TITLE 2. ADMINISTRATION

CHAPTER 5. DEPARTMENT OF ADMINISTRATION PERSONNEL ADMINISTRATION

(Authority: A.R.S. § 41-761 et seq.)

Editor's Note: Because the rules in this Chapter that were adopted under an exemption from the provisions of the Administrative Procedure Act (A.R.S. Title 41, Chapter 6) have been repealed, the Chapter is printed on white paper (Supp. 99-3).

Editor's Note: This Chapter contains rules which were repealed and adopted under an exemption from the provisions of the Administrative Procedure Act (A.R.S. Title 41, Chapter 6) pursuant to Laws 1997, Ch. 288, § 10. Exemption from A.R.S. Title 41, Chapter 6 means the Department of Administration did not submit these rules to the Governor's Regulatory Review Council for review; the Department did not submit notice of proposed rulemaking to the Secretary of State for publication in the Arizona Administrative Register; and the Department was not required to hold public hearings on these rules. Because this Chapter contains rules which are exempt from the regular rulemaking process, the Chapter is printed on blue paper.

Article 1 consisting of Sections R2-5-101 through R2-5-105; Article 2 consisting of Sections R2-5-201 through R2-5-210 and R2-5-213; Article 3 consisting of Sections R2-5-301 through R2-5-306; Article 4 consisting of Sections R2-5-401 through R2-5-411 and R2-5-413 through R2-5-418; Article 5 consisting of Sections R2-5-501 through R2-5-503; Article 6 consisting of Sections R2-5-601 through R2-5-605; Article 7 consisting of Sections R2-5-701 and R2-5-702; Article 8 consisting of Sections R2-5-801 through R2-5-803; and Article 9 consisting of Sections R2-5-901 and R2-5-902 adopted effective December 31, 1986 (Supp. 86-6).

Former Article 1 consisting of Sections R2-5-101 and R2-5-102; former Article 2 consisting of Sections R2-5-201 through R2-5-205; former Article 3 consisting of Sections R2-5-301 and R2-5-302; former Article 4 consisting of Sections R2-5-401 through R2-5-403; former Article 5 consisting of Sections R2-5-501 and R2-5-502; and former Article 6 consisting of Sections R2-5-601 through R2-5-605 repealed effective December 31, 1986 (Supp. 86-6).

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Editor's Note: The following Article contained rules which were repealed and adopted under an exemption from the provisions of the Administrative Procedure Act (A.R.S. Title 41, Chapter 6) pursuant to Laws 1997, Ch. 288, § 10. Exemption from A.R.S. Title 41, Chapter 6 means the Department did not submit these rules to the Governor's Regulatory Review Council for review; the Department did not submit notice of proposed rulemaking to the Secretary of State for publication in the Arizona Administrative Register; and the Department was not required to hold public hearings on these rules. Temporary rules repealed and adopted under these Sections are repealed from and after June 30, 1999 (Supp. 98-2). Temporary rules repealed and adopted pursuant to Laws 1997, Ch. 288, § 10 were repealed from and after June 30, 1999 and the rule in effect before the adoption of the temporary rules became effective again upon the repeal of the temporary rules (Supp. 99-3).

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ARTICLE 1. GENERAL

R2-5-101. Definitions

The following words and phrases have the defined meanings unless otherwise clearly indicated by the context.

1. "Agency" means a department, board, office, authority, commission, or other governmental budget unit of the state.
2. "Agency head" means the chief executive officer of an agency.
3. "Appeal" means a request for a review by the Personnel Board of a disciplinary action under to A.R.S. § 41-782.
4. "Applicant" means a person who seeks appointment to a position in state service.
5. "Appointment" means the offer to and the acceptance by a person of a position in state service.
6. "Base salary" means an employee's salary excluding overtime pay, shift differential, bonus pay, special performance adjustment previously granted, or pay for other allowance or special incentive pay program.
7. "Business day" means the hours between 8:00 a.m. and 5:00 p.m. Monday through Friday, excluding observed state holidays.
8. "Candidate" means a person whose knowledge, skills, and abilities (KSAs) meet the requirements of a position and who may be considered for employment.
9. "Cause" means any of the reasons for disciplinary action provided by A.R.S. § 41-771 or these rules.
10. "Child" means:
    a. For purposes of R2-5-416(C) pertaining to the health benefit plan, R2-5-418(B) pertaining to the retiree health benefit plan, and R2-5-419(C) pertaining to the health benefit plan for former elected officials, each unmarried natural, adopted, foster, or stepchild who is less than age 19, or less than age 25 if a full-time student, and who resides, or is placed by court order, in the household of the employee, the retired employee, or the former elected official;
    b. For purposes of R2-5-417(C) pertaining to the life and disability income insurance plan, and R2-5-421(B) pertaining to the life insurance plan for former elected officials, each unmarried natural, adopted, foster, or stepchild who is less than age 19, or less than the age of 25 if a full-time student, and who resides or is placed by court order in the household of the employee or the former elected official; or
    c. For purposes of R2-5-207(D), pertaining to the employment of relatives, R2-5-404, pertaining to sick leave, R2-5-410, pertaining to bereavement leave, and R2-5-411, pertaining to parental leave, each natural, adopted, foster, or stepchild.
11. "Class" means a group of positions sufficiently similar as to duties performed, scope of discretion and responsibility, knowledge, skills, and abilities required and other characteristics that the same title and pay grade apply to each position in the group.
12. "Class series" means a group of related classes that is listed in the Arizona Department of Administration, Human Resources Division, Occupational Listing of Classes as a subsection of the occupational group.
13. "Class specification" means a description of the type and level of duties and responsibilities of the positions assigned to a class.
14. "Clerical pool appointment" means the non-competitive, temporary placement of a qualified individual in a clerical position.
15. "Competition" means the process leading to the identification of candidates for employment or promotional consideration that includes an evaluation of knowledge, skills, and abilities and the development of a hiring list in accordance with these rules.
16. "Covered employee" means an employee in state service who is subject to the provisions of these rules.
17. "Covered position" means a position in state service, as provided by A.R.S. § 41-762.
18. "Days" means calendar days.
19. "Demotion" means a change in the assignment of an employee from a position in one class to a position in another class having a lower pay grade resulting from disciplinary action for cause.
20. "Department" means the Arizona Department of Administration.
21. "Director" means the Director of the Arizona Department of Administration, and the Director's designee with respect to personnel administration.
22. "Eligible dependent" means a dependent eligible for employee benefits under Section 125 of the Internal Revenue Code.
23. "Emergency appointment" means an appointment made without regard to the recruitment, evaluation, referral, or selection requirements of these rules in response to a governmental emergency.
24. "Entrance salary" means the minimum rate of the salary plan established for a specific class.
25. "Essential job function" means the physical, mental, and environmental demands of a position's basic job duties

that an employee must be able to perform, with or without a reasonable accommodation.

26. "Evaluation" means the procedure used to determine the relative knowledge, skills, and abilities of an applicant.
27. "Flexible or cafeteria employee benefit plan" means a plan providing benefits to eligible employees that meets the requirements of Section 125 of the Internal Revenue Code.
28. "FLSA" means the federal Fair Labor Standards Act.
29. "FLSA exempt" means a position that is not entitled to overtime compensation under the FLSA.
30. "FLSA non-exempt" means a position that is entitled to overtime compensation under the FLSA.
31. "FMLA" means the federal Family Medical Leave Act.
32. "Good standing" means the status of a former employee at the time of separation from state service for reasons other than disciplinary or anticipated disciplinary action.
33. "Grievance" means a formal complaint filed by an employee, using the procedure established in Article 7 of these rules, that alleges discrimination, noncompliance with these rules, or other work-related matters that directly and personally affect the employee.
34. "Human Resources Employment Database" means the database containing the resume of an applicant interested in employment within state service.
35. "Incumbent" means the officer or employee currently holding an office or position.
36. "Institution" means a facility that provides supervision or care for residents on a 24-hour per day, 7-day per week, basis.
37. "Knowledge, skills, and abilities (KSAs)" means familiarity with or possession of information and the capability to perform tasks through a variety of manual, physical, intellectual, or interpersonal activities and a natural talent or acquired expertise to perform the functions of a specific position.
38. "Limited appointment" means an appointment to a position that is funded for at least six months but not more than 36 months.
39. "Manifest error" means an act or failure to act that is, or clearly has caused, a mistake.
40. "Mobility assignment" means the assignment of a permanent status employee to an uncovered position or to a position in another state agency.
41. "Original probation" means the specified period following initial appointment to state service in a regular or limited position for evaluation of the employee's work.
42. "Original probationary appointment" means the initial appointment to a regular or limited position in state service.
43. "Parent" means, for purposes of R2-5-403(E) pertaining to donation of annual leave, R2-5-404(A) pertaining to sick leave, and R2-5-410 pertaining to bereavement leave, birth parent, adoptive parent, stepparent, foster parent, grandparent, parent-in-law, or anyone who can be considered "in loco parentis."
44. "Participant" means an employee who is enrolled in the state's insurance programs.
45. "Part-time" means, for purposes of R2-5-402 pertaining to holidays, R2-5-403 pertaining to annual leave, R2-5-404 pertaining to sick leave, R2-5-902 pertaining to reduction in force, and R2-5-903 pertaining to temporary reduction in force, employment scheduled for less than 40 hours per week.
46. "Pay grade" means a salary range in a state service salary plan.
47. "Pay status" means an employee is eligible to receive pay for work or for a compensated absence.
48. "Permanent status" means the standing an employee achieves after the completion of an original probation or a promotional probation.
49. "Plan" means a flexible or cafeteria employee benefit plan.
50. "Plan administrator" means the Director, Arizona Department of Administration.
51. "Promotion" means a permanent change in assignment of an employee from a position in one class to a position in another class having a higher pay grade.
52. "Promotional probation" means the specified period of employment following promotion of a permanent status employee for evaluation of the employee's work.
53. "Qualified" means possessing the knowledge, skills, and abilities required of a specific position as described in the class specifications plus any unique characteristics required for the position.
54. "Reclassification" means changing the classification of a position when a material and permanent change in duties or responsibilities occurs.
55. "Reduction" means the non-appealable movement of an employee from one position to another in a lower pay grade as a result of a reduction in force.
56. "Reemployment" means the appointment of a former permanent status employee who was separated by a reduction in force.
57. "Regular position" means a full-time equivalent (FTE) position in state service.
58. "Reinstatement" means the appointment of a former permanent status employee who resigned, was separated in good standing, or was separated without prejudice within two years from the effective date of separation.
59. "Repromotion" means the promotion of an employee who was reduced in grade due to a reduction in force to the grade held before the reduction in force or to an intervening grade.
60. "Reversion" means the return of an employee on promotional probation to a position in the class in which the employee held permanent status immediately before the promotion.
61. "Rules" means the rules contained in the Arizona Administrative Code, Title 2, Chapter 5.
62. "Separation without prejudice" means the non-disciplinary removal, without appeal rights, of an employee in good standing from state service.
63. "Special detail" means the temporary assignment of a permanent status employee to a covered position in the same agency.
64. "State service" means the same as at A.R.S. § 41-762.
65. "Surviving spouse" means the husband or wife, as provided by law, of a current or former elected official, or active or retired officer or employee who survives upon the death of the elected official, officer, or employee.
66. "Temporary appointment" means an appointment made for a maximum of 1,500 hours in any one position per agency each calendar year.
67. "Transfer" means the movement of an employee from one position in state service to another position in state service in the same pay grade.
68. "Uncovered position" means a position that is exempt under A.R.S. § 41-771 and not subject to the provisions of these rules.

69. "Underfill" means the appointment of a person to a class with a pay grade that is lower than the pay grade for the allocated class for that position.
70. "Voluntary pay grade decrease" means a change in assignment at the request of an employee to a position in a class with a lower pay grade.

Historical Note

Adopted effective December 31, 1986 (Supp. 86-6). Amended effective August 2, 1989 (Supp. 89-3). Subsection (48) corrected to read "without prejudice" (Supp. 95-2). Subsection (55) amended to correct a printing error (Supp. 99-3). Amended by final rulemaking at 9 A.A.R. 1040, effective May 4, 2003 (Supp. 03-1).

R2-5-102. General Provisions

A. Delegation of authority.
1. The Director may, in writing, delegate authority to an agency head as consistent with legal requirements.
2. The Director may review or audit delegated authority to determine compliance with laws, rules, and policies.
3. Unless otherwise stated by law, or in these rules, an agency head may delegate authority granted to the agency head in these rules.

B. Availability of funds. The granting of any compensation under these rules is contingent upon the availability of funds, as determined by an agency head and the Director.

C. Conflict with federal requirements. The provisions of A.R.S. § 41-784 apply to these rules. Any provision of these rules that conflicts or is inconsistent with federal rules, regulations, or standards governing the granting of federal funds to an agency does not apply to the agency.

D. Service of notice. If a notice or document is to be given to a person or agency, the notice or document may be served personally or mailed to the last known residence or current business address of the person or agency. Unless otherwise provided by law or these rules, service is complete upon personal delivery or mailing.

E. Employee handbook. The Director may publish an employee handbook outlining pertinent rules and regulations and make the handbook available to all employees.

F. Correction of errors. Only the Director, or designee, has authority to determine whether a manifest error exists and to correct the manifest error.

Historical Note

Adopted effective December 31, 1986 (Supp. 86-6). Correction to subsection (A) as certified effective December 31, 1986 (Supp. 87-3). Amended by final rulemaking at 9 A.A.R. 1040, effective May 4, 2003 (Supp. 03-1).

R2-5-103. Applicability

A. General. These rules are applicable to all covered employees.

B. Exception. The Director may implement a temporary pilot project to improve personnel management in state service. The project may include an activity or procedure that is not in accordance with these rules and shall not exceed 18 months in duration. A pilot project shall conform to the Standards for a Merit System of Personnel Administration, 5 CFR 900.603, which is incorporated by reference and on file with the Office of the Secretary of State. This incorporation by reference does not include amendments or revisions to Standards for a Merit System of Personnel Administration published after January 1, 2001. A copy of this incorporated material is available for review at the Arizona Department of Administration, Human Resources Division and may be obtained from the Arizona State Library, Archives and Public Records, Research Division, 1700 West Washington, Phoenix, AZ 85007.

Historical Note

Adopted effective December 31, 1986 (Supp. 86-6). Amended by final rulemaking at 9 A.A.R. 1040, effective May 4, 2003 (Supp. 03-1).

R2-5-104. Discrimination

An agency shall not discriminate against an individual in violation of A.R.S. §§ 41-1461, 41-1463, and 41-1464.

Historical Note

Adopted effective December 31, 1986 (Supp. 86-6). Section heading amended by final rulemaking at 9 A.A.R. 1040, effective May 4, 2003 (Supp. 03-1).

R2-5-105. Personnel Records

A. Purpose. An employee's official personnel file is the official record and documentation of the administration of the employee's employment.

B. Content. An employee's official personnel file shall contain:
1. A copy of the job application or resume for the employee's current regular position;
2. A copy of all performance appraisal reports completed as required by R2-5-503;
3. Personnel action forms that have authorized changes in employment status, position, classification, pay, or leave status;
4. Letters of commendation as established by agency policy;
5. Correspondence concerning disciplinary actions as described in Article 8, and letters of reprimand, documents acknowledging receipt of reprimand or other disciplinary communications, or other related employee objections that are not filed as grievances under Article 7, and
6. Corrective action plans and performance planning documents.

C. Insurance and medical records. Group insurance enrollment forms may be contained in an employee's official personnel file. All medical records shall be maintained in a separate file that is not part of the employee's official personnel file.

D. Immigration records. The I-9 form and other documents required by law to prove employment eligibility may be retained in an employee's official personnel file or a separate file.

E. Access. For the purpose of this subsection, an official is an individual who provides identification verifying that the individual is exercising powers and duties on behalf of the chief administrative head of a public body. Access to an employee's official personnel file shall be limited to:
1. The employee or an individual who has written authorization from the employee to review the personnel file;
2. Agency personnel designated by the agency head as having a need for the information;
3. A Department official in the normal line of duty;
4. An official acting in response to a court order or subpoena;
5. An official of an agency to which the employee has applied; and
6. An official of an agency of the federal government, state government, or political subdivision, but only if the agency head of the employing agency deems it to be appropriate to a proper function of the official requesting access.

F. Disclosure of information. The Director, or designee, shall ensure that except as provided in subsection (E), only the following information about an employee is provided to any person under A.R.S. Title 39, Chapter 1, Article 2.
1. Name of employee;
2. Date of employment;

3. Current and previous class titles and dates received;
4. Name and location of current and previous agencies to which the employee has been assigned;
5. Current and previous salaries and dates of each change; and
6. Name of employee's current or last known supervisor.

G. Access to other files. An employee has the right to access only the employee's official personnel file.

H. Control.
1. When an employee moves from one state service agency to another, the losing agency shall forward the employee's official personnel file to the gaining agency within 10 days of the effective date of the move.
2. When a former employee returns to state service to an agency other than the agency in which the employee was last employed, the gaining agency shall request that the last agency forward the employee's official personnel file. The last agency shall forward the file within 10 days of the receipt of the request.

Historical Note
Adopted effective December 31, 1986 (Supp. 86-6).
Amended effective August 2, 1989 (Supp. 89-3).
Amended by final rulemaking at 9 A.A.R. 1040, effective May 4, 2003 (Supp. 03-1).

ARTICLE 2. EMPLOYMENT

R2-5-201. Employment

A. General. The state of Arizona employment process shall ensure open competitive practices in recruitment, selection, and placement of qualified candidates based on the merit of the candidate's:
1. Knowledge, skills, and abilities;
2. Overall qualifications; and
3. Overall fitness for employment with the state.

B. Waiver of rules.
1. The Director may:
   a. Waive any rule under Article 2 if the Director determines that essential public services are being hampered by critical employment needs for a specific class or classes; and
   b. Implement temporary procedures.
2. The Director shall ensure that employees hired under temporary procedures are selected on the basis of the criteria in R2-5-201(A).

Historical Note
Adopted effective December 31, 1986 (Supp. 86-6).
Amended effective September 15, 1994 (Supp. 94-3).
Amended by final rulemaking at 6 A.A.R. 4572, effective November 13, 2000 (Supp. 00-4).

R2-5-202. Recruitment

A. Filling of vacancies.
1. Except as otherwise provided by these rules, vacancies in state service shall be filled through open competitive recruiting.
2. Arizona residency is not required for state service.
3. Vacancies for positions governed by state service personnel rules shall be filled through:
   a. The use of the Human Resources Employment Database, or
   b. An alternative procedure based on the uniqueness of the operation or critical employment need.
4. The Director may refuse to evaluate or test anyone who cannot be located by mail sent to the last known address, telephone call to the last known number or by message sent to the last known electronic address.

B. Reemployment. An agency shall consider for appointment a reemployment candidate who meets the criteria in R2-5-201(A). before implementing other recruitment actions. A reemployment candidate is eligible to fill a vacancy in any state agency.

C. Vacancy announcements.
1. The Director shall establish a procedure for announcing open competitive vacancies in state service employment.
2. The Director may authorize the use of resumes, applications, or alternative forms that provide the information for analyzing an applicant based on the criteria in R2-5-201(A).

D. Administration. The Director shall establish procedures for maintaining and keeping confidential all resumes, applications, tests, test results, records, correspondence, and other documents used to seek employment in state service. The procedures shall restrict the review of any application material to the applicant, an individual who has written authorization from the applicant, state officials in the normal line of duty, or officials acting in response to court orders or subpoenas.

Historical Note
Adopted effective December 31, 1986 (Supp. 86-6).
Amended by final rulemaking at 6 A.A.R. 4572, effective November 13, 2000 (Supp. 00-4).

R2-5-203. Applicant Evaluations

A. Competitive evaluations. The Director shall establish open competitive evaluation procedures to be used for entrance into state service.

B. Criteria for evaluation. The basis for evaluation of an applicant shall be the knowledge, skills, and abilities required for the position as identified in the class specification or the position description questionnaire. The same criteria shall be used to evaluate all applicants for a position. The Director may authorize the use of related knowledge, skills, and abilities for a particular position even though these provisions are not part of the class specification. When necessary to make a complete evaluation, an applicant shall furnish, at the applicant's own expense, evidence of character, education, physical condition, or other qualification.

C. Evaluations. The Director shall establish an evaluation procedure to determine a person's ability to perform the duties and responsibilities of the position or classification for which the person is being considered for employment. An agency shall not administer any evaluation technique or any combination of techniques other than job-related selection interviews without prior written approval from the Director.

D. Written and performance test results.
1. The Director shall send written notice of written and performance test results to each applicant after the grading is complete.
2. An applicant may inspect the applicant's answers for any written test to determine whether the applicant's answers are the same as the answers shown on the grading key for that test, if the applicant requests the inspection in writing within one month after notice of the score is sent to the applicant. Only the applicant or the applicant's representative may inspect the test answers. An applicant's representative shall provide written authorization from the applicant to inspect the test answers.
3. An applicant may retake a performance test. An applicant may not retake a written test for two months after the last test. An applicant's most recent test score shall be used for employment evaluation.

4. Tests are not required for reinstatement or reemployment unless the Director determines that the requirements of the class have changed or are different from the class from which the applicant separated.

E. Preferences. Preference points authorized by A.R.S. § 38-492 shall be added to an applicant's grade on any assessment or evaluation that results in a numeric grade after the final grade is determined, if a passing grade is earned without the addition of preference points. Preference points shall not be applied to promotional examinations. If an evaluation does not result in a numeric grade, preference shall be given by granting applicable preference codes to qualified applicants.

Historical Note

Adopted effective December 31, 1986 (Supp. 86-6). Subsection (G) corrected to add omitted text following the word "error" (Supp. 95-2). Amended by final rulemaking at 6 A.A.R. 4572, effective November 13, 2000 (Supp. 00-4).

R2-5-204. Human Resources Employment Database

The Director shall establish and maintain the Human Resources Employment Database to fill state service vacancies. Agencies shall use the database as the primary source for applicant tracking and candidate identification. The Director may approve other methods for applicant tracking and candidate identification to meet special agency requirements.

Historical Note

Adopted effective December 31, 1986 (Supp. 86-6). Section repealed by final rulemaking at 6 A.A.R. 4572, effective November 13, 2000 (Supp. 00-4).

R2-5-205. Identification and Selection of Candidates

A. The Director shall provide a referral list to the hiring agency that contains the names of available candidates who possess the knowledge, skills, and abilities required for the position.

B. Referral list. An agency may request an external or an internal state service referral list.

1. An internal state service referral list may contain:
   a. Repromotion candidates;
   b. Original probation and permanent status employees in the agency;
   c. Employees currently employed in the agency;
   d. Permanent status employees in a state service position in the agency;
   e. Employees who have attained permanent status in any state service agency; or
   f. Any combination of the above.
2. An external referral list may contain any combination of qualified candidates.
3. Repromotion
   a. A permanent status employee who is reduced in grade as a result of a reduction in force is entitled upon written request to be considered within the agency for the class in which permanent status was held immediately before the reduction in grade, or any intervening class. The employee shall be considered for two years from the date on which the employee was reduced in grade.
   b. An employee eligible for repromotion shall be offered a vacant position in the class from which the employee was reduced or in any intervening class. An employee who accepts a position in an intervening class shall continue to be considered for repromotion in other eligible classes for the balance of the two years. An employee who fails to accept a repromotion to the class from which the employee was reduced shall not continue to be considered for repromotion.
   c. If more than one employee is eligible for repromotion to a vacancy in a class, the vacancy shall be offered to the employee with the highest number of retention points at the time the repromotion is offered.
4. Reemployment.
   a. An applicant for reemployment shall submit a written request.
   b. The agency may consider an applicant for reemployment for the class in which the applicant held permanent status at time of separation and for all classes at the same or lower grade for which the applicant is qualified for two years from the effective date of the separation.
5. Reinstatement.
   a. An applicant for reinstatement shall submit a written request.
   b. The agency may consider an applicant for reinstatement for the class in which the applicant held permanent status at time of separation and for all classes at the same or lower grade for which the applicant is qualified for two years from the effective date of the separation.

C. Selection.

1. An agency head may non-competitively select any qualified reemployment, repromotion, reinstatement, voluntary decrease, or transfer candidate to fill a position.
2. If the agency head does not select a reemployment, repromotion, reinstatement, voluntary decrease, or transfer candidate, the agency head shall interview a minimum of three candidates, if available, before making a selection.
3. The Director or an agency head shall establish procedures to check references or investigate a candidate's background, education, or work history as appropriate for the position.

D. Complaints or recommendations. A candidate who has a complaint or recommendation relating to the procedures used in the selection or evaluation process shall submit the complaint or recommendation to the agency human resources representative who shall evaluate the complaint or recommendation and notify the candidate of the action to be taken.

Historical Note

Adopted effective December 31, 1986 (Supp. 86-6). Amended by final rulemaking at 6 A.A.R. 4572, effective November 13, 2000 (Supp. 00-4).

R2-5-206. Appointment

A. General. An agency shall use a Human Resources Employment Database referral list to make an appointment to a position in the state service unless otherwise indicated in these rules.

B. Types of appointments.

1. Regular Appointment. A regular-appointment employee who successfully completes an original probation period acquires the rights of permanent status.
2. Limited appointment. A limited-appointment employee who successfully completes an original probationary period acquires all rights of permanent status except reduction in force, reemployment, and reinstatement. If the limited appointment expires, is unfunded, or is eliminated, the limited-appointment employee shall be separated without the right of appeal.

a. A qualified limited-appointment employee may be considered for transfer, promotion, or demotion to a regular position.
b. A limited-appointment employee who is promoted or transferred to a regular position shall serve an original probationary period in the regular position.

3. Temporary appointment. A temporary appointment may be made for a recurring period of time up to a maximum of 1500 hours in any one position per agency each calendar year.
4. Provisional appointment.
   a. A provisional appointment shall not continue beyond the reporting date of a candidate selected from a referral list, beyond the expiration date of a valid referral list, or for more than six months.
   b. An agency shall not make successive provisional appointments of the same person to the same class.
5. Emergency appointment. Appointments shall be at the discretion of the agency head with the approval of the Director.
   a. An emergency appointment shall not exceed 240 hours or more than 30 working days.
   b. An agency shall not make successive emergency appointments of the same person to the same class.
6. Clerical pool appointment.
   a. The Director may establish a clerical pool in any locality where there is a demand for temporary clerical help.
   b. Clerical pool appointments may be made for up to six months by an agency head and may be extended for not more than three months by the Director.
7. Student employment. The Director may establish special procedures for the employment of students. An agency may employ a student for a maximum of 1040 hours in a calendar year.

Historical Note

Adopted effective December 31, 1986 (Supp. 86-6).
Amended effective September 15, 1994 (Supp. 94-3).
Amended by final rulemaking at 6 A.A.R. 4572, effective November 13, 2000 (Supp. 00-4).

R2-5-207. Employment of Relatives

A. Relationship to supervisor. An individual shall not be appointed or promoted to a position if the immediate supervisor of the individual is related within the third degree of affinity (marriage) or consanguinity (blood).

B. Relationship to other employees. An individual shall not be appointed or promoted to a position if the individual is related within the third degree of affinity or consanguinity to an employee who currently occupies a position under the same immediate supervisor.

C. Exceptions. The Director may grant an exception to the prohibitions in subsections (A) and (B) if there is no other qualified candidate for the position at the location.

D. Definition. For the purpose of this Section, persons related within the third degree include a spouse, child, parent, grandchild, grandparent, sister, brother, great grandchild, great grandparent, aunt, uncle, niece, or nephew.

Historical Note

Adopted effective December 31, 1986 (Supp. 86-6).
Amended effective August 2, 1989 (Supp. 89-3).
Amended by final rulemaking at 6 A.A.R. 4572, effective November 13, 2000 (Supp. 00-4).

R2-5-208. Changes in Assignment

A. Promotion.
1. State service promotions shall be competitive.
2. An internal state service promotion referral list may contain:
   a. Original probation and permanent status regular and limited employees;
   b. Employees currently employed in the agency;
   c. Permanent status regular and limited employees in a state service position in the agency;
   d. Employees who have attained regular and limited permanent status in any state service agency; or
   e. Any combination of the above.
3. Criteria for evaluation. The basis for evaluating candidates for a promotion referral list shall be the knowledge, skills, and abilities required for the position as identified in the class specification or the position description questionnaire. The same criteria shall apply to all applicants.

B. Transfer.
1. Intra-agency transfer.
   a. An agency head may transfer an employee to a position in the same pay grade.
   b. An agency head, upon the request of an employee, may transfer the employee to a position in the same pay grade.
2. Interagency transfer. An employee may transfer to a position in the same pay grade in another state service agency, upon request by the employee and approval of the gaining agency head.
3. Qualifications. An employee shall possess the knowledge, skills, and abilities required for the position as identified in the class specification or the position description questionnaire for the position to which transferred.
4. Transfer of function.
   a. Between state service agencies. If part or all of the functions of an agency are transferred to another agency, all employees in the positions affected shall be transferred to the gaining agency.
   b. From non-state service agencies. If part or all of the functions of a non-state service agency are transferred to the state service, all of the affected employees of the agency may be offered state service employment on a non-competitive basis in the transferred functional area. An agency head may require a transferred employee to serve an original probationary period.

C. Special detail.
1. General. An agency head may assign a permanent status employee to a special detail in a covered position within the agency.
   a. Short-term special detail. A special detail made for a maximum of six months may be made non-competitively.
   b. Long-term special detail. A special detail made for more than six but fewer than 12 months shall be competitive in accordance with these rules, unless the Director approves a non-competitive special detail.
2. Qualifications. An employee is not required to possess the precise knowledge, skills, and abilities of the position to be assigned to a special detail.
3. Return from special detail. At the end of the special detail, the employee shall return to the position previously held, if vacant. If the position is not vacant, the employee shall return to a position in the same class held before the special detail.

4. Extensions. A special detail shall not exceed 12 months unless extended by the Director.

D. Mobility assignments
1. State service employees. An employee with permanent status in the state service may accept a mobility assignment to an uncovered position or to a position in another Arizona state agency, for not more than 36 months with the concurrence of the Director, the employee, the agency in which employed, and the agency to which the employee will be assigned. The employee has the right to return to a position in the original agency in the same pay grade held before the mobility assignment if the employee possesses the required knowledge, skills, and abilities.
2. Extension. The Director, the employee, the employing agency and the agency from which the employee came shall renegotiate a mobility assignment that extends beyond 36 months.

E. Voluntary grade decrease
1. Request. An employee may request a permanent change in assignment to a position with a lower pay grade. The employee shall possess the knowledge, skills, and abilities required of the new position. An employee is not eligible to grieve or appeal an approved voluntary pay grade decrease.
2. Probation. An employee on original probation shall be required to serve a new original probation in the new position.

F. Relocation. The agency may reimburse reasonable relocation expenses to a current employee for a management-initiated geographical transfer of more than 50 miles from the employee's current work site.

Historical Note
New Section adopted by final rulemaking at 6 A.A.R. 4572, effective November 13, 2000 (Supp. 00-4).

R2-5-209. Repealed

Historical Note
Adopted effective December 31, 1986 (Supp. 86-6). Repealed effective August 2, 1989 (Supp. 89-3).

R2-5-210. Repealed

Historical Note
Adopted effective December 31, 1986 (Supp. 86-6). Section repealed by final rulemaking at 6 A.A.R. 4572, effective November 13, 2000 (Supp. 00-4).

R2-5-211. Clerical Placement

An applicant for a class in the clerical occupational series may be interviewed by an agency upon referral by the Director. The Director shall refer the applicant based upon the applicant's knowledge, skills, and abilities for the particular vacancy. The agency, upon such referral may interview any or all referred applicants and hire the applicant the agency prefers.

Historical Note
Adopted effective August 2, 1989 (Supp. 89-3). Amended effective September 15, 1994 (Supp. 94-3). Amended by final rulemaking at 6 A.A.R. 4572, effective November 13, 2000 (Supp. 00-4).

R2-5-212. Reserved

R2-5-213. Probation

A. Types of probation. Original probation and promotional probation are the only types of probation in state service.

B. Credit for prior service. An agency head may credit up to six months of state service that was completed in the same class immediately before a probationary appointment if that service was achieved under the same program of orientation, training, and evaluation currently applied to other probationary employees in the same class.

C. Original probation.
1. Duration. An original probationary period is six months. Upon request of an agency head, the Director may establish a longer or shorter period for any class of positions in the agency. In no case shall the probationary period established for a class be less than 90 days or more than one year.
2. Extensions.
   a. An agency head may extend original probation up to six months for employment-related reasons. If original probation is extended, an employee's probation may exceed one year in the aggregate.
   b. The probationary period shall be extended for any period for which a probationary employee is on leave without pay for more than 80 consecutive working hours. If original probation is extended for this reason, the employee's probation may exceed one year.
3. Completion of probation.
   a. A supervisor shall evaluate a probationary employee and submit a report to the agency head before expiration of the employee's probationary period. If the agency head takes no action to extend the probationary period or to terminate the employee, the agency head shall grant permanent status to the employee upon completion of the probationary period.
   b. If an agency head determines at any time during an original probationary period that the services of a probationary employee are no longer required in that position for any reason or for no reason, the agency head may:
      i. Offer the employee another position for which the employee possesses the criteria in R2-5-201(A); or
      ii. Dismiss the employee without a stated reason and without the right of appeal, providing the employee a letter of dismissal.
4. An original-probation employee who is selected for another state service position shall serve an original probation period in the new position.

D. Promotional probation.
1. A permanent-status employee who is promoted shall serve a promotional probationary period of six months. The agency head may extend the probation up to a total of one year for employment-related reasons.
2. A limited-appointment employee on original probation who is promoted or is transferred to a regular position shall serve an original probationary period.
3. If an employee fails to complete a promotional probation successfully the agency head may:
   a. Revert the employee to a vacant position in the current employing agency in the class in which the employee held permanent status immediately before promotion; or
   b. Offer the employee a similar position in another class at the same grade as the class that the employee holds permanent status if the employee meets the knowledge, skills, and abilities of that position.
4. Neither (D)(3)(a) nor (D)(3)(b) shall preclude the imposition of disciplinary action.

5. An employee who is reverted to a position in the same class or transferred to a position in another class shall not have the right to appeal.
6. If a vacancy does not exist in the agency, the rules governing reduction in force shall apply.
7. An employee who is repromoted shall not be required to serve a probationary period.

E. Reinstatement and reemployment. When an employee is reinstated or reemployed, the agency head:
1. May require the former employee to complete an original probation.
2. Shall require the former employee to complete an original probation if the former employee is reinstated or reemployed in a class other than the class the employee previously held.

Historical Note
Adopted effective December 31, 1986 (Supp. 86-6). Subsection (C)(2) corrected to read "job-related" in line 2; Amended effective April 20, 1995 (Supp. 95-2).

ARTICLE 3. CLASSIFICATION AND COMPENSATION

R2-5-301. Classification

A. General. The Director shall group positions into classes based on similarities of duties and responsibilities. All state service positions are assigned a class specification with a specific title. An agency head may not appoint, transfer, promote, or demote an employee, or make any change in salary for any position until the position is allocated to a class.

B. Class title. An agency shall use the class title of a position to designate the position in all budget estimates, payrolls, vouchers, and communications in connection with personnel processes.

C. Class specification. A class specification indicates the kinds of positions to be allocated to the class, as determined by the duties and responsibilities described for that class. Each class specification shall contain a statement of the education, experience, knowledge, skills, abilities, and other qualifications required to perform the work. Required postsecondary education shall be attained in an institution that meets the standards established by a recognized accrediting body.

D. Change in classification plan. The Director may establish new classes and divide, combine, alter, or abolish existing classes, after consultation with affected agency heads.

E. Allocation. The Director shall place every position in a class based on its duties and responsibilities. The Director may delegate to an agency head the authority to underfill a position.

F. Change in job duties. If a material and permanent change takes place in the duties and responsibilities of a position, the agency head shall report this change to the Director who may order a reclassification of the position. The employee in the position at the time of reclassification is entitled to continue to serve in the position.

G. Review. An employee in a position or an agency head may file a written request with the Director for review of the classification of the position.

Historical Note
Adopted effective December 31, 1986 (Supp. 86-6). Amended by final rulemaking at 7 A.A.R. 2724, effective June 6, 2001 (Supp. 01-2).

R2-5-302. Salary Plans

A. Classes. The Director shall allocate each class to a specific pay grade or rate.

B. Salary. The base salary of an employee shall not be less than the minimum nor more than the maximum of the pay grade to which the employee's class is allocated, except for an underfill or as otherwise specified by these rules.

C. Alternative salary plan. The Director may approve a special salary plan and pay practice for a certain class or group of employees. In approving a special salary plan, the Director shall consider factors such as occupational patterns, economic conditions, and incentive plans common to government, business, and industry.

D. Counteroffer pay adjustment. Subject to available funding, the Director may approve a pay adjustment as a counteroffer to a verifiable job offer to retain a current employee in the same position. A counteroffer shall not exceed the maximum of the pay grade.

E. Hiring bonus. The Director may establish guidelines for the payment of a hiring bonus to attract a new employee into a state service position when there is:
1. A shortage in the labor market;
2. Recruitment or retention difficulty; or
3. A requirement for a unique, critical skill.

Historical Note
Adopted effective December 31, 1986 (Supp. 86-6). Amended by final rulemaking at 7 A.A.R. 2724, effective June 6, 2001 (Supp. 01-2).

R2-5-303. Salary Administration

A. Salary. The salary of an employee shall be not less than the minimum nor more than the maximum of the pay grade of the class to which the employee's position is allocated except for:
1. The salary of an employee that exceeds the maximum salary of the pay grade of a class due to a downward reclassification of the employee's position;
2. The salary of an employee that exceeds the maximum salary of the pay grade of a class due to a change of the class to a lower pay grade;
3. The salary of an employee upon special detail to a position in a class with a lower pay grade;
4. The salary of an employee upon placement on a mobility assignment in a class with a lower pay grade than the employee's permanent status class;
5. The salary of an employee that exceeds the maximum salary of the pay grade of a class, due to an authorized shift differential;
6. The salary of an employee that exceeds the maximum salary of the pay grade of a class due to receipt of a special performance adjustment;
7. The salary of an employee that exceeds the maximum salary of the pay grade of a class due to the receipt of special payments, such as hazardous duty pay; and
8. The salary of an employee that exceeds the maximum salary of the pay grade of a class due to a reduction in force as provided in subsection (K).

B. Salary adjustment. The salary used to compute an adjustment covered in this Section is the employee's base salary not including overtime pay, shift differential, special performance adjustment previously granted, or pay for other special situations. Following an adjustment to the base salary, an agency shall add to the new rate of pay any special pay situation still valid.

C. Administrative adjustment. Subject to available funding, the Director may approve a pay adjustment to:
1. Resolve a manifest error;
2. Increase the base salary of a supervisor that is below the base salary of a subordinate;
3. Correct an inequity; or
4. Increase a transferred employee's base salary based upon documentation of recruitment difficulties to fill the posi-

tion, specific needs identified by the agency, or the employee's education, experience, knowledge, skills, and abilities.

D. Classification or pay grade changes.

1. The base salary of an employee in a position that is reclassified to a class with a higher pay grade, or in a class that is allocated to a higher pay grade, shall be increased by 2.5%. If increasing the base salary of an employee whose position is reclassified to a class allocated to a higher pay grade would result in a salary level that is less than the entrance salary or greater than the maximum salary of the pay grade, the employee's salary shall be the entrance salary or the maximum salary of the pay grade, respectively.
2. The base salary of an employee shall remain the same if the employee's position is reclassified to a class with a lower pay grade, or is in a class that is allocated to a lower pay grade, and is:
   a. Within the salary range of the new pay grade, or
   b. Greater than the maximum salary of the new pay grade.
3. In the situation described in subsection (D)(2)(b), the employee is not eligible for a general salary adjustment or performance based salary adjustment except for a special performance adjustment until the employee's salary is less than the maximum salary of the new pay grade.
4. The Director shall establish guidelines that supersede the provisions of subsections (D)(1), (D)(2), and (D)(3) when setting the salary of an employee in a classification affected by a Classification Maintenance Review or a Special Market Adjustment.

E. Demotion. An employee who has a change in assignment for cause from a position in one class to a position in another class having a lower pay grade shall receive a salary decreased by an amount equal to the midpoint of the pay grade from which the employee is demoted multiplied by 7.0% and then deducted from the employee's current base salary. If the decrease in the employee's salary is less than the entrance salary or greater than the maximum salary of the new pay grade, the employee's salary shall be within the range of the new pay grade.

F. Special detail.

1. The salary of an employee on a special detail to a class at a pay grade greater than the pay grade of the employee's permanent class shall be set in accordance with subsection (J).
2. The salary of an employee on a special detail to a class at a pay grade less than the pay grade of the employee's permanent class shall be the same salary as that paid before the special detail, which may exceed the maximum salary of the pay grade of the class to which detailed.
3. A general salary adjustment that becomes effective during an employee's special detail shall be applied to the salary the employee is paid while on special detail. However, if the employee's salary is at the maximum salary for the pay grade of the special detail position, the employee shall be paid the maximum salary of the pay grade of the class to which detailed.
4. The salary of an employee who returns to a permanent position after a special detail of 24 months or less shall be the same salary as that paid before the special detail, plus the percentage or dollar increase of an intervening general salary adjustment or special market adjustment for which the employee is eligible, and the dollar amount of a performance increase that the employee received during the special detail.
5. An employee who returns to the prior position after a special detail of more than 24 months and who received satisfactory or better performance evaluations while in the special detail shall be paid the special detail salary. However, if the special detail salary would exceed the maximum for the pay grade of the employee's permanent class, the employee shall be paid the maximum salary of the pay grade for the class.

G. Mobility assignment.

1. The salary of an employee on a mobility assignment to a covered position in a class at a pay grade greater than the pay grade of the employee's permanent class shall be set in accordance with subsection (J).
2. The salary of an employee on a mobility assignment to a covered position in a class at a pay grade less than the pay grade of the employee's permanent class shall be the same salary as that paid before the mobility assignment, which may exceed the maximum salary of the pay grade of the class to which assigned.
3. A general salary adjustment that becomes effective during an employee's mobility assignment to a covered position shall be applied to the salary the employee is paid while on mobility assignment. However, if the employee's salary is at the maximum salary for the pay grade of the employee's permanent position, the employee shall be paid the maximum salary for the pay grade of the class.
4. The salary of an employee who returns to a permanent position after a mobility assignment shall be the same salary as that paid before the mobility assignment, plus the percentage or dollar amount of increase of an intervening general salary adjustment or special market adjustment for which the employee is eligible, and the dollar amount of a performance increase that the employee received during the mobility assignment.

H. Basic hiring rate. A new employee shall be paid a salary up to the midpoint of the pay grade established for the class to which the employee is appointed. The basic hiring rate for a qualified applicant may be at a higher salary than the midpoint based on factors such as the applicant's education, experience, knowledge, skills, or abilities, the availability of qualified applicants, the applicant's earning history, or the geographical location of the position.

I. Special recruitment rate. The Director may establish a special recruitment rate for a class up to the midpoint of the pay grade when:

1. It is not possible to recruit a qualified employee at the established basic hiring rate; or
2. Competitive starting salaries for the class exceed the established basic hiring rate.

J. Promotion.

1. A permanent status employee who has a permanent change in assignment from a position in one class to a position in another class having a higher pay grade shall receive a salary increased by an amount equal to the midpoint of the new pay grade multiplied by 7.0% and then added to the employee's current base salary. If the increase in the employee's salary results in a salary that is less than the entrance salary or greater than the maximum salary of the new pay grade, the employee's salary shall be within the range of the pay grade.
2. An agency head may authorize a salary increase for a qualified employee that is greater than the percentage listed in subsection (J)(1), based on factors such as the unusual and outstanding character of the employee's education, experience, knowledge, skills, or abilities, the

availability of qualified applicants, the applicant's earning history or the geographical location of the position.

3. A promoted employee may accept a lower salary in the new pay grade than is otherwise authorized if fiscal constraints prohibit the granting of the normal promotional increase and the new salary is not less than the entrance salary of the new pay grade.
4. An employee who is promoted to the position to which the employee was in special detail shall be paid at a minimum the salary received while on special detail.
5. The salary of an employee on a special detail who is promoted to a position other than the position to which detailed shall be calculated as follows:
   a. The salary is first adjusted for a return from special detail as specified in subsection (F)(4) or (F)(5), as applicable.
   b. The salary is then adjusted for the promotion as specified in this subsection.
6. The salary of an employee on promotional probation who is again promoted to another position shall be calculated from the employee's current base salary.

K. Reduction in force. The salary of an employee who is reduced to a class in a lower pay grade due to a reduction in force remains the same even if the salary is higher than the maximum salary of the new pay grade. Unless the employee's salary is less than the maximum of the new pay grade at a later date, the employee is not eligible for a general salary adjustment or a performance increase.

L. Repromotion.

1. The salary of an employee who is repromoted to the class held prior to the reduction in force shall be the salary paid at the time of the reduction in force, plus the percentage or dollar amount of increase of an intervening general salary adjustment or special market adjustment for which the employee is eligible, and the dollar amount of a performance increase that the employee received at the lower pay grade.
2. The salary of an employee who is repromoted to a class with a higher pay grade than the current class but with a lower pay grade than the class held prior to the reduction in force, shall be set in accordance with subsection (J)(1).
3. A repromoted employee may accept a lower salary in the new pay grade than is otherwise authorized if fiscal constraints prohibit the granting of the normal promotional increase and the new salary is not less than the entrance salary of the new pay grade. The employee's salary shall be within the established range of the pay grade.

M. Return to state service.

1. The salary of a former state service employee who is reinstated or reemployed in state service may:
   a. Be the same salary as that paid when separated,
   b. Not exceed the maximum salary of the pay grade if the new pay grade is less than the prior pay grade, and
   c. Not be less than the entrance salary of the pay grade if the new pay grade is higher than the prior pay grade.
2. If an employee accepts a lower salary, the employee retains reinstatement rights.
3. A former employee may accept a lower salary in the pay grade than is otherwise authorized if fiscal constraints prohibit the granting of the former salary and the salary is not less than the entrance salary of the pay grade.

N. Reversion. An employee who is promoted but does not complete a promotional probationary period and returns to the former position or to another position in a class in a lower pay grade shall be paid the same salary as that paid at the time of promotion, plus the percentage or dollar amount of increase of an intervening general salary adjustment or special market adjustment for which the employee is eligible, and the dollar amount of a performance increase that the employee received at the higher grade.

O. Shift differential. The Director may authorize a shift differential to be paid to an employee on other than a day shift. The Director shall establish a competitive shift differential rate periodically based on an annual survey of the market place. Employees in the same class in the same agency who work on the same shift shall receive the same shift differential rate.

P. Transfer. The salary of an employee who is transferred to a position in the same class or to another class in the same pay grade shall be the same salary as that paid before the transfer unless the provisions of subsection (C)(4) apply.

Q. Voluntary Pay Grade Decrease.

1. A permanent status employee who is granted a voluntary permanent change in assignment from a position in one class to a position in another class with a lower pay grade due to a career path change, relocation, or personal reasons shall be paid the same salary as that paid before the voluntary pay grade decrease to the class in the lower pay grade provided the salary is within the new pay grade. A voluntary pay grade decrease to a class with a lower pay grade is limited to once in a five-year period.
2. A permanent status employee who volunteers for a pay grade decrease for reasons other than those outlined in subsection (Q)(1) shall be paid a salary decreased by an amount equal to the midpoint of the pay grade held before the pay grade decrease multiplied by 7.0% and then deducted from the employee's current base salary. If the decrease in the employee's salary is less than the entrance salary or greater than the maximum salary of the new pay grade, the employee's salary shall then be within the range of the new pay grade.
3. An employee promoted within one year to the immediately prior class shall be paid the same salary as that paid before the voluntary pay grade decrease to the class at the lower pay grade plus the percentage or dollar amount of increase of an intervening general salary adjustment or special market adjustment for which the employee is eligible, and the dollar amount of a performance increase that the employee received at the lower pay grade.
4. An employee promoted to a class other than the employee's immediately prior class shall be paid a salary set in accordance with subsection (J).
5. An original probationary employee who volunteers for a pay grade decrease shall be paid the basic hiring rate of the new pay grade.

Historical Note

Adopted effective December 31, 1986 (Supp. 86-6).
Amended effective August 2, 1989 (Supp. 89-3).
Amended effective September 15, 1994 (Supp. 94-3).
Amended effective March 4, 1997 (Supp. 97-1).
Amended effective August 5, 1997 (Supp. 97-3).
Amended by final rulemaking at 7 A.A.R. 2724, effective June 6, 2001 (Supp. 01-2).

R2-5-304. Performance-based Salary Adjustments

A. Performance-based salary adjustment limits. Subject to legislative appropriation, the Director shall determine employee eligibility and the minimum and maximum percentage for a performance-based salary adjustment.

B. Performance-based salary adjustments.

1. The Director shall issue performance-based salary adjustment guidelines.
2. All employees who are in the state service on the date listed in the guidelines and who meet the criteria listed in the guidelines are eligible for a performance-based salary adjustment that takes effect on the date set in the guidelines.
3. A performance-based salary adjustment may not raise the base salary of an employee beyond the maximum salary of the pay grade.
4. An employee may not receive a performance-based salary adjustment greater than the percentage limit set in the guidelines issued by the Director.

C. Special performance adjustment. An employee at the maximum salary of the employee's pay grade, or who is eligible for a performance-based salary adjustment that places the employee at the maximum salary of the pay grade, is eligible for a special performance adjustment. The special performance adjustment shall be a payment method established by the Director in the performance-based salary adjustment guidelines.

D. Combination of increases. An employee shall not receive a combination of a performance-based salary adjustment and a special performance adjustment exceeding the limit set in the guidelines issued by the Director.

Historical Note

Adopted effective December 31, 1986 (Supp. 86-6). Amended by final rulemaking at 5 A.A.R. 4417, effective November 2, 1999 (Supp. 99-4). Amended by final rulemaking at 7 A.A.R. 2724, effective June 6, 2001 (Supp. 01-2).

R2-5-305. Overtime Pay and Compensatory Leave

A. Approval of overtime work. An agency head may require that an employee work overtime and:
1. Shall approve in advance all work in excess of 40 hours per workweek or in excess of a work period as defined by the Fair Labor Standards Act (FLSA); 29 U.S.C. 203, August 1998, published by the U.S. Government Printing Office Superintendent of Documents, Mail Stop: SSOP Washington, D.C. 20402-9328, incorporated by reference and on file with the Department and the Office of the Secretary of State. This incorporation by reference contains no future editions or amendments; and
2. May assign an employee who volunteers for overtime before mandatory overtime is required.

B. Exemptions. The Director shall determine exemptions from minimum wage and maximum hour requirements in accordance with the Fair Labor Standards Act, 29 U.S.C. 213, October 1998, published by the U.S. Government Printing Office, Superintendent of Documents, Mail Stop: SSOP Washington, D.C. 20402-9328, incorporated by reference and on file with the Department and the Office of the Secretary of State. This incorporation by reference contains no future editions or amendments.

C. Non-exempt employees.
1. An agency shall compensate an employee in a non-exempt position who works in excess of 40 hours per workweek or in excess of a work period as defined by the FLSA by either:
   a. Additional pay at the rate of 1 1/2 times the employee's regular rate for each excess hour worked, or,
   b. Compensatory leave at the rate of 1 1/2 hours for each excess hour worked.
2. An employee shall select either overtime pay or compensatory leave for overtime compensation. If the employee selects both overtime pay and compensatory leave, the agency head shall determine which applies. If an employee's compensatory leave balance reaches the maximum allowed in subsection (F), the agency shall compensate the employee by overtime pay.

D. Exempt employees.
1. An employee in a position that is exempt from the FLSA, except for those excluded in subsection (E), who works in excess of 40 hours per workweek or in excess of an established work period shall earn one hour of compensatory leave for each hour of overtime worked, until the employee's compensatory leave balance reaches the maximum allowed in subsection (F). When the maximum balance is reached, an agency shall not require or allow an exempt employee to work overtime.
2. The Director may approve overtime pay at the regular rate for positions exempt from the Fair Labor Standards Act, 29 U.S.C. 207, September 1995, published by the U.S. Government Printing Office, Superintendent of Documents, Mail Stop: SSOP Washington, D.C. 20402-9328, incorporated by reference and on file with the Department and the Office of the Secretary of State. This incorporation by reference contains no future editions or amendments. These positions are eligible for compensatory leave because the primary duty is management when any of the following criteria is met:
   a. The Director determines that the practice is a prevailing condition in the Arizona labor market,
   b. Overtime pay to subordinates reduces pay differentials between subordinates and supervisors to the extent that it is no longer an incentive to remain in the supervisory position, or
   c. Temporary emergency conditions arise that make it more practical to pay overtime than to grant compensatory leave.

E. Excluded employees.
1. An employee in a position described under A.R.S. § 41-783(25) is excluded from receiving either overtime pay or compensatory leave.
2. Under A.R.S. § 41-783(25)(c), a professional position is a physician or attorney position that is compensated in accordance with a special salary plan.

F. Maximum accumulation. The maximum number of hours of accumulated compensatory leave is:
1. 480 hours for an employee who works in a public safety activity or an emergency response activity, or,
2. 240 hours for an employee who works in any other activity.

G. Payment.
1. An agency head may pay an employee at any time for all or any portion of the employee's accrued compensatory leave balance at the employee's current base salary, subject to funding availability.
2. An agency shall pay an employee who has unused compensatory leave at the time of separation from state service for each hour of compensatory leave at:
   a. The employee's average base salary during the last three years of employment; or,
   b. The employee's final base salary, whichever is higher.

H. Inter-agency Transfer. An agency head may pay an employee who transfers to another state service agency for all accumulated compensatory leave at the time of the transfer. An agency may transfer part or all of the compensatory leave accumulated

by an employee who transfers to another agency with the gaining agency's concurrence. If the gaining agency does not concur, the losing agency shall pay all of the accumulated compensatory leave that the gaining agency will not accept.

Historical Note
Adopted effective December 31, 1986 (Supp. 86-6).
Amended effective April 20, 1995 (Supp. 95-2).
Amended by final rulemaking at 7 A.A.R. 2724, effective June 6, 2001 (Supp. 01-2).

R2-5-306. Standby Duty Pay

A. Definition. "Standby duty" means the requirement imposed upon an employee by an agency to remain at the employee's duty location or other designated location at any time when the employee is not scheduled to work.

B. Authority. An agency head may place an employee on standby duty when the agency head considers the action to be in the best interest of the state.

C. Payment. Standby duty is considered to be work under the FLSA. An agency shall pay an employee on standby duty the employee's regular rate of pay and shall count all periods of standby duty in determining eligibility for overtime compensation.

Historical Note
Adopted effective December 31, 1986 (Supp. 86-6).
Amended by final rulemaking at 7 A.A.R. 2724, effective June 6, 2001 (Supp. 01-2).

R2-5-307. Expired

Historical Note
Adopted as an emergency effective February 22, 1988, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 88-1). Emergency expired. New Section adopted effective March 10, 1993 (Supp. 93-1). Section expired under A.R.S. § 41-1056(E) at 8 A.A.R. 3483, effective July 19, 2002 (Supp. 02-3).

ARTICLE 4. BENEFITS

R2-5-401. Benefit Administration

A. Eligibility for leave. All state service employees, except emergency, seasonal, clerical pool, and temporary employees, are eligible for any type of leave with pay from the date of appointment. Emergency, seasonal, clerical pool, and temporary employees are eligible only for administrative leave, military leave, and civic duty leave for the purpose of voting only.

B. Requests for leave. Except in an emergency, an employee must obtain approval in advance and in writing prior to taking any leave.

Historical Note
Adopted effective December 31, 1986 (Supp. 86-6).

R2-5-402. Holidays

A. State service holidays.
1. January 1, "New Year's Day".
2. Third Monday in January, "Martin Luther King, Jr./Civil Rights Day".
3. Third Monday in February, "Lincoln/Washington Presidents' Day".
4. Last Monday in May, "Memorial Day".
5. July 4, "Independence Day".
6. First Monday in September, "Labor Day".
7. Second Monday in October, "Columbus Day".
8. November 11, "Veterans Day".
9. Fourth Thursday in November, "Thanksgiving Day".
10. December 25, "Christmas Day".

B. Employees scheduled to work. An employee who is regularly scheduled to work on a day on which one of the holidays listed in subsection (A) above is observed is entitled to be absent with pay for the number of hours regularly scheduled to work, not to exceed 8, unless required to work to maintain essential state services.
1. Part-time employees who work 1/4 time, 1/2 time, or 3/4 time are entitled to a proportional amount of holiday pay. Part-time employees who work a percentage of full-time other than 1/4 time, 1/2 time, or 3/4 time are entitled to holiday pay at the next lower rate. An employee who works less than 1/4 time is not entitled to holiday pay.
2. Seasonal, temporary, emergency, and clerical pool employees shall receive holiday pay provided they are in pay status the day before and the day after the holiday.

C. Employees not scheduled to work. An employee, excluding seasonal, temporary, emergency, clerical pool, and part-time employees, who is not scheduled to work on a day on which one of the holidays listed in subsection (A) above is observed shall receive holiday compensation for the number of hours normally worked per day, not to exceed 8, provided the employee is not on leave without pay on the employee's work days immediately preceding or following the day on which the holiday is observed.

D. Employees required to work. An employee who is required to work on a day on which a holiday listed in subsection (A) above is observed shall receive both holiday compensation and one hour of pay at the current salary rate for each hour worked.

E. Holiday compensation.
1. Except as modified by subsection (E)(2), an eligible employee shall receive for each hour of holiday compensation authorized, at the option of the agency head, either:
   a. One hour of additional pay at the current salary rate; or,
   b. One hour of annual leave; or,
   c. One hour time off with pay on an alternate work day specified by the agency head after the holiday and during the pay period in which the holiday is observed, or the succeeding pay period.
2. Seasonal, temporary, emergency, and clerical pool employees do not accrue annual leave and shall receive either additional pay or time off as in subsection (E)(1)(c) above.
3. An employee may not receive more than eight hours of holiday compensation for any holiday.

Historical Note
Adopted effective December 31, 1986 (Supp. 86-6).
Amended effective July 6, 1993 (Supp. 93-3). Amended effective April 20, 1995 (Supp. 95-2).

R2-5-403. Annual Leave

A. Definition. "Annual leave" means a period of approved absence with pay that is not chargeable to another category of leave.

B. Accrual.
1. All employees except temporary, emergency, clerical pool, and part-time employees shall accrue annual leave in accordance with the following schedule:

Credited Service	Hours Bi-weekly
Fewer than 3 years	3.70
3 years but fewer than 7 years	4.62
7 years but fewer than 15 years	5.54
15 years or more	6.47

2. Part-time employees who:

a. Work 1/4 time, 1/2 time, or 3/4 time shall accrue a proportional amount of annual leave; or
b. Work a percentage of full-time other than 1/4 time, 1/2 time, or 3/4 time shall accrue annual leave at the next lower rate.

3. Temporary, emergency, clerical pool, and part-time employees who work less than 1/4 time shall not accrue annual leave.
4. Eligible employees accrue annual leave on the last day of each bi-weekly pay period if the employee is in a pay status for at least 1/2 of the scheduled work hours in that pay period.
5. Service in a position that became covered in accordance with A.R.S. Title 41, Chapter 4 (formerly A.R.S. Title 38, Chapter 6), is considered credited service in determining accrual rate change dates.
6. The effective date for change in the accrual rate is the first day of the pay period immediately following the attainment of the required credited service.

C. Credited service.
1. Credited service shall be calculated from the first day of the first complete pay period worked.
2. Credited service shall include:
a. A period of service as an employee of a state budget unit before a break in service of less than two years that is not the result of disciplinary action;
b. A period of leave without pay of 240 hours or less;
c. Approved Family Medical Leave Act (FMLA) leave;
d. Military leave taken under A.R.S. §§ 26-168, 26-171, or 38-610; and
e. Active military service of an employee who is restored to state service under A.R.S. § 38-298.

D. Accumulation.
1. Except as provided in subsections (D)(2) and (D)(3), an employee shall forfeit annual leave accumulated in excess of 240 hours as of the last day of the last pay period that begins in a calendar year, unless the Director authorizes an exception in an individual case. An application for exception submitted to the Director shall contain a plan to use the excess hours during the following calendar year, pay the employee for the excess hours, or a combination of both.
2. An employee who accrues additional annual leave for working on a state holiday may exceed the 240-hour limitation by up to 24 hours.
3. An employee may retain annual leave accumulated as a result of service that became covered in accordance with A.R.S. Title 41, Chapter 4, (formerly A.R.S. Title 38, Chapter 6), without regard to the accumulation limit contained in subsection (D)(1).

E. Donation of annual leave.
1. Definitions.
a. "Immediate family" means the recipient employee's parent, spouse, or child, whether natural, adopted, foster, or step.
b. *"Family" means spouse, natural child, adopted child, foster child, stepchild, natural parent, stepparent, adoptive parent, grandparent, grandchild, brother, sister, sister-in-law, brother-in-law, son-in-law, daughter-in-law, mother-in-law, father-in-law, aunt, uncle, nephew, or niece.* A.R.S. § 41-783(17)(a)
c. "Extended illness or injury" means a period of at least three weeks to a maximum of six consecutive months.
2. Eligibility.
a. An employee may donate annual leave to an individual who has no accumulated annual leave if the individual is:
i. Another employee in the same agency as the donating employee; or
ii. A family member of the donating employee who is employed in another agency.
b. The recipient employee in the same agency or the recipient family member in another agency may use the donated annual leave to care for the recipient or an immediate family member who has a seriously incapacitating illness or injury.
c. A recipient employee or family member may use a maximum of six consecutive months of annual leave donated for each qualifying occurrence unless the recipient employee or family member applies for Long-term Disability (LTD) by the end of the fifth month. The recipient employee or family member then may continue to use donated annual leave until an LTD determination is made.
d. Before using donated annual leave, a recipient employee:
i. With a qualifying illness or injury shall exhaust all available sick leave and annual leave; or
ii. Whose immediate family member has a qualifying illness or injury shall exhaust 40 hours of sick leave granted in accordance with R2-5-404(A)(4), if available, and all annual leave.
3. Unused leave. If the recipient employee separates from state service, recovers before using all donated leave, or the need for the donated annual leave is otherwise abated, the agency shall return unused leave to contributors on a pro-rata basis.
4. Calculation of hours donated. An agency shall adjust the number of hours of annual leave donated in proportion to the hourly rate of pay of the donating employee and the recipient employee. To calculate the number of hours of donated annual leave:
a. Multiply the actual number of hours donated by the donating employee's hourly rate of pay; and
b. Divide the result by the recipient employee's hourly rate of pay.

F. Use of annual leave. An employee may take annual leave at any time approved by the agency head. An agency shall not advance annual leave to an employee.

G. Movement to another agency. An employee who moves from one agency to another state service agency shall transfer all accumulated and unused annual leave to the employee's annual leave account in the new agency.

H. Separation. An agency shall pay an employee who separates from state service for all unused and unforfeited annual leave at the employee's current rate of pay.

Historical Note

Adopted effective December 31, 1986 (Supp. 86-6). Amended as an emergency effective August 19, 1988 pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 88-3). Emergency expired. Amended effective September 12, 1989 (Supp. 89-3). Amended effective September 14, 1990 (Supp. 90-3). Amended effective August 5, 1997 (Supp. 97-3). Amended by final rulemaking at 6 A.A.R. 4093, effective October 3, 2000 (Supp. 00-4). Amended by final rulemaking at 9 A.A.R. 2082, effective August 2, 2003 (Supp. 03-2).

R2-5-404. Sick Leave

A. Definition. "Sick leave" is any approved period of paid absence granted an employee due to:
1. Illness or injury which renders the employee unable to perform the duties of the position. Minor, non-disabling injuries and illnesses do not qualify an employee for sick leave.
2. Disability caused by pregnancy, childbirth, miscarriage, or abortion.
3. Examination or treatment by a licensed health care practitioner.
4. Illness, injury, examination, or treatment by a licensed health care practitioner of an employee's spouse, dependent child, or parent. For the purposes of this Section, the term "dependent child" is defined as a natural child, an adopted child, a foster child, or a stepchild, over 1/2 of whose support is received from the employee. The term "parent" is defined as a birth parent, adoptive parent, stepparent, foster parent, grandparent, parent-in-law, or anyone who can be considered "in loco parentis", i.e., someone who assumed the responsibility of a parent. Sick leave granted for this purpose shall be charged to the employee's sick leave account and shall not exceed 40 hours per calendar year.

B. Accrual.
1. All state service employees, except seasonal, temporary, emergency, clerical pool, and part-time employees, shall accrue sick leave at the rate of eight hours per month.
2. Part-time employees who work 1/4 time, 1/2 time, or 3/4 time will accrue a proportional amount of sick leave. Part-time employees who work a percentage of full-time other than 1/4 time, 1/2 time, or 3/4 time will accrue sick leave at the next lower rate.
3. Part-time employees who work less than 1/4 time, and seasonal, temporary, emergency and clerical pool employees are not eligible for sick leave.
4. Eligible employees accrue the appropriate number of hours of sick leave on a pay period or monthly basis, as determined by the agency head. Accrued sick leave is credited on the last day of the pay period or month in which earned, provided the employee has been in a pay status for at least 1/2 of the employee's working days in that pay period or month.

C. Accumulation. Sick leave credits are accumulated without limit.

D. Use of sick leave.
1. Sick leave may be taken when approved by the agency head. An agency head shall approve sick leave requested as a part of a parental leave.
2. The agency head may require submission of evidence substantiating the need for sick leave. If the agency head determines the evidence is inadequate, the absence shall be charged to another category of leave or considered absence without leave.
3. An agency head may require an employee to be examined by a licensed health care practitioner designated by the agency head. If the licensed health care practitioner determines that the employee should not work due to illness or injury, the agency head may place the employee on sick leave or, if the employee's sick leave is exhausted, on leave without pay. The agency head may require the employee to obtain approval from the licensed health care practitioner prior to returning to work. The agency shall pay for all examinations required pursuant to this subsection. The employee shall not be charged any leave while participating in or traveling to or from any examination required pursuant to this subsection.

E. Movement to another agency. An employee who moves to another state service agency shall transfer all accumulated and unused sick leave to the employee's sick leave account in the new agency.

F. Forfeiture. All sick leave credits are forfeited upon separation from state service except as otherwise provided by law. However, employees who re-enter the state service within two years after separation will be credited with all unused sick leave at the time of separation, provided the separation was not the result of disciplinary action, and provided the employee was not paid for accumulated sick leave pursuant to A.R.S. § 38-615.

Historical Note

Adopted effective December 31, 1986 (Supp. 86-6).
Amended effective August 2, 1989 (Supp. 89-3).
Amended effective September 15, 1994 (Supp. 94-3).

R2-5-405. Industrial Leave

A. Use of leave.
1. An agency head shall place an employee who sustains a job-related disability that is compensable under the Workers' Compensation Law, A.R.S. Title 23, Chapter 6 on sick leave.
2. If an employee exhausts all sick leave and does not request annual or compensatory leave, or has exhausted annual or compensatory leave, an agency head shall place the employee on leave without pay.
3. If an employee is on leave under the Worker's Compensation laws and that leave qualifies for Family Medical Leave Act (FMLA) leave, an agency shall count it as FMLA leave. An agency shall apply industrial leave and FMLA concurrently.

B. Payments.
1. An employee shall use leave in an amount necessary to receive total payments (leave payments plus Workers' Compensation payments) that do not exceed the gross salary of the employee.
2. If an employee receives a retroactive Workers' Compensation payment for any period of industrial illness or injury for which leave payments were received, the employee shall reimburse the agency for Workers' Compensation payments that exceed 100% of the employee's base pay before the illness or injury, and the agency shall restore the equivalent value of leave to the employee's appropriate leave account.

C. Light duty. If an employee has a job-related disability that impairs performance on the former job, the agency head shall make every effort to place the employee in a suitable position.

D. Restriction. An agency head shall not grant sick leave or leave without pay to an employee who fails to accept compensation available under the industrial injury and disease provisions of A.R.S. §§ 23-901 to 23-1091.

E. Health benefit plan participation.
1. An employee who is on leave without pay due to an industrial illness or injury may continue to participate in the health benefit plan for a maximum of six months from the date of illness or injury by paying the employee contribution.
2. At the end of the 6-month period, an employee who remains on leave without pay due to industrial illness or injury may continue to participate in the health benefit plan by paying both the state and employee contributions, until the employee returns to work or is determined to be

eligible for Medicare coverage or Long-term Disability, whichever occurs first.

F. Life insurance plan participation. An employee who is on leave without pay continues to participate in the basic life and accidental death and dismemberment insurance plan without cost for six months after the month in which the illness or injury occurs. During this time, the employee may continue supplemental life and dependent life coverages that were in effect at the start of the leave by paying the applicable premium.

G. Termination. The insurance coverage of an individual on leave without pay who fails to pay insurance premiums or contributions when due shall terminate at 11:59 p.m. on the last day of the period covered by the last premium or contribution paid.

H. Accrual of leave. An employee shall continue to receive full leave accrual as long as the employee uses two or more hours of paid leave each day.

Historical Note

Adopted effective December 31, 1986 (Supp. 86-6).
Amended effective April 20, 1995 (Supp. 95-2).
Amended by final rulemaking at 6 A.A.R. 4093, effective October 3, 2000 (Supp. 00-4).

R2-5-406. Civic Duty Leave

A. General. Upon substantiated application, an employee shall receive absence with pay as civic duty leave while serving as a juror, complying with a subpoena, voting, or serving as a member of a governmental board, commission, or similarly constituted governmental body, subject to the conditions set forth in this rule and the limitations in subsection R2-5-401(A).

B. Use of civic duty leave. Except for voting pursuant to A.R.S. § 16-401 (primary elections) or A.R.S. § 16-402 (general elections), an employee granted civic duty leave shall report for duty with the employing agency whenever the employee's presence is not required for the civic duty, unless:

1. The distance to the work location would preclude timely reporting for the civic duty; or,
2. The employee cannot return to work at least one hour before the end of the work shift.

C. Appearance as a witness. An employee who is subpoenaed as a witness by any court or administrative, executive, or judicial body in this state may be absent with pay unless the testimony or evidence to be given relates to the employee's commercial, business, or personal matters.

D. Jury and witness fees. Employees who are granted civic duty leave when called for jury duty or subpoenaed as a witness shall remit any fees to the employing agency, except for mileage allowance.

E. Membership on a public service body. An employee serving as a member of a governmental board, commission, or similarly constituted governmental body may be absent with pay while performing official duties with the body.

Historical Note

Adopted effective December 31, 1986 (Supp. 86-6).

R2-5-407. Military Leave

An employee who requests absence with pay on military leave under A.R.S. § 26-168, 26-171, or 38-610 shall submit a copy of the orders for duty with the request for military leave. An employee may be absent with pay for military purposes for up to 240 regularly scheduled work hours in any two consecutive years.

Historical Note

Adopted effective December 31, 1986 (Supp. 86-6).
Amended by final rulemaking at 6 A.A.R. 4093, effective October 3, 2000 (Supp. 00-4).

R2-5-408. Educational Leave

A. General. An employee may be sent with pay to participate in a formal educational or training course of study at a college, university, or technical school with the approval of the agency head and the Director, based on the determination that the leave is in the best interest of the state service.

B. Application. The approved application shall be accompanied by a written agreement signed by the agency head and the employee containing the following provisions at a minimum:

1. A statement of the payments, if any, to be provided to the employee and the manner of their payment.
2. An agreement by the employee to return to or continue in the state service upon the completion of the educational or training course of study for a period of time specified by the agency head.
3. A statement by the employee that failure to successfully complete the course, to complete the specified state service, or to fulfill all of the terms of the agreement, shall result in the employee's being required to repay all or a proportionate part of the salary and other payments received, if any.

Historical Note

Adopted effective December 31, 1986 (Supp. 86-6).

R2-5-409. Administrative Leave

An agency head may authorize an employee to be absent with pay on administrative leave during a state of emergency declared by the Governor or in other emergency situations such as extreme weather conditions, fire, flood, or malfunction of publicly-owned or controlled machinery or equipment. An agency head may grant administrative leave to relieve an employee of duties temporarily during the investigation of alleged wrongdoing by the employee.

Historical Note

Adopted effective December 31, 1986 (Supp. 86-6).

R2-5-410. Bereavement Leave

An employee may be absent with pay for up to 24 regularly scheduled work hours due to the death or funeral of a spouse, natural child, adopted child, foster child, stepchild, natural parent, stepparent, adoptive parent, one who functioned "in loco parentis", grandparent, grandchild, brother, sister, brother-in-law, sister-in-law, mother-in-law, father-in-law, son-in-law, or daughter-in-law. An agency head may extend the bereavement leave for 16 work hours if the employee travels out-of-state for the funeral.

Historical Note

Adopted effective December 31, 1986 (Supp. 86-6).
Amended effective August 2, 1989 (Supp. 89-3).
Amended effective April 20, 1995 (Supp. 95-2).
Amended by final rulemaking at 6 A.A.R. 4093, effective October 3, 2000 (Supp. 00-4).

R2-5-411. Parental Leave

"Parental leave" means any combination of annual leave, sick leave, compensatory leave, or leave without pay taken by an employee due to pregnancy, childbirth, miscarriage, abortion, or adoption of children. An agency head shall approve a request for parental leave of an employee subject to the following conditions:

1. An employee may take sick leave only for periods of disability.
2. Parental leave for childbirth, miscarriage, abortion, or adoption shall not exceed 12 weeks, unless the agency head approves a request for a longer duration.
3. An agency shall not require an employee to exhaust all annual leave, sick leave, or compensatory leave before taking leave without pay.

4. An employee shall specify the number of hours of annual leave, sick leave, compensatory leave, and leave without pay to be used when requesting parental leave.
5. If leave under this Section qualifies for FMLA leave, an agency shall count it as FMLA leave.
6. An employee returning to work from leave without pay taken as part of a parental leave shall return to the position occupied at the start of the parental leave. If this position no longer exists, the agency shall conduct a reduction in force.

Historical Note

Adopted effective December 31, 1986 (Supp. 86-6). Amended effective August 2, 1989 (Supp. 89-3). Amended effective April 20, 1995 (Supp. 95-2). Amended by final rulemaking at 6 A.A.R. 4093, effective October 3, 2000 (Supp. 00-4).

R2-5-412. Leave for Serious Health Condition

A. General. If an employee's condition qualifies as a serious health condition under FMLA, the employee may take a maximum of 12 weeks of leave in the following order:
1. The employee shall use all accrued sick leave;
2. The employee shall then use all accrued annual leave;
3. If the employee exhausts all accrued sick and annual leave, the agency head shall grant medical leave without pay under R2-5-413; and
4. The provisions of the FMLA, not the provisions of R2-5-413(B), shall govern return to work from leave without pay granted to complete an FMLA-qualified leave. The FMLA Regulations of 1993, 29 CFR 825.100 through 29 CFR 825.312, are incorporated by this reference and on file with the Department and the Office of the Secretary of State. This incorporation by reference contains no future editions or amendments.

B. Family leave. If an employee's leave qualifies for FMLA leave to care for a family member with a serious health condition:
1. The employee may use any sick leave available under R2-5-404(A)(4);
2. The employee then shall use all accrued annual leave;
3. If the employee exhausts all available sick and accrued annual leave, the agency head shall grant leave without pay under R2-5-414; and
4. The provisions of the FMLA, not the provisions of R2-5-414(D), shall govern return to work from leave without pay granted to complete an FMLA-qualified leave.

C. Compensatory time. An employee may use accrued compensatory time for an FMLA qualified leave.

D. Leave without pay. An agency head shall apply leave without pay granted for an FMLA-qualified leave simultaneously with leave available under R2-5-413 and R2-5-414.

E. Counting FMLA leave. To determine the maximum leave available under FMLA, an agency head shall include all leave time granted that qualifies as FMLA leave.

F. Health benefit plan participation. An employee who is on FMLA leave is eligible to participate in the health benefit plan under R2-5-416.

G. Life insurance plan participation. An employee who is on FMLA leave without pay:
1. Continues to participate in the Basic Life and Accidental Death and Dismemberment Insurance Plan; and
2. May continue to participate in the supplemental life and dependent life insurance coverage by paying the full premium.

H. Conflict. If there is a conflict between the provisions of these rules and the FMLA, the provisions of the FMLA govern.

Historical Note

Adopted as an emergency effective August 19, 1988, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 88-3). Emergency expired. Amended and adopted as a permanent rule effective September 12, 1989 (Supp. 89-3). Rule citation in subsection (B) corrected (Supp. 95-2). Former Section R2-5-412 renumbered to R2-5-413; new Section R2-5-412 adopted by final rulemaking at 6 A.A.R. 4093, effective October 3, 2000 (Supp. 00-4).

R2-5-413. Medical Leave without Pay

A. An agency head shall place a permanent status employee on medical leave without pay if:
1. The employee is unable to work due to a non-job-related, seriously incapacitating and extended illness or injury;
2. A physician selected by the employee documents the seriousness and extensiveness of the incapacitating illness or injury, subject to confirmation by an agency-selected physician, at the expense of the agency, whose opinion shall be used to determine whether a medical leave without pay should be granted;
3. The employee exhausts all leave balances, including any leave donated to the employee; and
4. The leave terminates when the employee returns to work or the employee is absent for 180 days, whichever occurs first.

B. An agency head shall determine the status of an employee who returns to work from medical leave without pay in the manner specified in subsection R2-5-414(D)(2).

Historical Note

Adopted effective December 31, 1986 (Supp. 86-6). Amended effective August 2, 1989 (Supp. 89-3). Amended effective April 20, 1995 (Supp. 95-2). Former Section R2-5-413 renumbered to R2-5-414; new Section R2-5-413 renumbered from R2-5-412 and amended by final rulemaking at 6 A.A.R. 4093, effective October 3, 2000 (Supp. 00-4).

R2-5-414. Leave without Pay

A. Approval. All leave without pay requires a written request by an employee in advance and approval by the agency head. An agency head shall approve leave without pay requested as a part of a parental leave.

B. Documentation of leave. A request for leave without pay in excess of 80 consecutive hours shall include the beginning date of the leave without pay, the reason for the request, the anticipated date of the return to work, and the signature or signatures of the appropriate level or levels of authority approving the request.

C. Use of leave. Except for parental leave, FMLA leave, military leave, or leave granted to forestall a reduction in force, an agency head shall not grant leave without pay in excess of 80 consecutive hours until all accrued annual leave and, if the leave without pay is for medical reasons, sick leave are exhausted.

D. Return to work.
1. An employee who returns to work after a period of leave without pay of 80 consecutive hours or less shall return to the same position occupied at the start of the leave without pay.
2. Except as provided in subsection (D)(4), an employee who returns to work after a period of leave without pay in excess of 80 consecutive hours is entitled to return to a position in the class held at the start of the leave without pay, if a position is available and funded, and if the leave without pay is terminated in one of the following ways:

a. Expiration of its term and the employee's return to work;
b. Rescission of the leave without pay by the agency head before its scheduled expiration, due to an unforeseen need that results in an insufficient number of employees available to provide service for which:
i. The agency head shall provide written notice of the rescission to the employee's last known address at least 15 days before the date the employee is directed to return to work; or
ii. If circumstances beyond the agency's control do not permit at least a 15-day notice, the agency head shall provide notice as soon as possible after becoming aware of the need for the employee to return to work; or
c. Curtailment of the leave without pay before its scheduled expiration date, upon request of the employee and with approval of the agency head.

3. An agency head may consider the failure or inability of an employee to return to work on the first work day after an approved leave without pay as a resignation, a separation without prejudice, or cause for dismissal.
4. If no funded position is available to accommodate an employee's return to work on the first working day following expiration of an approved leave without pay or any extensions, the agency head may separate the employee without prejudice.
5. An employee returning to work from leave without pay granted for military service, for industrial illness or injury for up to six months, to forestall a reduction in force, as part of a parental or FMLA leave, or to accept an uncovered position, shall return to the position occupied at the start of the leave without pay. If this position or a position in the same class is not available and funded, the agency head shall conduct a reduction in force.

E. Health benefit plan participation.
1. An employee who is on leave without pay for a health-related reason that is not an industrial illness or injury may continue to participate in the health benefit plan by paying both the state and employee contribution. Authority to continue participation in the health benefit plan shall terminate on the earliest of:
a. Receipt of long-term disability benefits for which there is eligibility to continue health benefit plan participation under R2-5-418(A)(3);
b. A determination of eligibility for Medicare coverage; or
c. 30 months after the incapacity began.
2. An employee who is on leave without pay for other than a health-related reason may continue to participate in the health benefit plan for a maximum of six months by paying both the state and employee contributions.

F. Life insurance plan participation. An employee who is on leave without pay may continue to participate in the basic life insurance plan by paying the state premium. An employee who elects to continue to participate in the basic plan may also continue any supplemental or dependent life coverage that is in force at the beginning of the leave without pay by continuing to pay the premium. Authority to continue in the life insurance plan shall terminate in accordance with the time limits specified in subsection (E).

G. Termination. The insurance coverage of an individual on leave without pay who fails to pay insurance premiums or contributions when due shall terminate at 11:59 p.m. on the last day of the period covered by the last premium or contribution paid.

H. Disposition of accrued leave.
1. If an employee is to be granted leave without pay by one agency to accept an uncovered position in another state service agency, the agency heads shall agree on whether the employee's accrued annual and compensatory leave is to be paid or transferred in whole or in part. Sick leave shall be transferred. The same procedure shall apply upon the return of the employee to covered service.
2. The disposition of all current and future accrued leave of an employee who is to be granted leave without pay to accept a position in a non-state service agency or in another governmental jurisdiction shall be covered in the intergovernmental agreement concluded between the Director and the non-state service agency or other jurisdiction.

Historical Note
Adopted effective December 31, 1986 (Supp. 86-6). Former Section R2-5-414 renumbered to R2-5-415; new Section R2-5-414 renumbered from R2-5-413 and amended by final rulemaking at 6 A.A.R. 4093, effective October 3, 2000 (Supp. 00-4).

R2-5-415. Insurance Plans

A. Designation of qualifying health care plans. The following types of plans are qualifying health care plans:
1. Medical Insurance.
2. Dental Insurance.
3. Vision Insurance.

B. Designation of other qualifying insurance plans. Other qualifying insurance plans are:
1. Life Insurance.
2. Short-term Disability Income Insurance.

C. Complaints. An employee who wishes to submit a complaint about an employee insurance plan shall contact the employee's Agency Insurance Liaison or a representative of the Department Benefits Section. Retired employees shall contact a representative of the Department Human Resources Benefits Section.

Historical Note
Adopted effective December 31, 1986 (Supp. 86-6). Amended effective August 2, 1989 (Supp. 89-3). Former Section R2-5-415 renumbered to R2-5-416; new Section R2-5-415 renumbered from R2-5-414 and amended by final rulemaking at 6 A.A.R. 4093, effective October 3, 2000 (Supp. 00-4).

R2-5-416. Health Benefit Plan

A. Eligibility.
1. All state employees, except those listed in subsection (A)(2), and their eligible dependents may participate in the health benefit plan, if they comply with the contractual requirements of the selected health benefit plan. An eligible employee may enroll in a health benefit plan at any time within the first 30 days of employment or during an open enrollment period specified by the Director. An eligible employee may submit an application for enrollment within 31 days of a family status event.
2. The following categories of employees are not eligible to participate in the health benefit plan:
a. An employee who works fewer than 20 hours per week;
b. An employee in a temporary, emergency, or clerical pool position;
c. A patient or inmate employed in a state institution;
d. A non-state employee officer or enlisted personnel of the National Guard of Arizona;

e. An employee in a position established for rehabilitation purposes;
f. An employee of any state college or university:
i. Who works fewer than 20 hours per week;
ii. Who is engaged to work for fewer than six months; or
iii. For whom contributions are not made to a state retirement plan. This disqualification does not apply to a non-immigrant alien employee, an employee participating in a medical residency training program, or a Cooperative Extension employee on federal appointment.

B. Eligibility exception. An employee who is on leave without pay may continue to participate in the health benefit plan under the conditions in:
1. R2-5-405 for employees on leave without pay due to industrial illness or injury;
2. R2-5-413 for employees on medical leave without pay; or
3. R2-5-414 for employees on leave without pay for any other reason.

C. Dependent eligibility. Dependents eligible to participate in the health benefit plan include an employee's spouse and each qualifying child.

D. Enrollment of dependents. An eligible employee may enroll eligible dependents at the time of the employee's original enrollment, within 31 days of a family status event, or at open enrollment.

Historical Note

Adopted effective December 31, 1986 (Supp. 86-6) Amended effective August 2, 1989 (Supp. 89-3). Former Section R2-5-416 renumbered to R2-5-417; new Section R2-5-416 renumbered from R2-5-415 and amended by final rulemaking at 6 A.A.R. 4093, effective October 3, 2000 (Supp. 00-4).

R2-5-417. Life Insurance and Short-term Disability Income Insurance Plans

A. Eligibility.
1. All state employees, except those listed in subsection (A)(2), may participate in the life insurance and short-term disability income insurance plans.
2. The following categories of employees are not eligible to participate in the life insurance and short-term disability income insurance plans:
a. An employee who works fewer than 20 hours per week;
b. An employee in a temporary or emergency position;
c. A patient or inmate employed in a state institution;
d. A non-state employee officer or enlisted personnel of the National Guard of Arizona;
e. An employee in a position established for rehabilitation purposes;
f. An employee of any state college or university:
i. Who works fewer than 20 hours per week;
ii. Who is engaged in work for fewer than six months; or
iii. For whom contributions are not made to a state retirement plan. This disqualification does not apply to an employee participating in a medical residency training program or a Cooperative Extension employee on federal appointment.

B. Supplemental insurance coverage. In addition to the basic life insurance provided at no cost to an employee, an eligible employee may elect to purchase additional group life insurance in an amount not to exceed three times the employee's annual salary, rounded down to the nearest $5,000, or $200,000, whichever is less.

C. Dependent coverage. An eligible employee may elect to purchase group life insurance for the employee's spouse and each qualifying child in an amount established by the Director. The employee may contact a representative of the Human Resources Benefits Section or the employee's agency personnel liaison for details.

D. Long-term disability coverage. The monthly benefit paid under the disability portion of a plan provided under A.R.S. § 38-651 may be reduced by payments the employee receives or is eligible to receive in the same month as determined by the terms and conditions of the plan.

Historical Note

Adopted effective December 31, 1986 (Supp. 86-6). Amended effective August 2, 1989 and September 12, 1989 (Supp. 89-3). Former Section R2-5-417 renumbered to R2-5-418; new Section R2-5-417 renumbered from R2-5-416 and amended by final rulemaking at 6 A.A.R. 4093, effective October 3, 2000 (Supp. 00-4).

R2-5-418. Retiree Health Benefit Plan

A. Eligibility. A state employee is eligible to participate in the retiree health benefit plan if the employee is:
1. Retired under a state-sponsored retirement plan and continues enrollment in the retiree health benefit plan;
2. Newly retired under a state-sponsored retirement plan and within 31 days of the date of retirement enrolls in the retiree health benefit plan; or
3. On long-term disability under a state-sponsored plan.

B. Dependent eligibility. A retired employee's spouse and each qualifying child are eligible to participate in the retiree health benefit plan.

C. Extended coverage. If a state employee dies while retired, on long-term disability, or continuing to work when eligible for retirement, retiree health benefit plan coverage that is in effect for the employee's spouse or qualifying child may continue by payment of the premium and applicable administrative expense.

Historical Note

Adopted effective December 31, 1986 (Supp. 86-6). Amended effective August 2, 1989 (Supp. 89-3). Former Section R2-5-418 renumbered to R2-5-419; new Section R2-5-418 renumbered from R2-5-417 and amended by final rulemaking at 6 A.A.R. 4093, effective October 3, 2000 (Supp. 00-4).

R2-5-419. Health Benefit Plan for Former Elected Officials

A. Definition. "Former elected official" means an elected official as defined in A.R.S. § 38-801(3) who is no longer in office.

B. Eligibility. A former elected official of this state is eligible to participate in the retiree health benefit plan if the former elected official:
1. Has at least five years of credited service in the Elected Officials' Retirement Plan;
2. Was covered under a group health or group health and accident plan at the time of leaving office;
3. Served as an elected official on or after January 1, 1983; and
4. Applies for enrollment within 31 days of leaving office or retiring.

C. Dependent eligibility. A former elected official's spouse and each qualifying child are eligible to participate in the retiree health benefit plan.

D. Eligibility of surviving spouse. Upon the death of a former elected official, the surviving spouse is eligible for coverage

under the retiree health benefit plan by paying the premium and applicable administrative expenses if:
1. The deceased former elected official met the qualifications for eligibility listed in subsection (B); and
2. The surviving spouse applies for coverage within 31 days of the death of the former elected official.

E. Termination of coverage. The insurance coverage of a former elected official or the surviving spouse of a former elected official who fails to pay insurance premiums when due shall terminate at 11:59 p.m. on the last day of the period covered by the last premium paid.

Historical Note
Adopted effective August 2, 1989 (Supp. 89-3). Former Section R2-5-419 renumbered to R2-5-421; new Section R2-5-419 renumbered from R2-5-418 and amended by final rulemaking at 6 A.A.R. 4093, effective October 3, 2000 (Supp. 00-4).

R2-5-420. Health Benefit Plan for Surviving Spouse of Elected Official

A. Upon the death of an elected official who is currently serving in office, the surviving spouse is eligible for coverage under the retiree health benefit plan by paying the premium and applicable administrative expenses if:
1. The deceased elected official met the qualifications for eligibility listed in R2-5-419(B)(1) and (2), or would have met the qualifications upon completion of the term of office in which the deceased elected official was serving at the time of death; and
2. The surviving spouse applies for coverage within 31 days of the death of the elected official.

B. Termination of coverage. The insurance coverage of a surviving spouse who fails to pay insurance premiums when due shall terminate at 11:59 p.m. on the last day of the period covered by the last premium paid.

Historical Note
Adopted effective August 2, 1989 (Supp. 89-3). Former Section R2-5-420 renumbered to R2-5-422; new Section R2-5-420 adopted by final rulemaking at 6 A.A.R. 4093, effective October 3, 2000 (Supp. 00-4).

R2-5-421. Life Insurance Plan for Former Elected Officials

A. Definitions. "Former elected official" means an elected official as defined in A.R.S. § 38-801(3) who is no longer in office.

B. Eligibility. A former elected official of this state, spouse, and each qualifying child are eligible to participate in the group life insurance plan, if the former elected official:
1. Has at least five years of credited service, as referenced in A.R.S. § 38-801 et seq., in the Elected Officials' Retirement Plan; and,
2. Served as an elected official on or after January 1, 1983.

C. Eligibility of surviving spouse.
1. Upon the death of a former elected official, the spouse is entitled to coverage under the group life insurance plan, if:
   a. The deceased former elected official met the qualifications for eligibility listed in subsection (B);
   b. The surviving spouse is receiving a monthly survivor's retirement check from the Elected Officials' Retirement Plan;
   c. The surviving spouse applies for the life insurance benefit within 31 days of the death of the former elected official; and,
   d. The surviving spouse pays the premium for the group life insurance coverage based upon the spouse's age and pays applicable administrative expenses.
2. Upon the death of an incumbent elected official, the surviving spouse is eligible to participate in the life insurance plan for former elected officials in accordance with the terms of the insurance contract covering the former elected official at the time of death, if:
   a. The deceased elected official met the qualifications for eligibility listed in subsection (B) or would have met the qualifications upon completion of the term of office in which the deceased elected official was serving at the time of death;
   b. The surviving spouse is receiving a monthly survivor's retirement check from the Elected Officials' Retirement Plan; and,
   c. The surviving spouse applies for the life insurance benefit within 31 days of the death of the incumbent elected official.

D. Termination of coverage. The insurance coverage of either a former elected official or the surviving spouse of a former or incumbent elected official who fails to pay insurance premiums when due shall terminate at 11:59 p.m. on the last day of the period covered by the last premium paid.

Historical Note
Adopted effective February 28, 1991 (Supp. 91-1). Former Section R2-5-421 renumbered to R2-5-423; new Section R2-5-421 renumbered from R2-5-419 and amended by final rulemaking at 6 A.A.R. 4093, effective October 3, 2000 (Supp. 00-4).

R2-5-422. Flexible or Cafeteria Employee Benefit Plan

A. Eligibility. A state employee who is eligible to participate in the state's employee insurance programs, other than the short-term disability program, is enrolled in the flexible or cafeteria employee benefit plan, in accordance with 26 U.S.C. 125, Internal Revenue Code of 1986.

B. Pre-taxing of plan premiums. The method of subtracting premiums for health and supplemental life insurance from gross salary before deducting federal and state income taxes and social security taxes, resulting in the pre-taxing of premiums for health and supplemental life insurance plans, shall not change or cancel until the end of the plan year.

C. Corresponding change in premiums. A family status event that results in the modification of a pre-tax premium will also result in a corresponding change in the premium amount being deducted.

D. Automatic disenrollment. A participant is automatically disenrolled from this plan if the participant ceases to be an eligible employee.

E. Plan administrator. The Arizona Department of Administration administers the plan and determines the type, structure, and components of the plan.

F. Responsibility for plan operation. The plan administrator has sole authority to amend or terminate, in whole or in part, the plan at any time. The plan administrator has sole responsibility for effecting salary reductions.

G. Scope of authority. The plan administrator has sole responsibility to administer the plan, including, but not limited to, the following:
1. To construe and interpret the plan, decide all questions of eligibility, and determine the amount, manner, and time of payment of any benefits; and
2. To prescribe procedures to be followed by eligible employees who want to enroll in the plan.

Historical Note
New Section R2-5-422 renumbered from R2-5-420 and

amended by final rulemaking at 6 A.A.R. 4093, effective October 3, 2000 (Supp. 00-4).

R2-5-423. Recognition Leave

A. Definition. "Recognition leave" means a period of paid leave granted by an agency head as an acknowledgment of exemplary employee service or extraordinary contributions toward accomplishing the agency's goals.

B. Amount of leave. An agency with 100 or fewer permanent positions may award 16 hours of recognition leave per year. An agency with more than 100 permanent positions may award eight hours of recognition leave per year per 50 permanent positions.

C. Procedure. An agency head shall develop and implement an employee recognition program and process. The agency head shall submit a proposed recognition leave program and process and any subsequent changes to the Director. The process shall include as a minimum:
1. Criteria for consideration;
2. Nominating procedures;
3. Categories of recognition used by the agency; and
4. Recommendation procedure, with final approval by the agency head.

D. Use of leave. An employee shall use recognition leave within one year of receiving the leave.

E. Movement to another agency. An employee who moves from one agency to another state service agency shall transfer any unused recognition leave to the employee's recognition leave account in the new agency.

F. Separation. An employee who separates from state service shall be paid for all unused recognition leave at the employee's current rate of pay.

Historical Note

New Section R2-5-423 renumbered from R2-5-421 and amended by final rulemaking at 6 A.A.R. 4093, effective October 3, 2000 (Supp. 00-4).

ARTICLE 5. CONDITIONS OF EMPLOYMENT

R2-5-501. Standards of Conduct

A. General. In addition to statutorily prohibited conduct, including but not limited to A.R.S. § 41-770, a violation of the standards of conduct listed in subsections (B), (C), and (D) is cause for discipline or dismissal of a state service employee.

B. Required conduct. A state service employee shall at all times:;
1. Maintain high standards of honesty, integrity, and impartiality, free from personal considerations, favoritism, or partisan demands;
2. Be courteous, considerate, and prompt in dealing with and serving the public and other employees;
3. Conduct himself or herself in a manner that will not bring discredit or embarrassment to the state; and
4. Comply with federal and state laws and rules, and agency policies and directives.

C. Prohibited conduct. A state service employee shall not:
1. Use his or her official position for personal gain, or attempt to use, or use, confidential information for personal advantage;
2. Permit himself or herself to be placed under any kind of personal obligation that could lead a person to expect official favors;
3. Perform an act in a private capacity that may be construed to be an official act;
4. Accept or solicit, directly or indirectly, anything of economic value as a gift, gratuity, favor, entertainment, or loan that is, or may appear to be, designed to influence the employee's official conduct. This provision shall not prohibit acceptance by an employee of food, refreshments, or unsolicited advertising or promotional material of nominal value;
5. Directly or indirectly use or allow the use of state equipment or property of any kind, including equipment and property leased to the state, for other than official activities unless authorized by written agency policy or as otherwise allowed by these rules;
6. Engage in outside employment or other activity that is not compatible with the full and proper discharge of the duties and responsibilities of state employment, or that tends to impair the employee's capacity to perform the employee's duties and responsibilities in an acceptable manner; or
7. Inhibit a state employee from joining or refraining from joining an employee organization.

D. Employee rights. An employee shall not take disciplinary or punitive action against another employee that impedes or interferes with that employee's exercise of any right granted under the law or these rules. An employee or agency representative who is found to have acted in reprisal toward an employee as a result of the exercise of the employee's rights is subject to discipline, under Title 2, Chapter 5, Article 8. The discipline shall be administered in accordance with state and federal laws affecting employee rights and benefits.

Historical Note

Adopted effective December 31, 1986 (Supp. 86-6).
Amended effective April 20, 1995 (Supp. 95-2).
Amended by final rulemaking at 7 A.A.R. 5811, effective December 6, 2001 (Supp. 01-4).

R2-5-502. Hours of Work

A. State service work week. The state service work week is the period of seven consecutive days starting Saturday at 12:00 a.m. and ending Friday at 11:59 p.m. An agency head may apply to the Director for an exception from the work week period for all or part of an agency workforce. The Director may grant an exception from the work week period to promote efficiency in the state service.

B. Hours of employment.
1. An agency head shall determine the hours of employment in the work week for each agency employee.
2. An agency head may provide for breaks during the work period consistent with carrying out the duties of the agency.
3. An agency head may require an employee to work overtime.

C. Flexible work options. An agency head may offer a flexible 40-hour work week option to an employee if the agency head determines the agency's existing services can be maintained.

D. Attendance standards.
1. An agency head may establish a standard of attendance.
2. Job abandonment. After an absence of three consecutive work days without approval, an agency head may dismiss the employee under R2-5-803 or may separate the employee without prejudice. The agency head shall provide written notice to the employee's last known address.

Historical Note

Adopted effective December 31, 1986 (Supp. 86-6).
Amended effective September 15, 1994 (Supp. 94-3).
Amended by final rulemaking at 7 A.A.R. 5811, effective December 6, 2001 (Supp. 01-4).

R2-5-503. Performance Appraisal System

A. General. The Director shall establish a performance appraisal system to evaluate the job performance of state service

employees. An agency head may adopt an alternate employee performance appraisal system, subject to the approval of the Director.

B. Frequency.
1. A supervisor shall evaluate a permanent status employee at least annually.
2. Prior to achieving permanent status, a supervisor shall evaluate a probationary status employee at least twice during the probationary period.
3. An agency head may terminate an original probationary employee at any time with or without a performance evaluation under R2-5-213.

C. Performance rating.
1. The performance appraisal system established by the Director shall contain performance rating levels that distinguish among standard, above standard, and below standard performance. The system shall contain numerical points to apply to each performance rating level established.
2. An agency that adopts an approved alternate employee performance appraisal system shall provide performance rating levels and points appropriate to that system.
3. The Director shall establish a procedure for converting the performance rating levels of an approved alternate employee performance appraisal system to the Arizona Department of Administration rating levels to achieve consistency in human resources actions for which performance levels are a factor.

D. Performance expectations.
1. An employee is expected to meet or exceed performance standards.
2. A supervisor shall comply with performance appraisal requirements.
3. An agency head shall ensure that all performance appraisals are completed as required by this Section.

E. Review. An agency head shall adopt a performance evaluation review procedure subject to the approval of the Director. An employee may file a written request for a review of the employee's overall performance rating or a specific performance rating of the employee.

Historical Note

Adopted effective December 31, 1986 (Supp. 86-6).
Amended effective September 9, 1998 (Supp. 98-3).
Amended by final rulemaking at 7 A.A.R. 5811, effective December 6, 2001 (Supp. 01-4).

ARTICLE 6. REPEALED

R2-5-601. Repealed

Historical Note

Adopted effective December 31, 1986 (Supp. 86-6). Section repealed by final rulemaking at 6 A.A.R. 4572, effective November 13, 2000 (Supp. 00-4).

R2-5-602. Repealed

Historical Note

Adopted effective December 31, 1986 (Supp. 86-6). Section repealed by final rulemaking at 6 A.A.R. 4572, effective November 13, 2000 (Supp. 00-4).

R2-5-603. Repealed

Historical Note

Adopted effective December 31, 1986 (Supp. 86-6). Section repealed by final rulemaking at 6 A.A.R. 4572, effective November 13, 2000 (Supp. 00-4).

R2-5-604. Repealed

Historical Note

Adopted effective December 31, 1986 (Supp. 86-6). Section repealed by final rulemaking at 6 A.A.R. 4572, effective November 13, 2000 (Supp. 00-4).

R2-5-605. Repealed

Historical Note

Adopted effective December 31, 1986 (Supp. 86-6). Section repealed by final rulemaking at 6 A.A.R. 4572, effective November 13, 2000 (Supp. 00-4).

ARTICLE 7. GRIEVANCES

R2-5-701. Grievance System

A. General. Each agency shall adopt a grievance procedure which will afford each employee a systematic means of resolving complaints concerning discrimination, noncompliance with these rules, or other work-related matters which directly and personally affect the employee.

B. Non-applicable matters. The adopted grievance procedure shall not apply to any matter for which another method of review is provided, including but not limited to:
1. Retirement, Life Insurance, or Health Insurance;
2. Suspension for more than 40 working hours, demotion, or dismissal resulting from disciplinary action;
3. Any examination, certification, or appointment;
4. Any classification action;
5. Any reduction in force action.

C. Restrictions. An employee may not submit a grievance challenging the following management rights but may submit a grievance concerning the manner of their administration, insofar as these personally affect the employee:
1. An agency's right to direct its employees.
2. An agency's right to hire, promote, transfer, assign, and retain employees.
3. An agency's right to maintain efficiency of government operations and to determine the methods, means, and personnel by which these operations are to be conducted.

D. Performance increases and decreases. An employee may submit a grievance concerning an overall performance evaluation or a specific rating but may not submit a grievance concerning the receipt of a performance decrease, the non-receipt of a performance increase or special performance award, the amount of any increase or decrease, or the use of any job-related supplemental rating factors to determine the receipt or amount of an increase, decrease, or special performance award.

E. Agency control. An employee may not submit a grievance concerning any matter not subject to the control of the agency, except for complaints alleging a violation of these rules.

F. Amendments. Once a grievance is referred to any step beyond the immediate supervisor, it may not be amended. If additional documentation is submitted by the grievant after the initiation of the grievance, the reviewing official may remand the grievance to the appropriate previous level for reconsideration.

G. Approval. Each agency will submit its proposed grievance procedure and any subsequent changes to the Director for approval. Pending the approval of the Director, each agency will continue to use its current grievance procedure.

Historical Note

Adopted effective December 31, 1986 (Supp. 86-6).
Amended effective September 15, 1994 (Supp. 94-3).

R2-5-702. Grievance Procedures

A. Content. The grievance procedure established in each state agency shall include as a minimum:

1. A requirement that the grievant have an oral discussion with the immediate supervisor in an attempt to resolve the problem, prior to initiating the written grievance procedure.
2. A requirement that the employee file the grievance in writing with the immediate supervisor within 10 working days after the occurrence of the action being grieved. The date of occurrence of a suspension is the first day of suspension.
3. A requirement that the grievance contain a complete statement of all the facts and circumstances involved in the alleged violation and the specific redress sought.
4. A requirement that a grievance alleging noncompliance with these rules shall specify the precise rule alleged to have been violated.
5. A requirement that all employees presenting a grievance in which the issues and redress sought are identical will sign the grievance and designate a contact person from the group.
6. A provision that the employee or group of employees filing a grievance may select a representative at any step in the procedure after the oral discussion with the immediate supervisor.
7. A provision that a grievant must be allowed a reasonable amount of work time to prepare and process a grievance and that the use of such time shall be approved in advance by management.
8. A requirement that a state service employee who serves as the representative of a grievant must receive approval for annual or compensatory leave to represent the grievant.
9. A requirement that the grievant must have a minimum of five working days after receipt of a response to forward the grievance at any step, must sign the grievance at each step, and must state the reasons why the response at the previous step was unsatisfactory.
10. A requirement that the agency head will respond to the grievant not later than 40 working days after receipt of the grievance at the first step. Within the 40 working day period, the time for any step may be extended by the agency head with the concurrence of the grievant.
11. A statement that the decision of the agency head is final on all grievances except those that allege discrimination or noncompliance with these rules. For Department of Administration employees, the decision of the Director is final on all grievances except those that allege discrimination or noncompliance with these rules.

B. Review of grievances alleging discrimination or noncompliance with rules.

1. A grievant, other than a Department of Administration employee, who is not satisfied with the decision of the agency head on a grievance alleging discrimination or noncompliance with these rules, may submit the grievance to the Director within five working days after the receipt of the agency head's response. If the facts of the grievance support the agency head's response, the Director shall affirm the agency head's resolution. Otherwise, the Director shall conduct an investigation, reach a final decision, and furnish a copy of the findings and final decision to the agency head and the grievant within 20 working days following receipt of the grievance by the Director. The 20 working days may be extended by the Director with the concurrence of the grievant.
2. A grievant who is a Department of Administration employee and who is not satisfied with the Director's decision on a grievance alleging discrimination or noncompliance with these rules may resubmit the grievance to the Director within five working days after receipt of the Director's decision. The Director will appoint an individual who is not an employee of the Department of Administration and who serves in a position that is assigned to manage an agency's employee relations or investigations work unit to investigate the resubmitted grievance. If the facts of the grievance support the Director's decision, the investigator shall affirm that resolution. Otherwise, the investigator shall conduct an investigation and furnish a copy of the findings and final decision to the Director and the grievant within 20 working days following receipt of the grievance by the investigator. The decision of the investigator is the final step in the grievance procedure. The 20 working days may be extended by the investigator with the concurrence of the grievant.

C. Accelerated procedure. Subject to the approval of the Director, the agency head may adopt an accelerated grievance procedure for grievances relating to performance ratings.

D. Discrimination. An employee who has a complaint alleging discrimination prohibited by A.R.S. § 41-1463 and who is not satisfied with the final grievance resolution will be referred to the appropriate agency by the Director.

Historical Note
Adopted effective December 31, 1986 (Supp. 86-6).
Amended effective September 15, 1994 (Supp. 94-3).

ARTICLE 8. DISCIPLINARY ACTIONS

R2-5-801. Suspension

A. Authority. An agency head may suspend any employee without pay for cause.

B. Notice. The agency head shall provide the employee with a written statement of the reasons for the suspension. The statement shall specify the period of suspension and the employee's grievance or appeal rights.

C. Limitation. Except as otherwise provided by statute or rule, suspensions shall not exceed a total of 30 working days during any 12-month period. The 12-month period begins with the first day of the first suspension.

Historical Note
Adopted effective December 31, 1986 (Supp. 86-6).
Amended effective July 25, 1994 (Supp. 94-3).

R2-5-802. Demotion

A. Authority. A permanent status employee may be demoted for cause by an agency head to any permanent position, provided the employee meets the minimum qualifications for such class.

B. Notice. Prior to the effective date of the demotion, a written notice containing specific reasons for the demotion and the employee's right of appeal shall be provided to the employee and the Director.

C. Probation. Except as otherwise provided in these rules, a demoted employee shall not be required to serve a probationary period in the position to which demoted.

Historical Note
Adopted effective December 31, 1986 (Supp. 86-6).

R2-5-803. Dismissal

A. Pre-dismissal procedures. Before an employee with permanent status can be dismissed, the agency head shall give the employee written notice of the charges, a summary of the agency head's basis for the charges, and an opportunity for the employee to present a written response. The employee's response shall be made not later than three working days after

the employee receives notice of the charges, unless extended in writing by the agency head.

B. Dismissal procedures. The agency head may dismiss any employee with permanent status only for cause but not before attempting to serve the employee personally or by registered or certified mail, return receipt requested (addressee only), with written notice of the specific reasons for dismissal in sufficient detail to inform the employee of the facts, with a copy to the Director. The agency head shall include a statement of the employee's right to appeal. The action is not effective until one of the following occurs:

1. The employee signs for receipt of the dismissal letter personally served or served by mail; or
2. Three working days have passed since the letter was mailed to the employee; or
3. An attempt is made to personally serve the dismissal letter, but the employee refuses to sign for the letter. Such attempt to personally serve the letter shall be witnessed.

If an employee is on an approved period of leave with pay, the action will be effective at the end of the approved period of leave with pay, and the dismissal letter shall be served on the employee in accordance with this subsection.

C. Dismissal during probation.

1. An employee on original probation may be dismissed without the right of appeal.
2. An employee on promotional probation may not be dismissed without the right of appeal.

D. Relief from duty. Nothing in this rule shall preclude the agency head from immediately placing an employee on administrative leave pending implementation of procedures under this Section, but no pay shall be withheld for such period.

Historical Note

Adopted effective December 31, 1986 (Supp. 86-6).

ARTICLE 9. SEPARATIONS

R2-5-901. Resignation

A. General. An employee may terminate employment with the state service by submitting a written resignation to the agency head at least 10 working days prior to the effective date of the resignation. Unless the Director determines that the employee had good cause for not giving such notice, an employee who fails to give such notice shall not be eligible for reinstatement.

B. Oral resignation. If an employee resigns orally, the agency head shall confirm the resignation in writing.

C. Refusal of resignation. An agency head may refuse to accept a resignation and dismiss an employee pursuant to R2-5-803.

D. Withdrawal of resignation. A resignation may be withdrawn only in writing by personal delivery to the agency head not later than the end of the next working day after the employee gives notice of resignation. If a withdrawal is not submitted by this time, the resignation shall be final unless both the agency head and the employee agree that the resignation may be withdrawn.

Historical Note

Adopted effective December 31, 1986 (Supp. 86-6).

Editor's Note: The following Section R2-5-902 was temporarily repealed and a new Section was temporarily adopted under an exemption from the provisions of the Administrative Procedure Act (A.R.S. Title 41, Chapter 6) pursuant to Laws 1997, Ch. 288, § 10. Exemption from A.R.S. Title 41, Chapter 6 means the Department did not submit these rules to the Governor's Regulatory Review Council for review; the Department did not submit notice of proposed rulemaking to the Secretary of State for publication in the Arizona Administrative Register; and the Department was not required to hold public hearings on these rules. Temporary rules adopted are repealed effective June 30, 1999 (Supp. 98-2). The temporary rules were repealed from and after June 30, 1999, pursuant to Laws 1997, Ch. 288, § 10; the rule in effect before the adoption of the temporary rules became effective again upon the repeal of the temporary rules (Supp. 99-3). Section R2-5-902 was repealed and a new Section was adopted by final rulemaking (Supp. 99-4).

R2-5-902. Reduction in Force

A. General.

1. An agency head shall submit to the Director a proposal to conduct a reduction in force when required by:
   a. A lack of funds or work;
   b. The abolition of one or more positions;
   c. A material change in job duties or agency organization;
   d. The introduction of a cost reduction initiative;
   e. A receiving agency has no need for the position or positions transferred; or
   f. A lack of a vacant position to revert an employee on promotional probation.
2. The Director may limit a reduction in force to a single agency. An agency may limit a reduction in force to an organizational unit or agency operations within a geographic area.
3. An agency head shall submit an agency proposal for a reduction in force at least 30 working days before the effective date of the proposed reduction in force. The proposal shall indicate the reason for the reduction, the affected organizational unit, the geographical area, if applicable, and the effective date of the reduction. If circumstances beyond the agency's control do not permit at least 30 working days' notice, the agency shall provide notice as soon as it is aware of the necessity for a reduction in force.
4. An agency head shall submit a proposal for a voluntary separation program at the same time the agency head submits a reduction in force proposal to the Director.
5. If an agency abolishes a program or an institution permanently terminates operation by phasing out operations over a minimum period of three months, the head of the agency considering reduction in force activity shall develop and communicate to affected employees the agency's voluntary separation program plan permitting staggered phase-out and transfer, reduction, or separation of personnel as appropriate.
6. An agency proposal shall be consistent with A.R.S. § 41-763.03 and § 41-763.04, this Section, and R2-5-904.
7. A permanent status employee separated as a result of a reduction in force is entitled, upon written application, to be considered for reemployment in the class held at the time of separation. The employee shall be given first consideration for a position in the class based upon prior seniority and performance for one year from the date of separation.
8. A permanent status employee reduced in grade as a result of a reduction in force is entitled to be considered for repromotion to the class held immediately prior to the reduction in force or any intervening class as provided in Article 2.

B. Administration of reduction in force.

The Director shall review and approve or modify a reduction in force and voluntary separation program within 20 working days of receipt. Except as provided in subsection (A)(5), the

Director shall administer a reduction in force in the following manner:

1. An agency shall separate an employee who is not a permanent status employee in the class affected by the reduction in force in the following order before any reduction in force action is taken affecting a permanent status employee:
   a. Provisional employee;
   b. Clerical pool employee;
   c. Temporary employee;
   d. Seasonal employee;
   e. Original probationary limited employee;
   f. Original probationary employee; and
   g. Limited appointment employee.
2. An agency shall use retention points to identify a permanent status employee within a class series affected by a reduction in force for transfer, reduction, or separation based on the employee's relative standing on the retention point list.
3. An agency shall base retention points upon performance and length of state service calculated in accordance with the instructions in subsections (C), (D), and (E). Service in a position covered under A.R.S. Title 41, Chapter 4 shall be considered state service.
4. An employee on promotional probation or detail to special duty shall compete for retention only in the employee's permanent status class series.
5. An employee in an underfill position shall compete for retention only in the employee's permanent status class series.
6. A permanent part-time employee shall compete for retention only against another permanent part-time employee in the same class series.

C. Calculation of retention points for performance. An agency shall average the scores of a maximum of the three most recent performance evaluations in the 24 months concluded before the date of request for the reduction in force as the basis for determining retention points. An agency head shall resolve any grievance on the most recent performance evaluation before computing retention points. An agency using an approved alternate employee performance evaluation system shall convert the performance evaluation scores of an affected employee to the 8-point scale established by the Director before calculating retention points. If an employee has not had a performance evaluation in the past 24 months, the employee shall receive 30 retention points. An employee shall receive retention points for performance as follows:

1. A score of "8" receives 60 retention points.
2. A score of "7" but less than "8" receives 48 retention points.
3. A score of "6" but less than "7" receives 36 retention points.
4. A score of "5" but less than "6" receives 24 retention points.
5. A score of "4" but less than "5" receives 12 retention points.
6. A score of "3" but less than "4" receives 1 retention point.
7. A score of less than "3" receives 0 retention points, and the employee shall be placed at the bottom of a retention list.

D. Calculation of retention points for length of service.
Each permanent status employee shall earn 1 retention point for each credited month of state service in the current class series during the 60 months before the reduction in force implementation date as follows:

1. To receive credit for a month, the employee must have been in a pay status for at least 1/2 of the employee's working days in that month.
2. A period of service as a state service employee before a separation shall count only if the separation was less than two years and was not the result of disciplinary action.
3. The following periods during the 60 months before the reduction in force shall count:
   a. State service as a provisional, seasonal, temporary, limited, or clerical pool employee that is credited toward satisfying a subsequent original probationary requirement;
   b. Military leave with or without pay;
   c. Service on mobility assignment;
   d. Continuous uninterrupted service in a position that is transferred to state service by legislative action or otherwise from a budget unit of the state; and
   e. Family and Medical Leave Act leave with or without pay.

E. Resolution of ties. An agency shall break ties in total retention points in the following manner and order:

1. The employee with the highest average performance evaluation during the past 24 months shall be given preference.
2. If a tie continues to exist, the employee with the highest total retention points for state service shall be given preference.
3. If a tie continues to exist, an agency shall retain the employee with the earlier state service hire date of record.
4. If a tie continues to exist, an agency shall break the tie by lot.

F. Offer of position.

1. An agency shall give written notice at least five working days in advance to each employee identified for transfer, reduction, or separation. If circumstances beyond the agency's control do not permit at least five working days' notice, the agency shall provide notice as soon as it is aware of the necessity to transfer, reduce, or separate the employee.
2. The notice shall include:
   a. The reason for and effective date of the action;
   b. The job offer, if any, including the salary, location of the position, and supervisor's name;
   c. The availability of reduction in force procedures and records for review;
   d. The employee's right to request a review of the action; and
   e. The employee's reemployment rights, if applicable.
3. An agency shall make a position offer to an employee with the highest number of points on the retention point list in descending order as follows:
   a. Retention in the current position.
   b. If a position exists and an employee possesses the required knowledge, skill, and ability for the class, an agency shall make the single best offer, in terms of pay grade, within the agency of:
      i. A position at the same or lower pay grade in the same class series as the employee's present permanent status position;
      ii. A position at the same or lower pay grade in the class series in which the employee has held permanent status during the past five years; or
      iii. If both positions described in subsections (3)(a) and (3)(b) are available, the position covered by (3)(a).

4. An employee shall possess the knowledge, skill, and ability required when the position was last filled, unless the Director grants an exception.
5. Any job offer shall contain a limit of not less than three working days in which the employee may accept the offer. Failure of an employee to reply in writing within the stated time limit, or failure to accept a job offer, shall constitute a resignation. An employee may accept a job offer and retain the right to request a review of the reduction in force.
6. If no position exists, an agency shall separate an employee without prejudice.

G. Employee request for review.

1. Within three working days of receipt of a reduction in force notice, unless a longer time is authorized by an agency head, an employee may submit a written request to the agency head for a review of the procedure resulting in the employee's transfer, reduction, or separation due to a reduction in force. The request for review shall be based upon an error, contain specific information concerning the error involved, and include a proposed resolution of the problem. The agency head shall review the request and respond to the employee within five working days after receipt of the request.
2. An agency head may postpone any portion of a reduction in force until completion of an employee requested review.

Historical Note

Adopted effective December 31, 1986 (Supp. 86-6). Section R2-5-902 temporarily repealed; new Section temporarily adopted effective April 23, 1998, under an exemption from the provisions of the Administrative Procedure Act pursuant to Laws 1997, Ch. 288, § 10. Rules adopted under this temporary Section are repealed effective June 30, 1999 (Supp. 98-2). Section repealed from and after June 30, 1999, pursuant to Laws 1997, Ch. 288, § 10; the rule in effect before the adoption of the temporary rules became effective again upon the repeal of the temporary rules (Supp. 99-3). Section repealed by final rulemaking at 5 A.A.R. 4529, effective November 2, 1999; new Section adopted by final rulemaking at 6 A.A.R. 20, effective December 7, 1999 (Supp. 99-4).

R2-5-903. Temporary Reduction in Force

A. General

1. When funding necessary to pay employees is suspended or reduced, a temporary reduction in force may be conducted and shall be processed in accordance with the provisions of this Section.
2. If funding to pay employees is suspended or reduced, an agency head may request approval from the Director to conduct a temporary reduction in force. The agency head shall submit to the Director the plan and procedure the agency proposes to follow. The plan and procedure shall state:
   a. The reason for the temporary reduction in force;
   b. Each budget program affected;
   c. The classes affected;
   d. The amount of shortfall, total number of employees affected, and name and Fair Labor Standards Act status of each affected employee;
   e. The unit, for example, budget program, class, class series or agency, subject to or affected by the temporary reduction in force and number of employees in the affected unit;
   f. When the agency was notified of the funding suspension or reduction;
   g. Assessment of the impact of a temporary reduction in force on the agency's ability to deliver essential services;
   h. What alternatives have been considered and why they were rejected;
   i. The number of funded, vacant positions within the agency, what efforts the agency has made to place employees in other positions within the agency or other state agencies;
   j. Expected outcome of the proposed action; and
   k. A summary of funding discussions with the Department of Administration Finance Division.
3. An agency head shall not initiate or implement a personnel action that will affect the temporary reduction in force after the date of the agency head's request to the Director for a temporary reduction in force except to process a personnel action to accomplish, or to assist in accomplishing, the purpose of the temporary reduction in force. The agency head shall give employees subject to a temporary reduction in force preference for placement in any funded vacant positions within the agency for which they qualify. Preference for placement shall be based upon retention points.
4. A temporary reduction in force shall not exceed 30 working days from the date of implementation of the plan. If the agency is advised at any time during the temporary reduction in force is in effect that funding for affected positions will be terminated or permanently reduced, an agency head shall plan and conduct a reduction in force as prescribed by R2-5-902, unless the agency makes other arrangements to delay a reduction in force.
5. An agency head shall not approve the use of any paid leave except compensatory leave for an employee who is designated for temporary reduction in force. An approved paid or unpaid leave in progress for an employee who is designated for temporary reduction in force shall be cancelled effective the day that the temporary reduction in force begins. The agency head shall notify the affected employee in writing of the cancellation of the approved leave.
6. Pay for time on temporary reduction in force may only be restored to an employee if, and to the extent which, federal or state law specifically authorizes payment.
7. An employee affected by a temporary reduction in force pursuant to this Section shall return to work in the same position occupied at the start of the temporary reduction in force if funding is fully restored, sufficient attrition has occurred, or an alternate source of funding becomes available.
8. Failure or inability to return to work on the effective date of return may be considered a resignation, result in separation without prejudice, or be cause for dismissal as determined by the agency head consistent with the agency policies, procedures, and guidelines. An employee who is unable to return to work due to a non-job-related medical condition shall provide to the agency head a written statement from a licensed health care practitioner substantiating the employee's inability to return to work.

B. Administration. The Director shall administer a temporary reduction in force in the following manner:

1. In an agency affected by a temporary reduction in force, employees shall be separated in the order listed below before any action is taken that affects permanent-status

employees, providing the separation of these employees will accomplish, or assist in accomplishing, the purpose of the temporary reduction in force:
a. Permanent-status employees who volunteer for a temporary reduction in force,
b. Provisional employees,
c. Clerical pool employees,
d. Temporary employees,
e. Seasonal employees,
f. Original probationary employees,
g. Limited employees.

2. Retention points shall be used to identify full-time or part-time permanent-status employees to be placed on temporary reduction in force based on the employee's relative standing on the retention list. Identification of employees to be placed first on temporary reduction in force shall begin with the employee with the lowest number of retention points.
3. Retention points shall be based on length of state service and performance, calculated in accordance with subsections (C), (D), and (E) below.
4. Employees on promotional probation, detail to special duty, or underfilling a position shall compete for retention in their promotional probation, detail to special duty, or underfill classes.

C. Calculation of retention points for length of service.
1. Each permanent-status employee shall be awarded 1 retention point for each year of state service. Service of more than six months shall be counted as one year. Service of six months or less shall not be counted.
2. Periods of service as a state service employee prior to a resignation or dismissal shall not be counted.
3. Periods of state service as a provisional, seasonal, temporary, limited, or clerical pool employee shall not be counted.
4. Periods of military leave with or without pay shall be counted.
5. Periods of service on mobility assignment shall be counted.
6. Continuous uninterrupted service in a position prior to its transfer to state service by legislative action or otherwise from a budget unit of the state shall be counted.

D. Calculation of retention points for performance. The most recent performance evaluation concluded prior to the date of the request for temporary reduction in force shall be used in determining retention points. If any employee has not had a performance evaluation in the past 12 months, the employee shall be awarded 12 retention points. Retention points for performance shall be awarded as follows:
1. Each employee having an overall performance evaluation of standard or above shall be awarded 12 retention points,
2. Each employee having an overall performance evaluation of less than standard shall be awarded 0 retention points.

E. Resolution of ties. Ties in total retention points shall be broken in the following manner and order:
1. Tie shall be broken by the employee with the highest overall performance rating in the class currently held by the employee;
2. If a tie continues to exist, the tie shall be broken by the employee with the earlier initial state service hire date of record;
3. If a tie continues to exist, it shall be broken by lot.

F. Notice of separation due to temporary reduction in force. The agency shall provide the employee with a written notice of separation as soon as practical after the plan is approved. The notice shall include, at a minimum, the effective date of the separation and the right to request a review of the separation.

G. When funding necessary to pay the employee is restored, the temporary reduction in force expires, or the agency head otherwise determines that an employee may be recalled, the agency shall provide the employee written notice.

H. Employee request for review. An accelerated review process shall be established for temporary reduction in force. No later than three working days after receipt of a temporary reduction in force notice, an employee may submit to the agency head a written request for a review of the determination resulting in the employee's temporary reduction in force and a proposed resolution. The agency head shall respond to the employee with a final decision within three working days after receipt of the request for a review. The request for review shall not delay implementation of the temporary reduction in force.

Historical Note

Emergency rule adopted effective January 4, 1996, pursuant to A.R.S. § 41-1026, in effect for a maximum of 180 days (Supp. 86-6). Adopted with changes effective June 7, 1996 (Supp. 96-2).

Editor's Note: The following Section was temporarily adopted under an exemption from the provisions of the Administrative Procedure Act (A.R.S. Title 41, Chapter 6) pursuant to Laws 1997, Ch. 288, § 10. Exemption from A.R.S. Title 41, Chapter 6 means the Department did not submit these rules to the Governor's Regulatory Review Council for review; the Department did not submit notice of proposed rulemaking to the Secretary of State for publication in the Arizona Administrative Register; and the Department was not required to hold public hearings on these rules. Temporary rules adopted are repealed effective June 30, 1999 (Supp. 98-2). Section repealed from and after June 30, 1999, pursuant to Laws 1997, Ch. 288, § 10 (Supp. 99-3). New Section R2-5-904 adopted by final rulemaking (99-4).

R2-5-904. Voluntary Separation Program

A. General.
1. An agency head shall submit to the Director a proposal for a voluntary separation program for a permanent status employee when submitting a proposal for a reduction in force. The program shall include:
a. The job classification and position number of each position designated for reduction in force;
b. The name, Social Security number, current rate of pay, job classification, and position number of:
i. A permanent status employee in a position scheduled for elimination due to a reduction in force; or
ii. A permanent status employee in the same class and same designated area of the agency as a position scheduled for elimination due to a reduction in force;
c. The number of funded, vacant positions within the agency by job classification;
d. The efforts the agency has made to place employees designated for reduction in force in other positions in the same pay grade within the agency or other state agencies;
e. The expected outcome of the voluntary separation program;
f. An available funding statement;
g. The expected duration of the voluntary separation program;
h. The benefits the agency plans to provide to each voluntarily separated employee; and

i. The procedures the agency plans to use to effect the voluntary separation program. These procedures shall include at a minimum:
   i. An agency head's notification to an employee of eligibility to participate in the voluntary separation program within five working days of the agency's receipt of the Director's approval and a copy of the voluntary separation program information about employee eligibility, program duration, severance pay calculation, length of shared insurance premiums extension, method of payment, and program procedures;
   ii. A method of selecting among volunteers for separation when more than one employee is eligible that includes a review process in which the agency head's decision is final;
   iii. A specified time for an employee to consider and accept the voluntary separation severance pay and shared insurance premium payments; and
   iv. A requirement that an eligible employee who volunteers for separation sign a written agreement that the employee agrees to the voluntary separation and that outlines the separation date, amount of payment, length of shared insurance premium payments, exceptions to severance and insurance, method of payment, and information pertinent to any return to work in state service or employment with a contractor who provides services to the state.

2. An agency shall offer a voluntary separation program to all eligible employees and shall provide, subject to funding availability, severance pay in the amount of one week of pay at current base salary for each year of service, prorated for service in increments of less than one year, and eligibility to continue enrollment in health, dental, and life insurance programs for up to six months after separation if the employee pays the employee contribution.
3. A permanent status employee in a position or class in an organizational unit or agency operations within a geographic area that is scheduled for elimination due to a reduction in force, or an employee who holds permanent status in the same class in the same designated area of the agency may volunteer for separation and shall receive compensation as provided by the approved voluntary separation program.
4. An agency head shall submit the agency proposal for the voluntary separation program at least 30 working days before the intended effective date of the proposed reduction in force. If circumstances beyond the agency's control do not permit at least 30 working days' notice, the agency shall provide notice as soon as it is aware of the necessity for a reduction in force.
5. An agency proposal shall be consistent with A.R.S. § 41-763.03 and this Section.

B. Administration.

Within 20 working days of receipt, the Director shall review and approve or modify an agency's proposed voluntary separation program.

C. Exceptions.

An agency head may offer shorter terms of shared insurance premium payments if funding is not available. An agency head may offer lesser amounts of severance pay if sufficient funds are not available. The program shall not offer shared insurance premium payments to an employee who retires or accepts other employment that offers an employer-sponsored insurance program.

D. Repayment.

An employee shall repay the state any money paid to the employee as a result of participation in the voluntary separation program if the employee returns to state service or applies for retirement or early retirement within six months of the employee's voluntary separation date.

Historical Note

New Section adopted effective April 23, 1998, under an exemption from the provisions of the Administrative Procedure Act pursuant to Laws 1997, Ch. 288, § 10. This Section is automatically repealed effective June 30, 1999 (Supp. 98-2). Section repealed from and after June 30, 1999, pursuant to Laws 1997, Ch. 288, § 10 (Supp. 99-3). New Section adopted by final rulemaking at 6 A.A.R. 20, effective December 7, 1999 (Supp. 99-4).