion, political affiliation, or other nonmerit factor including the exercise of rights under this chapter.
- (3) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the director shall make rules governing the procedural and documentary requirements of disciplinary dismissals and demotions.
- (4) If an agency head finds that a career service employee is charged with aggravated misconduct or that retention of a career service employee would endanger the peace and safety of others or pose a grave threat to the public interest, the employee may be suspended pending the administrative appeal to the department head as provided in Subsection (5).
- (5) An agency head may not demote or dismiss a career service employee unless:
 - (a) the agency head or the designated representative of the agency head notifies the employee in writing of the reason for the dismissal or demotion;
 - (b) the employee is given five working days to submit a written reply to the agency head and to have the reply considered by the agency head;
 - (c) the employee is given an opportunity to be heard by the agency head or the designated representative of the agency head; and
 - (d) after completing the procedural requirements described in Subsections (5)(a) through (c), the agency head finds adequate cause or reason to demote or dismiss the employee.
- (6)
 - (a) Reductions in force required by inadequate funds, change of workload, or lack of work are governed by retention points established by the director.
 - (b) Under those circumstances:
 - (i) The agency head shall designate the category of work to be eliminated, subject to review by the director.
 - (ii) Temporary and probationary employees shall be separated before any career service employee.
 - (iii)
 - (A) When more than one career service employee is affected, the employees shall be separated in the order of their retention points, the employee with the lowest points to be discharged first.
 - (B) Retention points for each career service employee shall be computed according to rules established by the director, allowing appropriate consideration for proficiency and seniority

in state government, including any active duty military service fulfilled subsequent to original state appointment.

(c)

- (i) A career service employee who is separated in a reduction in force under this section shall be given preferential consideration when applying for a career service position.
- (ii) Preferential consideration under Subsection (6)(c)(i) applies only until the former career service employee accepts a career service position.
- (iii) The director shall make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, concerning the manner of granting preferential consideration under Subsection (6)(c)(i).

(d)

- (i) An employee separated due to a reduction in force may appeal to the department head for an administrative review.
- (ii) The notice of appeal must be submitted within 20 working days after the employee's receipt of written notification of separation.
- (iii) The employee may appeal the decision of the department head according to the grievance and appeals procedure of this chapter and Title 67, Chapter 19a, Grievance Procedures.

Amended by Chapter 397, 2024 General Session

63A-17-307 State pay plans -- Applicability of section -- Exemptions -- Duties of director.

(1)

- (a) This section, and the rules made by the division under this section, apply to each career and noncareer employee not specifically exempted under Subsection (2).
- (b) If not exempted under Subsection (2), an employee is considered to be in classified service.

(2) The following employees are exempt from this section:

- (a) members of the Legislature and legislative employees;
- (b) members of the judiciary and judicial employees;
- (c) elected members of the executive branch and employees designated as schedule AC as provided under Subsection 63A-17-301(1)(c);
- (d) employees of the State Board of Education;
- (e) officers, faculty, and other employees of state institutions of higher education;
- (f) employees in a position that is specified by statute to be exempt from this Subsection (2);
- (g) employees in the Office of the Attorney General;
- (h) department heads and other persons appointed by the governor under statute;
- (i) schedule AS employees as provided under Subsection 63A-17-301(1)(m);
- (j) department deputy directors, division directors, and other employees designated as schedule AD as provided under Subsection 63A-17-301(1)(d);
- (k) employees that determine and execute policy designated as schedule AR as provided under Subsection 63A-17-301(1)(l);
- (l) teaching staff, educational interpreters, and educators designated as schedule AH as provided under Subsection 63A-17-301(1)(g);
- (m) temporary employees described in Subsection 63A-17-301(1)(r);
- (n) patients and inmates designated as schedule AU as provided under Subsection 63A-17-301(1)(o) who are employed by state institutions; and
- (o) members of state and local boards and councils and other employees designated as schedule AQ as provided under Subsection 63A-17-301(1)(k).

(3)

- (a) The director shall prepare, maintain, and revise a position classification plan for each employee position not exempted under Subsection (2) to provide equal pay for equal work.
 - (b) Classification of positions shall be based upon similarity of duties performed and responsibilities assumed, so that the same job requirements and the same salary range, subject to Section 63A-17-112, may be applied equitably to each position in the same class.
 - (c) The director shall allocate or reallocate the position of each employee in classified service to one of the classes in the classification plan.
 - (d)
 - (i) The division shall conduct periodic studies and interviews to provide that the classification plan remains reasonably current and reflects the duties and responsibilities assigned to and performed by employees.
 - (ii) The director shall determine the need for studies and interviews after considering factors such as changes in duties and responsibilities of positions or agency reorganizations.
- (4)
- (a) With the approval of the executive director and the governor, the director shall develop and adopt pay plans for each position in classified service.
 - (b) The director shall design each pay plan to achieve, to the degree that funds permit, comparability of state salary ranges to the market using data obtained from private enterprise and other public employment for similar work.
 - (c) The director shall adhere to the following in developing each pay plan:
 - (i) each pay plan shall consist of sufficient salary ranges to:
 - (A) permit adequate salary differential among the various classes of positions in the classification plan; and
 - (B) reflect the normal growth and productivity potential of employees in that class.
 - (ii) The director shall issue rules for the administration of pay plans.
 - (d) The establishing of a salary range is a nondelegable activity and is not appealable under the grievance procedures of Part 6, Grievance Provisions, Title 67, Chapter 19a, Grievance Procedures, or otherwise.
 - (e) The director shall make rules, accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, providing for:
 - (i) agency approved salary adjustments within approved salary ranges, including an administrative salary adjustment; and
 - (ii) structure adjustments that modify salary ranges, including a cost of living adjustment or market comparability adjustment.
- (5)
- (a) On or before October 31 of each year, the director shall submit an annual compensation plan to the executive director and the governor for consideration in the executive budget and to the State Employee Benefits Advisory Commission created in Section 63C-31-102.
 - (b) The plan described in Subsection (5)(a) may include recommendations, including:
 - (i) salary increases that generally affect employees, including a general increase or merit increase;
 - (ii) salary increases that address compensation issues unique to an agency or occupation;
 - (iii) structure adjustments, including a cost of living adjustment or market comparability adjustment; or
 - (iv) changes to employee benefits.
 - (c)
 - (i)

- (A) Subject to Subsection (5)(c)(i)(B) or (C), the director shall incorporate the results of a salary survey of a reasonable cross section of comparable positions in private and public employment in the state into the annual compensation plan.
 - (B) The salary survey for a law enforcement officer, as defined in Section 53-13-103, a correctional officer, as defined in Section 53-13-104, or a dispatcher, as defined in Section 53-6-102, shall at minimum include the three largest political subdivisions in the state that employ, respectively, comparable positions.
 - (C) The salary survey for an examiner or supervisor described in Title 7, Chapter 1, Part 2, Department of Financial Institutions, shall at minimum include the Federal Deposit Insurance Corporation, Federal Reserve, and National Credit Union Administration.
 - (ii) The director may cooperate with or participate in any survey conducted by other public and private employers.
 - (iii) The director shall obtain information for the purpose of constructing the survey from the Division of Workforce Information and Payment Services and shall include employer name, number of persons employed by the employer, employer contact information and job titles, county code, and salary if available.
 - (iv) The division shall acquire and protect the needed records in compliance with the provisions of Section 35A-4-312.
 - (d) The director may incorporate any other relevant information in the plan described in Subsection (5)(a), including information on staff turnover, recruitment data, or external market trends.
 - (e) The director shall:
 - (i) establish criteria to assure the adequacy and accuracy of data used to make recommendations described in this Subsection (5); and
 - (ii) when preparing recommendations use accepted methodologies and techniques similar to and consistent with those used in the private sector.
 - (f)
 - (i) Upon request and subject to Subsection (5)(f)(ii), the division shall make available foundational information used by the division or director in the drafting of a plan described in Subsection (5)(a), including:
 - (A) demographic and labor market information;
 - (B) information on employee turnover;
 - (C) salary information;
 - (D) information on recruitment; and
 - (E) geographic data.
 - (ii) The division may not provide under Subsection (5)(f)(i) information or other data that is proprietary or otherwise protected under the terms of a contract or by law.
 - (g) The governor shall:
 - (i) consider salary and structure adjustments recommended under Subsection (5)(b) in preparing the executive budget and shall recommend the method of distributing the adjustments;
 - (ii) submit compensation recommendations to the Legislature; and
 - (iii) support the recommendation with schedules indicating the cost to individual departments and the source of funds.
 - (h) If funding is approved by the Legislature in a general appropriations act, the adjustments take effect on the July 1 following the enactment unless otherwise indicated.
- (6)

- (a) The director shall make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, for the granting of incentive awards, including awards for cost saving actions, awards for commendable actions by an employee, or a market-based award to attract or retain employees.
 - (b) An agency may not grant a market-based award unless the award is previously approved by the division.
 - (c) In accordance with Subsection (6)(b), an agency requesting the division's approval of a market-based award shall submit a request and documentation, subject to Subsection (6)(d), to the division.
 - (d) In the documentation required in Subsection (6)(c), the requesting agency shall identify for the division:
 - (i) any benefit the market-based award would provide for the agency, including:
 - (A) budgetary advantages; or
 - (B) recruitment advantages;
 - (ii) a mission critical need to attract or retain unique or hard to find skills in the market; or
 - (iii) any other advantage the agency would gain through the utilization of a market-based award.
- (7)
- (a) The director shall regularly evaluate the total compensation program of state employees in the classified service.
 - (b) The division shall determine if employee benefits are comparable to those offered by other private and public employers using information from:
 - (i) a study conducted by a third-party consultant; or
 - (ii) the most recent edition of a nationally recognized benefits survey.

Amended by Chapter 489, 2023 General Session