

CHAPTER 2  
RECRUITMENT

Section 1. **Recruitment Policy.**

(a) The Human Resources Division shall administer a centralized system of recruiting applicants. An active recruitment program based on relative ability, knowledge, and skills shall be conducted to meet the Human Resources requirements of the State. Reasonable efforts shall be made to attract suitable numbers of qualified applicants to compete for appointments. The Human Resources Division may authorize agencies to conduct their own recruitment programs for specific classes or positions. Such programs shall be subject to the review and approval of the Human Resources Division.

(b) To fill any vacant position, there shall be recruitment. All recruitment shall be ~~written, posted and conducted in such a manner and for such time periods as~~ determined by the Human Resources Division ~~to be useful and expedient for the class involved.~~ in accordance with the State Compensation Policy.

(c) The Human Resources Division shall be notified via the online recruitment system or on the appropriate form ~~on the required form~~ of all recruitment efforts.

(d) No offer of employment shall be made to any applicant until specified deadlines have passed and the processing of applications, administration of exams, and the certification of referral of applicants have been completed.

(e) The Human Resources Division may require a formal recruitment effort of any necessary length before referring applicants for final selection consideration.

~~Section 2. **Open Competitive Recruitment.**~~

~~(a) The Human Resources Division shall be notified via the online recruitment system or on the required appropriate form of all official vacancy announcements requested by the agency. Such notices shall be approved, prepared and released by the Human Resources Division. Official vacancy announcements shall be available online sent to all State agencies. Each agency head shall be responsible for ensuring that a sufficient number of each announcement is posted in such places as are known by, and available to, all employees of that agency.~~

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(b) To fill any vacant position, there shall be recruitment. All recruitment shall be determined by the Human Resources Division and in accordance with the State Recruitment Policy.

(c) The Human Resources Division shall be notified through the online recruitment system or on the appropriate form of all recruitment efforts.

(d) No offer of employment shall be made to any applicant until specified deadlines have passed and the processing of applications and the administration of exams have been completed.

CHAPTER 4  
EXAMINATIONS

**Section 1. Nature and Development of Examinations.**

(a) Examinations shall be administered as determined by the Human Resources Division and in accordance with the State Recruitment Policy. The Human Resources Division and agencies shall use such forms and professionally acceptable examination techniques as appropriate for the class. Prior to implementation, agencies shall provide examination research and development to the Human Resources Division for review.

(b) The Human Resources Division may request assistance from agency heads, appointing authorities or other State employees in conducting job analyses, developing test materials, conducting validation studies or in performing other functions in developing and administering examinations. At the request of the Human Resources Division, agency management and employees shall cooperate with the Human Resources Division in any examination development and research activities.

**Section 2. Veterans' Preference Points Upon Initial Appointment.**

In accordance with the W.S. 19-14-102 et. seq.. Also see Chapter 6 Section 4.

**Section 3. Final Selection Examinations.**

(a) Interviews and other examinations conducted by appointing authorities for the purpose of making final selection decisions from among candidates shall be job-related. The content and conduct of such examinations may be subject to the review of the Human Resources Division. Agencies may request the Human Resources Division to provide technical assistance in developing and administering such examinations. The Human Resources Division may develop standards and procedures for the content and administration of final selection examinations relating to such matters as composition of examination boards, development of examinations, and administration and scoring methods. Appointing authorities shall make reasonable accommodations to assist applicants with disabilities in the examination process. It shall be the responsibility of the applicants to notify the appointing authority of any special needs.

(b) Final selection interviews should not be conducted by one (1)

interviewer except when unusual circumstances make it impractical to have two (2) or more interviewers conduct an examination. Appointing authorities shall keep records of candidates examined, including applications, dates, ratings and other documentation of the results of final selection examinations for a time period specified in the State's Executive Branch Records Retention Schedules. Appointing authorities shall give sufficient final selection consideration to an adequate number of the available candidates in order to provide for competitive selection. The appointing authority shall be responsible for any adverse actions resulting from failure to give full final selection consideration to any candidate, taking into account valid factors relevant to the needs of the vacant position including the knowledge, skills and personal characteristics not yet measured by previous examinations.

#### Section 4. **Probationary Period.**

(a) The probationary period is an integral part of the examination process and shall be utilized for closely observing the employee's work, for securing the most effective adjustment of the employee to the position, and for dismissing any employee without right of appeal.

**A probationary employee is an at-will employee who has no expectation of continued employment and may be dismissed at any time during the probationary period without cause or reason.**

(b) The probationary period shall end upon completion of three hundred and sixty five (365) days of service from the date the employee was given a probationary appointment. Time served in student intern, emergency, temporary, intermittent status and at-will appointments shall not be counted towards the probationary period. Additionally, leave without pay, or donated sick leave, shall not count towards the probationary period.

(c) Interbranch Appointments. An employee appointed from the University of Wyoming, State Judicial or Legislative branch shall serve a one (1) year probationary period regardless of the length of previous service or whether or not there was a break in service.

(d) At-will Employee. An at-will employee who accepts a probationary appointment shall serve three hundred and sixty five (365) days of service from the date the employee was given a probationary appointment regardless of the length of previous service or whether or not there was a break in service.

## CHAPTER 5

### APPLICANT POOL

#### Section 1. **Applicant Pool.**

The online recruitment system shall be administered as determined by the Human Resources Division and in accordance with the State Recruitment Policy. The Human Resources Division shall establish and maintain electronic pools of applicants who have passed the required minimum qualifications and have otherwise been determined to be eligible for appointment to specific classes.

#### Section 2. **Removal of Applicants from Applicant Pool.**

Applicants may be removed from applicant pools upon receipt of a statement from the applicant that the individual no longer desires consideration for an appointment.

#### Section 3. **Availability of Applicants.**

Whenever an applicant has provided information on an application form or otherwise submits a statement restricting the geographical areas, types of appointments, or other conditions relative to availability for or willingness to accept an appointment, that applicant shall not be considered to be available for consideration for vacancies which do not meet the conditions of indicated availability. It shall be the responsibility of the applicant to notify the Human Resources Division of any change of address or other changes affecting availability for employment.

## CHAPTER 6

### CANDIDACY AND APPOINTMENT

#### Section 1. **Determination of Candidate Group.**

(a) Unless otherwise specified by the Human Resources Division, the candidate group shall consist of all those eligible applicants from among whom final selection consideration, for appointment to a specific position vacancy at a specific point in time, may be given.

(b) Appointing authorities shall request approval of candidates for consideration from the authorized recruitment. The Human Resources Division shall provide to the appointing authority the names and applications of the approved candidates.

(c) The Human Resources Division may limit the number of applicants when it is useful and expedient for the class based on random selection, number of previous referrals, or any other job-related reason.

#### Section 2. **Preconditions to Appointment.**

##### (a) Minimum Qualifications.

(i) Except for emergency appointments, no individual shall be appointed who has not been approved by the Human Resources Division as having met the minimum qualifications and who has not passed any required examination.

(ii) No appointment shall be made unless it has been determined that the individual is able to perform the essential functions of the job, with or without reasonable accommodation and has an acceptable record of previous job performance.

(b) Age. No person under 16 years of age may be appointed. No person between 16 and 18 years of age may be appointed in an occupation defined as hazardous by the "Federal Fair Labor Standards Act of 1938," as amended 29 U.S.C. 201 et seq., also known as the Act.

(c) State employees (and persons contracted to perform services for the State) who have access to minors or to persons who are frail, elderly or suffering mental illness or developmental disabilities shall be required to submit to fingerprinting for the purpose of obtaining State or national criminal history record information before employment or continued employment.

### Section 3. **Responsibilities of Appointing Authorities.**

(a) Prior to making a commitment to hire, the appointing authority shall be responsible for determining that the following conditions are met:

(i) A person recommended for probationary, promotional, voluntary reappointment, temporary or intermittent appointment is in the candidate group;

(ii) The appointment would not conflict with the rule on employment of relatives, Section 14 of this chapter;

(iii) All legal requirements pertaining to the class have been met;  
and

(iv) The individual is able to perform the essential functions of the job, with or without reasonable accommodation and has an acceptable record of previous job performance.

(b) The appointing authority shall notify all candidates that applied for the specific position vacancy announcement regarding the final status of the recruitment.

### Section 4. **Veterans' Preference Upon Initial Appointment.**

(a) Veterans' Preference upon initial appointment shall be in accordance with W.S. 19-14-102 et. seq..

### Section 5. **Probationary Appointment.**

An appointment of a candidate to a position in a class to serve a probationary period. All probationary appointments shall be made from the applicant pool and in the candidate group.

**A probationary employee is an at-will employee who has no expectation of continued employment and may be dismissed at any time during the probationary period without cause or reason.**

**Section 6. Appointment by Promotion.**

A promotion of an employee having permanent or probationary status to a position in a different classification having a higher grade than the previous grade. All promotional appointments shall be made from among permanent and probationary employees and from the appropriate applicant pool and in the candidate group.

**Section 7. Emergency Appointment.**

Applicants not in the applicant pool may be appointed when an emergency threatening public health, safety or welfare exists requiring the immediate employment of additional workers. Emergency appointments shall require the prior verbal approval of the Human Resources Division, except for emergencies occurring at night, or on weekends or holidays in which case such appointments shall be reported to the Human Resources Division on the following work day. Emergency appointments shall not exceed thirty (30) days. Application forms of persons given emergency appointments shall be provided to the Human Resources Division as soon as practical.

**An emergency employee is an at-will employee who has no expectation of continued employment and may be dismissed at any time without cause or reason.**

**Section 8. Temporary Appointment.**

(a) Temporary appointments shall be made from among applicants in the applicant pool and in the candidate group. Temporary appointments shall not continue for more than nine (9) months without approval of the Human Resources Division, except for:

**A temporary employee is an at-will employee who has no expectation of continued employment and may be dismissed at any time without cause or reason.**

(i) A temporary appointment made to a position which is held by an employee on educational or other extended leave.

(ii) A temporary appointment made to a time-limited position.

(b) Persons given temporary appointments may be given subsequent probationary appointments only if included in the candidate group at that time and if, after other available candidates have been considered, it is determined that the person is the most qualified from among those given final selection consideration. The same position shall not be filled by immediately successive



temporary appointments of the same individual.

**Section 9. At-Will Appointment**

(a) An at-will appointment may be statutorily required or it may be requested by an agency head with appropriate written justification to and prior written approval of the Human Resource Administrator.

**An at-will employee has no expectation of continued employment and may be dismissed at any time without cause or reason.**

(b) Employees given an at-will appointment is an at-will employee who has no expectation of continued employment and may be dismissed at any time without cause or reason.

(i) Employees given an at-will appointment shall not be governed under the provisions of Chapter 11 and Chapter 12 of these State Personnel Rules.

**Section 10. Permanent Appointment.**

Upon completion of the probationary period, the appointing authority shall permanently appoint a probationary employee. Permanent appointments shall be made effective on the next day following completion of three hundred and sixty five (365) days of service from the date the employee was given a probationary appointment. This appointment shall be documented on the Performance Appraisal Report in accordance with Chapter 14 section 5.

**Section 11. Appointment of Students on Intern Programs.**

The temporary employment of students on intern programs shall require the submission of an application. Student interns may be given subsequent probationary appointments if included in the candidate group at that time.

**Section 12. Intermittent Appointment.**

Appointments to intermittent status to perform work in a class for varying time intervals, shall be made from among applicants in the applicant pool and in the candidate group. Employees shall not perform intermittent work for a total of more than nine (9) months full-time equivalent service. Employees may be given subsequent probationary appointments if determined to be the most qualified from among other available candidates given final selection consideration.

**An intermittent employee is an at-will employee who has no expectation of continued employment and may be dismissed at any time without cause or reason.**

**Section 13. Reappointments.**

(a) Involuntary Reappointment. An agency head, in consultation with the Attorney General's Office, may involuntarily reappoint a permanent or probationary employee, not in the applicant pool, to a different position in a different class having the same or lower grade than the employee's current class because of a reduction in force, unsatisfactory work performance or other demonstrated reasons affecting the accomplishment of program goals. Prior to a reduction in force, involuntary reappointments may be made between agencies if both agency heads agree. The agency head shall ensure that the employee meets the minimum qualifications for the new classification with written approval from the Human Resources Division. The Human Resources Division may require information or administer examinations as necessary to determine the qualification status of the employee.

(b) Voluntary Reappointment. Reappointment of a permanent or probationary employee voluntarily seeking an appointment to a position in a different class having the same or lower grade than the employee's current class. Voluntary reappointments shall be made from among applicants in the applicant pool and in the candidate group.

(c) Same Class Reappointment.

(i) A same class reappointment of a permanent or probationary employee appointed to a vacant position within the same classification as the employee's current position shall meet the specific minimum qualifications and shall be made from among applicants on the appropriate register and in the candidate group.

(ii) Interagency same class reappointments shall require the prior approval of both agency heads.

#### **Section 14. Employment of Relatives.**

(a) Agency heads may approve hiring a person who is a spouse, parent, stepparent, parent-in-law, child, stepchild, child-in-law, sibling, half-sibling, step-sibling, or sibling-in-law of any current employee in that agency.

(b) Employee Marriage. If two present employees of the same agency marry each other, they may both be allowed to continue employment in that agency with the approval of the agency head and prior written notification to the Human Resources Administrator.

(c) An agency head shall ensure employees related to each other do not directly supervise a relative and do not have any fiduciary authority over the relative.

#### **Section 15. Appointment of Non-U.S. Citizens.**

(a) All employees, citizens and non-citizens, hired after November 6, 1986, and working in the United States must complete Form I-9, Employment Eligibility Verification. The purpose of this form is to document that each new employee hired is authorized to work in the United States. Each agency shall verify and maintain I-9 documentation according to the U.S. Citizenship and Immigration Services.

(b) Agencies shall only appoint persons authorized to work in the United States.

(c) When an employee's work authorization expires, the agency must verify the employee's employment eligibility. The employee must present a document that shows either an extension of the employee's initial employment authorization or new work authorization. If the employee cannot provide proof of current work authorization, the agency may not continue to employ that person.

(d) No agency shall be a sponsor or petitioner on behalf of any temporary alien without the express written consent of the Governor or authorized representative of the Governor.

(e) No agency may contract with or permit a third party (e.g., a law firm) to petition any federal agency to change an alien's immigration status without prior consultation with the Attorney General's Office and the written approval of the Governor or the Governor's authorized representative.

## CHAPTER 7

### POSITION CONTROL

#### Section 1. **Position Status.**

The status of each position shall be designated, on the basis of authorized funding, as one of the following types:

full-time;  
part-time;  
time-limited; or  
time-share.

#### Section 2. **Job Content Questionnaires**

(a) Job Content Questionnaires. Job content questionnaires shall be prepared for each position. The original job content questionnaire shall be kept on file in the Human Resources Division; and a copy shall be retained by the agency.

(b) New Job Content Questionnaires. A new job content questionnaire shall be prepared and submitted when there are substantial and permanent changes in tasks performed by the incumbent, or when required by the Human Resources Division.

(c) Preparation of Job Content Questionnaires. Job content questionnaires shall be prepared as required by the Human Resources Division. The job content questionnaire shall be completed jointly by the employee and the employee's supervisor to accurately describe the duties and responsibilities assigned by the supervisor to the position. The content contained in the job content questionnaire is the responsibility of and determined by the supervisor.

(d) Falsification of Job Content Questionnaires. Position incumbents, supervisors, agency heads and other employees shall be truthful and accurate in completing job content questionnaires and in providing other information relating to positions. Falsification of information on job content questionnaires shall be grounds for disciplinary action.

### Section 3. **Task Assignments.**

Agency heads, management and supervisors have the authority and responsibility to assign tasks as necessary to accomplish the program goals of the agency. Class specifications do not prohibit the assignment of tasks not specifically listed.

### Section 4. **Position Vacancies.**

(a) **Positions Occupied by Employees on Leave.** A position occupied by an employee on educational leave, leave without pay, or other authorized leave shall be filled only by time-limited appointments or interim assignments.

(b) **Vacancies Resulting from Position Reclassification.** If an occupied position is reclassified, and if the incumbent does not meet the minimum qualifications for the new classification, the employee shall not remain in the position for more than thirty (30) days after receipt of written notice from the Human Resources Division of its determination that the employee does not meet the minimum qualifications for the new classification.

### Section 5. **Position Appointments.**

(a) **Authorization and Funding.** Before filling a vacancy, the agency head shall ensure that the position has been authorized by the Governor and/or Legislature and that sufficient funds exist for the position.

(b) **Multiple Occupancy of Positions.** No more than one (1) employee shall occupy a position at the same time except under the following conditions:

(i) Appointments or interim assignments which are made within a reasonable period prior to or following the scheduled separation of an employee;

(ii) Temporary appointments and interim assignments made to positions occupied by employees on authorized leave;

(iii) Positions occupied by employees who have been given time-limited appointments on a temporary or seasonal basis;

(iv) Time shared positions. Two (2) employees may voluntarily occupy one (1) position or three (3) employees may voluntarily occupy two (2) positions with the agency head's approval, providing that the total salary expenditures for those employees do not exceed the amount authorized for the position or positions (W.S. 9-2-1022(a)(xii)) and (W.S. 9-2-1022(f)); or

(v) Other multiple occupancies specifically approved by the Human

Resources Division.

(c) Preconditions to Appointments. No appointment shall be made to any position unless the position has been assigned a position number and has been allocated to a classification by the Human Resources Division.

#### Section 6. **Interim Assignments.**

(a) An agency head may, upon written notification to the Human Resources Division, assign an employee of the agency on an interim basis to a different position. Such assignment may be made for a period not to exceed twelve (12) months.

(b) The same position shall not be filled by successive interim assignments by the same individual without the prior written approval of the Human Resource Administrator.

#### Section 7. **Establishment of New Positions.**

(a) Request for Tentative Position Classification. When requesting gubernatorial or legislative authorization for a new position, through the Budget Division, the agency head shall include a written request, to the Human Resources Division, for a tentative classification of the proposed position. The agency head shall provide a job content questionnaire with the written request and indicate how the new position would affect other authorized positions.

(b) Positions Established. A new position shall be officially established when an additional position and necessary funding have been authorized by the Governor and/or the Legislature, a position number has been assigned, and the position has been classified by the Human Resources Division.

Section 8. **At-Will Contract Employees.** In accordance with the W.S. 9-2-1022(a)(xi)(F).

(a) At-will contract employees shall receive benefits in accordance with the W.S. 9-2-1022(a)(xi)(F).

(b) No at-will contract employees shall be eligible for or accrue any type of leave or be eligible to participate in the deferred compensation program.

(c) If the employment contract so provides, an at-will contract employee may be eligible for membership in the state employees' and officials' group insurance plan in accordance with W.S. 9-3-207, or in the case of the Wyoming retirement system an at-will contract employee of a member employer may be enrolled in the system if that employee's wages under the contract

are reported on an Internal Revenue Service Form W-2 Wage and Tax Statement, provided the employee pays the total premium or contribution required;

(d) If the employment contract so provides, an at-will, year-round, full-time brand inspection contract employee authorized to carry out the duties specified by W.S. 11-20-201 may be eligible for membership in the state employees' and officials' group insurance plan in accordance with W.S. 9-3-207, and the state retirement system under W.S. 9-3-412, provided the employee pays the total premium or contribution required, or the portion of the premium or contribution the employment contract directs the employee to pay and the employee's wages under the contract are reported on an Internal Revenue Service Form W-2 Wage and Tax Statement. The Wyoming livestock board shall have sole discretion to determine the amount of the total premium or contribution to be paid by the employee and the amount to be paid by the board, if any. The time limitations shall not apply to any employee under this subsection;

(e) An at-will contract shall be for a term not exceeding twenty-four (24) months subject to renewal of the contract at the end of the contract period.

(f) Nothing in these rules shall be deemed to create an expectation of continued employment after the contractual relationship has been terminated.

(g) No work shall be performed by an individual until the contract has been approved in writing and signatures obtained by all parties to the contract including the Human Resources Division and the Attorney General.

## CHAPTER 8

### POSITION CLASSIFICATION

#### Section 1. **Position Classification Plan.**

The plan is maintained by the Human Resources Division. The plan shall cover all positions in the Executive Branch of State Government, except for the positions of Governor, Secretary of State, State Auditor, State Treasurer, Superintendent of Public Instruction, District Attorney, and positions within the University of Wyoming.

#### Section 2. **Class Specifications.**

(a) A class specification is a summary of the most important features of a class, including the duties and responsibilities, skill, effort and working conditions of the work performed. The task content of a class specification is not intended to be all inclusive, restrictive, or precisely descriptive of the duties and responsibilities of any particular position within the class.

(b) Preparation. The Human Resources Division shall prepare a class specification for each class established in the plan.

#### (c) Class Titles.

(i) The Human Resources Division shall designate an official title for each class in the plan. Only the Human Resources Division shall have authority to alter official class titles.

(ii) Official class titles shall be used in all personnel, payroll and budget correspondence, forms, reports, records and other documents involving personnel administration.

(d) Minimum Qualifications. Class specifications shall include minimum qualification standards including the possession of licenses, certificates, training, experience, knowledge, skills, and abilities to perform the essential functions of the job; and other requirements which are necessary preconditions to appointment to positions in the class.

(e) Related Tasks. Class specifications shall contain the statement "The listed duties are illustrative only and are not intended to describe every function which may be performed in the job class." Also, employees may be required to perform incidental tasks which are not among the usual duties of positions in the class.



(f) Distribution and Inspection. Class specifications shall be posted on the Human Resources Division website.

### Section 3. **Position Information.**

(a) Data Collection. The Human Resources Division has the responsibility and authority to obtain information necessary for use in position classification. The Human Resources Division shall use such methods as it determines to be appropriate. Collection of information may include the study of relationships with other positions, tasks performed in other positions, organizational structures, program goals, and other related factors.

(b) Management and Employee Responsibility. Agency management and employees shall cooperate with the Human Resources Division by providing access to work areas, making employees available, and by responding to requests for information.

### Section 4. **Position Classification.**

(a) Classification Authority. The Human Resources Division has sole authority to classify and reclassify positions.

(b) Classification Factors.

(i) In classifying a position, the Human Resources Division shall consider factors such as: formal training, experience, management control, supervisory skills, human relations skills, responsibility, accountability, problem solving, complexity, working conditions, and mental/visual demand.

(c) Unrelated factors. Classification shall not be based upon the individual characteristics and performance level of the employee occupying the position; nor upon other information not pertinent to the position or classification.

### Section 5. **Classification System Maintenance.**

(a) Audits and Studies. The Human Resources Division shall regularly conduct job audits and occupational studies for the purpose of maintaining the integrity of the classification system.

(b) Classification Reviews.

(i) Basis for Review. The Human Resources Division shall review only the placement of a position within a specific class. Components of the classification plan cannot be reviewed. These include evaluation factors, grade assignment, and pay tables.

(ii) Agency Requirements. The agency shall submit a position for review when the core functions of the job have permanently changed. The agency shall submit the appropriate documentation as required by the Human Resource Division. The Human Resources Division shall review the request and notify the agency of its determination.

(A) The agency shall notify the employee of the classification determination within ten (10) days of receiving the determination from the Human Resource Division.

(iii) Employee Requests. Employees who believe that their positions have not been placed in the proper class may submit to their agency head a new job content questionnaire and a request for review. The request shall include the reasons why the re-evaluation is being requested. The agency head shall review the request and shall submit the appropriate documentation as required by the Human Resource Division for the review to the Human Resources Division within ten (10) days of receipt. The Human Resources Division will review the request and notify the agency and employee of its determination.

(A) The agency shall notify the employee of the classification determination within ten (10) days of receiving the determination from the Human Resource Division.

(B) Classification Review Panel.

(l) If the employee does not agree with the initial determination by the Human Resources Division, the employee may submit a written request for reconsideration by the Classification Review Panel within thirty (30) days of the employee's notification. This panel comprised of the Director of the Department of Administration and Information, the Human Resources Administrator, the Classification and Compensation Manager, and the agency director or designee shall re-evaluate the original request and any additional information provided by the employee and/or their representative. The panel shall provide written notice of its final decision within sixty (60) days of receipt.

(c) Reclassification.

(i) If the Human Resources Division or the Classification Review Panel determines that a position is improperly classified, it shall be reclassified in accordance with the provisions of Section 4 of this chapter.

(ii) An employee occupying a reclassified position shall, when requested, submit to the Human Resources Division such information as necessary for evaluation of the employee's qualifications for the new classification. The Human Resources Division shall evaluate the employee's

qualifications and provide written notification to the agency head or agency human resource office and the employee.

(iii) If an employee vacates a position because of inability to meet established minimum qualifications for the new class, the following shall apply:

(A) If the employee is appointed to a different position in the previous class, it will be treated as a same grade reappointment;

(B) If the employee is reappointed to a position in a different class having the same or lower grade, it will be treated as an involuntary reappointment;

(C) If the employee is appointed to a position in a class having a higher grade, it will be treated as a promotion; or

(D) If the employee is separated from state service, it will be treated as a reduction in force.

#### **Section 6. Effective Dates of Classification and Reclassification.**

(a) Unoccupied Position. The classification of a new position or reclassification of a vacant position shall be effective on the date that written notification of the classification determination is provided to the agency head or agency human resource office.

(b) Occupied Position. If the incumbent employee meets the minimum qualifications for the new class, the effective date of the reclassification shall be the first of the month following the date upon which the Human Resources Division has determined that the employee is qualified to remain in the position. If the incumbent does not meet minimum qualifications for the new class, the effective date shall be the date that the employee vacates the position.

CHAPTER 9  
COMPENSATION

Section 1. **Compensation Plan.**

(a) The Human Resources Division shall establish and administer a consistent, equitable and flexible Compensation Plan covering all state executive branch employees. The Compensation Plan shall consist of:

- (i) The official classification listing,
- (ii) One or more pay tables,
- (iii) The State Compensation Policy

(b) All employees shall be paid within the pay rates established by and in accordance with the Compensation Plan and the State of Wyoming Personnel Rules. The State Compensation Plan shall utilize both fixed and variable compensation as well as non cash reward and recognition programs.

(c) The Compensation Plan may be adjusted to reflect changes in the appropriate labor market made by comparable and/or competing employers as defined by The Human Resources Division.

(d) All agencies shall comply with the State Compensation Policy established by the Human Resources Division.

(i) All pay actions shall be in accordance with the State Compensation Policy established by the Human Resources Division.

(ii) Agency heads shall be responsible for administering the compensation policy in accordance with these rules.

(iii) All agency pay actions shall be subject to audit by the Human Resources Division

(e) Revisions to the State Compensation Policy shall be made by a committee selected by the Human Resources Division consisting of a cross representation of agencies and others requested by the Governor.

(f) An employee shall not be paid below the minimum or above the maximum rate of pay for an assigned classification, unless such payment has been pre-approved in writing by the Human Resources Administrator.

## Section 2. **Salary Surveys.**

(a) Data on the defined and relevant labor market that is representative of public and private sector employees will be gathered regularly by the Human Resources Division.

(i) Data analysis shall be used to identify salary ranges for each classification with minimum and maximum dollar limits.

(ii) Additional surveys may also be conducted by the Human Resources Division.

(iii) Labor market data analysis will be provided by the Human Resources Division for review and evaluation by the Governor.

(A) The official pay table(s) shall be posted on the Human Resources Division web site.

## Section 3. **Pay Rates.**

(a) The following information shall be established and set forth in the state compensation policy:

(i) Hiring rates.

(ii) Re-employment.

(iii) Return from leave without pay.

(iv) Reinstatement.

## Section 4. **Compensation Adjustments.**

(a) The following criteria applies to all pay adjustments unless otherwise specified:

(i) All pay adjustments shall have written justification and shall be submitted to the Human Resources Division.

(ii) Sequences affecting base pay adjustments will be established and set forth in the State Compensation Policy.

(b) Pay adjustments - An employee's pay may be adjusted in accordance with the State Compensation Policy for the following reasons:

(i) Pay Adjustments authorized by the Legislature.

(ii) Base pay adjustments:

- (A) Compensation Adjustments.
- (B) Educational Compensation.
- (C) Holiday Premium.
- (D) Promotions.
- (E) Reclassifications.
- (F) Interim Assignment.
- (G) Voluntary/Involuntary Reappointments.
- (H) Leave without pay.
- (I) Merit adjustments.

(iii) Non-base pay adjustments:

- (A) Bonus Payments.
- (B) Call-Back Pay.

(C) Longevity Pay - An employee shall be compensated at the established longevity rate for each sixty (60) months of continuous State service in the Executive, Legislative or Judicial Branch. Longevity payments shall begin the month following the accrual of sixty (60) months continuous service.

(I) Service credits shall be granted for previous State Executive, Legislative or Judicial Branch service to a rehired employee upon completion of twenty-four (24) months of continuous service since the most recent entrance to state employment. Such prior service shall be on record with the Wyoming Retirement System or otherwise be verified by the employing agency or branch. Service credits shall be given for any calendar month during which work was actually performed.

- (D) On-Call Pay.

(E) Personal Moving Expenses - When an employee is permanently reassigned from one geographical area to another at the request of and for the benefit of the State, the employing agency shall pay the actual

expenses of transporting the household goods and effects of such employee (W.S. 9-3-104).

(F) Shift Differential.

(G) Supplementary Compensation.

(H) Training Expenses.

(I) Employee Requested Training.

(II) Agency Required Training.

(I) Geographic differential

(J) Merit

(iv) Other types of compensation adjustments may be implemented by the Human Resources Division based upon identified needs.

#### Section 5. **Overtime.**

(a) The overtime policy of the State of Wyoming shall be in accordance with and no more stringent than the provisions of the "Federal Fair Labor Standards Act of 1938," as amended 29 U.S.C. 201 et seq., also known as the Act, as set forth in the state compensation policy.

(b) The Human Resources Division shall provide assistance to agencies regarding overtime policy interpretations.

(c) Agency heads shall be responsible for administering the overtime policy in accordance with the Act and these rules. These responsibilities include, but are not limited to:

(i) Determination and periodic review of employee overtime compensation exemptions as authorized by the Act.

(ii) Enforcement of overtime rules to insure that overtime work is not performed if such work has not been officially authorized. The mere promulgation of a rule against unauthorized overtime work is insufficient enforcement.

(d) Official State Workweek.

(i) The following areas will be established and set forth in accordance with the state compensation policy:

(A) Official State Workweek.

(B) Workweek Standard.

(C) Exception to the Workweek Standard.

(D) Law Enforcement/Fire Protection Exceptions - Agencies who employ personnel primarily engaged in the following activities may establish a special overtime standard:

(I) Law Enforcement, including employees defined as Peace Officers pursuant to W.S. 7-2-101.

(II) Fire Protection, including employees who are engaged in or concerned with the prevention, control and extinguishment of fires.

(III) Security in correctional institutions including employees who have responsibility for controlling and maintaining custody of inmates or for supervising such functions.

(IV) Adoption of this standard shall not be authorized until the Human Resources Division has approved and provided written notification to the State Auditor and the agency head. Agency heads shall be responsible for notifying affected employees.

(e) Non-exempt employees.

(i) The following areas will be established and set forth in accordance with the State Compensation Policy:

(A) Hours of Work Defined.

(B) Meal Periods.

(C) Rest Periods.

(D) Sleeping Time.

(E) Special Activities.

(F) Travel Time.

Section 6. **Compensation upon Separation.**

(a) The following areas will be established and set forth in accordance with



the State Compensation Policy:

- (i) Vacation Leave.
- (ii) Sick Leave.
- (iii) Longevity.
- (iv) Compensatory Time.

(b) A separated employee who has been paid for accumulated vacation or sick leave and who is rehired, within thirty-one (31) days of the separation, shall reimburse the State for all sick or vacation leave payments within thirty-one (31) days after being rehired.

(i) Accumulated balances of sick or vacation leave at the time of separation shall be restored to the employee.

(ii) Any employee failing to reimburse the State for such payments shall be terminated in accordance with W.S. 9-2-1022.

#### **Section 7. Executive Compensation.**

(a) Compensation for at-will directors, deputies and division administrators will be covered under the State Compensation Policy.

## CHAPTER 10

### LEAVE

#### Section 1. **Vacation Leave.**

(a) **Accrual Base Rates.** Vacation leave accrual base rates shall be determined by the amount of completed continuous service as follows:

0 through 48 months	-	8 hours per month
49 through 108 months	-	10 hours per month
109 through 168 months	-	12 hours per month
169 through 228 months	-	14 hours per month
229 or more months	-	16 hours per month

(b) **Service Credits to Rehired Employees.** Service credits for non-continuous service shall be granted to a rehired employee claiming prior Executive, Judicial or Legislative Branch service followed by a separation, upon the completion of twenty-four (24) months continuous service since the most recent entrance to State employment. Prior service shall be on record with the Wyoming Retirement System or may be otherwise verified by the employing agency or branch. Service credits shall be given for any calendar month during which work was actually performed.

#### (c) **Monthly Accrual Rates.**

(i) Permanent and probationary employees shall accrue vacation leave according to the number of hours worked in the month.

(ii) Temporary employees shall accrue vacation leave, after six (6) months of employment, according to the number of hours worked in the month.

(iii) The formula for determining the monthly accrual rate for 40 through 159 hours worked in the month is prorated as follows: hours worked in the month are multiplied by the employee's accrual base rate, this total is divided by 160.

(iv) The following rates shall be used:

160 or more hours	-	100% of base rate
40 through 159 hours	-	Prorated according to formula
39 or less hours	-	0% of base rate

(v) Time elapsed while an employee is on any authorized leave, except a leave without pay, disciplinary suspension without pay, or educational leave, shall be considered hours worked for purposes of this section.

(vi) Accrued vacation leave is not available for use until the following month after the accrual period. Vacation leave is accrued only after the employee works the required time during the month.

(d) Authorized Use. Agency management shall consider the needs of the employee and the staffing requirements of the agency in approving vacation leave.

(i) Vacation leave shall not be authorized for periods of incarceration.

(e) Interagency Appointments. An employee who is appointed to a position in a different agency shall not lose any unused vacation leave as a result of the interagency transfer, promotion, or reappointment.

(f) Interbranch Appointments. An employee appointed without a separation from the State Judicial or Legislative Branch who has not been paid for accumulated leave, shall be allowed to transfer unused vacation leave. The employee shall accrue vacation leave according to established Executive Branch rates for completed continuous service which shall include continuous service credited while employed by the other branch. All unused vacation leave for Executive Branch employees transferring to another Branch of State government shall be paid off at the time of transfer.

(g) Maximum Accrual. On December 31 of each year, accrued unused vacation leave in excess of the carry-over maximum shall be reduced to this maximum and the employee shall forfeit the right to use this excess leave. The carry-over maximum, which depends upon completed State service, is determined as follows:

<u>Completed State Service</u>		<u>Carry-Over Maximum</u>
0 through 108 months	-	240 hours (30 days)
109 through 168 months	-	288 hours (36 days)
169 through 228 months	-	336 hours (42 days)
229 or more months	-	384 hours (48 days)

**Section 2. Sick Leave.**

(a) Monthly Accrual Rates.

(i) Permanent and probationary employees shall accrue sick leave according to the number of hours worked in the month.

(ii) Temporary employees shall accrue sick leave, after six (6) months of employment, according to the number of hours worked in the month.

(iii) The formula for determining the monthly accrual rate for 40 through 159 hours worked in the month is prorated as follows: hours worked in the month are multiplied by eight hours, this total is divided by 160.

(iv) The following rates shall be used:

160 or more hours	-	8 hours per month
40 through 159 hours	-	Prorated according to formula
39 or less hours	-	no accrual

(v) Time elapsed while an employee is on any authorized leave, except a leave without pay, suspension without pay, or educational leave, shall be considered hours worked for purposes of this section.

(vi) Accrued sick leave is not available for use until the following month after the accrual period. Sick leave is accrued only after the employee works the required time during the month.

(b) Authorized Use. Accrued sick leave may be used during scheduled work hours when an employee is incapacitated by sickness or injury; for pregnancy, childbirth, or related medical conditions; for medical, dental or optical examinations or treatment; for death or illness of a member of the employee's or the employee's spouse's immediate family and such other persons as approved by the agency head; or when an employee has been exposed to a contagious disease such that attendance at work could jeopardize the health of others.

(i) Persons affected by pregnancy, childbirth and related medical conditions shall be treated the same as persons affected by other medical conditions.

(ii) The agency shall deduct from an employee's compensatory time, if available, otherwise from their vacation leave balance for any of the reasons listed in 2(b) above when the employee's sick leave balance is insufficient to cover the authorized absence from work.

(c) Notification. Employees who are unable to work for any of the reasons stated in Section 2 (b) of this chapter shall notify their immediate supervisor as soon as possible of their absence or anticipated absence. If such notification is not given, the agency head shall charge the absence to vacation leave or leave without pay, and may consider appropriate disciplinary action.

(d) Approval. The agency head shall approve the use of sick leave only after having determined that the absence was for a legitimate reason. An employee may be required to submit substantiating evidence including, but not limited to, a health care provider's certificate. Abuse of sick leave is cause for

disciplinary action.

(e) Donation. An agency head or designee, after determining that the employee has a legitimate reason to be absent and the employee does not have a documented history of abusing leave, may request donated sick leave from the agency and may request donated sick leave from other state employees for an employee who has exhausted all of their accrued sick leave, compensatory time vacation leave and all other available leave.

(i) An employee who has accrued a minimum of eighty (80) hours of sick leave may donate a minimum of four (4) hours up to a maximum of sixteen (16) hours of sick leave per calendar year to the same recipient who has an immediate and reasonable need for such assistance.

(ii) Donations between immediate family members who are State employees are not subject to the sixteen (16) hour maximum.

(iii) Donors shall give their agency head, who shall approve or disapprove the donation, a written statement specifying the number of hours donated and the name and agency of the employee to whom the donation is being made.

(A) Donations to employees in agencies other than the donor's agency shall be approved by the donee's agency head or designee.

(iv) Employees shall have depleted all of their sick, vacation, or other available leave prior to use of donated sick leave.

(v) Agency heads shall ensure that all donated but unused sick leave shall be credited back to the original donor(s) when the recipient returns to work and/or no longer has an immediate and reasonable need for the leave; or when the recipient dies.

(f) An employee of an entity participating in the state health insurance program may donate accrued sick leave to an employee of another entity participating in the state health insurance program if authorized by reciprocal personnel policies adopted by the appropriate entities.

(iv) A copy of the personnel policies authorizing the interbranch donation of sick leave shall accompany the request for donated sick leave between participating entities.

(g) Advanced Sick Leave. An employee who has used all accrued sick leave, compensatory time, vacation leave, or other available leave and who has an immediate and reasonable need for sick leave, may be, at the discretion of

the agency head, advanced sick leave not to exceed eight (8) hours for each year of continuous service up to fifteen (15) years and twelve (12) hours for each year beyond fifteen (15) years continuous service. Any advanced sick leave shall be repaid by the employee upon return to work at the rate of the employee's combined monthly vacation and sick leave accrual rates.

(h) Interagency Appointments. An employee appointed to a position in a different agency shall not lose any accrued sick leave as a result of the interagency transfer, promotion, or reappointment.

(i) Interbranch Appointments. An employee appointed without a separation from the State Judicial or Legislative Branch who has not been paid for accumulated leave, shall be allowed to transfer unused sick leave. The employee shall accrue sick leave according to established Executive Branch rules. Unused sick leave for all Executive Branch employees transferring to another branch of State government shall be paid off in accordance with Chapter 9, Section 6 (b) at the time of transfer.

### Section 3. **Bereavement Leave.**

(a) Employees shall be granted three (3) regularly scheduled work days not to exceed a maximum of twenty-four (24) hours of bereavement leave upon being notified of the death of an immediate family member. This leave shall be for the purposes associated with the death of the family member and shall be used before the use of any other leave authorized for this purpose.

### Section 4. **Holiday Leave.**

(a) Permanent and probationary employees shall receive holiday leave, according to the number of regularly scheduled work hours in the month.

(i) Temporary employees shall receive holiday leave, after six (6) months of employment, according to the number of hours worked in the month.

(ii) The formula for determining the holiday leave for 40 through 159 hours worked in the month is prorated as follows: hours worked in the month are multiplied by eight hours, this total is divided by 160.

(iii) The following rates shall be used:

160 or more hours	-	full 8 hours per holiday
40 through 159 hours	-	Prorated according to formula
39 hours or less	-	none

(b) Permanent and probationary employees not required to work shall be granted paid holiday leave from regularly scheduled work hours occurring on the

following days:

- (i) New Year's Day (January 1);
- (ii) Martin Luther King, Jr./Wyoming Equality Day (third Monday in January);
- (iii) President's Day (third Monday in February);
- (iv) Memorial Day (last Monday in May);
- (v) Independence Day (July 4);
- (vi) Labor Day (first Monday in September);
- (vii) Veteran's Day (November 11);
- (viii) Thanksgiving Day (fourth Thursday in November);
- (ix) Christmas Day (December 25); and
- (x) Upon declaration by the Governor, any date declared by the President of the United States as an occasion of national mourning, rejoicing, or observance of national emergency.

(c) Holidays that fall on employee's regularly scheduled days off.

(i) If a holiday falls on the first day of an employee's regularly scheduled time off period, the day before shall be granted paid holiday leave from regularly scheduled work hours for that employee.

(ii) If a holiday falls on a subsequent day off, the day after shall be granted paid holiday leave from regularly scheduled work hours for that employee.

(d) Employees on leave without pay the day before or the day after a holiday shall not be entitled to paid holiday leave.

(e) Time elapsed while an employee is on any authorized leave, except a leave without pay, suspension without pay, or educational leave, shall be considered hours worked for purposes of this section.

#### Section 5. **Exempt Paid Time Off.**

(a) Employees exempt from overtime, who are required to work on an official State holiday, shall be granted paid time off at the rate of one and one-half

hours off for each hour worked. Employees shall use any accumulated paid time off before being entitled to use any accrued vacation leave. As of January 1 of each year all unused paid time off shall be paid off at the employee's hourly compensation rate, unless otherwise approved by the Human Resources Division.

#### **Section 6. Parental Leave.**

(a) Employees who are parents of a newborn or recently adopted child, or are expectant parents, shall be entitled to take accrued sick leave, compensatory time, vacation leave, or leave without pay for purposes associated with the birth or adoption of a child.

#### **Section 7. Voting Leave.**

(a) Employees shall, at the time specified by their supervisor, be allowed one (1) hour of leave with pay for the purpose of voting in an official public election.

(i) This section shall not apply to an employee who has three (3) or more consecutive non-working hours during the time the polls are open. (Reference W.S. 22-2-111).

#### **Section 8. Court Leave.**

(a) An employee required to serve as a member of a jury panel or as a witness of the court shall be granted leave with pay for the performance of such obligation.

(i) The employee shall be required to provide written documentation of such obligation which shall be retained in the employee's personnel file.

#### **Section 9. Legislative Leave.**

(a) An employee elected to serve as a member of the State Legislature shall be required to take leave without pay for the performance of all legislative duties.

#### **Section 10. Educational Leave.**

(a) An agency head may, with notification to the Human Resources Division, grant educational leave to an employee for up to twenty-four (24) months to allow the employee to acquire job-related training or education. In notifying the Human Resources Division, the agency head shall provide a written description of the training or education which the employee intends to pursue and



an explanation of how such training or education would benefit the State.

(b) The agency and employee shall enter into a contract outlining the provisions of the educational leave.

#### Section 11. **Administrative Leave.**

(a) An agency head may grant:

(i) An employee administrative leave with pay to participate in meetings, seminars, hearings, examinations, and employee organization meetings. For other requested purposes, administrative leave requests must be reviewed and evaluated for approval by the Governor or his designee.

(ii) Upon declaration, the Governor may close state offices for the traditional observance of local celebrations, inclement weather conditions, or for other reasons or purposes that are deemed necessary.

(A) Employees required to work during the traditional observance of local celebrations shall be given compensatory time on an hour for hour basis.

(B) Intermittent, emergency, student interns, and contract employees are not eligible for these types of paid leave.

(C) Temporary employees who have been with the state less than six months are not eligible for these types of paid leave.

(D) Upon a weather or other closure declared by either the Governor's Office or an agency head, an employee shall not be charged for time off for the period of the closure unless the employee had been previously authorized any type of leave and is on leave at the time of the closure.

#### Section 12: **Personal Leave**

(a) An agency head may grant:

(i) An employee up to two regularly scheduled days (not to exceed 16 hours) of personal leave with pay per calendar year to recognize merit, wellness incentives, pre-approved non-profit community service and specific military service activities.

(ii) Authorized use. Personal leave may be granted and used for:

(A) employee recognition programs,

- (B) department wellness initiatives,
  - (C) merit incentive programs,
  - (D) team based recognition – project completion,
  - (E) pre-approved non-profit community service,
  - (F) family departing or returning from active duty military service and,
  - (G) to attend military funerals.
- (iii) Prohibited use. Personal leave may not be granted or used for:
- (A) birthdays,
  - (B) early release for holidays and,
  - (C) undocumented performance.

- (b) Agencies authorizing leave for (ii) A through E above shall submit written plans to the Human Resource Administrator for review and approval prior to the implementation.
- (c) An agency head or designee is responsible for tracking the usage of these hours and are accountable for their appropriateness.
- (d) The granting of personal leave is at the discretion of the agency head or their designee. It is not an employee right nor an employee benefit.

### Section 13. **Military Leave.**

- (a) Military leave shall be granted in accordance with W.S. 19-11-108 (a-e).

### Section 14. **Leave Without Pay.**

- (a) Leave without pay may be granted at the discretion of the agency head.

(i) An employee injured on the job and receiving Worker's Compensation benefits shall, upon request, be entitled to leave without pay in connection with the injury.

(ii) Except for the reason indicated above, leave without pay for medical reasons or any other reason where sick leave use is authorized, an employee shall use all accrued sick leave, compensatory time, vacation leave, or any other available leave before leave without pay will be authorized.

(iii) For all other types of leave without pay except legislative leave, an employee shall use all accrued compensatory time, vacation or other available leave before leave without pay will be authorized.

(iv) A leave without pay of more than fifteen (15) working days shall be reported in writing to the Human Resources Division. A leave without pay shall not continue for more than six (6) months without the approval of the Human Resources Division.

(b) The Governor may furlough employees due to lack of work or funding.

#### **Section 15. Administrative Review Leave**

(a) An agency head may place an employee on administrative review leave with pay for a maximum of thirty (30) days when:

(i) The employee has been charged with or is under investigation for the commission of a crime which would raise reasonable doubt concerning the employee's suitability for continued employment; or

(ii) Allegations of misconduct have been made and, if confirmed, the employee's presence on the job may be detrimental to the operation of the agency.

(b) The agency head shall provide the employee with written notice specifying the reason(s) for the administrative review leave and the effective date. A copy of the written notice shall be provided to the Human Resources Division Administrator. An administrative review leave, with or without pay, may be extended beyond the thirty (30) day period with prior written approval of the Human Resources Administrator. If the charges are not filed, or the employee is found not guilty, the employee shall be returned to work, granted pay for any lost wages, and shall retain all rights and status previously held.

#### **Section 16. Family and Medical Leave Act (FMLA).**

(a) The Family and Medical Leave policy of the State of Wyoming shall be in accordance with and except as specified no more stringent than the provisions of Family and Medical Leave Act of 1993, Public Law 103-3 (Feb 5, 1993), 107 Stat. 6 (29 U.S.C. 2601 et seq., as amended).

(b) State Agencies are covered employers without regard to the number of employees employed.

(c) Employee Eligibility. An employee shall have worked for the State a total of twelve (12) months and have worked 1250 hours over the previous twelve (12) months prior to the use of FMLA leave.

(d) Leave Entitlement. An eligible employee shall be granted a total of twelve (12) workweeks of leave in a twelve (12) month period for one or more of the following reasons:

(i) The birth of a son or daughter, and to care for the newborn;

(ii) For placement with the employee of a son or daughter for adoption or foster care;

(iii) To care for the employee's spouse, son, daughter or parent with a serious health condition;

(iv) For a serious health condition that makes the employee unable to perform the functions of the employee's job; and

(v) For any qualifying exigency arising out of the fact that the employee's spouse, son, daughter, or parent is a covered military member on active duty (or has been notified of an impending call or order to active duty) in support of a contingency operation. Qualifying exigencies include the following:

(A) Short-notice deployment to address any issue that arises from the fact that a covered military member is notified of an impending call to\_ order to active duty seven or less calendar days prior to the date of deployment.

(l) Leave taken for this purpose can be used for a period of seven (7) calendar days beginning on the date a covered military member is notified of an impending call or order to active duty in support of a contingency operation;

(B) Military events and related activities including any official ceremony, program or event sponsored by the military and to attend family support or assistance programs and informational briefings sponsored or promoted by the military, military service organizations, or the American Red Cross that are related to the active duty or call to active duty status of a covered military member;

(C) Childcare and school activities;

(D) Financial and legal arrangements;

(E) Counseling - providing that the need for counseling arises from the active duty or call to active duty status of a covered military member;

(F) Rest and recuperation to spend time with a covered military member who is on short-term, temporary, rest and recuperation leave during the period of deployment.

(I) Eligible employees may take up to five (5) calendar days of leave for each instance of rest and recuperation.

(G) Post-deployment activities to attend arrival ceremonies, reintegration briefings and events, and any other official ceremony or program sponsored by the military for a period of ninety (90) days following the termination of the covered military member's active duty status and to address issues that arise from the death of a covered military member while on active duty status;

(H) Additional activities to address other events which arise out of the covered military member's active duty or call to active duty status.

(I) the employer and employee shall agree prior to the employee taking leave that such leave shall qualify as an exigency, and agree to both the timing and duration of such leave.

(e) Covered military member is either a member of the reserve components or a retired member of the Regular Armed Forces or Reserves;

(i) An employee whose family member is on active duty or call to active duty status in support of a contingency operation as a member of the Regular Armed Forces is not eligible to take leave because of a qualifying exigency.

(f) Where two spouses are employed by the State of Wyoming their aggregate leave will be limited to twelve (12) workweeks during any twelve-month period for the following reasons:

(i) Birth and care of a child;

(ii) For the placement of a child for adoption or foster care, and to care for the newly placed child; and

(iii) To care for the employee's parent who has a serious health condition.

(g) Leave to care for a covered service member with a serious injury or illness.

(i) Leave Entitlement: An eligible employee shall be granted a total of twenty-six (26) workweeks of leave in a twelve (12) month period to care for a covered service member with a serious injury or illness during a “single 12-month period”.

(ii) Covered military member includes a current member of the Armed Forces, including a member of the National Guard or Reserves, or a member of the Armed Forces, the National Guard or Reserves who is on the temporary disability retired list, who has a serious injury or illness incurred in the line of duty on active duty for which he or she is undergoing medical treatment, recuperation, or therapy; or otherwise in outpatient status; or otherwise on the temporary disability retired list.

(I) Covered military member does not include former members of the Armed Forces, former members of the National Guard and Reserves, and members on the permanent disability retired list.

(iii) Eligible employee must be the spouse, son, daughter, or parent or next of kin of a covered service member. Parents-in-law are not eligible.

(h) Combined Leave Entitlement: An eligible employee is entitled to a combined total of twenty-six (26) workweeks of leave in a twelve (12) month period described in paragraph g of this section provided that the employee is entitled to no more than twelve (12) work weeks of leave as described in paragraph d of this section.

(i) Where two spouses are employed by the State of Wyoming their leave will be limited to a combined total of twenty-six (26) workweeks of leave during the single 12-month period if the leave is taken for the following reasons:

(i) The birth of a son or daughter, and to care for the newborn;

(ii) For placement with the employee of a son or daughter for adoption or foster care, or to care for the child after placement;

(iii) To care for the employee’s parent with a serious health condition; or

(iv) To care for a covered service member with a serious injury or illness.

(j) In all instances of FMLA Leave, the twelve (12) month period shall

commence when leave is first used.

(k) Paid Leave. The FMLA leave period shall include the employee's accrued sick leave, vacation leave, accrued compensatory time leave, other available leave, and any donated sick leave allowed.

(i) A holiday that occurs within the full week taken as FMLA leave is counted towards the employee's FMLA leave entitlement.

(J) If an employee is using FMLA leave in increments of less than one week, the holiday will not count against the employee's FMLA entitlement unless the employee was otherwise scheduled and expected to work during the holiday.

(ii) An employee who incurs a work-related illness or injury elects whether to receive paid leave or worker's compensation benefits. An employee shall not receive both.

(l) Leave without Pay. If an employee's accrued paid leave is less than the total FMLA entitled workweeks, the time remaining shall be taken as unpaid FMLA leave. Any leave without pay in excess of the total FMLA entitled workweeks maximum shall be at the discretion of the agency head per Chapter 10, Section 13, Leave without Pay.

(i) An employee whose work-related illness or injury meets the criteria for a serious health condition and is receiving paid worker's compensation benefits the absence shall be counted against the FMLA leave entitlement.

(ii) An employee on unpaid FMLA leave during a holiday shall not receive holiday pay.

(m) Intermittent/Reduced Schedule Leave. For intermittent leave or leave on a reduced leave schedule, there shall be a medical need for leave (as distinguished from voluntary treatments and procedures) and such medical need is best accommodated through an intermittent or reduced leave schedule.

(i) Intermittent leave shall be taken in separate blocks of time due to a single qualifying reason.

(ii) Reduced leave schedule shall be a change in the employee's schedule for a period of time that reduces the employee's usual number of working hours per workweek, or hours per workday.

(iii) When leave is taken after the birth of a healthy child or placement of a healthy child for adoption or foster care, an employee may take leave intermittently or on a reduced leave schedule only if the Agency agrees.

(iv) If an employee needs leave intermittently or on a reduced leave schedule for planned medical treatment, then the employee must make a reasonable effort to schedule the treatment so as not to disrupt unduly the Agency's operation.

(n) Medical Certification. An agency shall require a medical certification from a health care provider for an employee's serious health condition or the employee's covered family member with a serious health condition, or to care for a covered service member with a serious injury or illness.

(i) The agency shall give notice of a requirement for certification each time a certification is required and the notice shall be in writing.

(ii) The agency shall allow the employee at least fifteen (15) calendar days from the date of the request to obtain the certification.

(iii) The employee shall provide a complete and sufficient certification to the Agency when required.

(o) Certification for leave taken because of a qualifying exigency. An agency shall require that an employee's provide a copy of the covered military member's active duty orders or other documentation issued by the military which indicates that the covered military member is on active duty or call to active duty status in support of a contingency operation and the dates of the covered military member's active duty service.

(p) Documenting relationships. For purposes of confirmation of family relationship, the Agency may require the employee provide reasonable documentation or statement of family relationship.

(q) Agency requirements.

(i) Every Agency is required to post and keep posted on its premises, in conspicuous places where employees are employed, a notice explaining the Act's provisions and providing information concerning the procedures for filing complaints of violations of the Act with the Department of Labor Wage and Hour Division.

(ii) When an employee requests FMLA leave or when the Agency acquires knowledge that an employee's leave may be for an FMLA-qualifying reason, the Agency must notify the employee of the employee's eligibility to take FMLA leave within five (5) business days, absent extenuating circumstances.

(iii) Agencies shall provide written notice detailing the specific expectations and obligations of the employee and explain any consequences of a



failure to meet the obligations.

(iv) In all circumstances, the agency head or human resource office shall be responsible in designating leave, paid or unpaid, as FMLA-qualifying, and to give notice of the designation to the employee. In the case of intermittent leave or leave on a reduced schedule, only one such notice is required unless the circumstances regarding the leave have changed.

(r) Notice of leave. An employee shall give thirty (30) days notice to the agency prior to the date the leave is to begin. The employee shall advise their immediate supervisor as soon as possible and practicable if dates of scheduled leave change or are extended, or were initially unknown. The agency head or Human Resource office shall determine the actual date on which an employee's FMLA leave commences.

(i) An employee shall provide sufficient information for the Agency to reasonably determine whether the FMLA may apply to the leave request.

(s) Denial of FMLA leave. Prior to denial of FMLA leave, the agency shall submit to the Human Resources Division a written request for approval of such denial.

(t) An employee cannot waive, nor may an Agency induce employees to waive, their prospective rights under FMLA.

(u) Definition of a son or daughter for purposes of FMLA leave taken for the birth or adoption or to care for a family member with a serious health condition: a biological, adopted, or foster child, a stepchild, a legal ward, or a child of a person standing in loco parentis (in place of a parent). The child shall be under 18 years old, or 18 or older and incapable of self-care because of a mental or physical disability.

(v) Definition of a family member under this section: a son or daughter as defined in Section 15 (u), a spouse is a husband or wife as defined or recognized under State law for purposes of marriage in the State where the employee resides, including common law marriage in States where it is recognized.; a parent is an employee's biological, adoptive, step or foster father or mother, or someone who stood in loco parentis (in place of a parent) to an employee. This term does not include parents "in-law".

(w) Definition of Next of Kin of a covered service member means the nearest blood relative other than the covered service member's spouse, parent, son, or daughter, in the following order of priority, unless the covered service member has specifically designated in writing another blood relative as his or her nearest blood relative for purposes of military caregiver leave under the FMLA:

(i) Blood relatives who have been granted legal custody of the covered service member by court decree or statutory provisions;

(ii) Brothers and sisters;

(iii) Grandparents;

(iv) Aunts and Uncles;

(v) First cousins.

(x) Definition of son or daughter on active duty or call to active duty status means the employee's biological, adopted, or foster child, stepchild, legal ward or a child for whom the employee stood in loco parentis, who is on active duty or call to active duty status, and who is of any age.

(y) Definition of son or daughter of a covered service member means the service member's biological, adopted, or foster child, stepchild, legal ward or a child for whom the employee stood in loco parentis, who is on active duty or call to active duty status, and who is of any age.

(z) Time elapsed while an employee is on paid FMLA shall be considered hours worked. Time elapsed while an employee is on unpaid FMLA shall be included in calculating the total number of months of continuous service.

(aa) Insurance. During any FMLA leave the agency head shall maintain the employee's coverage under any group health plan on the same conditions as coverage would have been provided if the employee had been continuously employed during the entire leave period. If family member coverage is provided to an employee, family member coverage shall be maintained during the FMLA leave.

(ab) Does Not Return to Work. If an employee does not return to work following unpaid FMLA leave for a reason other than:

(i) The continuation, recurrence, or onset of a serious health condition which would entitle them to FMLA leave; or

(ii) Other circumstances beyond their control, the employee shall be required to reimburse the State for any portion of health insurance premiums paid on behalf of the employee during unpaid FMLA leave.

(iii) An employee who returns to work for a period of at least five (5) days is viewed as meeting the return to work requirement.

(ac) Job Restoration. Upon return from FMLA leave an employee shall be

restored to their original position, or to an “equivalent” position with equivalent pay, benefits, and other employment terms and conditions. During the leave, the employee is not entitled to any employment benefits, nor to any right, benefit, or position of employment other than what the employee would have been entitled to had the leave not been taken.

(i) An employee who fraudulently obtains FMLA leave is not protected by FMLA’s job restoration or maintenance of health benefits provisions.

## CHAPTER 11

### DISCIPLINE FOR PERMANENT EMPLOYEES

#### Section 1. **Reasons for Discipline.**

(a) As used in this chapter, the word employee shall refer to permanent employees only.

(b) An agency head may discipline a permanent employee for cause including, but not limited to, the following reasons:

- (i) Absenteeism;
- (ii) Incapacity to perform assigned duties;
- (iii) Assault;
- (iv) Carelessness;
- (v) Damaging State property;
- (vi) Dishonesty;
- (vii) Insubordination;
- (viii) Misconduct;
- (ix) Refusal to work;
- (x) Sexual harassment;
- (xi) Theft;
- (xii) Unsatisfactory work performance;
- (xiii) Criminal conduct;
- (xiv) Falsification of application for employment;
- (xv) Violation of agency rules or policy;
- (xvi) Violation of the State Personnel Rules;
- (xvii) Violation of the State of Wyoming Substance Abuse Policy;
- (xviii) Violation of the State of Wyoming Anti-Discrimination Policy;

- (xix) Violation of the State of Wyoming Electronic Mail Policy;
- (xx) Violation of the State of Wyoming Internetworking Acceptable Use Policy;
- (xxi) Violation of the State of Wyoming Code of Ethics; and
- (xxii) Violation of the Workplace Violence Policy.

(c) At the request of the agency head, the Human Resources Division and the office of the Attorney General shall provide technical assistance in matters pertaining to the administration of employee discipline.

### **Section 2. Determination of Appropriate Discipline.**

(a) Agency heads shall, except in cases of flagrant behavior, attempt to administer discipline to permanent employees in progressive stages so as to seek corrective results. In determining appropriate disciplinary action, the agency head should consider the following factors:

- (i) Nature and extent of infraction;
- (ii) Employee's past record; and
- (iii) Effect on the operation of the agency.

(b) The agency head's determination of the appropriate action to be taken shall be based on an investigation of the facts and circumstances of the case. Progressive stages of discipline may include corrective action including but not limited to, letters of expectation, letters of counseling, or verbal or written warnings. However, the taking of such corrective action is not mandatory and an agency head may within his/her sole discretion determine to administer discipline as called for in Section 3 herein as an initial step of discipline to a permanent employee.

### **Section 3. Types of Discipline.**

(a) Written Reprimand. A supervisor may formally discipline a subordinate employee for cause by providing a written reprimand to the employee specifying:

- (i) Reason(s) for the reprimand:
- (ii) Previous letters of expectation, letters of counseling, verbal or written warnings, unacceptable performance appraisals, discussions, or reprimands, if any;

(iii) Corrective action necessary to avoid further disciplinary action;  
and

(iv) The right to present a grievance pursuant to these rules.

(b) Disciplinary Suspension. An agency head may suspend, without pay, an employee for cause for up to thirty (30) days in a calendar year. The agency head shall provide the employee with written notification specifying:

(i) Reason(s) for the suspension;

(ii) Previous letters of expectation, letters of counseling, verbal or written warnings, unacceptable performance appraisals, discussions, or reprimands, if any;

(iii) The effective date and duration of the suspension;

(iv) The corrective action necessary to avoid further disciplinary action; and

(v) The right to present a grievance pursuant to these rules.

(c) A copy of the notice of suspension shall be sent to the Human Resources Division by the agency head.

(d) Dismissal.

(i) Dismissal of Permanent Employees. If previous disciplinary action has not served to achieve corrective results, or if the nature and extent of the employee's behavior is such that other disciplinary action is not appropriate, the agency head may dismiss a permanent employee.

(A) Prior to the dismissal of a permanent employee, the agency head shall provide to the employee written notification specifying:

(I) The reason(s) and summary of the evidence for dismissal; and

(II) An opportunity for the employee, within ten (10) working days, to respond in writing to the charge(s).

(B) The agency head shall have ten (10) working days to consider the response. If the agency head perceives that the employee's presence on the job may be detrimental to the operation of the agency, the agency head may suspend the employee, with pay, pending the dismissal review period.

(C) If after the dismissal review period the agency head determines dismissal is appropriate, the agency head shall provide, personally or by return receipt requested certified mail, written notification to the employee specifying:

- (I) The reason(s) for the dismissal;
- (II) The effective date of the dismissal; and
- (III) The right to a hearing pursuant to these rules.

(ii) Dismissal of Permanent Employees subsequent to a fitness for duty evaluation upon a determination that the employee is incapacitated to perform assigned duties. The agency head may dismiss a permanent employee subsequent to a fitness for duty evaluation.

(A) Prior to the dismissal of a permanent employee, the agency head shall provide to the employee written notification specifying:

(I) The reason(s) and summary of the evidence for dismissal and notification that the Fitness for Duty report will not be provided directly to the employee, but may be provided directly to a qualified mental health professional of the employee's choice for interpretation.

(II) An opportunity for the employee, within ten (10) working days, to respond in writing to the charge(s). If the employee chooses to have a qualified mental health professional interpret the report for them, the time period for response may be extended upon mutual agreement.

(iii) A copy of the notice of dismissal shall be sent to the Human Resources Division by the agency head.

(iv) Failure to comply with the procedural steps in this chapter by the agency terminates the dismissal procedure without prejudice. Parties shall be restored to the previous status held prior to the disciplinary action.

~~\_\_\_\_\_ (i) The information provided in official vacancy announcements shall include, but not be limited to: official class title, class code, salary, employment location, description of the essential functions of the job, minimum qualifications for entry to the class, procedures for applying, and the statement that the State of Wyoming is "an EEO/ADA employer."~~

~~\_\_\_\_\_ (ii) Recruitment efforts to supplement the official vacancy announcement are encouraged. The Human Resources Division shall be notified via the online recruitment system or on the required appropriate form of all recruitment efforts. Copies of such notices Notices shall be approved by the Human Resources Division prior to being released by the agency. However, the preparation and release of such additional recruitment efforts are the responsibility of the hiring agency. All vacancy notices placed in newspapers, journals or other sources shall contain at least the following: official class title, class code, salary, employment location, minimum qualifications for entry to the class, procedures for applying, and a statement that the agency is "an EEO/ADA employer".~~

~~\_\_\_\_\_ (iii) When official vacancy announcements for open competitive recruitment are released, a minimum of two (2) weeks shall be provided for acceptance of applications. If supplemental vacancy notices are used in conjunction with the official vacancy announcement, they shall carry the same closing date.~~

~~\_\_\_\_\_ (b) Other Vacancy Advertising.~~

~~\_\_\_\_\_ (i) A vacancy may be publicized by news advertisements or other appropriate methods in lieu of an official vacancy announcement. The Human Resources Division shall be notified via the online recruitment system or on the required appropriate form of all recruitment efforts. Copies of such notices Notices shall be approved by the Human Resources Division prior to being released by the agency. In requesting approval to publicize a vacancy through means other than an official vacancy announcement the appointing authority shall give the reasons for the request and indicate the proposed alternative method. However, the preparation and release of such additional recruitment efforts are the responsibility of the hiring agency. In those cases where a vacancy notice is released without prior approval of the Human Resources Division, the agency is not only responsible for its content but may be required to release an official vacancy announcement.~~

~~\_\_\_\_\_ (ii) All vacancy notices placed in newspapers, journals or other sources shall contain at least the following: official class title, class code, salary, employment location, minimum qualifications for entry to the class, procedures for applying, and a statement that the agency is "an EEO/ADA employer".~~



~~\_\_\_\_\_ (iii) If approval is granted from the Human Resources Division to advertize using methods other than the official vacancy announcement (e.g. newspapers, journals etc.), the closing date shall be no less than five (5) calendar days from the date of release.~~

~~\_\_\_\_\_ **Section 3. Recruitment for Promotional Appointments.**~~

~~\_\_\_\_\_ (a) Recruitment for promotional appointments may be limited to State, agency, division, or work unit employees only. The agency shall notify all eligible and potentially interested employees by means of an agency-released vacancy notice. The Human Resources Division shall be notified via the online recruitment system or on the required appropriate form of all recruitment efforts. Copies of such notices shall be approved by the Human Resources Division prior to being released by the agency. However, the preparation and release of such promotional recruitment efforts are the responsibility of the hiring agency. Agency-released vacancy notices shall contain at least the following: official class title, class code, salary, employment location, description of the essential functions of the job, minimum qualifications for entry to the class, procedures for applying, a statement that the agency is "an EEO/ADA employer," and a final closing date.~~

~~\_\_\_\_\_ (b) Agencies releasing promotional vacancy notices shall be responsible for any adverse actions resulting from the release or the content of any vacancy notices which have not had the prior review and approval of the Human Resources Division. The Human Resources Division shall not be bound to screen applications pursuant to the stated qualification standards or application procedure on vacancy notices not previously reviewed and approved by the Human Resources Division.~~

~~\_\_\_\_\_ (c) There are no specific time limits for agencies desiring to limit recruitment to agency, division, or work unit employees only. The vacancy announcement, however, shall be circulated or posted so that all potentially interested persons have an opportunity to apply. If, however, the agency chooses to limit recruitment to State employees only, the closing date shall be no less than ten (10) calendar days from the date of release.~~

~~\_\_\_\_\_ (d) A vacancy must be publicized in the form of an official vacancy announcement. A short vacancy announcement may be substituted for an official vacancy announcement only if the position requires a Bachelor's degree/work equivalent or less.~~

CHAPTER 4  
EXAMINATIONS

Section 1. **Nature and Development of Examinations.**

(a) Examinations shall be administered as determined by the Human Resources Division and in accordance with the State Recruitment Policy. The Human Resources Division and agencies shall use such forms and professionally acceptable examination techniques as ~~may be~~ appropriate for the class. Prior to implementation, agencies shall provide examination research and development to the Human Resources Division for review.

(b) The Human Resources Division may request assistance from agency heads, appointing authorities or other State employees in conducting job analyses, developing test materials, conducting validation studies or in performing other functions in developing and administering examinations. At the request of the Human Resources Division, agency management and employees shall cooperate with the Human Resources Division in any examination development and research activities.

~~Section 2. **Administration of Examinations.**~~

~~————(a) Examinations shall be administered and utilized in such manner and for such time periods as determined by the Human Resources Division to be useful and expedient for the class. All examinations shall be administered according to currently acceptable professional standards. The Human Resources Division shall establish time limits, methods of recording answers, regulations for admittance to examinations, policies on requesting and such other administrative procedures as determined appropriate for each examination. The Human Resources Division shall make reasonable accommodations to assist applicants with disabilities in the examination process. It shall be the responsibility of the applicants to notify the Human Resources Division of any special needs.~~

~~————(b) The Human Resources Division may designate such persons to administer examinations and serve as examiners and test monitors as may be practical and expedient. In the case of oral examinations requiring specialized technical expertise or judgmental evaluations, the Human Resources Division shall designate examiners who are familiar with the requirements of the job and/or technically competent in the application of human resource selection procedures.~~

~~\_\_\_\_\_ (c) Examination scores shall be effective for a period of twenty-four (24) months, unless the examination or class has been changed in such a manner that the examination score is no longer acceptable.~~

~~\_\_\_\_\_ Section 3. **Scoring of Examinations.**~~

~~\_\_\_\_\_ The Human Resources Division shall utilize professionally acceptable principles and methods in the development of the procedures for scoring, setting passing points, scaling, converting and combining scores, and weighing examination components, as necessary, to ensure that final scores meet acceptable standards of validity and reliability.~~

**Section 4~~2~~. Veterans' Preference Points Upon Initial Appointment.**

In accordance with the ~~Wyoming State Statute~~ W.S. 19-14-102 et. seq.. Also see Chapter 6 Section 4.

~~Section 5. **Security and Competitive Standards.**~~

~~\_\_\_\_\_ (a) The Human Resources Division shall establish procedures to safeguard the security and confidentiality of examination materials and to ensure that equal opportunity to compete is afforded all applicants.~~

~~\_\_\_\_\_ (b) Persons having authorized access to or knowledge of examination questions, answer keys, and related matter shall not disclose such to any unauthorized persons where this disclosure would give an advantage to one applicant over others. Any employee making such unauthorized disclosure shall be subject to disciplinary action.~~

~~\_\_\_\_\_ (c) The Human Resources Division shall disqualify and may refuse to administer any examination to any persons who attempt to impersonate another, or who have another person attempt to impersonate them, in connection with an examination; or who use, or attempt to use, unauthorized aids or assistance including copying from, or helping another applicant in an examination. The Human Resources Division may disqualify any applicants who attempt either directly or through employees of the Human Resources Division or any appointing authority to give them an undue advantage on any examination or appointment.~~

~~\_\_\_\_\_ (d) No applicant shall take, copy, record or transcribe any examination, questions, notes or other examination materials for the purpose of removing such from the examination site. Any attempt to do so shall be grounds for disqualification.~~

Section **63**. **Final Selection Examinations.**

(a) Interviews and other examinations conducted by appointing authorities for the purpose of making final selection decisions from among candidates shall be job-related. The content and conduct of such examinations may be subject to the review of the Human Resources Division. Agencies may request the Human Resources Division to provide technical assistance in developing and administering such examinations. The Human Resources Division may develop standards and procedures for the content and administration of final selection examinations relating to such matters as composition of examination boards, development of examinations, and administration and scoring methods. Appointing authorities shall make reasonable accommodations to assist applicants with disabilities in the examination process. It shall be the responsibility of the applicants to notify the appointing authority of any special needs.

(b) Final selection interviews should not be conducted by one (1) interviewer except when unusual circumstances make it impractical to have two (2) or more interviewers conduct an examination. Appointing authorities shall keep records of candidates examined, including applications, dates, ratings and other documentation of the results of final selection examinations for a time period specified in the State's Executive Branch Records Retention Schedules. Appointing authorities shall give sufficient final selection consideration to an adequate number of the available candidates in order to provide for competitive selection. The appointing authority shall be responsible for any adverse actions resulting from failure to give full final selection consideration to any candidate, taking into account valid factors relevant to the needs of the vacant position including the knowledge, skills and personal characteristics not yet measured by previous examinations.

Section **74**. **Probationary Period.**

(a) The probationary period is an integral part of the examination process and shall be utilized for closely observing the employee's work, for securing the most effective adjustment of the employee to the position, and for dismissing any employee without right of appeal.

**A probationary employee is an at-will employee who has no expectation of continued employment and may be dismissed at any time during the probationary period without cause or reason.**

(b) The probationary period shall end upon completion of three hundred and sixty five (365) days of service from the date the employee was given a probationary appointment. Time served in student intern, emergency, ~~provisional~~, temporary, ~~or~~ intermittent status and at-will appointments shall not be counted towards the probationary period. Additionally, leave without pay, or donated sick leave, shall not count towards the probationary period.

(c) Interbranch Appointments. An employee appointed from the University of Wyoming, State Judicial or Legislative branch shall serve a one (1) year probationary period regardless of the length of previous service or whether or not there was a break in service.

(d) At-will Employee. An at-will employee who accepts a probationary appointment shall serve three hundred and sixty five (365) days of service from the date the employee was given a probationary appointment regardless of the length of previous service or whether or not there was a break in service.

## CHAPTER 5

### ~~REGISTERS OF ELIGIBLE APPLICANTS~~ POOL

#### ~~Section 1. Establishment of Registers.~~

~~The Human Resources Division shall establish and maintain registers of applicants who have passed required examinations and have otherwise been determined to be eligible for appointment to specific classes. Applicants shall be added to registers, and registers shall be established and abolished by the Human Resources Division as necessary to serve the needs of the State. Under special circumstances, the Human Resources Division may place an applicant on the register for a class, other than the class applied for, if the applicant meets the minimum qualifications and has passed applicable examinations.~~

#### Section 1. Applicant Pool

The online recruitment system shall be administered as determined by the Human Resources Division and in accordance with the State Recruitment Policy. The Human Resources Division shall establish and maintain electronic pools of applicants who have passed the required minimum qualifications and have otherwise been determined to be eligible for appointment to specific classes.

#### ~~Section 2. Placement on Registers of Current Employees Voluntarily Seeking Appointments.~~

~~Employees seeking consideration for promotional appointments, transfers, and reappointments to positions in other classes, shall submit applications, meet minimum qualifications and pass any required examinations prior to placement on any registers.~~

#### ~~Section 3. Placement on Registers of Reduction in Force Employees Seeking Appointments.~~

~~Employees seeking consideration for appointments to positions in other classes, shall submit applications, meet minimum qualifications and pass any required examinations prior to placement on any registers.~~

#### ~~Section 4. Position Registers.~~

~~Whenever it has been determined by the Human Resources Division that the unique needs of a vacant position warrant special examination and screening procedures, the Human Resources Division may establish a position register for that specific vacancy. This register may be established as a result of a specific~~

~~recruitment effort and/or by re-examination of applicants on the register.~~

## Section ~~5~~2. **Removal of Applicants from ~~Registers~~ Applicant Pool**

~~(a) Applicants may be removed from registers for any reason listed in Chapter 3, Section 2 pertaining to the ineligibility of applicants, or any of the following reasons: applicant pools upon receipt of a statement from the applicant that the individual no longer desires consideration for an appointment.~~

~~(b) The applicant has failed to provide notice of any change of name, address, telephone number or of any information which would affect qualifications for the class;~~

~~(c) The applicant has failed to respond within seven (7) working days after a reasonable time for transmission of the message, when an attempt has been made to contact the individual in writing at the last known address;~~

~~(d) The applicant has been on the register for over twelve (12) months;~~

~~(e) Upon receipt of a statement from the applicant that the individual no longer desires consideration for an appointment;~~

~~(f) The applicant has failed to respond within a reasonable time to an inquiry to determine if the individual desires continued consideration for an appointment;~~

~~(g) The candidate has refused an offer of appointment to a given class where the location and other conditions were previously indicated as acceptable;~~

~~(h) The applicant has been appointed from a register, or appointed from a different register to a position class in the same or higher pay band unless the individual has specifically requested to remain on other registers;~~

~~(i) Upon failure, without valid reason, of an appointed candidate to report for duty on the date agreed to by the candidate and the appointing authority.~~

## Section ~~6~~3. **Availability of Applicants.**

Whenever an applicant has provided information on an application form or otherwise submits a statement restricting the geographical areas, types of appointments, or other conditions relative to availability for or willingness to accept an appointment, that applicant shall not be considered to be available for ~~certification or~~ consideration for vacancies which do not meet the conditions of indicated availability. It shall be the responsibility of the applicant to notify the

Human Resources Division of any change of address or other changes affecting availability for employment.

~~Section 7. Abolishment of Registers and Re-examination.~~

~~(a) The Human Resources Division shall have the right to abolish a register or require re-application and/or re-examination of applicants on a register when:~~

~~(i) The minimum qualifications for the class have changed;~~

~~(ii) Positions having that classification no longer exist in the State service;~~

~~(iii) Examinations, scoring procedures or passing points have been changed since those applicants were placed on the register;~~

~~(iv) The applicant desires consideration for a vacancy for which a position register is being established; or~~

~~(v) For other reasons involving the adequacy of the register in meeting current needs.~~



## CHAPTER 6

### CANDIDACY AND APPOINTMENT

#### Section 1. **Determination of Candidate Group.**

(a) Unless otherwise specified by the Human Resources Division, the candidate group shall consist of all those eligible applicants from among whom final selection consideration, for appointment to a specific position vacancy at a specific point in time, may be given.

(b) Appointing authorities ~~may~~ shall request ~~a referral list of~~ approval of candidates for ~~final selection~~ consideration from the authorized recruitment. ~~After receiving the request, and after recruitment, the~~ The Human Resources Division shall ~~submit~~ provide to the appointing authority the names and applications of ~~available~~ the approved candidates.

~~(c) In cases where some applicants can be reliably designated as being more qualified than others on the register, the Human Resources Division may limit the size of the candidate group to a designated range of scores of applicants found to be relatively more qualified than others on the register.~~

~~(d)~~(c) The Human Resources Division may limit the number of applicants ~~referred~~ when it is useful and expedient for the class based on random selection, number of previous referrals, or any other job-related reason.

#### Section 2. **Preconditions to Appointment.**

##### (a) Minimum Qualifications.

(i) Except for emergency appointments, no individual shall be appointed who has not been approved by the Human Resources Division as having met the minimum qualifications and who has not passed any required examination.

(ii) No appointment shall be made unless it has been determined that the individual is able to perform the essential functions of the job, with or without reasonable accommodation and has an acceptable record of previous job performance.

(b) Age. No person under 16 years of age may be appointed. No person between 16 and 18 years of age may be appointed in an occupation defined as hazardous by the "Federal Fair Labor Standards Act of 1938," as amended 29 U.S.C. 201 et seq., also known as the Act.

(c) State employees (and persons contracted to perform services for the

State) who have access to minors or to persons who are frail, elderly or suffering mental illness or developmental disabilities shall be required to submit to fingerprinting for the purpose of obtaining State or national criminal history record information before employment or continued employment.

### Section 3. **Responsibilities of Appointing Authorities.**

(a) Prior to making a commitment to hire, the appointing authority shall be responsible for determining that the following conditions are met:

(i) A person recommended for probationary, promotional, voluntary reappointment, temporary or intermittent appointment is in the candidate group;

(ii) The appointment would not conflict with the rule on employment of relatives, Section 14 of this chapter;

(iii) All legal requirements pertaining to the class have been met;  
and

(iv) The individual is able to perform the essential functions of the job, with or without reasonable accommodation and has an acceptable record of previous job performance.

(b) The appointing authority shall ~~contact~~ notify all candidates that applied for the specific position vacancy announcement regarding the final status of the recruitment. ~~refer to Chapter 2.~~

### Section 4. **Veterans' Preference Upon Initial Appointment.**

(a) Veterans' Preference upon initial appointment shall be in accordance with ~~the Wyoming State Statute~~ W.S. 19-14-102 et. seq..

**Section 5. Probationary Appointment.**

An appointment of a candidate to a position in a class to serve a probationary period. All probationary appointments shall be made from ~~among~~ the applicants pool ~~on the appropriate register~~ and in the candidate group.

**A probationary employee is an at-will employee who has no expectation of continued employment and may be dismissed at any time during the probationary period without cause or reason.**

**Section 6. Appointment by Promotion.**

A promotion of an employee having permanent or probationary status to a position in a different classification having a higher ~~salary band minimum~~ grade than the previous ~~salary band minimum~~ grade. All promotional appointments shall be made from among permanent and probationary employees ~~on~~ and from the appropriate ~~register applicant pool~~ and in the candidate group.

~~**Section 7. Provisional Appointment.**~~

~~If only three (3) or less available applicants exist in the candidate group and recruitment has been conducted for the class within the last twelve (12) months, a provisional appointment may be made of an applicant not on the register, provided the appointing authority justifies an immediate need to fill the vacancy. Provisional appointments shall last no longer than sixty (60) days, or until thirty (30) days after an adequate register is established, whichever occurs first. Provisional appointments can be extended with approval of the Human Resources Division for a period not to exceed sixty (60) days when difficulty in recruiting is encountered. If recruitment for the class has not been conducted within the previous twelve (12) months, recruitment shall be conducted by such means and for such time periods as determined to be acceptable for the class by the Human Resources Division before the provisional appointment can be made. Provisional appointments may be made only of those persons who have filed an application and who meet minimum qualifications for the class. Persons who have been provisionally appointed may be given a subsequent probationary appointment after being placed on the register, and after other available candidates have been considered in a competitive fashion and it is determined by the appointing authority that the person provisionally~~

~~**A provisional employee is an at-will employee who has no expectation of continued employment and may be dismissed at any time without cause or reason.**~~

~~appointed is the most qualified. The Human Resources Division may require additional recruitment to insure an adequate candidate group following the approval of a provisional appointment.~~

**Section 87. Emergency Appointment.**

~~Persons~~ Applicants not ~~on registers~~ in the applicant pool may be appointed when an emergency threatening public health, safety or welfare exists requiring the immediate employment of additional workers. Emergency appointments shall require the prior verbal approval of the Human Resources Division, except for emergencies occurring at night, or on weekends or holidays in which case such appointments shall be reported to the Human Resources Division on the following work day. Emergency appointments shall not exceed thirty (30) days. Application forms of persons given emergency appointments shall be ~~forwarded~~ provided to the Human Resources Division as soon as practical.

**An emergency employee is an at-will employee who has no expectation of continued employment and may be dismissed at any time without cause or reason.**

**Section 98. Temporary Appointment.**

(a) Temporary appointments shall be made from among applicants ~~on~~ in the ~~appropriate register~~ applicant pool and in the candidate group. Temporary appointments shall not continue for more than nine (9) months without approval of the Human Resources Division, except for:

**A temporary employee is an at-will employee who has no expectation of continued employment and may be dismissed at any time without cause or reason.**

(i) A temporary appointment made to a position which is held by an employee on educational or other extended leave.

(ii) A temporary appointment made to a time-limited position.

(b) Persons given temporary appointments may be given subsequent probationary appointments only if included in the candidate group at that time and if, after other available candidates have been considered, it is determined that the person is the most qualified from among those given final selection consideration. The same position shall not be filled by immediately successive temporary appointments of the same individual.

**Section 9. At-Will Appointment**

(a) An at-will appointment may be statutorily required or may be requested by an agency head with appropriate written justification to and prior written approval of the Human Resource Administrator.

**An at-will employee has no expectation of continued employment and may be dismissed at any time without cause or reason.**

(b) Employees given an at-will appointment are at-will employees who have no expectation of continued employment and may be dismissed at any time without cause or reason.

(i) Employees given an at-will appointment shall not be governed under the provisions of Chapter 11 and Chapter 12 of the State Personnel Rules.

**Section 10. Permanent Appointment.**

Upon completion of the probationary period, the appointing authority shall permanently appoint a probationary employee. Permanent appointments shall be made effective on the next day following completion of three hundred and sixty five (365) days of service from the date the employee was given a probationary appointment. This appointment shall be documented on the Performance Appraisal Report in accordance with Chapter 14 section 5.

**Section 11. Appointment of Students on Intern Programs.**

The temporary employment of students on intern programs shall require the submission of an application. Student interns may be given subsequent probationary appointments if included in the candidate group at that time.

**Section 12. Intermittent Appointment.**

Appointments to intermittent status to perform work in a class for varying time intervals, shall be made from among applicants ~~on in the appropriate register~~ applicant pool and in the candidate group. Employees shall not perform intermittent work for a total of more than nine (9) months full-time equivalent service ~~in any calendar year~~. Employees may be given subsequent probationary appointments if determined to be the most qualified from among other available candidates given final selection consideration.

**An intermittent employee is an at-will employee who has no expectation of continued employment and may be dismissed at any time without cause or reason.**

### Section 13. Reappointments.

(a) Involuntary Reappointment. An agency head, in consultation with the Attorney General's Office, may involuntarily reappoint a permanent or probationary employee, not ~~on~~ in the register applicant pool, to a different position and in a different class having a minimum salary level less than or equal to the same or lower grade than the employee's current class because of a reduction in force, unsatisfactory work performance or other demonstrated reasons affecting the accomplishment of program goals. Prior to a reduction in force, involuntary reappointments may be made between agencies if both agency heads agree. The agency head shall ensure that the employee meets the minimum qualifications for the new classification with written approval from the Human Resources Division. The Human Resources Division may require information or administer examinations as necessary to determine the qualification status of the employee.

(b) Voluntary Reappointment. Reappointment of a permanent or probationary employee voluntarily seeking an appointment to a position in a different class having ~~a minimum salary level less than or equal to the same or lower grade than~~ the employee's current class. Voluntary reappointments shall be made from among applicants ~~on~~ in the appropriate register applicant pool and in the candidate group.

~~(c) In-Band Reappointment. Reappointments of a permanent or probationary employee to a different position or classification within the same pay band as the employee's current position shall be made from among applicants on the appropriate register and in the candidate group.~~

~~(d)~~ (c) Same Class Reappointment.

(i) A same class reappointment of a permanent or probationary employee appointed to a vacant position within the same classification as the employee's current position shall meet the specific minimum qualifications and shall be made from among applicants on the appropriate register and in the candidate group.

~~(ii) When the current duties of a position have changed substantially but remain within the same classification resulting in a change in the specific minimum qualifications, the permanent or probationary employee shall be required to meet the specific minimum qualifications prior to the action.~~

~~(iii)~~ (ii) Interagency same class reappointments shall require the prior approval of both agency heads.

### Section 14. Employment of Relatives.

(a) Agency heads may approve hiring a person who is a spouse, parent, stepparent, parent-in-law, child, stepchild, child-in-law, sibling, half-sibling, step-sibling, or sibling-in-law of any current employee in that agency.

(b) Employee Marriage. If two present employees of the same agency marry each other, they may both be allowed to continue employment in that agency with the approval of the agency head and prior written notification to the ~~Governor~~ Human Resource Administrator.

(c) An agency head shall ensure employees related to each other do not directly supervise a relative and do not have any fiduciary authority over the relative.

### Section 15. **Appointment of Non-U.S. Citizens.**

~~(a) Every time an agency hires any person, the agency must complete an Immigration and Naturalization Service Form I-9 to verify that the person is eligible to work in the United States. Agencies must carefully follow the Immigration and Naturalization Service Handbook for Employers in completing the I-9 form.~~

(a) All employees, citizens and non-citizens, hired after November 6, 1986, and working in the United States must complete Form I-9, Employment Eligibility Verification. The purpose of this form is to document that each new employee hired is authorized to work in the United States. Each agency shall verify and maintain I-9 documentation according to the U.S. Citizenship and Immigration Services.

~~(b) If the person hired is an alien, the appointment must be in compliance with all State and federal laws and regulations, including the Immigration Reform and Control Act of 1986 and the Immigration Act of 1990. An alien is any person who is not a citizen or national of the United States.~~

~~(c)(b)~~ Agencies shall only appoint persons authorized to work, ~~either temporarily or permanently,~~ in the United States.

~~(d)(c)~~ When an employee's work authorization expires, the agency must verify the employee's employment eligibility. The employee must present a document that shows either an extension of the employee's initial employment authorization or new work authorization. If the employee cannot provide proof of current work authorization, the agency may not continue to employ that person.

~~(e)(d)~~ No agency shall be a sponsor or petitioner on behalf of any temporary alien without the express written consent of the Governor or authorized representative of the Governor.

~~(f)~~(e) No agency may contract with or permit a third party (e.g., a law firm) to petition any federal agency to change an alien's immigration status without prior consultation with the Attorney General's Office and the written approval of the Governor or the Governor's authorized representative.



## CHAPTER 7

### POSITION CONTROL

#### Section 1. **Position Status.**

The status of each position shall be designated, on the basis of authorized funding, as one of the following types:

full-time;  
part-time;  
time-limited; or  
time-share.

#### Section 2. **Position Descriptions. Job Content Questionnaires**

(a) ~~Position Description Questionnaires.~~ Job Content Questionnaires. ~~Position description~~ Job content questionnaires shall be prepared for each position. The original ~~position description~~ job content questionnaire shall be kept on file in the Human Resources Division; and a copy shall be retained by the agency.

(b) New ~~Position Description~~ Job Content Questionnaires. A new ~~position description~~ job content questionnaire shall be prepared and submitted when there are substantial and permanent changes in tasks performed by the incumbent, or when required by the Human Resources Division.

(c) Preparation of ~~Position Description~~ Job Content Questionnaires. ~~Position description~~ Job content questionnaires shall be prepared as required by the Human Resources Division. ~~No employee, other than the employee occupying a position, shall provide or alter the intent of the employee's portion of the position description questionnaire, or influence the employee's independent description.~~ The job content questionnaire shall be completed jointly by the employee and the employee's supervisor to accurately describe the duties and responsibilities assigned by the supervisor to the position. The content contained in the job content questionnaire is the responsibility of and determined by the supervisor.

(d) Falsification of ~~Position Descriptions~~ Job Content Questionnaires. Position incumbents, supervisors, agency heads and other employees shall be truthful and accurate in completing ~~position description~~ job content questionnaires and in providing other information relating to positions. Falsification of information on job content questionnaires shall be grounds for

disciplinary action.

### Section 3. **Task Assignments.**

Agency heads, management and supervisors have the authority and responsibility to assign tasks as necessary to accomplish the program goals of the agency. Class specifications do not prohibit the assignment of tasks not specifically listed.

### Section 4. **Position Vacancies.**

(a) Positions Occupied by Employees on Leave. A position occupied by an employee on educational leave, leave without pay, or other authorized leave shall be filled only by time-limited appointments or temporary interim assignments; ~~unless otherwise approved by the Human Resources Division.~~

(b) Vacancies Resulting from Position Reclassification. If an occupied position is reclassified, and if the incumbent does not meet the minimum qualifications for the new classification, the employee shall not remain in the position for more than thirty (30) days after receipt of written notice from the Human Resources Division of its determination that the employee does not meet the minimum qualifications for the new classification.

### Section 5. **Position Appointments.**

(a) Authorization and Funding. Before filling a vacancy, the agency head shall ensure that the position has been authorized by the Governor and/or Legislature and that sufficient funds exist for the position.

(b) Multiple Occupancy of Positions. No more than one (1) employee shall occupy a position at the same time except under the following conditions:

(i) Appointments or temporary interim assignments which are made within a reasonable period prior to or following the scheduled separation of an employee;

(ii) Temporary appointments and temporary interim assignments made to positions occupied by employees on authorized leave;

(iii) Positions occupied by employees who have been given time-limited appointments on a temporary or seasonal basis;

(iv) Time shared positions. Two (2) employees may voluntarily

occupy one (1) position or three (3) employees may voluntarily occupy two (2) positions with the agency head's approval, providing that the total salary expenditures for those employees do not exceed the amount authorized for the position or positions (W.S. 9-2-1022(a)(xii)) and (W.S. 9-2-1022(f)); or

(v) Other multiple occupancies specifically approved by the Human Resources Division.

(c) Preconditions to Appointments. No appointment shall be made to any position unless the position has been assigned a position number and has been allocated to a classification by the Human Resources Division.

#### Section 6. **Temporary Interim Assignments.**

(a) An agency head may, upon written notification to the Human Resources Division, **temporarily** assign an employee of the agency on an interim basis to a different position. Such assignment may be made for a period not to exceed ~~twenty four (24)~~ twelve (12) months.

(b) The same position shall not be filled by successive interim assignments by the same individual without the prior written approval of the Human Resource Administrator.

#### Section 7. **Establishment of New Positions.**

(a) Request for Tentative Position Classification. When requesting gubernatorial or legislative authorization for a new position, through the Budget Division, the agency head shall include a written request, to the Human Resources Division, for a tentative classification of the proposed position. The agency head shall provide a ~~position description~~ job content questionnaire with the written request and indicate how the new position would affect other authorized positions.

(b) Positions Established. A new position shall be officially established when an additional position and necessary funding have been authorized by the Governor and/or the Legislature, a position number has been assigned, and the position has been classified by the Human Resources Division.

Section 8. **At-Will Contract Employees.** In accordance with the ~~Wyoming State Statute~~ W.S. 9-2-1022(a)(xi)(F).

(a) At-will contract employees shall receive benefits in accordance with the ~~Wyoming State Statute~~ W.S. 9-2-1022(a)(xi)(F).

(b) No at-will contract employees shall be eligible for or accrue any type of leave or be eligible to participate in the deferred compensation program.

(c) If the employment contract so provides, an at-will contract employee may be eligible for membership in the state employees' and officials' group insurance plan in accordance with W.S. 9-3-207, or in the case of the Wyoming retirement system an at-will contract employee of a member employer may be enrolled in the system if that employee's wages under the contract are reported on an Internal Revenue Service Form W-2 Wage and Tax Statement, provided the employee pays the total premium or contribution required;

(d) If the employment contract so provides, an at-will, year-round, full-time brand inspection contract employee authorized to carry out the duties specified by W.S. 11-20-201 may be eligible for membership in the state employees' and officials' group insurance plan in accordance with W.S. 9-3-207, and the state retirement system under W.S. 9-3-412, provided the employee pays the total premium or contribution required, or the portion of the premium or contribution the employment contract directs the employee to pay and the employee's wages under the contract are reported on an Internal Revenue Service Form W-2 Wage and Tax Statement. The Wyoming Livestock Board shall have sole discretion to determine the amount of the total premium or contribution to be paid by the employee and the amount to be paid by the board, if any. The time limitations shall not apply to any employee under this subsection;

(e) An at-will contract shall be for a term not exceeding twenty-four (24) months subject to renewal of the contract at the end of the contract period.

(f) Nothing in these rules shall be deemed to create an expectation of continued employment after the contractual relationship has been terminated.

(g) No ~~contract work~~ shall be ~~entered into, nor negotiations with~~ performed by an individual completed, until the contract has been approved in writing and signatures obtained by all parties to the contract including ~~by~~ the Human Resources Division and the Attorney General.

## CHAPTER 8

### POSITION CLASSIFICATION

#### Section 1. **Position Classification Plan.**

The plan is maintained by the Human Resources Division. The plan shall cover all positions in the Executive Branch of State Government, except for the positions of Governor, Secretary of State, State Auditor, State Treasurer, Superintendent of Public Instruction, District Attorney, and positions within the University of Wyoming.

#### Section 2. **Class Specifications.**

(a) ~~Interpretation.~~ A class specification is a ~~reference standard which illustrates, defines, and characterizes a group of positions comprising a class~~ summary of the most important features of a class, including the duties and responsibilities, skill, effort and working conditions of the work performed. The task content of a class specification is not intended to be all inclusive, restrictive, or precisely descriptive of the duties and responsibilities of any particular position within the class.

(b) Preparation. The Human Resources Division shall prepare a class specification for each class established in the plan.

#### (c) Class Titles.

(i) The Human Resources Division shall designate an official title for each class in the plan. Only the Human Resources Division shall have authority to alter official class titles.

(ii) ~~Only~~ Official class titles shall be used in all personnel, payroll and budget correspondence, forms, reports, records and other documents involving personnel administration.

(d) Minimum Qualifications. Class specifications shall include minimum qualification standards including the possession of licenses, certificates, training, experience, knowledge, skills, and abilities to perform the essential functions of the job; and other requirements which are necessary preconditions to appointment to positions in the class.

(e) Related Tasks. Class specifications shall contain the statement "The listed duties are illustrative only and are not intended to describe every function which may be performed in the job class." Also, employees may be required to perform incidental tasks which are not among the usual duties of positions in the

class.

(f) Distribution and Inspection. ~~Upon request, the Human Resources Division shall provide each agency with class specifications for classes which exist in that agency. Class specifications and any revisions of the class specifications shall be open for inspection by employees or the public under reasonable conditions during normal business hours.~~ Class specifications shall be posted on the Human Resources Division website.

### Section 3. **Position Information.**

(a) Data Collection. The Human Resources Division has the responsibility and authority to obtain information necessary for use in position classification. The Human Resources Division shall use such methods as it determines to be appropriate. Collection of information may include the study of relationships with other positions, tasks performed in other positions, organizational structures, program goals, and other related factors.

(b) Management and Employee Responsibility. Agency management and employees shall cooperate with the Human Resources Division by providing access to work areas, making employees available, and by responding to requests for information.

### Section 4. **Position Classification.**

(a) Classification Authority. The Human Resources Division has sole authority to classify and reclassify positions.

(b) Classification Factors.

(i) In classifying a position, the Human Resources Division shall consider factors such as: formal training, experience, management control, supervisory skills, human relations skills, responsibility, accountability, problem solving, complexity, working conditions, and mental/visual demand.

(c) Unrelated factors. Classification shall not be based upon the individual characteristics and performance level of the employee occupying the position; nor upon other information not pertinent to the position or classification.

### Section 5. **Classification System Maintenance.**

(a) Audits and Studies. ~~The Human Resources Division may conduct job audits and studies to maintain the classification plan.~~ The Human Resources Division shall regularly conduct job audits and occupational studies for the purpose of maintaining the integrity of the classification system.

(b) Classification Reviews.

(i) Basis for Review. The Human Resources Division shall review only the placement of a position within a specific class. ~~Features~~ Components of the classification plan ~~itself~~ cannot be reviewed. These include ~~compensable~~ evaluation factors, ~~band~~ grade assignment, and ~~salary schedule~~ pay tables.

(ii) Agency ~~Requests~~ Requirements. ~~Whenever permanent and substantial changes have occurred to the extent that a position has become significantly different in nature than it was when classified, the agency head shall request a classification review by the Human Resources Division. Requests shall include the position number, class code, class title, the identification of and reasons for the changes which have occurred, and a new position description questionnaire.~~ The agency shall submit a position for review when the core functions of the job have permanently changed. The agency shall submit the appropriate documentation as required by the Human Resource Division. The Human Resources Division ~~will~~ shall review the request and notify the agency of its determination.

(A) The agency shall notify the employee of the classification determination within ten (10) days of receiving the determination from the Human Resource Division.

(iii) Employee Requests. Employees who believe that their positions have not been placed in the proper class may submit to their agency head a new ~~position description~~ job content questionnaire and a request for review. The request shall include the reasons why the re-evaluation is being requested. The agency head shall review the request and ~~shall~~ submit the appropriate documentation as required by the Human Resource Division for the review ~~forward it~~ to the Human Resources Division within ten (10) days of receipt. The Human Resources Division will review the request and notify the agency and employee of its determination.

(A) The agency shall notify the employee of the classification determination within ten (10) days of receiving the determination from the Human Resource Division.

~~(A)~~ (B) Classification Review Panel.

(l) If the employee does not agree with the initial determination by the Human Resources Division ~~is unsatisfactory~~, the employees may submit a written request for reconsideration by the Classification Review Panel within ~~ninety (90)~~ thirty (30) days of the employee's notification. This ~~P~~ panel, comprised of the Director of the Department of Administration and Information, ~~State~~ the Human Resources Administrator, the ~~Manager of~~ Classification and Compensation Manager, and the agency director or designee ~~will~~ shall re-evaluate the original request and any additional information provided

by the employees and/or their representative. The Panel shall provide written notice of its final decision, ~~which is final~~, within sixty (60) days of receipt.

(c) Reclassification.

(i) If the Human Resources Division or the Classification Review Panel determines that a position is improperly classified, it shall be reclassified in accordance with the provisions of Section 4 of this chapter.

(ii) An employee occupying a reclassified position shall, when requested, submit to the Human Resources Division such information as necessary for evaluation of the employee's qualifications for the new classification. The Human Resources Division shall evaluate the employee's qualifications and provide written notification to the agency head or agency human resource office and the employee.

(iii) If an employee vacates a position because of inability to meet established minimum qualifications for the new class, the following shall apply:

(A) If the employee is appointed to a different position in the ~~same~~ previous class, it will be treated as a ~~in-band~~ same class reappointment;

(B) If the employee is reappointed to a position in a different class having the same or lower ~~pay band~~ grade, it will be treated as an involuntary reappointment;

(C) If the employee is appointed to a position in a class having a higher ~~pay band minimum~~ grade, it will be treated as a promotion; or

(D) If the employee is separated from ~~S~~state service, it will be treated as a reduction in force.

**Section 6. Effective Dates of Classification and Reclassification.**

(a) Unoccupied Position. The classification of a new position or reclassification of a vacant position shall be effective ~~upon~~ on the date that written notification of the classification determination is provided to the agency head or agency human resource office.

(b) Occupied Position. If the incumbent employee meets the minimum qualifications for the new class, the effective date of the reclassification shall be the first of the month following the date upon which the Human Resources Division has determined that the employee is qualified to remain in the position. If the incumbent does not meet minimum qualifications for the new class, the effective date shall be the date that the employee vacates the position.



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## CHAPTER 9 COMPENSATION

### Section 1. **Compensation Plan.**

(a) The Human Resources Division shall establish and ~~maintain~~ administer a ~~uniform and~~ consistent, equitable and flexible Compensation Plan covering all state executive branch employees. The Compensation Plan shall ~~to~~ consist of:

- (i) The official classification listing,
- (ii) ~~The official~~ One or more pay tables, ~~and~~
- (iii) The ~~s~~State ~~e~~Compensation ~~p~~Policy, and

~~(b) The Human Resources Division shall determine classifications based upon such factors as knowledge, skills, abilities and responsibilities required; working conditions; required education, training, and experience; prevailing rates paid by comparable or competing employers; internal relationships between classes.~~

~~(i) The Human Resources Division shall periodically conduct occupational studies of all classifications for the purpose of maintaining market equity and the integrity of the Compensation Plan.~~

~~(e)~~ (b) All employees shall be ~~paid~~ compensated within the pay rates established by and in accordance with the ~~official~~ Compensation Plan and the State of Wyoming Personnel Rules. The State Compensation Plan shall utilize both fixed and variable compensation as well as non cash reward and recognition programs.

~~(d)~~ (c) The ~~e~~Compensation ~~p~~Plan may be adjusted to reflect changes in the appropriate labor market made by comparable and/or competing employers as defined by The Human Resources Division.

~~(e)~~ (d) All agencies shall ~~use~~ comply with the ~~s~~State ~~e~~Compensation ~~p~~Policy established by the Human Resources Division.

(i) All pay actions shall be in accordance with the ~~s~~State ~~e~~Compensation ~~p~~Policy established by the Human Resources Division.

(ii) Agency heads shall be responsible for administering the compensation policy in accordance with these rules.

(iii) All agency pay actions shall be subject to audit by the Human Resources Division

~~(f)~~ ~~(e)~~ Revisions to the ~~s~~State ~~e~~Compensation ~~p~~Policy shall be made by a committee selected by the Human Resources Division consisting of a cross representation of agencies and others requested by the Governor.

~~(g)~~ ~~(f)~~ An employee shall not be paid below the minimum or above the maximum rate of pay for an assigned classification, unless such payment has been pre-approved in writing by the Human Resources Administrator.

## Section 2. **Salary Surveys.**

(a) Data on ~~prevailing wage rates~~ the defined and relevant labor market that is representative of public and private sector employees will be gathered ~~annually~~ regularly by the Human Resources Division.

(i) ~~Surveys~~ Data analysis shall ~~will~~ be used to identify ~~market-based target hiring rates by individual class titles to be effective during a biennial budget period~~ salary ranges for each classification with minimum and maximum dollar limits.

(ii) Additional surveys may also be conducted by the Human Resources Division.

(iii) Labor market data analysis ~~by classification title~~ will be provided by the Human Resources Division for review and evaluation by the Governor.

(A) ~~Data will be~~ The official pay table(s) shall be posted on the Human Resources Division web site ~~for agency use.~~

## Section 3. **Pay Rates.**

(a) The following information shall be established and set forth in the State Compensation Policy:

- (i) Hiring rates.
- (ii) Re-employment.
- (iii) Return from leave without pay.
- (iv) Reinstatement.

#### Section 4. **Compensation Adjustments.**

(a) The following criteria applies to all pay adjustments unless otherwise specified:

(i) All ~~P~~pay ~~A~~adjustments shall have written justification and ~~prior-written approval by~~ shall be submitted to the Human Resources Division.

(ii) Sequences affecting base pay adjustments will be established and set forth in the ~~s~~State ~~e~~Compensation ~~p~~Policy.

(b) Pay adjustments - An employee's pay may be adjusted in accordance with the State Compensation Policy for the following reasons:

(i) Pay Adjustments authorized by the Legislature.

(ii) Base pay adjustments:

(A) Compensation Adjustments.

(B) Educational Compensation.

(C) Holiday Premium.

(D) Promotions.

(E) Reclassifications.

(F) ~~Temporary~~ Interim Assignment.

(G) Voluntary/Involuntary Reappointments.

(H) Leave without pay.

(I) Merit adjustments.

(iii) Non-base pay adjustments:

(A) Bonus Payments.

(B) Call-Back Pay.

(C) Longevity Pay - An employee shall be compensated at the established longevity rate for each sixty (60) months of continuous State

service in the Executive, Legislative or Judicial Branch. Longevity payments shall begin the month following the accrual of sixty (60) months continuous service.

(I) Service credits shall be granted for previous State Executive, Legislative or Judicial Branch service to a rehired employee upon completion of twenty-four (24) months of continuous service since the most recent entrance to state employment. Such prior service shall be on record with the Wyoming Retirement System or otherwise be verified by the employing agency or branch. Service credits shall be given for any calendar month during which work was actually performed.

(D) On-Call Pay.

(E) Personal Moving Expenses - When an employee is permanently reassigned from one geographical area to another at the request of and for the benefit of the State, the employing agency shall pay the actual expenses of transporting the household goods and effects of such employee (W.S. 9-3-104).

(F) Shift Differential.

(G) Supplementary Compensation.

(H) Training Expenses.

(I) Employee Requested Training.

(II) Agency Required Training.

(I) Geographic differential

(J) Merit

(iv) Other types of compensation adjustments may be implemented by the Human Resources Division based upon identified needs, ~~and approval by the Human Resources Division.~~

Section 5. **Overtime.**

(a) The overtime policy of the State of Wyoming shall be in accordance with and no more stringent than the provisions of the "Federal Fair Labor Standards Act of 1938," as amended 29 U.S.C. 201 et seq., also known as the Act, as set forth in the state compensation policy.

(b) The Human Resources Division shall provide assistance to agencies regarding overtime policy interpretations.

(c) Agency heads shall be responsible for administering the overtime policy in accordance with the Act and these rules. These responsibilities include, but are not limited to:

(i) Determination and periodic review of employee overtime compensation exemptions as authorized by the Act.

(ii) Enforcement of overtime rules to insure that overtime work is not performed if such work has not been officially authorized. The mere promulgation of a rule against unauthorized overtime work is insufficient enforcement.

(d) Official State Workweek.

(i) The following areas will be established and set forth in accordance with the state compensation policy:

(A) Official State Workweek.

(B) Workweek Standard.

(C) Exception to the Workweek Standard.

(D) Law Enforcement/Fire Protection Exceptions - Agencies who employ personnel primarily engaged in the following activities may establish a special overtime standard:

(I) Law Enforcement, including employees defined as Peace Officers pursuant to W.S. 7-2-101.

(II) Fire Protection, including employees who are engaged in or concerned with the prevention, control and extinguishment of fires.

(III) Security in correctional institutions including employees who have responsibility for controlling and maintaining custody of

inmates or for supervising such functions.

(IV) Adoption of this standard shall not be authorized until the Human Resources Division has approved and provided written notification to the State Auditor and the agency head. Agency heads shall be responsible for notifying affected employees.

(e) Non-exempt employees.

(i) The following areas will be established and set forth in accordance with the ~~s~~State ~~e~~Compensation ~~p~~Policy:

(A) Hours of Work Defined.

(B) Meal Periods.

(C) Rest Periods.

(D) Sleeping Time.

(E) Special Activities.

(F) Travel Time.

#### Section 6. **Compensation upon Separation.**

(a) The following areas will be established and set forth in accordance with the ~~s~~State ~~e~~Compensation ~~p~~Policy:

(i) Vacation Leave.

(ii) Sick Leave.

(iii) Longevity.

(iv) Compensatory Time.

(b) A separated employee who has been paid for accumulated vacation or sick leave and who is rehired, within thirty-one (31) days of the separation, shall reimburse the State for all sick or vacation leave payments within thirty-one (31) days after being rehired.

(i) Accumulated balances of sick or vacation leave at the time of separation shall be restored to the employee.

(ii) Any employee failing to reimburse the State for such payments shall be terminated in accordance with ~~(W.S. 9-2-1022)~~.

**Section 7. Executive Compensation.**

(a) Compensation for at-will directors, deputies and division administrators will be covered by ~~an~~ the ~~Executive~~ State Compensation ~~Plan~~ Policy.

## CHAPTER 10

### LEAVE

#### Section 1. **Vacation Leave.**

(a) **Accrual Base Rates.** Vacation leave accrual base rates shall be determined by the amount of completed continuous service as follows:

0 through 48 months	-	8 hours per month
49 through 108 months	-	10 hours per month
109 through 168 months	-	12 hours per month
169 through 228 months	-	14 hours per month
229 or more months	-	16 hours per month

(b) **Service Credits to Rehired Employees.** Service credits for non-continuous service shall be granted to a rehired employee claiming prior Executive, Judicial or Legislative Branch service followed by a separation, upon the completion of twenty-four (24) months continuous service since the most recent entrance to State employment. Prior service shall be on record with the Wyoming Retirement System or may be otherwise verified by the employing agency or branch. Service credits shall be given for any calendar month during which work was actually performed.

#### (c) **Monthly Accrual Rates.**

(i) Permanent and probationary employees shall accrue vacation leave according to the number of hours worked in the month.

(ii) Temporary employees shall accrue vacation leave, after six (6) months of employment, according to the number of hours worked in the month.

(iii) The formula for determining the monthly accrual rate for 40 through 159 hours worked in the month is prorated as follows: hours worked in the month are multiplied by the employee's accrual base rate, this total is divided by 160.

(iv) The following rates shall be used:

160 or more hours	-	100% of base rate
40 through 159 hours	-	Prorated according to formula
39 or less hours	-	0% of base rate

(v) Time elapsed while an employee is on any authorized leave, except a leave without pay, disciplinary suspension without pay, or educational



leave, shall be considered hours worked for purposes of this section.

(vi) Accrued vacation leave is not available for use until the following month after the accrual period. Vacation leave is accrued only after the employee works the required time during the month.

~~(e)~~ (d) Authorized Use. Agency management shall consider the needs of the employee and the staffing requirements of the agency in approving vacation leave.

(i) Vacation leave shall not be authorized for periods of incarceration.

~~(d)~~ (e) Interagency Appointments. An employee who is appointed to a position in a different agency shall not lose any unused vacation leave as a result of the interagency transfer, promotion, or reappointment.

~~(e)~~ (f) Interbranch Appointments. An employee appointed without a separation from the State Judicial or Legislative Branch who has not been paid for accumulated leave, shall be allowed to transfer unused vacation leave. The employee shall accrue vacation leave according to established Executive Branch rates for completed continuous service which shall include continuous service credited while employed by the other branch. All unused vacation leave for Executive Branch employees transferring to another Branch of State government shall be paid off at the time of transfer.

~~(f)~~ (g) Maximum Accrual. On December 31 of each year, accrued unused vacation leave in excess of the carry-over maximum shall be reduced to this maximum and the employee shall forfeit the right to use this excess leave. The carry-over maximum, which depends upon completed State service, is determined as follows:

<u>Completed State Service</u>	<u>Carry-Over Maximum</u>
0 through 108 months	- 240 hours (30 days)
109 through 168 months	- 288 hours (36 days)
169 through 228 months	- 336 hours (42 days)
229 or more months	- 384 hours (48 days)

Section 2. **Sick Leave.**

(a) Monthly Accrual Rates.

(i) Permanent and probationary employees shall accrue sick leave according to the number of hours worked in the month.

(ii) Temporary employees shall accrue sick leave, after six (6)

months of employment, according to the number of hours worked in the month.

(iii) The formula for determining the monthly accrual rate for 40 through 159 hours worked in the month is prorated as follows: hours worked in the month are multiplied by eight hours, this total is divided by 160.

(iv) The following rates shall be used:

160 or more hours	-	8 hours per month
40 through 159 hours	-	Prorated according to formula
39 or less hours	-	no accrual

(v) Time elapsed while an employee is on any authorized leave, except a leave without pay, suspension without pay, or educational leave, shall be considered hours worked for purposes of this section.

(vi) Accrued sick leave is not available for use until the following month after the accrual period. Sick leave is accrued only after the employee works the required time during the month.

(b) Authorized Use. Accrued sick leave may be used during scheduled work hours when an employee is incapacitated by sickness or injury; for pregnancy, childbirth, or related medical conditions; for medical, dental or optical examinations or treatment; for death or illness of a member of the employee's or the employee's spouse's immediate family and such other persons as approved by the agency head; or when an employee has been exposed to a contagious disease such that attendance at work could jeopardize the health of others.

(i) Persons affected by pregnancy, childbirth and related medical conditions shall be treated the same as persons affected by other medical conditions.

(ii) The agency shall deduct from an employee's compensatory time, if available, otherwise from their vacation leave balance for any of the reasons listed in 2(b) above when the employee's sick leave balance is insufficient to cover the authorized absence from work.

(c) Notification. Employees who are unable to work for any of the reasons stated in Section 2 (b) of this chapter shall notify their immediate supervisor as soon as possible of their absence or anticipated absence. If such notification is not given, the agency head shall charge the absence to vacation leave or leave without pay, and may consider appropriate disciplinary action.

(d) Approval. The agency head shall approve the use of sick leave only after having determined that the absence was for a legitimate reason. An employee may be required to submit substantiating evidence including, but not

limited to, a health care provider's certificate. Abuse of sick leave is cause for disciplinary action.

(e) Donation. An agency head or designee, after determining that the employee has a legitimate reason to be absent and the employee does not have a documented history of abusing leave, may request donated sick leave from the agency ~~or~~ and may request donated sick leave from other state employees for an employee who has exhausted all of their accrued sick leave, compensatory time, ~~and~~ and vacation leave and all other available leave. ~~An employee who has accrued a minimum of eighty (80) hours of sick leave may donate a minimum of four (4) hours up to a maximum of sixteen (16) hours of sick leave per calendar year to the same recipient who has an immediate and reasonable need for such assistance. Donations between immediate family members who are State employees are not subject to the sixteen (16) hour maximum. Donors shall give their agency head, who shall approve or disapprove the donation, a written statement specifying the number of hours donated and the name and agency of the employee to whom the donation is being made. Donations to employees in agencies other than the donor's agency shall be approved by the donee's agency head or designee.~~

(i) An employee who has accrued a minimum of eighty (80) hours of sick leave may donate a minimum of four (4) hours up to a maximum of sixteen (16) hours of sick leave per calendar year to the same recipient who has an immediate and reasonable need for such assistance.

(ii) Donations between immediate family members who are State employees are not subject to the sixteen (16) hour maximum.

(iii) Donors shall give their agency head, who shall approve or disapprove the donation, a written statement specifying the number of hours donated and the name and agency of the employee to whom the donation is being made.

(A) Donations to employees in agencies other than the donor's agency shall be approved by the donee's agency head or designee.

~~(iv)~~ (iv) Employees shall have depleted all of their sick, vacation, or other available leave prior to use of donated sick leave.

~~(v)~~ (v) Agency heads shall ensure that all donated but unused sick leave shall be credited back to the original donor(s) when the recipient returns to work and/or no longer has an immediate and reasonable need for the leave; or when the recipient dies.

(f) An employee of an entity participating in the state health insurance

program may donate accrued sick leave to an employee of another entity participating in the state health insurance program if authorized by reciprocal personnel policies adopted by the appropriate entities.

(i) A copy of the personnel policies authorizing the interbranch donation of sick leave shall accompany the request for donated sick leave between participating entities.

~~(f)~~ (g) Advanced Sick Leave. An employee who has used all accrued sick leave, compensatory time, vacation leave, or other available leave and who has an immediate and reasonable need for sick leave, may be, at the discretion of the agency head, advanced sick leave not to exceed eight (8) hours for each year of continuous service up to fifteen (15) years and twelve (12) hours for each year beyond fifteen (15) years continuous service. Any advanced sick leave shall be repaid by the employee upon return to work at the rate of the employee's combined monthly vacation and sick leave accrual rates.

~~(g)~~ (h) Interagency Appointments. An employee appointed to a position in a different agency shall not lose any accrued sick leave as a result of the interagency transfer, promotion, or reappointment.

~~(h)~~ (i) Interbranch Appointments. An employee appointed without a separation from the State Judicial or Legislative Branch who has not been paid for accumulated leave, shall be allowed to transfer unused sick leave. The employee shall accrue sick leave according to established Executive Branch rules. Unused sick leave for all Executive Branch employees transferring to another branch of State government shall be paid off in accordance with Chapter 9, Section 6 (b) at the time of transfer.

### Section 3. **Bereavement Leave.**

(a) Employees shall be granted three (3) regularly scheduled work days not to exceed a maximum of twenty-four (24) hours of work of bereavement leave upon being notified of the death of an immediate family member. This leave shall be for the purposes associated with the death of the family member and shall be used before the use of any other leave authorized for this purpose.

### Section 4. **Holiday Leave.**

(a) Permanent and probationary employees shall receive holiday leave, according to the number of regularly scheduled work hours in the month.

(i) Temporary employees shall receive holiday leave, after six (6) months of employment, according to the number of hours worked in the month.

(ii) The formula for determining the holiday leave for 40 through

159 hours worked in the month is prorated as follows: hours worked in the month are multiplied by eight hours, this total is divided by 160.

(iii) The following rates shall be used:

160 or more hours	-	full 8 hours per holiday
40 through 159 hours	-	Prorated according to formula
39 hours or less	-	none

(b) Permanent and probationary employees not required to work shall be granted paid holiday leave from regularly scheduled work hours occurring on the following days:

- (i) New Year's Day (January 1);
- (ii) Martin Luther King, Jr./Wyoming Equality Day (third Monday in January);
- (iii) President's Day (third Monday in February);
- (iv) Memorial Day (last Monday in May);
- (v) Independence Day (July 4);
- (vi) Labor Day (first Monday in September);
- (vii) Veteran's Day (November 11);
- (viii) Thanksgiving Day (fourth Thursday in November);
- (ix) Christmas Day (December 25); and

(x) Upon declaration by the Governor, any date declared by the President of the United States as an occasion of national mourning, rejoicing, or observance of national emergency.

(c) Holidays that fall on employee's regularly scheduled days off.

(i) If a holiday falls on the first day of an employee's regularly scheduled time off period, the day before shall be ~~considered a~~ granted paid holiday leave from regularly scheduled work hours for that employee.

(ii) If a holiday falls on a subsequent day off, the day after shall be ~~considered a~~ granted paid holiday leave from regularly scheduled work hours for that employee.

(d) Employees on leave without pay the day before ~~and~~ or the day after a holiday shall not be entitled to paid holiday leave.

(e) Time elapsed while an employee is on any authorized leave, except a leave without pay, suspension without pay, or educational leave, shall be considered hours worked for purposes of this section.

#### Section 5. ~~Exempt Compensatory Time.~~ Paid Time Off.

(a) Employees exempt from ~~the~~ overtime, who are required to work on an official State holiday, shall be granted ~~compensatory time~~ paid time off at the rate of one and one-half hours off for each hour worked. Employees shall use any accumulated ~~compensatory time~~ paid time off before being entitled to use any accrued vacation leave. As of January 1 of each year all unused ~~compensatory-time~~ paid time off shall be paid off at the employee's hourly compensation rate, unless otherwise approved by the Human Resources Division.

#### ~~Section 6. Non-Exempt Compensatory Leave Time.~~

~~(a) Employees eligible for overtime, who receive compensatory leave in lieu of pay, shall accrue compensatory leave time in accordance with the Fair Labor Standards Act (FLSA).~~

~~(b) Employees shall use any accumulated compensatory time before being entitled to use any accrued vacation leave.~~

~~(c) As of January 1 of each year all unused compensatory time shall be paid off at the employee's hourly compensation rate, unless a change for the payout date has otherwise been approved in writing by the Human Resources Division.~~

#### Section 6. **Parental Leave.**

(a) Employees who are parents of a newborn or recently adopted child, or are expectant parents, shall be entitled to take accrued sick leave, compensatory time, vacation leave, other available leave, or leave without pay for purposes associated with the birth or adoption of a child.

#### Section 7. **Voting Leave.**

(a) Employees shall, at the time specified by their supervisor, be allowed one (1) hour of leave with pay for the purpose of voting in an official public election.

(i) This section shall not apply to an employee who has three (3) or more consecutive non-working hours during the time the polls are open.

(Reference W.S. 22-2-111).

**Section 8. Court Leave.**

(a) An employee required to serve as a member of a jury panel or as a witness of the court shall be granted leave with pay for the performance of such obligation.

(i) The employee shall be required to provide written documentation of such obligation which shall be retained in the employee's personnel file.

**Section 9. Legislative Leave.**

(a) An employee elected to serve as a member of the State Legislature shall be required to take leave without pay for the performance of all legislative duties.

**Section 10. Educational Leave.**

(a) An agency head may, with notification to the Human Resources Division, grant educational leave to an employee for up to twenty-four (24) months to allow the employee to acquire job-related training or education. In notifying the Human Resources Division, the agency head shall provide a written description of the training or education which the employee intends to pursue and an explanation of how such training or education would benefit the State.

(b) The agency and employee shall enter into a contract outlining the provisions of the educational leave.

**Section 11. Administrative Leave.**

(a) An agency head may grant:

(i) An employee administrative leave with pay to participate in meetings, seminars, hearings, examinations, and employee organization meetings. For other requested purposes, administrative leave requests must be reviewed and evaluated for approval by the Governor or his designee.

(ii) Upon declaration, the Governor may close state offices for the traditional observance of local celebrations, inclement weather conditions, or for other reasons or purposes that are deemed necessary.

(A) Employees required to work during the traditional observance of local celebrations shall be given compensatory time on an hour for hour basis.

(B) Intermittent, ~~provisional~~, student interns, and contract employees are not eligible for these types of paid leave.

(C) Temporary employees who have been with the state less than six months are not eligible for these types of paid leave.

~~(B)(D) Upon a weather or other closure declared by either the Governor's Office or an agency head, an employee shall not be charged for time off for the period of the closure unless the employee had been previously authorized annual or sick any type of leave and is on leave at the time of the closure. In those cases where an employee was previously authorized annual or sick leave prior to a declaration the declaration will not alter in part or whole the charging for such leave to the employee.~~

## Section 12. Personal Leave

(a) An agency head may grant:

(i) An employee up to two regularly scheduled days (not to exceed 16 hours) of personal leave with pay per calendar year to recognize merit, wellness incentives, pre-approved non-profit community service and specific military service activities.

(ii) Authorized use. Personal leave may be granted and used for:

(A) employee recognition programs.

(B) department wellness initiatives.

(C) merit incentive programs.

(D) team based recognition – project completion.

(E) pre-approved non-profit community service.

(F) family departing or returning from active duty military service and.

(G) to attend military funerals.

(iii) Prohibited use. Personal leave may not be granted or used for:

(A) birthdays.



(B) early release for holidays and.

(C) undocumented performance.

(b) Agencies authorizing leave for (ii) A through E above shall submit written plans to the Human Resource Administrator for review and approval prior to the implementation.

(c) An agency head or designee is responsible for tracking the usage of these hours and are accountable for their appropriateness.

(d) The granting of personal leave is at the discretion of the agency head or their designee. It is not an employee right nor an employee benefit.

Section ~~42~~13. **Military Leave.**

(a) Military leave shall be granted in accordance with W.S. 19-11-108 (a-e).

Section ~~43~~14. **Leave Without Pay.**

(a) Leave without pay may be granted at the discretion of the agency head.

(i) An employee injured on the job and receiving Worker's Compensation benefits shall, upon request, be entitled to leave without pay in connection with the injury.

(ii) Except for the reason indicated above, leave without pay for medical reasons or any other reason where sick leave use is authorized, an employee shall use all accrued sick leave, compensatory time, vacation leave, or any other available leave before leave without pay will be authorized.

(iii) For all other types of leave without pay except legislative leave, an employee shall use all accrued compensatory time, vacation or other available leave before leave without pay will be authorized.

(iv) A leave without pay of more than fifteen (15) working days shall be reported in writing to the Human Resources Division. A leave without pay shall not continue for more than six (6) months without the approval of the Human Resources Division.

(b) The Governor may furlough employees due to lack of work or funding.

Section ~~44~~15. **Administrative ~~Suspension.~~ Review Leave.**

(a) An agency head may ~~suspend~~ place an employee on administrative review leave with pay ~~an employee~~ for a maximum of thirty (30) days when:

(i) The employee has been charged with or is under investigation for the commission of a crime which would raise reasonable doubt concerning the employee's suitability for continued employment; or

(ii) Allegations of misconduct have been made and, if confirmed, the employee's presence on the job may be detrimental to the operation of the agency.

(b) The agency head shall provide the employee with written notice specifying the reason(s) for the ~~suspension~~ administrative review leave and the effective date. A copy of the written notice shall be provided to the Human Resources Division Administrator. An administrative ~~suspension,~~ review leave, with or without pay, may be extended beyond the thirty (30) day period with ~~the~~ prior written approval of the Human Resources ~~Division~~ Administrator. If the charges are not filed, or the employee is found not guilty, the employee shall be returned to work, granted pay for any lost wages, and shall retain all rights and status previously held.

#### Section ~~44~~16. **Family and Medical Leave Act (FMLA).**

(a) The Family and Medical Leave policy of the State of Wyoming shall be in accordance with and except as specified no more stringent than the provisions of ~~Public Law 103-3, Family and Medical Leave Act.~~ Family and Medical Leave Act of 1993, Public Law 103-3 (Feb 5, 1993), 107 Stat. 6 (29 U.S.C. 2601 et seq., as amended).

(b) State Agencies are covered employers without regard to the number of employees employed.

~~(i) In all circumstances, the agency head shall be responsible in designating leave, paid or unpaid, as FMLA-qualifying, and to give notice of the designation to the employee. In the case of intermittent leave or leave on a reduced schedule, only one such notice is required unless the circumstances regarding the leave have changed.~~

~~(b)~~ (c) Employee Eligibility. An employee shall have worked for the State a total of twelve (12) months and have worked 1250 hours over the previous twelve (12) months prior to the use of FMLA leave.

~~(i) An employee shall be employed within 75 miles of a work site where there are 50 or more State employees.~~

~~(ii) The twelve (12) month period shall commence when leave is~~

~~first used.~~

~~(e)~~ (d) Leave Entitlement. An eligible employee shall be granted a total of twelve (12) workweeks of leave in a twelve (12) month period for one or more of the following reasons:

~~(i) The birth or adoption of a child, and to care for the newborn or newly placed child.~~

~~(ii) A serious health condition affecting the employee or an immediate family member.~~

(i) The birth of a son or daughter, and to care for the newborn;

(ii) For placement with the employee of a son or daughter for adoption or foster care;

(iii) To care for the employee's spouse, son, daughter or parent with a serious health condition;

(iv) For a serious health condition that makes the employee unable to perform the functions of the employee's job; and

(v) For any qualifying exigency arising out of the fact that the employee's spouse, son, daughter, or parent is a covered military member on active duty (or has been notified of an impending call or order to active duty) in support of a contingency operation. Qualifying exigencies include the following:

(A) Short-notice deployment to address any issue that arises from the fact that a covered military member is notified of an impending call to order to active duty seven or less calendar days prior to the date of deployment.

(l) Leave taken for this purpose can be used for a period of seven (7) calendar days beginning on the date a covered military member is notified of an impending call or order to active duty in support of a contingency operation;

(B) Military events and related activities including any official ceremony, program or event sponsored by the military and to attend family support or assistance programs and informational briefings sponsored or promoted by the military, military service organizations, or the American Red Cross that are related to the active duty or call to active duty status of a covered military member;

(C) Childcare and school activities;

(D) Financial and legal arrangements;

(E) Counseling - providing that the need for counseling arises from the active duty or call to active duty status of a covered military member;

(F) Rest and recuperation to spend time with a covered military member who is on short-term, temporary, rest and recuperation leave during the period of deployment.

(I) Eligible employees may take up to five (5) calendar days of leave for each instance of rest and recuperation.

(G) Post-deployment activities to attend arrival ceremonies, reintegration briefings and events, and any other official ceremony or program sponsored by the military for a period of ninety (90) days following the termination of the covered military member's active duty status and to address issues that arise from the death of a covered military member while on active duty status;

(H) Additional activities to address other events which arise out of the covered military member's active duty or call to active duty status.

(I) The employer and employee shall agree prior to the employee taking leave that such leave shall qualify as an exigency, and agree to both the timing and duration of such leave.

(e) Covered military member is either a member of the reserve components or a retired member of the Regular Armed Forces or Reserves;

(i) An employee whose family member is on active duty or call to active duty status in support of a contingency operation as a member of the Regular Armed Forces is not eligible to take leave because of a qualifying exigency.

~~(A)~~ (f) Where two spouses are employed by the State of Wyoming their aggregate leave will be limited to twelve (12) workweeks during any twelve-month period for the following reasons:

(i) Birth and care of a child;

(ii) For the placement of a child for adoption or foster care, and to care for the newly placed child; and

(iii) To care for ~~an~~ the employee's parent who has a serious health condition.

(g) Leave to care for a covered service member with a serious injury or illness.

(i) Leave Entitlement: An eligible employee shall be granted a total of twenty-six (26) workweeks of leave in a twelve (12) month period to care for a covered service member with a serious injury or illness during a "single 12-month period".

(ii) Covered military member includes a current member of the Armed Forces, including a member of the National Guard or Reserves, or a member of the Armed Forces, the National Guard or Reserves who is on the temporary disability retired list, who has a serious injury or illness incurred in the line of duty on active duty for which he or she is undergoing medical treatment, recuperation, or therapy; or otherwise in outpatient status; or otherwise on the temporary disability retired list.

(l) Covered military member does not include former members of the Armed Forces, former members of the National Guard and Reserves, and members on the permanent disability retired list.

(iii) Eligible employee must be the spouse, son, daughter, or parent or next of kin of a covered service member. Parents-in-law are not eligible.

(h) Combined Leave Entitlement: An eligible employee is entitled to a combined total of twenty-six (26) workweeks of leave in a twelve (12) month period described in paragraph g of this section provided that the employee is entitled to no more than twelve (12) work weeks of leave as described in paragraph d of this section.

(i) Where two spouses are employed by the State of Wyoming their leave will be limited to a combined total of twenty-six (26) workweeks of leave during the single 12-month period if the leave is taken for the following reasons:

(i) The birth of a son or daughter, and to care for the newborn;

(ii) For placement with the employee of a son or daughter for adoption or foster care, or to care for the child after placement;

(iii) To care for the employee's parent with a serious health condition; or

(iv) To care for a covered service member with a serious injury or illness.

(j) In all instances of FMLA Leave, the twelve (12) month period shall commence when leave is first used.

(k) Paid Leave. The FMLA leave period shall include the employee's accrued sick leave, vacation leave, accrued compensatory time leave, other available leave, and any donated sick leave allowed.

(i) A holiday that occurs within the full week taken as FMLA leave is counted towards the employee's FMLA leave entitlement.

(J) If an employee is using FMLA leave in increments of less than one week, the holiday will not count against the employee's FMLA entitlement unless the employee was otherwise scheduled and expected to work during the holiday.

(ii) An employee who incurs a work-related illness or injury elects whether to receive paid leave or worker's compensation benefits. An employee shall not receive both.

(l) Leave without Pay. If an employee's accrued paid leave is less than the total FMLA entitled workweeks, the time remaining shall be taken as unpaid FMLA leave. Any leave without pay in excess of the total FMLA entitled workweeks maximum shall be at the discretion of the agency head per Chapter 10, Section 13, Leave without Pay.

(i) An employee whose work-related illness or injury meets the criteria for a serious health condition and is receiving paid worker's compensation benefits the absence shall be counted against the FMLA leave entitlement.

(ii) An employee on unpaid FMLA leave during a holiday shall not receive holiday pay.

~~(d)~~ (m) Intermittent/Reduced Schedule Leave. For intermittent leave or leave on a reduced leave schedule, there shall be a medical need for leave (as distinguished from voluntary treatments and procedures) and such medical need is best accommodated through an intermittent or reduced leave schedule.

(i) Intermittent leave shall be taken in separate blocks of time due to a single qualifying reason.

(ii) Reduced leave schedule shall be a change in the employee's schedule for a period of time that reduces the employee's usual number of working hours per workweek, or hours per workday.

(iii) When leave is taken after the birth of a healthy child or placement of a healthy child for adoption or foster care, an employee may take leave intermittently or on a reduced leave schedule only if the Agency agrees.

(iv) If an employee needs leave intermittently or on a reduced leave schedule for planned medical treatment, then the employee must make a reasonable effort to schedule the treatment so as not to disrupt unduly the Agency's operation.

~~(e)~~ (n) Medical Certification. An agency may shall require a medical certification from a health care provider for an employee's serious health condition or the employee's immediate covered family member with a serious health condition, or to care for a covered service member with a serious injury or illness.

(i) The agency shall give notice of a requirement for certification each time a certification is required and the notice shall be in writing.

(ii) The agency shall allow the employee at least fifteen (15) calendar days from the date of the request to obtain the medical certification.

(iii) The employee shall provide a complete and sufficient certification to the Agency when required.

(o) Certification for leave taken because of a qualifying exigency. An agency shall require that an employee's provide a copy of the covered military member's active duty orders or other documentation issued by the military which indicates that the covered military member is on active duty or call to active duty status in support of a contingency operation and the dates of the covered military member's active duty service.

(p) Documenting relationships. For purposes of confirmation of family relationship, the Agency may require the employee provide reasonable documentation or statement of family relationship.

(q) Agency requirements.

(i) Every Agency is required to post and keep posted on its premises, in conspicuous places where employees are employed, a notice explaining the Act's provisions and providing information concerning the procedures for filing complaints of violations of the Act with the Department of Labor Wage and Hour Division.

(ii) When an employee requests FMLA leave or when the agency acquires knowledge that an employee's leave may be for an FMLA-qualifying reason, the Agency must notify the employee of the employee's eligibility to take FMLA leave within five (5) business days, absent extenuating circumstances.

(iii) Agencies shall provide written notice detailing the specific expectations and obligations of the employee and explain any consequences of a

failure to meet the obligations.

(iv) In all circumstances, the agency head or human resource office shall be responsible in designating leave, paid or unpaid, as FMLA-qualifying, and to give notice of the designation to the employee. In the case of intermittent leave or leave on a reduced schedule, only one such notice is required unless the circumstances regarding the leave have changed.

~~(k)~~ (r) Notice of leave. An employee shall give thirty (30) days notice to the agency prior to the date the leave is to begin. The employee shall advise their immediate supervisor as soon as possible and practicable if dates of scheduled leave change or are extended, or were initially unknown. The agency head or Human Resource office shall determine the actual date on which an employee's FMLA leave commences.

(i) An employee shall provide sufficient information for the agency to reasonably determine whether the FMLA may apply to the leave request.

~~(f)~~ (s) Denial of FMLA leave. Prior to denial of FMLA leave, the agency shall submit to the Human Resources Division a written request for approval of such denial.

(t) An employee cannot waive, nor may an agency induce employees to waive, their prospective rights under FMLA.

~~(g) Paid Leave. The twelve-week leave period shall include the employee's accrued sick leave, vacation leave, other available leave, and any donated sick leave allowed.~~

~~(i) An employee who incurs a work-related illness or injury elects whether to receive paid leave or worker's compensation benefits. An employee shall not receive both.~~

~~(ii) An employee may request to use compensatory time during this twelve-week period. However, the absence which is paid from the employee's accrued compensatory time "account" shall not be counted against the employee's FMLA leave entitlement.~~

~~(h) Leave without Pay. If an employee's accrued sick leave and vacation leave total is less than twelve (12) weeks, the time remaining shall be taken as unpaid FMLA leave. Any leave without pay in excess of the twelve (12) week maximum shall be at the discretion of the agency head per Chapter 10, Section 13, Leave Without Pay.~~

~~(i) An employee whose work-related illness or injury meets the criteria for a serious health condition and is receiving paid worker's compensation benefits the absence shall be counted against the FMLA leave entitlement.~~



~~(ii) An employee on unpaid FMLA leave during a holiday, shall not receive holiday pay.~~

(†) (u) Definition of a child son or daughter for purposes of FMLA leave taken for the birth or adoption or to care for a family member with a serious health condition: under this section: a biological, adopted, or foster child, a stepchild, a legal ward, or a child of a person standing in loco parentis (in place of a parent). The child shall be under 18 years old, or 18 or older and incapable of self-care because of a mental or physical disability.

(†) (v) Definition of a family member under this section: a child son or daughter as defined in Section 15 (†) (u), a spouse is a husband or wife as defined or recognized under State law for purposes of marriage in the State where the employee resides, including common law marriage in States where it is recognized. A parent is an employee's biological, adoptive, step or foster father or mother, or someone who stood in loco parentis (in place of a parent) to an employee. This term does not include parents "in-law".

(†) (w) Definition of Next of Kin of a covered service member means the nearest blood relative other than the covered service member's spouse, parent, son, or daughter, in the following order of priority, unless the covered service member has specifically designated in writing another blood relative as his or her nearest blood relative for purposes of military caregiver leave under the FMLA:

(i) Blood relatives who have been granted legal custody of the covered service member by court decree or statutory provisions;

(ii) Brothers and sisters;

(iii) Grandparents;

(iv) Aunts and Uncles;

(v) First cousins.

(x) Definition of son or daughter on active duty or call to active duty status means the employee's biological, adopted, or foster child, stepchild, legal ward or a child for whom the employee stood in loco parentis, who is on active duty or call to active duty status, and who is of any age.

(y) Definition of son or daughter of a covered service member means the service member's biological, adopted, or foster child, stepchild, legal ward or a child for whom the employee stood in loco parentis, who is on active duty or call to active duty status, and who is of any age.

~~(k) Notice of leave. An employee shall give thirty (30) days notice to the agency prior to the date the leave is to begin. The employee shall advise their immediate supervisor as soon as possible and practicable if dates of scheduled leave change or are extended, or were initially unknown. The agency head or Human Resource office shall determine the actual date on which an employee's FMLA leave commences.~~

~~(z)~~ (z) Time elapsed while an employee is on paid FMLA shall be considered hours worked. Time elapsed while an employee is on unpaid FMLA shall be included in calculating the total number of months of continuous service.

~~(m)~~ (aa) Insurance. During any FMLA leave the agency head shall maintain the employee's coverage under any group health plan on the same conditions as coverage would have been provided if the employee had been continuously employed during the entire leave period. If family member coverage is provided to an employee, family member coverage shall be maintained during the FMLA leave.

~~(n)~~ (ab) Does Not Return to Work. If an employee does not return to work following unpaid FMLA leave for a reason other than:

(i) The continuation, recurrence, or onset of a serious health condition which would entitle them to FMLA leave; or

(ii) Other circumstances beyond their control, the employee ~~may~~ shall be required to reimburse the State for any portion of health insurance premiums paid on behalf of the employee during unpaid FMLA leave.

(iii) An employee who returns to work for a period of at least fifteen (15) days is viewed as meeting the return to work requirement.

~~(e)~~ (ac) Job Restoration. Upon return from FMLA leave an employee shall be restored to their original position, or to an "equivalent" position with equivalent pay, benefits, and other employment terms and conditions. During the leave, the employee is not entitled to any employment benefits, nor to any right, benefit, or position of employment other than what the employee would have been entitled to had the leave not been taken.

(i) An employee who fraudulently obtains FMLA leave is not protected by FMLA's job restoration or maintenance of health benefits provisions.

## CHAPTER 11

### DISCIPLINE FOR PERMANENT EMPLOYEES

#### Section 1. **Reasons for Discipline.**

(a) As used in this chapter, the word employee shall refer to permanent employees only.

(b) An agency head may discipline a permanent employee for cause including, but not limited to, the following reasons:

- (i) Absenteeism;
- (ii) Incapacity to perform assigned duties;
- (iii) Assault;
- (iv) Carelessness;
- (v) Damaging State property;
- (vi) Dishonesty;
- (vii) Insubordination;
- (viii) Misconduct;
- (ix) Refusal to work;
- (x) Sexual harassment;
- (xi) Theft;
- (xii) Unsatisfactory work performance;
- (xiii) Criminal conduct;
- (xiv) Falsification of application for employment;
- (xv) Violation of agency rules or policy;
- (xvi) Violation of the State Personnel Rules;
- (xvii) Violation of the State of Wyoming Substance Abuse Policy;

- (xviii) Violation of the State of Wyoming Anti-Discrimination Policy;
- (xix) Violation of the State of Wyoming Electronic Mail Policy;
- (xx) Violation of the State of Wyoming Internetworking Acceptable Use Policy;
- (xxi) Violation of the State of Wyoming Code of Ethics; and
- (xxii) Violation of the Workplace Violence Policy.

(c) At the request of the agency head, the Human Resources Division and the office of the Attorney General shall provide technical assistance in matters pertaining to the administration of employee discipline.

### Section 2. **Determination of Appropriate Discipline.**

(a) Agency heads shall, except in cases of flagrant behavior, attempt to administer discipline to permanent employees in progressive stages so as to seek corrective results. In determining appropriate disciplinary action, the agency head should consider the following factors:

- (i) Nature and extent of infraction;
- (ii) Employee's past record; and
- (iii) Effect on the operation of the agency.

(b) The agency head's determination of the appropriate action to be taken shall be based on an investigation of the facts and circumstances of the case. Progressive stages of discipline may include corrective action including but not limited to, letters of expectation, letters of counseling, or verbal or written warnings. However, the taking of such corrective action is not mandatory and an agency head may within his/her sole discretion determine to administer discipline as called for in Section 3 herein as an initial step of discipline to a permanent employee.

### Section 3. **Types of Discipline.**

(a) Written Reprimand. A supervisor may formally discipline a subordinate employee for cause by providing a written reprimand to the employee specifying:

- (i) Reason(s) for the reprimand:
- (ii) Previous letters of expectation, letters of counseling, verbal or

written warnings, unacceptable performance appraisals, discussions, or reprimands, if any;

(iii) Corrective action necessary to avoid further disciplinary action;  
and

(iv) The right to present a grievance pursuant to these rules.

(b) Disciplinary Suspension. An agency head may suspend, without pay, an employee for cause for up to thirty (30) days in a calendar year. The agency head shall provide the employee with written notification specifying:

(i) Reason(s) for the suspension;

(ii) Previous letters of expectation, letters of counseling, verbal or written warnings, unacceptable performance appraisals, discussions, or reprimands, if any;

(iii) The effective date and duration of the suspension;

(iv) The corrective action necessary to avoid further disciplinary action; and

(v) The right to present a grievance pursuant to these rules.

(c) A copy of the notice of suspension shall be sent to the Human Resources Division by the agency head.

(d) Dismissal.

(i) Dismissal of Permanent Employees. If previous disciplinary action has not served to achieve corrective results, or if the nature and extent of the employee's behavior is such that other disciplinary action is not appropriate, the agency head may dismiss a permanent employee.

(A) Prior to the dismissal of a permanent employee, the agency head shall provide to the employee written notification specifying:

(I) The reason(s) and summary of the evidence for dismissal; and

(II) An opportunity for the employee, within ten (10) working days, to respond in writing to the charge(s).

(B) The agency head shall have ten (10) working days to consider the response. If the agency head perceives that the employee's

presence on the job may be detrimental to the operation of the agency, the agency head may suspend the employee, with pay, pending the dismissal review period.

(C) If after the dismissal review period the agency head determines dismissal is appropriate, the agency head shall provide, personally or by return receipt requested certified mail, written notification to the employee specifying:

- (I) The reason(s) for the dismissal;
- (II) The effective date of the dismissal; and
- (III) The right to a hearing pursuant to these rules.

(ii) Dismissal of Permanent Employees subsequent to a fitness for duty evaluation. The agency head may dismiss a permanent employee subsequent to a fitness for duty evaluation upon a determination that the employee is incapacitated to perform assigned duties.

(A) Prior to the dismissal of a permanent employee, the agency head shall provide to the employee written notification specifying:

(I) The reason(s) and summary of the evidence for dismissal and notification that the Fitness for Duty report will not be provided directly to the employee, but may be provided directly to a qualified mental health professional of the employee's choice for interpretation.

(II) An opportunity for the employee, within ten (10) working days, to respond in writing to the charge(s). If the employee chooses to have a qualified mental health professional interpret the report for them, the time period for response may be extended upon mutual agreement.

~~(ii)~~(iii) A copy of the notice of dismissal shall be sent to the Human Resources Division by the agency head.

~~(iii)~~(iv) Failure to comply with the procedural steps in this chapter by the agency terminates the dismissal procedure without prejudice. Parties shall be restored to the previous status held prior to the disciplinary action.