

Emergency Rules

**Title 1—OFFICE OF ADMINISTRATION
Division 20—Personnel Advisory Board and
Division of Personnel
Chapter 1—Organization and Operation**

EMERGENCY AMENDMENT

1 CSR 20-1.020 Definitions. The board is amending section (1) and adding new sections (2)–(5).

PURPOSE: This amendment revises this rule pursuant to changes to Chapter 36, RSMo made by Senate Bill 1007 (2018).

PURPOSE: This rule defines the meanings of specific words and terms used in the rules of the Personnel Advisory Board and the Personnel Division, including leaves of absence.

EMERGENCY STATEMENT: This emergency amendment incorporates and implements changes to the law effected by Senate Bill 1007 (2018), effective August 28, 2018. Emergency amendment of this rule is necessary to preserve the compelling governmental interest of successfully implementing the changes to Chapter 36, RSMo made by Senate Bill 1007 (2018) across the departments and agencies of the executive branch of Missouri state government. Provisions of the existing rule are inconsistent with the provisions of Chapter 36, RSMo, effective August 28, 2018, and must be amended to avoid confusion or improper application, avoid potential liabilities, and ensure consistent implementation of Senate Bill 1007 (2018). A proposed amendment which covers the same material will be filed at a later date to be published in the Missouri Register. The scope of this emergency amendment is limited to the circumstances creating the emergency and complies with the protections extended in the Missouri and United States Constitutions. The Personnel Advisory Board believes this emergency amendment is fair to all interested persons and parties under the circumstances. This emergency amendment was filed August 17, 2018, becomes effective August 28, 2018, and expires February 28, 2019.

(1) Definitions.

(A) *[The following words and terms, used with specific intent throughout these rules or in their administration, are defined for clarity.]* As used in these rules, the following words and terms, unless the *[content]* context clearly requires otherwise, *[shall]* have the meaning indicated *[as follows]* below:

[1. Agency, state agency, or agency of the state means each department, board, commission or office of the state, except for offices of the elected officials, the general assembly, the judiciary, and academic institutions;]

[2.] Allocation means the assignment of an individual position to an appropriate class, multiple classes, or class and band on the basis of the duties, authority, and responsibilities of the position;

[3. Appointing authority means an officer or agency subject to the law having power to make appointments to positions under the law;]

[4.] Appointment means the lawful hiring of an individual by an appointing authority;

[5. Board means the Personnel Advisory Board;

6. Broad classification band means a grouping of positions with similar levels of responsibility or expertise;]

*[7.] Certificate means a listing of eligibles *[in grade order]* sent to agencies *[in the classified service]* to be used in filling a current or anticipated vacancy at a specific work location*[. There are three (3) types of certificates: reinstatement, open and promotional;]**

[8. Certified eligible means an individual whose name appears on a certificate, who indicates a willingness to

accept appointment under conditions specified, and who ranks in the selection group;

[9. Class or class of positions means a group of positions subject to the law sufficiently alike in duties, authority and responsibility to justify the same class title and qualifications and the same schedule of pay to all positions in the group;]

[10.] Class specification means the written description of a class containing a title, a statement of the customary duties, authority, responsibilities and other significant characteristics of the class, and the qualifications that are necessary or desirable for the satisfactory performance of the duties of the class based on the specified knowledges, skills, and abilities;

[11.] Classification means the systematic analysis, evaluation and grouping of positions, not employees, on the basis of their duties, authorities, responsibilities, and other significant characteristics into relatively homogeneous classes;

[12.] Classification plan means the plan prepared, adopted, maintained, and administered by the Division of Personnel and under the authority and responsibility of the Personnel Advisory Board which sets forth, for each class of positions, a class title, class specification, overtime, and equal employment opportunity (EEO) category designations;

*[13.] Classified service means those positions in agencies which are subject to the merit system provision contained in *[the law]* statute, specifically section 36.030.1(2), RSMo, and these rules and the classification and pay provisions enumerated in *[1 CSR 20-2.010 and 1 CSR 20-2.020. Agencies having positions in the classified service are defined by 1 CSR 20-1.040(1)]* statute and these rules;*

*[14.] Covered service means those positions in agencies subject to the classification and pay provisions contained in *[1 CSR 20-2.010 and 1 CSR 20-2.020] statute and these rules*, but which are not subject to the merit system provisions of *[the law]* statute and these rules*. Agencies having positions in the covered service are defined by 1 CSR 20-1.045(1)];**

[15. Declination means the definite refusal to accept appointment and assignment after having indicated a desire to be considered for that appointment and assignment;]

*[16.] Demotion, in the general classification plan, means a change of an employee from a position in one (1) class to a position in another class which is assigned a lower pay range within the pay plan. *[In the broad classification bands, demotion, also termed a downward interband appointment, means a change of an employee from a position in one (1) band to a position in a lower band.]* A demotion may also involve the involuntary movement of an employee from a position in a band to a position in a range where the salary is decreased *[and is adjusted to an available step];**

[17. Director means the director of the Division of Personnel of the Office of Administration;

[18. Disabled veteran means a veteran who has served on active duty in the armed forces at any time who receives a compensation as a result of a service-connected disability claim allowed by the federal agency responsible for the administration of veterans' affairs or who receives disability retirement or disability pension benefits from a federal agency as a result of such a disability or a National Guard veteran who was permanently disabled as a result of active service to the state at the call of the governor;

[19. Division of service means a state department or any division or branch or any agency of the state government, the positions and employees in which are under the same appointing authority;

[20. Effective date of the law means July 1, 1946;

[21. Eligible means a person whose name is on a register or who has been determined to meet the qualifications for a class or position;

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22. *Exempt service means those positions in agencies not subject to the merit system provisions of the law and which according to 1 CSR 20-1.045(2) may be filled without regard to 1 CSR 20-2.010 and 1 CSR 20-2.020 governing classification and pay. These positions are found in agencies which are otherwise subject to the classification and pay provisions of the law and these rules. Agencies having positions in the exempt service are defined by 1 CSR 20-1.045(1);*

23. *Homemakers and caretakers mean persons who gave care to young children and were not otherwise gainfully employed for a period of at least two (2) years;*

/24./10. Incumbency status means a determination made by the Division of Personnel that an *[employee]* individual in the classified service may be placed in a class by means of reclassification;

/25./11. Incumbent means *[the employee]* an individual occupying a position;

/26. *Initial band appointment means an original appointment of a new employee to a position in the broad classification bands or the appointment of an employee from a position in a range to a position in the broad classification bands in accordance with an applicable statute and rules;*

27. *Interband appointment means the upward or downward movement of an employee in the broad classification bands from a position in one (1) band to a position in a higher or lower band;*

/28./12. Law means the State Personnel Law;

/29./13. Merit system means those positions, *both classified and unclassified, in agencies* covered by *[1 CSR 20-1.030(1)(A) and 1 CSR 20-1.040 of these rules]* section **36.030.1(2), RSMo;**

/30. *Open certificate means a listing of eligibles for employment in the classified service in grade order, irrespective of employment status, who have indicated that they wish to be considered for employment at a specific work location where a current or anticipated vacancy exists within a specific class;*

31. *Open competitive examination means a test for positions in a particular class, admission to which is open to all applicants who meet the stated minimum qualifications;*

/32./14. Original appointment means an appointment of a new employee, **covered under section 36.030.1(2), RSMo,** to a position of a permanent or continuing nature made in accordance with an applicable statute and rules;

/33. *Original probationary period means a period following an original appointment of an employee which is sufficient to demonstrate the employee's ability to perform the duties of the position;*

34. *Parental preference means the credit allowed in recognition of persons who have terminated employment with the state of Missouri to serve as full-time homemakers and caretakers of children under the age of ten (10). This credit is added to the passing grade earned in an examination conducted for the establishment of registers of eligibles. For purposes of this rule, the person must have resigned from state service with the executive, judicial or legislative branches in good standing;*

35. *Part-time certificate means a listing of eligibles for employment in the classified service, issued to agencies in grade order which contains the names of eligibles available for part-time employment equivalent to eighty percent (80%) or less of a full-time position;*

/36./15. Pay differential means the payment of an authorized rate(s) of pay which **may** exceed the range of compensation prescribed for a class due to differing work conditions, assignment, incumbent qualifications or other designated factor. The establishment and usage of these differentials are approved by the Personnel

Advisory Board;

/37./16. Pay plan means the plan prepared, adopted, maintained, and administered by the Division of Personnel under the authority of the Personnel Advisory Board, **as described at section 36.140, RSMo,** which sets forth for each class of positions a pay range or bands with a minimum and a maximum rate and intermediate rates as may be established, as well as any pay differentials authorized by the board;

/38./17. Personnel rules means the rules of the Personnel Advisory Board and the Division of Personnel;

/39./18. Position means the fundamental unit of classification and allocation comprised of a set of current duties and responsibilities, assigned or delegated by competent authority;

/40./19. Position description means an official written statement of the duties, responsibilities, supervisory relationships, and other basic data of a position used in the position classification and allocation process;

/41./20. Position management means the monitoring and control of the establishment of positions and of the movement of incumbents in and out of positions as well as the maintenance of current and historical information that identifies and defines each position;

/42./21. Position review means an investigation of the duties and responsibilities of a position, which may include an interview of the incumbent and his/her supervisor, to determine the appropriateness of the position's allocation;

/43. *Probationary employee means a person serving a probationary period;*

/44./22. Probationary period means a period, **applicable to employees covered under section 36.030.1(2), RSMo,** which is sufficient to demonstrate the employee's ability to perform the duties of the position *[following an original appointment, promotional appointment, reemployment appointment or reinstatement appointment as qualified in 1 CSR 20-3.040(2) or following an initial band appointment or interband appointment to a position in a higher band as qualified in 1 CSR 20-2.015(5)];*

/45./23. Promotion, in the general classification plan, means a change of an employee from a position in one (1) class to a position in another class which is assigned a higher established pay range within the pay plan. *[In the broad classification bands, promotion, also termed an upward interband appointment, means a change of an employee from a position in one (1) band to a position in a higher band.]* A promotion may also involve the movement of an employee from a position in a band to a position in a range where the salary is *[adjusted in excess of that necessary to place the employee on a step within the range] increased;*

/46. *Promotional certificate means a listing of eligibles for employment in the classified service in grade order which contains the names of regular, reemployment probationary, promotional probationary or reinstatement probationary employees of a division of service;*

47. *Promotional examination means a test for positions in a particular class, in the classified service, admission to which is open to all persons who meet the stated minimum qualifications and who are employees with regular status, or who are in reemployment probationary, promotional probationary or reinstatement probationary status in positions in that agency;*

48. *Promotional probationary period means a period following a promotional appointment which is sufficient to demonstrate the employee's ability to perform the duties of the position;*

49. *Promotional register means a list of persons in the classified service who have been found qualified by a promotional examination for appointment to a position in a particular class;*

50. *Provisional appointment means an appointment made to fill a classified position, when the director is unable*

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to certify sufficient eligibles from a register;

51. Public hearing means a hearing held after public notice at which any person may have a reasonable opportunity to be heard;]

[52.]24. Public notice means notice posted [on the official bulletin board of] by the Division of Personnel[. The notice announcing a public hearing to be conducted by the Personnel Advisory Board shall advise the public of] and includes the time, date, and place of the meeting and its tentative agenda and [will be] is posted at least twenty-four (24) hours prior to the commencement of the meeting, unless this notice is impossible or impractical;

[53.]25. Qualifications, as stated on the class specification, means the education, experience, and/or certification or licensure necessary for the satisfactory performance of the duties of the class;

[54.]26. Reallocation means the change in the allocation of an individual position on the basis of duties, authority and responsibilities of the position, or an official change in the classification plan;

[55.]27. Reclassification means a classification change of an employee in conjunction with a position reallocation or movement within a multilevel allocated position. For a position in the classified service, the use of reclassification is applicable to an employee having incumbency status, as ascertained from a position review conducted by the Division of Personnel;

[56. Reemployment means appointment, without competitive certification, of an individual who had regular status and left a class or employment in good standing. Reemployment could be made to the same or comparable class in the general classified service or to the same class and the same or lower band in the broad classification bands;]

57. Register means a reinstatement register, a promotional register or a register of eligibles;

58. Register of eligibles means a list of persons who have been found qualified for appointment to a position in the classified service;]

[59.]28. Regular appointment means a change of employee status given to an employee after successful completion of a probationary period;

60. Regular employee means an employee who has been given a regular appointment and has successfully completed a probationary period as defined by the law;

61. Regular promotion means an appointment given to an employee after successful completion of a promotional probationary period;]

[62.]29. Reinstatement means an action which returns an employee to a class in which the employee held regular status [in one (1) of the following circumstances: appointment from a reinstatement register,] due to an ordered reinstatement [or reinstatement to former or comparable class during promotional probationary period];

[63. Reinstatement certificate means a listing of former employees, in the classified service, in order of service credit, who have been laid off or demoted in lieu of layoff;

64. Reinstatement register means a list of persons who have been regular employees in the classified service and who have been laid off in good standing due to lack of work or funds, demoted or downward reclassified in lieu of layoff;]

[65.]30. Salary adjustment means a change in salary rate resulting from a general structure increase or a range-repositioning change;

[66.]31. Salary advancement means an increase in salary within the range or band prescribed for the class established in the pay plan given in recognition of work performance, length of service, or both; additional duties, responsibilities or skill; to maintain equity within and between classifications; to effect a within-grade salary increase; or in conjunction with a promotion, upward job reclassification, or end-of-probation transaction, or for other reasons pro-

moting the needs of the service;

[67. Selection group means that number of individuals certified to an appointing authority who may be lawfully appointed and who are prepared to accept appointment under conditions specified. A selection group will number up to fifteen (15) individuals or fifteen percent (15%) of all ranked individuals unless category certification or some other procedure has been established. A selection group may also include five (5) additional available individuals for each succeeding vacancy on the same certificate;

68. Service credit for the purposes of these rules means the Missouri State Employees' Retirement System (MOSERS) creditable service less any purchased service, but including service for which a deferred retirement lump sum option was exercised. Service credits shall be used in determining the order of layoff and the order in which names shall be placed on reinstatement registers;

69. Surviving spouse means the unmarried surviving spouse of a disabled veteran or any person who was killed while on active duty in the armed forces of the United States or an unmarried surviving spouse of a National Guard veteran who was killed as a result of active service to the state at the call of the governor;]

[70.]32. Suspension means an enforced leave without pay for disciplinary purposes or pending investigation of charges made against an employee;

[71.]33. Temporary appointment means an appointment [from a register of eligibles] to a position [in the classified service] for a period not to exceed a total of six (6) months in any twelve- (12-) month period;

[72.]34. Transfer, in the general classification service, means a change of an employee from one (1) position to another position in the same class or to another class assigned to the same established pay range. In the broad classification bands, a within-band transfer means a change of an employee from one (1) position to another position in the same class or another class assigned to the same established pay band; an out-of-band transfer means the movement of an employee from a position in a band to a position in a range where the action does not constitute a promotion or demotion. A transfer may involve a change of assignment or work location;

[73.]35. Unclassified service means those positions in agencies subject to the merit system provisions or Uniform Classification and Pay (UCP) provisions contained in the law and these rules, but which [pursuant to 1 CSR 20-1.040(2)] may be established and filled without regard to [1 CSR 20-2.010 and 1 CSR 20-2.020] merit selection hiring processes or provisions governing classification and pay. Agencies having positions in the unclassified service are defined by 1 CSR 20-1.040(1);]

[74. Veteran means any person who is a citizen of this state, who has been separated under honorable conditions from the armed forces of the United States, who served on active duty during peacetime or wartime for at least six (6) consecutive months, unless released early as a result of a service-connected disability or a reduction in force at the convenience of the government, or any member of a reserve or National Guard component who has satisfactorily completed at least six (6) years of service or who was called or ordered to active duty by the president and participated in any campaign or expedition for which a campaign badge or service medal has been authorized;

75. Veterans' preference and disabled veterans' preference mean the credit allowed veterans in recognition of military service, added to the passing grade earned by them in examination conducted for the establishment of registers; and

76. Waiver means the waiving of any right to consideration for certification and appointment to a position and a

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request for future consideration.]

(B) Other terms are defined in specific sections elsewhere in these rules.

(C) The definitions of section 36.020, RSMo apply to these rules unless the context clearly requires otherwise.

(D) As used in section 36.030, RSMo, grant-in-aid programs means those federal grant programs that require, as a condition of eligibility, that a department or agency of this state that receives grants establish merit personnel systems for their personnel engaged in administration of the grant-aided program, and shall include those programs listed in Appendix A to Subpart F of 5 CFR Part 900, as well as any other federal programs for which a department or agency of this state has agreed by contract with any agency of the federal government prior to the effective date of this regulation to maintain standards for a merit system of personnel administration consistent with Subpart F of 5 CFR Part 900 and make those standards applicable to personnel involved in the performance of the contract.

(2) Definitions of Terms. The following words and terms, used with specific intent throughout this rule and 1 CSR 20-5.020 or in their administration, are defined for clarity:

(A) Annual leave is a form of compensation authorized by the state and paid to an eligible employee by means of paid time off from work, under the conditions set forth in 1 CSR 20-5.020(1);

(B) Annual leave accrual is the accumulation of hours of paid time off as a form of compensation earned by the employee. Eligibility to earn and accrue annual leave as a form of compensation is limited to a maximum number of hours stipulated by law and set forth in 1 CSR 20-5.020(1);

(C) Sick leave is a benefit granted by the state to the employee in the form of paid time off from work due to illness, under the conditions set forth in 1 CSR 20-5.020(2) or for Personal Wellness Leave as set forth in 1 CSR 20-5.020(2);

(D) Sick leave accrual is the accumulation of hours of eligibility for paid time off from work conferred upon an eligible employee as a benefit by the state for specific purposes and under specific conditions that are set forth in 1 CSR 20-5.020(2);

(E) Personal Wellness Leave is the ability of an employee to use up to one (1) hour of accrued sick leave per month for personal wellness under specific conditions that are set forth in 1 CSR 20-5.020(2)(O);

(F) Paid time off from work authorized by the state and conferred upon the employee by the appointing authority and solely at the discretion of the appointing authority for the purpose deemed appropriate and in the best interest of the state may be called administrative leave; and

(G) A semi-monthly pay period or semi-month is that period of approximately one-half (1/2) of a calendar month established by the Office of Administration as the pay cycle for state employees.

(3) For the purposes of leaves of absence as set out in 1 CSR 20-5.020, state service time will be defined as—

(A) The total length of time of employment in any department, division, or agency of state government that is covered by the provisions of section 36.350, RSMo, and under the conditions set forth in 1 CSR 20-5.020;

(B) Time of state paid employment in the Offices of the Governor, Lieutenant Governor, Secretary of State, State Auditor, Treasurer, Attorney General, Houses of the Missouri State Legislature, the Missouri State Judiciary, Missouri State Courts Administrator, Missouri Consolidated Health Care Plan, and Missouri State Employees' Retirement System, will be recognized and accepted as time of state service for the purposes of eligibility for and accrual of paid leaves of absences; and

(C) Employment with other state funded public entities when these entities have been accepted for coverage under the provi-

sions of 1 CSR 20-5.015(3)(B).

(4) For the purposes of leaves of absence as set out in 1 CSR 20-5.020, an eligible employee shall be defined as—

(A) Any employee of the state of Missouri covered by the provisions of section 36.350, RSMo; and

(B) Any state paid employee of elected state officials, specifically employees of the Offices of the Governor, Lieutenant Governor, Secretary of State, State Auditor, Treasurer, Attorney General, Houses of the Missouri State Legislature, the Missouri State Judiciary, Missouri State Courts Administrator, Missouri Consolidated Health Care Plan, Missouri State Employees' Retirement System and other state funded public entities, shall be considered eligible employees under 1 CSR 20-5.020 upon submission of written certification of adherence to the provisions of 1 CSR 20-5.020 and acceptance by the Personnel Advisory Board of the public entity for coverage under the rule.

(5) Records. Pursuant to section 36.420, RSMo, the records of the Personnel Division, except examinations, service reports, personal histories, and other records that are or may be closed pursuant to Chapter 610, RSMo, shall be public records and shall be open to public inspection, during regular office hours at reasonable times and in accordance with procedures as the board may prescribe.

*AUTHORITY: section 36.070, RSMo Supp. [1998] 2018. Original rule filed July 9, 1947, effective July 19, 1947. For intervening history, please consult the **Code of State Regulations**. Emergency amendment filed Aug. 17, 2018, effective Aug. 28, 2018, expires Feb. 28, 2019. An emergency amendment covering this same material will be published in the October 1, 2018, issue of the **Missouri Register**. A proposed amendment covering this same material will be filed at a later date to be published in the **Missouri Register**.*