

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 20-1.045 [Uniform Classification and Pay] Covered Service. The board is amending the rule title, purpose, and section (1) and deleting sections (2) and (3).

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

PURPOSE: This rule defines the covered [and exempt] service of the state under coverage of the uniform classification and pay provisions of the State Personnel Law contained in section 36.031, RSMo.

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) *[The Covered Service.]* The covered service shall consist of, and the uniform classification and pay provisions of the State Personnel Law and these rules shall apply to, all offices, positions, and employees of those departments and agencies of the executive branch of state government, *including attorneys, except for the elective offices, institutions of higher learning, the Department of Highways and Transportation, the Department of Conservation, those positions in the Missouri State Highway Patrol, the compensation of which is established by sections 43.070 and 43.080, RSMo, those positions for which the Missouri Constitution specifically provides the method of selection, classification or compensation, and employees within these agencies as are specifically exempted from the uniform classification and pay provisions of the law (see section 36.031, RSMo)] as specified in Chapter 36, RSMo.*

[(2) The Exempt Service. The following offices and positions in the agencies covered by the uniform classification and pay provisions of the law comprise the exempt service and are exempt from the operations of the law and of these rules and may be established without regard to those provisions which relate to the allocation and compensation of positions in those agencies:

(A) Within each department established by law, the departmental director, and five (5) principal assistants designated by the departmental director;

(B) Within each division of service, the division director, and three (3) principal assistants designated by the division director;

(C) Deputy(ies) or other policy-making assistants to the exempt department director or division director as warranted by the size and complexity of the organization and as approved by the Personnel Advisory Board. Appointing authorities shall submit to the board a written request for each exempt deputy or other policy-making assistant position describing the size and complexity of the organization, the reasons for requesting the exempt position and the relationship of the proposed position to other administrative positions in the agency both covered and exempt;

(D) The administrative head of each state medical, penal and correctional institution, as warranted by the size and complexity of the organization and as approved by the board in the same manner and under the same conditions as provided for exempt deputies and other policy-making assistants;

(E) Members of boards and commissions and one (1) principal assistant for each board or commission when the members are appointed by the governor or by a director of a department of the executive branch of government;

(F) Chaplains and attorneys regularly employed or appointed in any department or division subject to this law, except as provided in section 36.031, RSMo;

(G) Patients or inmates in state institutions who also may be employees of those institutions;

(H) Persons employed in an internship capacity in a state agency or institution as a part of their formal training at a college, university, business, trade, or technical school, except that by appropriate resolution of the governing authorities of any such agency or institution, the Division of Personnel may be called upon to assist in selecting persons to be appointed to these internship positions;

(I) Persons employed in work assignments with a geographic location principally outside the state of Missouri;

(J) Special assistants as designated by an appointing authority, except that the number of such special assistants shall not exceed one percent (1%) of a department's total authorized full-time equivalent work force. The number of special assistants allowed in each department will be determined at the beginning of each fiscal year based on the department's budget as authorized in the previous legislative session, and the authorized number of special assistants shall apply throughout the fiscal year, unless an appointing authority requests a special review during the year because of a significant change in a department's authorized work force; and

(K) Other persons whose employment is such that standard classification and compensation practices are not practical under all circumstances as determined by the director. The circumstances which justify this determination shall include the following:

1. Cooperative education programs with secondary schools involving part-time employment of students;

2. Positions involving short-term, part-time or intermittent work schedules which do not exceed the equivalent of one-half (1/2) time in a year, except that this rule will not be used to retain permanent, or continuing employees, or both, in a division of service;

3. New positions for which allocation to an existing class is not practicable when those positions must be filled pending a review of the duties involved and preparation of a class specification for approval by the board;

4. Interns, trainees and participants in special state or federal training, rehabilitation or employment programs providing that the objectives of these programs are best served

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by allocation procedures other than those based on uniform classification and pay; or

5. Situations in which the special needs of the uniform classification and pay service cannot be met by the allocation procedures provided in these rules or by allocation through the uniform classification and pay process.

(3) *Implementation.* The personnel director shall conduct job studies and position reviews and establish new and revised job classes as are necessary for appropriate assignment of positions to the covered and exempt services. Upon completion of the job studies and related tasks necessary to integrate an agency into the classification plan administered by the Personnel Advisory Board and Division of Personnel, that agency shall be subject to the rules governing the classification plan as contained in 1 CSR 20-2.010. Following the integration of an agency into the classification plan, compensation of employees within that agency may not exceed the maximum step of the pay range for the class to which their individual position is assigned, except that any employee whose salary exceeds the established maximum at that time will be subject to the provisions of 1 CSR 20-2.020(4)(D)6. The full pay plan provisions contained in 1 CSR 20-2.020 shall be made applicable to the agency when the funds necessary to adjust employees to steps within the assigned pay ranges have been appropriated and made available.]

AUTHORITY: sections 36.031 and 36.070, RSMo Supp. [1995] 2018. Original rule filed Feb. 25, 1992, effective Aug. 6, 1992. Amended: Filed May 15, 1996, effective Nov. 30, 1996. 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**.