

Oregon State Governments Human Resources Reference Guide

PREPARED BY THE DEPARTMENT OF ADMINISTRATION SERVICES
CHIEF HUMAN RESOURCES OFFICE



Contents

Introduction	3
Disclaimer.....	3
Compliance with State and Federal Legal Requirements	4
Accommodation of Religious Practices.....	4
Affirmative Action Plan	5
ADA and Reasonable Accommodations.....	5
Family and Medical Leave	8
On-The-Job Incidents and Workers' Compensation	12
Modified Work	13
Worker Protection	14
Employee Orientation.....	15
Statewide Online New Employee Orientation Training.....	15
Orientation Resources and Information	16
Human Resources Records	19
Personnel File.....	19
EEO Self-Identification Forms	20
Employment Eligibility Forms	20
Training Records.....	21
Medical Records.....	21
Worker Compensation Records	22
Supervisor Working File	23
Recruitment & Interviewing Records.....	23
Grievance and Investigation Information	23
Position History and Description.....	23
Performance Management.....	25
Setting Performance Expectations.....	25
Feedback	27
Coaching.....	28
Performance Evaluation Guidelines.....	29
Discipline.....	31
Causes for Discipline for Unrepresented Employees.....	33
Disciplinary Standards.....	34



Garrity Rights 35

Human Resources in a Union Environment 35

Investigatory Meetings 36

Just Cause Standard for Represented Employees 37

Loudermill Rights 39

Special Status of Union Stewards..... 39

Trial Service 40

Weingarten Rights..... 40

Position Management and More 42

 Categories of Service..... 42

 Class Studies and Reallocations 44

 Classifying a Position 44

 Desk Audits..... 45

 Direct Appointments..... 47

 Duties 47

 Employing PERS Retirees 48

 Employing Temporary Employees 49

 FLSA Designation..... 49

 Create, Budget, and Utilize Positions..... 49

 Position and Personnel Database 56

 Reclassifying a Position 57

 Salary, Classification, and Compensation 59

 Underfilling, Overfilling, Crossfilling, and Doublefilling Positions..... 60

 Responding to Complaints 61

Recruitment and Selection..... 62

 What to Do When an Employee Leaves..... 63



INTRODUCTION

Welcome to the Human Resource (HR) Reference Guide. This guide was designed with you, the HR professional in mind. As you explore the site you will discover a compilation of basic HR procedures, information and resources right at your fingertips. This convenient guide is readily available and easily accessible. We trust that you will find it a valuable tool and hope that you visit often.

Questions or Suggestions?

Contact the CHRO Policy Unit at chro.policy@oregon.gov.

DISCLAIMER

Although this guide is intended to be a useful tool, it does not and cannot override federal and state law, administrative rules, and collective bargaining agreements. Further, this guide is not a substitute for on-going agency or professional organization training. While the intent is to periodically update the material to comply with applicable laws, rules, policies and bargaining agreements, it is incumbent upon the user to use the current and effective laws, rules, policies and agreements. Where in conflict, the applicable law, rule, policy or bargaining agreement provision takes precedence over information contained in the reference guide.



COMPLIANCE WITH STATE AND FEDERAL LEGAL REQUIREMENTS

An agency Human Resource (HR) section is responsible for an agency's compliance with federal and state requirements regarding employees. There are compliance requirements embedded in much of the work HR performs such as performance management, filing and retention schedules, hiring practices, creating an affirmative action plan, collecting employment verification information, and applying legal protections for absences.

An agency's compliance with [State HR Policy](#) such as those listed below will ensure the agency adheres to several laws:

- Reinstatement and Reemployment of Injured Workers (50-020-03)
- Early Return to Work of Injured Workers (50-020-05)
- Military Leave (60-020-05)
- Statutorily Required Leaves with and without Pay (60-000-12)
- Discrimination and Harassment Free Workplace (50-010-01)

ACCOMMODATION OF RELIGIOUS PRACTICES

Under the Oregon Workplace Religious Freedom Act (ORS 659A.033), an employee may request time off from work to participate in religious holidays or holy days using appropriate paid leave (vacation leave, personal business leave or compensatory time). The agency must evaluate the request based on business need and adequate coverage and the employee's availability of leave.

An agency is required to allow an employee to use vacation leave or other appropriate paid leave available for the purpose of allowing an employee to engage in the religious observance or practices. If the accommodation creates an undue hardship on the operation of the agency up to creating significant difficulty or expense to the agency.

The agency violates ORS 659A.030 if the agency imposes an occupational requirement that restricts the ability of an employee to wear religious clothing, or to take time off for a holy day or participate in a religious observance or practice when the employee has appropriate paid leave available.

Relevant Oregon laws and rules

- [ORS 659A.030](#) Law prohibiting discrimination because of race, color, religion, sex, sexual orientation, national origin, marital status or age [ORS 659A.033](#) Law describing violation of ORS 659A.030 by denying religious leave or prohibiting certain religious observances or practices; determination of reasonable accommodation
- [OAR 839-005-0140](#) Rule on accommodation of religious practices

Bureau of Labor and Industries provide technical assistance on this issue in the form of [questions and answers](#). You may also contact the Bureau of Labor and Industries, Technical Assistance for Employers at 971-673-0824 or the Department of Justice General Council at 503-947-4600.



AFFIRMATIVE ACTION PLAN

Each agency is required to have a current Affirmative Action Plan. The purpose of an Affirmative Action Plan is to identify state agency goals and statistics on employment and retention of employees by race, religion, national origin, age, sex, marital status and disability. The Governor's Office develops the standards for agency affirmative action plans. Generally, the agency HR section plays an integral part in compiling necessary statistics and drafting the agency's plan.

The plan contains each agency's best practice for promoting, achieving and valuing workforce diversity at the core of their business structure.

Agencies periodically review their plans to determine achievement of goals and to make strategy adjustments as necessary.

Agencies post their Affirmative Action Plans on their agency website in order to share their leadership strategies for achieving a diverse workforce. Agencies will have different leadership styles but all plans should be diverse and based on the ability to connect with, influence and inspire others to action.

Relevant Oregon Revised Statutes (ORS) are as follows:

- [ORS 243.305](#) Policy of Affirmative Action and Fair and Equal Employment Opportunities and Advancement
- [ORS Chapter 659A.012](#) Unlawful Discrimination in Employment, Public Accommodation and Real Property Transactions; Administrative and State Agencies to Carry Out Policy Against Discrimination in Employment; Evaluation of Supervisors; Affirmative Action Reports
- [ORS Chapter 659A.015](#) Affirmative Action Reports to Include Information on Contracts to Minority Businesses For more information, read the Affirmative Action Plan Guidelines and the Governor's Equity Office website.

ADA AND REASONABLE ACCOMMODATIONS

An agency Human Resource (HR) section must understand the obligations of the agency to its employees and applicants under the Americans with Disabilities Act (ADA). Compliance with the ADA is required. When a request is made for accommodation, HR should take a leadership role in helping the agency explore options with the employee or applicant. Because of the potential for legal action by employees or applicants, agencies should contact DOJ Labor and Employment Section for advice. You can also reference additional information in the State HR [ADA and Reasonable Accommodation in Employment Policy](#) 50-020-10 or the [ADA Toolkit](#).

Title I of the ADA

Title I of the Americans with Disabilities Act, better known as the ADA, prohibits discrimination against employees and applicants with disabilities who with or without reasonable accommodation can perform the essential functions of the jobs they hold or seek.



Reasonable Accommodations

The agency must make reasonable accommodations for known physical or mental limitations of a qualified applicant or employee with a disability unless the agency can show the accommodation would be an undue hardship or fundamental alteration of the employment or business. Agencies must review requests for accommodation and determine if the request is reasonable and can be offered or if the agency is unable to honor the request. Options for offering an alternative accommodation can be considered. Agencies may contact the DOJ Labor and Employment Section for assistance at 503-947-4600.

Definition of a Disability

- A person with a physical or mental impairment that substantially limits one or more major life activities.
 - “Substantially” means in comparison with the general population.
 - There is no specific list of major life activities, but examples are: seeing, hearing, walking, speaking, sleeping, interacting with others, working, caring for oneself and thinking.
- A person with a record of such a physical or mental impairment.
 - This also includes people who have been incorrectly classified as having a substantially limiting impairment (e.g., being incorrectly classified as having mental retardation when the person was deaf).
- A person who is regarded as having such an impairment.
 - Someone who does not have an impairment, but the employer considers the person to be impaired.
- A qualified individual with a disability.
 - A person with a disability who, with or without reasonable accommodation, can perform the essential functions of a job.

Undue Hardship

Undue hardship means:

- An action requiring significant difficulty or expense (Since the state is considered one employer, this may not be a viable reason to deny accommodation. Contact DOJ for more information at 503-947-4600.)
- An action that is extensive, substantial, disruptive or that would fundamentally alter the nature of employment.
- Disruptions to employees or customers that are the result of fears or prejudices toward an individual’s disability are not considerations for determining “undue hardship.”

Notification

The agency posts a notification poster in an accessible area that provides notice to employees that the agency provides reasonable accommodations. The State of Oregon includes this notification on most recruitment announcements.

When Accommodation is Needed

The agency will know when an accommodation is needed when the employee or someone on behalf of the employee, asks for assistance on the job. The request may be made verbally or in writing. The person making the request does not have to use the words “reasonable accommodation.” An employee, or job applicant, may make the need for accommodation known whenever it is needed.



Time Requirement

The agency must respond to a request for accommodation “in a timely manner.” Court cases show that even waiting as long as two months can be too long to wait, depending on the circumstances. The Equal Employment Opportunity Commission (EEOC) considers “an accommodation delayed is an accommodation denied.”

Interactive Process

The law requires the agency and the requesting employee to engage in an interactive process to determine the appropriate accommodation. The interactive process is an informal discussion.

During the interactive process, the manager reviews the purpose and essential functions of the job with the employee. Current position descriptions are necessary to determine the essential functions of a job. The employee can help determine exactly what limitations the disability causes for each essential job function and how an accommodation could overcome the limitations. With the employee, identify potential accommodations and assess the effectiveness of each. Document the date, general discussion points and decisions from the meeting. Complete any necessary research and document the accommodation request and response.

If the accommodation is not effective, or at some future time becomes ineffective, again consult with the person requesting accommodation to determine whether another accommodation is possible. Contact the DOJ Labor and Employment Section at 503-947-4600 if you need assistance in determining the most appropriate accommodation to offer the employee, or if an accommodation would be unreasonable and a hardship to your agency.

Requesting Documentation

When the need for an accommodation is not obvious, you may require documentation from a licensed professional. The documentation must specify the following:

- The person has a disability with functional limitations (not necessarily state the diagnosis)
- What those exact limitations are (for example, cannot lift over 20 pounds)
- Link those limitations to the job requirement.
- The licensed professional should specify the accommodations that are needed in so far as is possible, but is not expected to know exactly what may work.

If you question the documentation, you have a right to obtain a second opinion. You may send the employee to an appropriate professional of the agency’s choosing, at the agency’s expense. It is recommended that you contact the DOJ Labor and Employment Section at 503-947-4600 prior to taking this action.

Examples of Accommodation

Keep in mind that the ADA discusses minimum standards, but nothing in the ADA prevents an employer from granting or providing more generous accommodations. Listed below are examples of accommodations:

- Job restructuring, such as reallocating or redistributing marginal job functions that an employee is unable to do because of a disability, or altering when or how a function (essential or marginal) is performed. Note: an employer never has to reallocate essential functions as a reasonable accommodation. The restructuring cannot negatively impact coworker’s positions



- Making facilities accessible, following ADA Accessibility Guidelines, up to the point of undue hardship
- Flexible or modified work schedules
- Acquiring or modifying equipment or devices
- Modifying workplace policies
- Hiring readers, interpreters or assistants
- Telecommuting
- Flexible leave to attend appointments or have prosthetic devices repaired
- Additional leave.

What is Not Reasonable

If requested as an accommodation, the employer is not required to provide an employee with a new supervisor. If needed, supervisory methods may change to accommodate an employee. It is neither reasonable nor required for an employer to lower production standards. It is not reasonable to remove essential functions of the employee's job.

Employee Acceptance

An employer cannot force an employee with a disability to accept an accommodation. However, if the employee does not accept an accommodation, this may mean that the employee is not considered qualified to perform the essential functions of the job.

Identifying Accommodations

For ideas on ways to provide accommodations, contact the [Job Accommodation Network](#).

Read more on the Federal Government disability website for employment related [ADA](#).

FAMILY AND MEDICAL LEAVE

The Federal Family and Medical Leave Act (FMLA) and Oregon Family and Medical Leave Act (OFLA) are federal and state laws that allow an employee time off from work to tend to their own serious health condition, the serious health condition of a family member and for parental and sick child leave.

Federal and state law determine if an employee is eligible for FMLA and OFLA leave, the reasons an employee may take this type of leave, and how much leave an employee is allowed. FMLA and OFLA leave are protected time off. This means an employee generally has a right to their job or another job when they return from their leave.

An agency Human Resource (HR) section must administer the agency's Family and Medical Leave program in accordance with the federal [Family and Medical Leave Act of 1993](#), [State Law ORS 659A.150 through .186](#), [State HR Policy](#) Family and Medical Leave (60-000-15) and any applicable [Collective Bargaining Agreement](#) (CBA).

**Application of FMLA and OFLA is not optional.
It is the law, not a choice.**



An agency must be aware of employee eligibility requirements, what conditions qualify as FMLA and OFLA, what does and does not qualify as a serious health condition, and how much leave the employee may use.

FMLA and OFLA Eligibility Side-By-Side Comparison

Employees Eligible for FMLA	Employees Eligible for OFLA
Employee must have worked for the State of Oregon for a total of at least 12 months (not necessarily consecutive); and	Employee must have worked for the State of Oregon for a period of 180 calendar days immediately preceding the date leave begins; and
Employee must have worked for at least 1250 hours during the 12 month period immediately preceding the leave.	Employee must have worked an average of 25 hours per week during the 180-day period, unless the leave is to care for a newborn child or newly placed adopted or foster child (parental leave)

FMLA and OFLA Qualifying Reasons Side-By-Side Comparison

FMLA Qualifying Circumstances	OFLA Qualifying Circumstances
Employee's own serious health condition, including pregnancy related conditions	Employee's own serious health condition, including pregnancy related conditions
Serious health condition of employee's family member: <ol style="list-style-type: none"> 1. Spouse 2. Parent 3. Biological, adopted, step, or foster child age 17 or under or incapable of self-care 	Serious health condition of employee's family member: <ol style="list-style-type: none"> 1. Spouse 2. Parent 3. Biological, adopted, step, or foster child of any age 4. Parent-in-law 5. Same sex domestic partner 6. Parent of same sex domestic partner 7. Child of same sex domestic partner 8. Grandparent 9. Grandchild
Newborn, newly adopted or newly placed foster child (parental leave)	Newborn, newly adopted or newly placed foster child (parental leave)
Injured or ill service member who is the employee's: <ol style="list-style-type: none"> 1. Spouse 2. Parent 3. Biological, adopted, step or foster child (no age limit) 4. Next of kin 	Non-serious health condition of a child requiring home care (sick child leave) for a child 17 years of age or younger or incapable of self-care



Length of FMLA and OFLA Side-By-Side Comparison

<p align="center">FMLA Amount of Leave</p>	<p align="center">OFLA Amount of Leave</p>
<p align="center">Up to 12 weeks per leave year</p>	<p align="center">Up to 12 weeks per leave year</p>
<p align="center">Exception: Up to 26 weeks to care for an injured or ill covered service member (includes the 12 weeks listed above)</p>	<p align="center">Exception #1: A female who takes any amount of OFLA leave for a pregnancy related disability (including routine pre-natal care) may take up to an additional 12 weeks in the same leave year for any OFLA-qualifying purpose</p> <p align="center">Exception #2: An employee who uses 12 weeks of parental leave may take another 12 weeks for sick child leave, if otherwise eligible.</p>

Other Documentation

The [Family and Medical Leave](#) policy attachments and toolkits are designed to assist agencies in understanding and applying FMLA and OFLA.

The policy attachments are:

- PD Medical Certification PD 615A
- PD Military Healthcare Certification PD 615B
- PD Qualifying Exigency Certification PD 615C
- PEBB Benefit Matrix
- US DOL, Employee Rights Under the Family and Medical Leave Act

The toolkit contains:

- Calculating FMLA and OFLA worksheet
- Employee Information Packet A – Serious Health, Parental Leave, etc.
- Employee Information Packet B – Military Caregiver
- Employee Information Packet C – Qualifying Exigency and Military Family Leave
- FMLA Brochure
- OSPA Reference Manual
- Sample Cure Deficiency Medical Certification Letter
- Sample Designation Letter
- Sample Eligibility Denial Letter
- Sample Eligibility Response
- Sample Fitness for Duty Certification
- Template Insurance Self-pay Letter
- Understanding Family and Medical Leave Brochure



For questions about State HR Policy 60.000.15 Family and Medical Leave and general practice, contact [Human Resource Management Consultation](#).

The Bureau of Labor and Industries (BOLI) [Frequently Asked Questions](#) (FAQ) provides more information about Family leave and Military Leave.



ON-THE-JOB INCIDENTS AND WORKERS' COMPENSATION

The following information explains what an agency should do in the event of an injury, how to manage a workers' compensation claim, and the requirements of returning an injured employee to work. Human Resources (HR) is there to ensure the employee is not lost in the process. Read more information about [Risk Management](#) and Workers' Compensation. For questions, contact [DAS Risk Management](#).

The State Accident Insurance Fund (SAIF) Corporation is Oregon's not-for-profit, state-chartered workers' compensation insurance company. The DAS Risk Management Unit works closely with [SAIF](#) and the agency when an employee is injured.

If there has been an on-the-job incident, the agency should inform the employee that if medical treatment is obtained, a claim Form 801 must be filed with SAIF. (Either a SAIF or OR-OSHA Form 801 can be used.) The "SAIF Report of Injury and Illnesses," Form 801 and instructions can be downloaded from the [website](#).

The agency documents applicable injuries and illnesses on the worksite's OSHA Form 300 Log of Work-Related Injuries and Illnesses. At the end of the year an OSHA Form 300A Summary of Work-Related Injuries and Illnesses is used to summarize the annual listing of injuries and illnesses recorded on the OSHA 300 log. The OSHA Form 300 and Form 300A can be downloaded at the OSHA website under [Recordkeeping Forms](#).

If the employee reports an on-the-job injury or illness, the agency:

1. Ensures appropriate medical care is provided
2. Secures the scene of the accident to preserve key evidence. Takes photographs if the area needs to be put back in order quickly
3. Interviews witnesses to the accident and those involved in the accident. Delays interviews if the employee is seriously injured
4. Analyzes the information to determine the cause of the accident and how to prevent recurrence
5. Completes required reports
6. Takes corrective action to eliminate or abate the hazard.

It is important to have a clear reporting requirement:

1. Have a documented process for employees to report incidents
2. If an employee is injured, have the employee complete the required paperwork as soon as possible (Form 801 as a minimum)
3. Employees must notify the agency immediately of an accident resulting in injury. If the injured worker does not file, the agency should contact SAIF to determine if a claim must be filed. Agencies complete only the employer's portion of the form. Any Form 801 that bears an employee signature is a claim and must be filed with SAIF
4. When the employee of an on-the-job injury or illness requiring medical treatment notifies the agency of the incident, notify SAIF promptly by submitting a Form 801. If an employee is unavailable to complete the employee portion of the form, the agency submits the incomplete Form 801 to SAIF.



Notification guidelines for employees to file a claim:

1. The claim must be in writing
2. The claim must describe when, how and where the injury occurred (Form 801 is the most commonly used form for filing a claim for state workers)
3. The claim must be made by the employee or by someone on the employee's behalf within 90 days of the accident
4. Claim notice may be provided within one year of the accident if the agency had knowledge of the injury, or the agency had knowledge of the incident within 180 days of the incident or the employee's death.
5. The employee must notify OR-OSHA when it is not possible to notify the agency
6. For occupational disease, the employee must notify the agency within one year of
 1. discovering the disease
 2. being notified by a physician of the disease
7. Upon discovering the cause of death was an occupational disease, the worker's beneficiary must notify the agency within one year.

MODIFIED WORK

An agency accepts all employee reports of injuries and limitations. Contact the agency's designated workers' compensation specialist or SAIF's Return-to-Work consultant to discuss the possibilities of modified work for the employee. It is in the best interest of agency and employee to offer modified duty if necessary, until a compensability decision is made to set the employee on the path of recovery and return to full duty. DAS Risk Management is consulted when a:

1. Claim becomes complex
2. Claim is for a fatality
3. Claim involves substantial cost incurrence or claim reserves
4. Denial of a claim may be litigated. If the denial is over-turned, back benefits may be due.

When an employee is released to perform regular, modified or transitional work, the best practices are:

1. To receive a work status note or SAIF's Release to Return to Work after each visit with the medical practitioner
2. To complete and submit to the medical practitioner for approval, a modified duty work plan or SAIF's Release to Return to Work Job Description form prior to assigning duties to an injured worker
3. To have a work release from the medical practitioner that includes work restrictions, limitations, or abilities to ensure the employee can safely perform the duties that the agency would like to assign (a treating physician's prescription pad release is not advised due to its minimal information about work restrictions or limitations)
4. To review any applicable CBA or policy for return to work provisions related to workers' compensation.



WORKER PROTECTION

Injured workers have specific protections against discrimination and rights to continued employment. The agency may not discriminate or retaliate against an employee because they filed a claim.

Claim denials do not mean the employee does not have the injury or health condition. The agency must address the health condition on its merits and use the appropriate leave policy. Most on-the-job injuries do not result in disability. Absence due to an on-the-job injury may qualify for Family and Medical Leave.

The agency must comply with [Reinstatement and Reemployment of Injured Workers](#) 50-020-03 and [Early Return to Work of Injured Workers](#) 50-020-05.

During the entirety of the claim, the agency maintains contact with their designated SAIF Workers' Compensation Claim Specialist. Consult DAS Risk Management on complex claims that, for instance, involve severe injuries or illnesses, will be costly, or may involve legal proceedings. Send copies of all treating physician's notes directly to SAIF.



EMPLOYEE ORIENTATION

A critical part of the hiring process is the employee's orientation to the State of Oregon, the agency and the worksite. The following information can be used as a guide for agency Human Resources (HR) in developing their agency's employee orientation.

Planning for a new employee, preparing and presenting information to an employee are a critical part of the hiring process. The orientation establishes expectations and sets the foundation for the work that the employee is hired to do. Equally important is helping the new employee feel welcome at the worksite.

When planning the employee orientation, remember the deadlines involved for documentation, such as completing the I-9 Employment Verification within three business days of hire. The agency also needs to allow the employee time to use a computer with internet access. Much of the orientation information is web based, allowing an employee with a work computer to complete certain documents or access information on line. The employee may need computer access later, to select their Public Employees Benefit Board (PEBB) plan options.

In the event an employee's work location makes it difficult to provide internet access, the agency makes copies of the orientation materials to provide to the employee.

The orientation is divided into three parts: preparation, presentation and filing.

Preparation: Proper introduction to the agency and its work creates a positive impression. Planning the orientation in advance helps the orientation go smoothly and the new employee feel welcome.

Presentation: The orientation materials are presented in different formats: face-to-face with the supervisor or Human Resources, reading materials about the agency and completing forms. The employee needs computer access for any web-based information or documentation.

Filing: When the orientation is complete, documents need to be filed appropriately. Know where to file documents and when to make copies. Provide the employee a copy of the signed orientation. Provide copies of other documents at the employee's request.

STATEWIDE ONLINE NEW EMPLOYEE ORIENTATION TRAINING

A statewide online new employee orientation curriculum was developed to welcome all new employees to state service and to provide them with general information about state government, working in state government, and key statewide policies that may affect them during state employment. The curriculum consists of two main modules with additional modules for policy review. At a high level, the content covers the following topics:

- The three branches of government;
- How a bill becomes a law;
- The law structure in Oregon;
- Overview of the budgeting process; and



- An overview of the four categories of service in state government; collective bargaining agreements; trial service; payday; leave; health benefits; training; retirement; and the employee assistance program.

The curriculum is available in [iLearnOregon](#).

ORIENTATION RESOURCES AND INFORMATION

The following items are commonly used in an employee orientation. These are web based resources that can be printed or accessed on-line. Because changes occur in federal and state law, and rules, policies and Collective Bargaining Agreements, it is not advisable to keep copies of website information for future use. Downloading forms at frequent intervals is recommended. Some of this information can be provided to employees via a website address while other information must be completed by the employee on a printed copy.

Most resource information for an employee orientation with Oregon state government can be located on-line, in agency policy and procedures, and in supervisor or agency expectations.

Forms and Resources

Below is a listing of forms and resources for new employees with links to access them.

- [Employment Eligibility Verification Form](#) (I-9)
- [Employee's Withholding Allowance Certificate](#) (W-4)
- [Employee Emergency Contact Information Record](#)
- [EEO Self-Identification Form](#)
- [Health Insurance Enrollment Information](#) (PEBB)
- [Public Employees Retirement System and Oregon Public Service Retirement Plan](#) (PERS)
- [Oregon Savings and Growth Plan](#) (PERS)
- [Oregon College Savings Plan](#)
- [Payroll Forms and Information](#)
- [Employee Assistance Program \(EAP\)](#)
- [State Parking and Commuting Program](#)
- [Collective Bargaining Agreements \(CBA's\)](#)
- [State HR Policies](#)
- [Position Description Template](#)
- [Oregon Revised Statute 240](#)
- [Oregon Administrative Rules](#) (OAR's)
- [Categories of Service](#) ORS 240.195



- [Statewide Policies](#)
- [Employee Development Resources](#)
- [iLearnOregon](#) (the State's training and development system)
- [Online New Employee Orientation Training](#)
- [Domestic Violence, Sexual Assault, and Stalking](#) (Required Training for All Managers and HR)

Agencies will provide the following for new employees.

- Employee Time Sheet
- Union Dues and Fair Share – Contact the appropriate union or agency Payroll, if applicable
- Meeting with Union Representative (if CBA requires)
- Tour of Agency
- Agency or Unit Expectations
- Orientation to Unit and Workspace
- Agency Mentor Assignment
- Key Agency Phone Numbers
- Equipment Assignment
- Agency Policies
- Wellness and Safety

It is important for an agency to create a process by which all employees and customers are treated in a manner that recognizes, affirms and values the uniqueness and worth of each individual. The Human Resource (HR) section can be a great asset to agency leadership in establishing good values and practices for helping people feel welcome in the agency.

Here are some ideas to help an agency create and maintain a welcoming environment:

- Ensure the agency is easily identifiable from outside
- Make an employee's first day on the job an event for the work unit. Schedule time for an agency tour and for coworkers to meet and get to know the new employee
- Keep all public and work areas clean, free of clutter and accessible
- Remind employees that some employees and customers may be sensitive to fragrances
- Conduct conversations containing confidential information in an area where they cannot be overheard
- Refrain from gossip in the workplace
- Choose appropriate decorations and décor that reflect and celebrate the agency's employees and customers
- Be careful about assumptions or stereotypes you may have about others
- Train staff to operate a TTY or TTD, if your agency office has one
- Speak directly to the employee or customer, not to the interpreter if one is used
- Treat employees as individuals. Observe and respect employee and customer behaviors such as eye contact, personal space and timing in communication
- Treat all people as individuals
- Be flexible, sensitive, and willing to adapt traditional skills to meet employee and customer needs
- Show respect for all employees and visitors to the worksite



- Use active listening techniques
- Be accessible for questions and concerns
- Smile! This is seen as welcoming to most individuals



HUMAN RESOURCES RECORDS

There are many Human Resource (HR) records that state agencies must maintain. HR ensures these records are in compliance with laws, rules, policies and collective bargaining agreements.

If an agency is notified of a complaint or pending complaint, i.e. BOLI, notice of tort, etc., the agency may be compelled to immediately begin retention of all documentation surrounding the complaint, to include all pertinent electronic documents such as e-mails, memos, etc. of the complainant and similarly situated employees. A consultation with DOJ Labor and Employment Section is recommended.

Records are kept in several different files, depending on statute, policy or Collective Bargaining Agreement (CBA). Appropriate and inappropriate content of personnel files is addressed in State HR Policy Employee Personnel Records (10-011-01).

Purging schedules follow [OAR 166-300-0010—166-300-0045](#) State Agency General Records Retention Schedules. The personnel records schedule is in section 166-300-0040.

Some Collective Bargaining Agreements affect the retention schedule of some documents.

To request a file for an employee who transferred from another agency, go to the File Request Form. Ensure any confidential materials are sent in compliance with DAS State Policy 107-004 [Transporting Information Assets](#) (107-004-100)

PERSONNEL FILE

The official **personnel file** is the official record of each employee that is established and maintained by an appointing authority to include documentation of appointment and each temporary or permanent change in employee status. An employee may view their personnel file with notice to the employer. Each record in the personnel file will have a different purging schedule depending on the type of document. Generally, the personnel file contains the following records:

- First successful (initial application)
- Application for current position
- Personnel actions (PA)
- Performance evaluations
- Summary of record of training
- Oaths of Office
- Letters and notice of disciplinary action
- Notices of layoff
- Documentation of resignation
- Emergency notification form
- Letters of commendation and recommendation
- Employee agreements (such as appointment letters, job rotation agreements, developmental assignments)



- Employee's written explanation or response regarding critical information contained in the file that the employee believes to be incorrect or a misrepresentation of facts.

Many records must be kept by an agency that are not maintained in the employee's personnel file. These records include but are not limited to those listed below.

For other files such as criminal history files, see the applicable statute or rule. Contact DOJ Labor and Employment at 503-947-4600 for retention schedules of complaint or law suit-related files.

EEO SELF-IDENTIFICATION FORMS

The state is subject to certain nondiscrimination and affirmative action recordkeeping and reporting requirements that require the state to invite employees to voluntarily self-identify their race or ethnicity. Refusal to provide it will not subject the employee to adverse treatment. The information is confidential and may only be used in accordance federal law, executive order and regulations, including those that require the information be summarized and reported to the federal government for civil enforcement purposes.

If an employee chooses not to self-identify their race or ethnicity, the federal government requires the state to determine this information by visual survey or by other available information.

The agency Human Resource (HR) section is generally responsible for obtaining and retaining an [EEO Self Identification Form](#) from an employee upon hire. An agency may choose to have a supervisor collect this information. HR should ensure all requirements are met.

EMPLOYMENT ELIGIBILITY FORMS

All employers in the United States are responsible for completion and retention of the Employment Eligibility Verification Form I-9 (Form I-9) for each individual they hire for employment in the United States. This includes citizens and noncitizens. On the form, the employer must verify the employment eligibility and identity documents presented by the employee and record the document information on the Form I-9. The Form I-9 contains the list of acceptable documents.

A Form I-9 must be completed for all employees, board or commission members (if remuneration is received), and state temporary employees. Newly hired employees must complete and sign Section 1 of Form I-9 **no later than the first day of employment**. The agency authorized representative must complete Section 2 by examining evidence of identity and employment authorization **within 3 business days of the employee's first day of employment**. The Agency HR section is responsible for obtaining Form I-9 information from the employee. However, an agency may assign this responsibility to the supervisor, but HR must ensure requirements are met.

In order to keep records readily accessible, all employees must complete a Form I-9 at the time of hire or transfer to another state agency, board or commission.



Temporary agencies such as Qualified Rehabilitation Facilities (QRFs) are required to maintain a Form I-9 on all people they employ and place with the state in a temporary capacity.

An agency must use the correct [Form I-9](#) and follow directions exactly.

Form I-9 must be made available upon request to an authorized official of the US Citizenship and Immigration Services (USCIS), (formerly known as the Bureau of Immigration and Customs Enforcement), the Department of Labor, and the Justice Department's Office of Special Counsel for Unfair Immigration-Related Employment Practices.

The purge date is one year after separation for individuals employed more than three years. If an individual is employed less than three years, the Form I-9 must be kept for three years minimum, including one year after separation.

Do not make copies of the completed Form I-9 or identification.

TRAINING RECORDS

Records of training provided to employees must be maintained. Records may include: schedule and description of classes, attendees, scores, results or evaluations, and training signature sheets. An agency may choose to keep individual training records in the employee's personnel file or in a training file on site. In the event the agency is involved in litigation or other legal matters regarding employees or former employees, an agency may be required to keep the training records of the employee involved and similarly situated employees for an indefinite period of time. Otherwise, follow the [Archives General Records Retention Schedules](#) OAR 166-300-0040.

Many agencies keep their training records in iLearnOregon. iLearnOregon maintains all historical training related activity for users in the form of an electronic transcript. Transcripts can be accessed by the user and respective manager at any time. If an employee transfers to another state agency, their transcript will follow that provides a comprehensive view of the employees training activity throughout state service.

For more information, please visit [iLearnOregon](#).

MEDICAL RECORDS

Types of documents contained in a medical file are: requests for medical leave, Family and Medical Leave; correspondence from the agency (such as approvals, denials, requests for medical certification, etc); information received from medical providers such as medical certifications; communication with medical providers for ADA purposes; and work restrictions and releases. Items for a Workers' Compensation claim are kept in a separate file. If a workers' compensation claim is also qualifying under Federal Family and Medical Leave, copies are kept in both files.

The purging schedule is outlined in [OAR 166-300-0010—166-300-0045](#), State Archives General Records Retention Schedules.



Files containing medical records must be kept in a secure and separate location from personnel records as required by the Americans with Disabilities Act.

WORKER COMPENSATION RECORDS

Once a Workers' Compensation claim is filed it becomes open to review by legal counsel, etc. Any documentation from the Workers' Compensation file that is used to determine Federal Family Medical Leave should be copied and placed in the medical file.

Generally, the workers' compensation file contains the following:

Injury Report (WCD Form 801), including:

- notice of claim acceptance or denial
- determination orders
- medical reports
- notice of closures
- Workers' Compensation Board hearing transcripts
- employer's payroll reports
- claim disposition agreement documents
- Board Orders
- agency investigation reports for claim
- appeal letters
- Vocational Rehabilitation records
- legal documents
- other correspondence

Incident Report, including:

- investigation reports
- completed forms
- related documentation and correspondence
- release(s) to return to work
- job description forms
- job analysis forms
- doctor's notes
- emergency room follow-up forms
- 827 copies
- bonafide job offers

Records pertaining to an actual or potential workers' compensation claim are kept in a file separate from the medical or personnel file.

Follow the Archives General Records Retention Schedules, OAR 166-300-045, for SAIF and Workers' Compensation.



SUPERVISOR WORKING FILE

A supervisor's records may be kept in an optional file maintained at the supervisor's worksite. This file may contain duplicates of items from other files such as the position description and the performance evaluation. It may contain notations of meetings the supervisor has held with the employee or a collection of information used in preparation for the performance evaluation. Form I-9 and EEOC documents are not kept in the supervisor's working file, nor is medical information except Family and Medical Leave notification letters or a brief notation of any current workplace restrictions and dates of expected absence. Generally, an employee may view portions of the supervisor file concerning them, after giving notice. The supervisor file follows the same retention schedule as the personnel file.

RECRUITMENT & INTERVIEWING RECORDS

State HR Policy [Recruitment and Selection Record Retention](#) (40-010-01) outlines the recruitment information that is kept on file and the retention schedule for each document. The Archives General Records Retention Schedules, OAR 166-300-040(19), offers additional information about purging timeframes.

GRIEVANCE AND INVESTIGATION INFORMATION

Investigation files resulting from complaints such as harassment or discrimination, or allegations of violation of law, policy, procedures, supervisor directives, etc., are maintained in a separate file from the personnel and supervisor files. These are situations where discipline could result. Contents of an investigation file usually include the complaint (if applicable), investigatory notes, evidence and the conclusion or response.

Generally, all or part of this file may be discoverable. An agency should consult with the DOJ, Labor and Employment Section, for guidance on releasing investigation notes or the file. The phone number for DOJ is 503-947-4600.

Commonly, investigation documents are purged after 3 years or less per Collective Bargaining Agreement or other formal agreement.

POSITION HISTORY AND DESCRIPTION

Each position has a history that is kept in a separate file from the personnel file. If a position description (PD) is included in the personnel file, it should be a copy.

A position history file generally contains the following:

- establishment of the position
- original position description
- changes to the PD, including new incumbent changes made to the position itself
- organizational charts
- classification specifications
- desk audits



- salary surveys
- classification review reports
- correspondence
- reclassification records that document studies and evaluations of individual positions or classes to determine if reclassification is appropriate

The Archives General Records Retention Schedules of position history documentation is OAR 166-300-0040 (17).

If an employee transfers to another state agency, this file remains at the agency.



PERFORMANCE MANAGEMENT

Employees need guidance and direction throughout employment to be successful. The agency has a responsibility to provide an environment conducive to learning and productivity. Agency Human Resources (HR) guides supervisors in appropriate performance management. Performance management covers a wide variety of actions that range from setting expectations, giving feedback on performance, providing training, to discipline.

The goal for each agency is to have all employees succeed. Success increases when employees know what is expected of them, have the resources to do their jobs, are provided adequate training and are given feedback on their performance. When employees are not successful and are not responding to feedback, training and correction, it may be necessary to take formal corrective action. Collective bargaining agreements, policies, rules and laws govern the corrective steps an agency may utilize when taking action regarding employee performance.

SETTING PERFORMANCE EXPECTATIONS

Expectations are standards for employee performance and behavior that are set by a supervisor, the agency administration, through policy, rule, law or Collective Bargaining Agreement (CBA). The agency Human Resource (HR) section plays an important role in assisting the agency and supervisors in setting and delivering expectations to employees. Expectations have a wide range of value, but the primary goal is employee success.

Because setting and communicating expectations for performance is a critical element of supervision, it is important that HR coach agency supervisors in setting clear expectations. Expectations can be created for an individual, a unit or an agency. Some documents have embedded expectations, such as position descriptions and policies. Other expectations need to be constructed.

It is important to remember two things:

1. People can perform well at work if they have been told what is expected of them.
2. Employees will carry their expectations with them from one job to the next, unless they are told otherwise.

The best time to set expectations is before the employee needs to perform the task or display the desired behavior. Employees do not always know what is expected unless they are told.

When constructing an expectation think about the following elements: what needs to be done (be specific), when it needs to be done, why it needs to be done (importance, value, big picture, relevance to organizational goals), and resources to assist in meeting the expectation.

Communicating Expectations Verbally

Verbal expectations should be as specific and timely as possible, using a what, when and why approach. What is the employee expected to do? When it is expected to be done? Why the employee is expected to do it?



The supervisor can clarify expectations by asking questions, such as: “How do you plan to accomplish these expectations?” and “Is there anything that will prevent you from accomplishing the expectations?” Let the employee know whom to inform should they have trouble meeting the expectations.

When expectations pertain to all employees, they can be presented during a staff meeting or with a small group of employees. Sometimes group expectations will be given individually, such as during an employee's orientation.

Expectations created for an individual employee should be presented to the employee when other employees are not present. Make a note of verbal expectations in the supervisor's working file. Include the date of the meeting and the basic content of the expectations.

A good test that an expectation is understood is the average employee complies with the expectation.

Communicating Expectations in Writing

The following examples are times when written expectations are advisable:

- The employee or the supervisor is new to the job or unit
- The expectations expand on the job description
- Expectations are needed due to the gravity of the situation
- It is a critical or important expectation
- To ensure the expectation is absolutely clear
- To reinforce or emphasize the importance of previously stated verbal expectations
- The employee is not meeting previously stated verbal expectations
- The employee's learning style is visual, not auditory.

Written expectations inform employees about what is expected of them in the workplace; whether it is timelines for accomplishing work, leave use policies, or getting along with coworkers and do not contain admonishment of employee behavior. Written expectations do not threaten future discipline if the employee does not comply. Written expectations are not discipline and normally are not placed in an employee's official personnel file.

Expectations can be typed in memo or letter format and can be bulleted or be in a conversational style.

The supervisor meets with the employee to discuss the expectations, ask if the employee understands, and if anything might prevent the employee from accomplishing the expectations.

A copy of written and dated expectations go in the supervisor's working file. The supervisor may have the employee sign, acknowledging receipt of the expectations.

Delivering Expectations

Carefully determine who delivers the expectations as it may have a positive effect or may have unintended consequences. Generally, expectations are set by a supervisor or agency leadership. If a supervisor sets



expectations for subordinate employees, the supervisor should deliver the expectations. Agency-wide expectations may carry more weight if the agency head or HR delivers the expectations.

FEEDBACK

It is critical that an agency give its employees expectations for successful performance. However, setting expectations is only the first step. The agency Human Resource (HR) section can guide the agency and supervisors in the important task of giving feedback to employees, so the employees know if they are meeting the expectations to the agency's satisfaction.

Giving Positive or Reinforcing Feedback

Employees like to know that they are performing the job accurately and that someone notices. When giving feedback, try the following:

- Have a conversation with the employee about the expectation that was met. The purpose of the conversation is to acknowledge work performance and behavior that needs to continue.
- Positive action or behavior that is being reinforced should be described specifically and timely. If the behavior can be seen or heard, it can be repeated: Rather than saying, "You're doing a good job;" try, "You are doing a good job meeting the deadlines, catching miscalculations and acknowledging others."
- Describe how the employee's behavior contributes positively to the work or workplace. For example, "Your calm reply reduced the chance of conflict."
- Tell the employee that the employee's behavior and the resulting positive impact are appreciated.

While positive or reinforcing feedback is easy to give verbally, it is also helpful to put this type of feedback in writing. Meet with the employee when delivering written feedback. Review the elements of the document and express verbal appreciation for a job well done. A dated copy of the feedback should go into the supervisor's working file to use later at performance appraisal time.

Giving Corrective or Re-directional Feedback

Most employees appreciate being told when they are not meeting expectations or are performing a task incorrectly. How this type of feedback is delivered will make a difference in how it is received. When delivering corrective or re-directional feedback, try the following:

- Be positive and keep an open mind. Set employees up for success. Your goal should be to help the employee meet expectations in the future.
- Be clear with the employee. The purpose of the conversation is to correct and redirect behavior or work performance that must be changed.
- Describe the actions or communication being corrected or redirected. If the behavior can be observed and described, it can be altered. Rather than saying, "I heard you mouthing off to a co-worker," try, "I heard you using profanity and you were using a loud voice."
- Describe how the employee's behavior negatively affects the work or workplace. For example, "We have a commitment to positive communication in our agency. When I hear you tell your co-worker his idea is ridiculous, it seems time to remind you to speak respectfully."
- Ask the employee, "Was there something that prevented you from or caused you to ____?" Listen carefully to the response and the circumstances.
- Clarify previously stated expectations and ask for their understanding of the expectation.



- Ask the employee, “Is there anything that will get in the way of you being able to accomplish the expectation(s)?” Listen closely to the employee’s responses.
- With the employee, brainstorm ways to meet the expectations.
- Let the employee know whom they should tell if they have trouble accomplishing the expectations.
- Help eliminate barriers to performance. Sometimes the barrier, unknowingly, is the supervisor, the agency or HR.

Write a dated note in the supervisor’s working file about the basic content of the meeting.

Though difficult, giving feedback to address poor performance and noncompliance is necessary. A delay in giving this feedback risks the continuance of poor performance.

COACHING

In addition to feedback, another tool you want to use often is coaching. Coaching means different things to different people but it’s generally thought of as a dynamic, collaborative relationship between you – the coach – and the individual being coached. Think of it as a partnership with each member communicating and interacting.

Benefits of Coaching

Here are some of the benefits of coaching:

- **Overcome** costly and time-consuming performance problems.
- **Strengthen** employees’ skills so you can delegate more tasks to them and focus on more important managerial responsibilities—such as planning.
- **Boost** productivity by helping your employees work smarter.
- **Develop** a deep bench of talent who can step into your shoes as you advance in the organization.
- **Improve** retention; employees are more loyal and motivated when their manager takes time to help them improve their skills.
- **Make** more effective use of the organizations resources; coaching costs less than formal training.

When employees are coached, they:

- **Build** valuable skills and knowledge they can use to improve their work and advance in their careers.
- **Feel** supported and encouraged by their manager and the organization.
- **Experience** the pride and satisfaction that comes with conquering new challenges.



Steps for Coaching

Managers should provide coaching for recognition of good work and for performance improvement. Below are steps for providing coaching in both scenarios.

Recognizing Good Work

There are three steps that you will need to take when recognizing good work.

1. Identify the specific behavior.

- Rather than “You did a good job,” use “Your report was exceptionally organized and easy to read.”

2. Describe the impact.

- Describe how the performance/behavior affects customers, team members, etc. “The team was able to synthesize the information and provide immediate information to their customers.”

3. Acknowledge and show appreciation.

- “Thank you”
- “What you did really made a difference.”

Asking the Right Questions When Coaching

Here are some suggested questions that can be used during one-to-one meetings in order to tap into a person's internal drive, while uncovering exactly how you can best coach and manage them:

- What do you want to be doing that you aren't currently doing?
- What areas do you want to strengthen, improve, or develop?
- What is most important to you in your life and career? (What does a successful career or life look like?)
- What are the three most important things you would like to accomplish right now?
- What is your action plan to achieve those goals?
- What do you need that's preventing you from reaching those goals?
- How can I best support you to achieve these goals? (Uncover how each employee wants to be managed and supported.)
- How can I best manage you and hold you accountable for the results you are looking to achieve?
- How can I hold you accountable in a way that will sound supportive and won't come across as negative or micromanaging?
- How do you want me to approach you if you don't follow through with the commitments you make? How do you want me to handle it? What would be a good way to bring this up with you so that you will be open to hearing it?

PERFORMANCE EVALUATION GUIDELINES

Establishing and maintaining an effective performance evaluation system is important to an agency. A critical role of an agency Human Resource (HR) section is to help the agency select or create a useful evaluation system.

Although State HR Policy Performance Management Process (50-035-01) provides a model performance



evaluation form, there is not a standard format for performance evaluation. Regardless of the evaluation tool or format an agency chooses, the evaluation should be honest, fair, respectful and meaningful.

A performance evaluation or appraisal is a method of measuring an employee's adherence to agency performance standards. The evaluation provides an employee with constructive feedback and performance expectations, helps the manager identify and record an employee's strengths and areas for improvement, and sets goals for career development. The performance evaluation should tie into the overall mission and goals of the agency. The formal evaluation period covers one year. Informal evaluation is continuous. Employees on trial service benefit greatly from monthly evaluations.

Some Collective Bargaining Agreements (CBA's) contain specific information about performance evaluations for represented employees.

The following are general guidelines to follow before, during and after writing the performance evaluation.

Before writing the evaluation:

- Use or create some type of evaluation format. If the agency does not have a standard performance evaluation format, a narrative style, a rating scale or a combination of both could be used.
- Consider various categories to evaluate, such as: production, team involvement and participation, meeting competencies of the unit, attendance, punctuality, completing paper work, customer response time, customer satisfaction, etc.
- Obtain information from previous supervisors if the employee had more than one supervisor during the evaluation period.
- Obtain input from the employee about their accomplishments, barriers and goals.
- Gather input from partners or customers if useful.
- Assemble all information into some type of order.

While writing the evaluation:

- Describe behavior as objectively as possible. Avoid judging the behavior or making subjective observations. For example, "Dooley could do better if he put his mind to it," or "Ethel is a really sweet person who means well."
- Avoid the use of common phrases that are vague and imprecise. For example, "people person," "goes above and beyond," or "can't cut the mustard."
- Avoid any reference or inference to any disability the employee may have.
- Avoid words like never and always.
- Avoid any reference to any absences due to illness, worker's compensation, or protected leaves such as Family and Medical Leave.
- Avoid labels such as "good" or "bad" and avoid inflammatory words such as "gross" or "extraordinary." These terms are difficult to defend in court.
- Include both positive areas and areas needing improvement. Give specific examples of good and substandard employee performance, if applicable. Do not discuss other employees in the evaluation.
- Mention any discipline that has been previously addressed with the employee during the reporting period. If an employee has not been informed of the discipline or serious performance issues, the evaluation is not the time to address it for the first time.



- Include a signature line and a statement that indicates the employee's signature means they have read and received a copy of the evaluation.

After the evaluation is written:

- HR should review the performance evaluation and discuss it with the supervisor if necessary. Seek the appointing authority's input.
- The supervisor and the appointing authority must sign the evaluation.
- Schedule a meeting with the employee to discuss the performance evaluation. A performance evaluation is not a disciplinary document and a conference about it is not an investigatory meeting.
- Present a copy of the performance evaluation to the employee. Give the employee time to read the evaluation. Answer any questions the employee may have.
- Have the employee sign the evaluation and provide the employee with a copy.
- Place the signed evaluation in the employee's personnel file.
- Have the employee sign an updated position description at the same time. The supervisor and the appointing authority should sign the position description too.
- If the employee disagrees with the evaluation, allow the employee to provide a written statement to place in the employee's personnel file with the evaluation. Review the written statement provided by the employee to assess it for merit. The agency may change the performance evaluation based on the employee's written statement.

If the employee refuses to sign, write on the signature line, "employee refused to sign." Either initial or sign and date the statement. Have a second manager do the same.

Time Saving Tip

Rather than waiting until performance evaluation time to compile the accomplishments and challenges of an employee for an entire year, drop a quick note into the supervisor working file each time something notable occurs. For those who prefer to keep electronic files, keep a running, electronic performance evaluation. Add a line to the performance evaluation under the appropriate category as the event occurs. The performance evaluation will almost be written when due! A few minutes here and there, saves hours in the long-run.

DISCIPLINE

Discipline is designed to educate or put an employee on notice that the employee must correct a particular behavior. Discipline must be administered with genuine interest in helping the employee correct a performance or behavior problem and ensure it is not repeated.

Discipline in the employment context means imposing a penalty or sanction against an employee for actions or conduct the employer finds inappropriate or deficient. The agency relies on the Human Resource (HR) section to meet all policy, Collective Bargaining Agreement (CBA) and legal obligations. Contact the Human Resource Policy Unit at chro.policy@oregon.gov or the Labor Relations Unit at lru@oregon.gov when contemplating disciplinary action. Contact Department of Justice (DOJ) Labor and Employment Section at 503-947-4600 for legal guidance, when necessary.



Disciplinary action is not used with temporary employees, and generally not with limited duration employees and “at will” employees, such as those in the Unclassified Executive Service.

Progressive discipline means imposing increasingly severe sanctions for repeated infractions, up to and including dismissal.

Depending on the circumstances, formal discipline usually begins with a written reprimand, which generally is the first level of discipline. Repetition of the misconduct usually results in a more severe discipline such as an economic sanction. Further occurrences of a similar nature generally result in increasingly severe penalties and ultimately dismissal.

Before Disciplinary Action

Prior to administering discipline, the agency must meet all obligations to help the employee be successful in the job. Before taking disciplinary action, answer the following questions:

- Has the employee been told what is expected of him or her?
- Were the necessary training, materials and supplies to do the job provided to the employee?
- Was performance feedback given to the employee?
- Is the contemplated discipline suitable for the infraction?
- Were other employees treated the same in similar situations?
- Was a fair and thorough investigation conducted?
- Is the discipline contemplated, timely?

Prior to taking disciplinary action HR or a supervisor generally conducts an investigation into the issues. Represented employees have Weingarten Rights, which is a right to ask for and have union representation while being questioned in an investigation if the employee has a reasonable belief the meeting could result in discipline.

An employee is obligated to answer questions during an investigation. However, an exception to the obligation is if the employee feels he or she might self-incriminate regarding possible criminal activity, the employee may invoke their Garrity Rights and refuse to answer based on the 5th Amendment to the United States (US) Constitution. If the agency continues with questioning it may jeopardize the agency’s ability to pursue criminal prosecution based on information received. Contact DOJ at 503-947-4600 for guidance if an employee invokes their Garrity Rights.

Discipline Procedure

If the decision is made to discipline the employee, another meeting is scheduled with the employee as soon as practicable to deliver the discipline. Presenting a disciplinary document is not an investigatory meeting, so the employee is not entitled to representation when the document is presented.

Meet with the employee and tell them if no discipline will be administered. This meeting informs the employee the investigation is closed so the employee does not wonder or worry about what is happening. The employee is not entitled to representation in this meeting.



When taking disciplinary action, Agency Human Resources provides guidance on adhering to laws, policies and CBA's. Employees have rights that must be upheld and certain standards must be followed. Disciplinary standards will vary depending on the employee's service type and FLSA status.

To discipline represented and unrepresented employees there must be cause. The elements of cause will be different for represented and unrepresented employees.

If an agency is contemplating dismissal of a regular status employee, policy and CBA require that the employee has the right to know the charges and be able to choose to defend him or herself. These are known as Loudermill Rights, which are based on the 5th and 14th Amendments to the US Constitution.

When preparing written discipline, use the appropriate language from the CBA, policy and disciplinary standard.

CAUSES FOR DISCIPLINE FOR UNREPRESENTED EMPLOYEES

Unrepresented employees may be disciplined for "cause." For unrepresented employees the following are causes for discipline as outlined in [ORS 240.555](#).

Misconduct

Conduct an employee knows, or should know, is not proper behavior, such as violation of rules, policies or procedures of the state or the agency or is a violation of general standards of reasonable conduct.

Inefficiency

Failure to produce required results even though the employee is competent to do so such as, failure to meet minimum efficiency standards in the performance of duties.

Incompetence

Absence of ability or qualifications to perform required tasks.

Insubordination

Refusal to obey an order or directive, such as willful or repeated violations of a rule, policy or procedure of the state or the agency, the refusal to perform work assigned or the refusal to comply with written or oral supervisory instructions.

Indolence

Behavior indicating unwillingness to work, such as laziness.

Malfeasance

Conduct showing moral turpitude, such as the commission of an act, which is morally wrong and unlawful.

Other Unfitness to Render Effective Service

Any other employee conduct, quality or condition which tends to obstruct an agency in fulfillment of its mission or that justifies the agency in questioning whether it should continue to employ the employee.



DISCIPLINARY STANDARDS

When taking disciplinary action, Human Resources provides the agency guidance on employee rights that must be upheld and certain standards that must be followed. Depending on an employee's service designation there are different disciplinary standards that are used when administering discipline. Disciplinary standards are not used for temporary or limited duration employees.

Classified Service Employees

Classified Service Employees

For classified represented employees the standard applied is "Just Cause." Additionally, an agency must follow procedures outlined in the appropriate Collective Bargaining Agreement (CBA).

Classified Unrepresented Employees

For classified unrepresented employees the standard applied is "in good faith for cause" specified in [ORS 240.560](#) for one or more of the seven statutory grounds in [ORS 240.555](#): misconduct, malfeasance, indolence, insubordination, incompetency, inefficiency or other unfitness to render effective service. Additionally, an agency must follow State HR Policy Classified Unrepresented Discipline and Dismissal (70-005-02).

Management Service Employees

Management Service Employees with Immediate Prior Classified Service

For employees being dismissed with immediate prior classified service, the standard applied is "in good faith for cause" specified in [ORS 240.555](#): misconduct, malfeasance, indolence, insubordination, incompetency, inefficiency or other unfitness to render effective service. Additionally, an agency must follow State HR Policy Management Service Discipline and Dismissal (70-000-02) and State HR Policy Restoration of Removed Management Service Employees (50-03-001).

Management Service Employees with Prior Classified Service

For employees with prior classified service that does not immediately precede their current position, check the appropriate CBA for possible return rights to a classified position.

Management Service Employees Without Prior Classified Service

For employees being disciplined or dismissed with no immediate prior classified service, [ORS 240.570\(3\)](#) "inability or unwillingness to fully and faithfully perform" applies. Additionally, an agency must follow State HR Policy Management Service Discipline and Dismissal (70-000-02).

Unclassified Service Employees

Unclassified Service Employees, Generally

For unclassified service employees, there is no disciplinary standard that applies. The employee can be terminated at any time for any reasons except an illegal reason. Follow State HR Policy Unclassified Service Employment and Termination (40-035-01).

Unclassified Service Represented Employees

In the event an unclassified service employee is in a bargaining unit that includes or consists of unclassified employees, e.g., physicians, the appropriate CBA disciplinary standards must be followed.



Exempt Service Employees

[ORS 240.200](#), not to be confused with FLSA exempt employees. For exempt service employees, usually there is no disciplinary standard. However, there may be statutory restrictions on ending the appointment early. If dealing with an appointed exempt official, contact DOJ Labor and Employment at 503-947-4600. Additionally, some employees exempt from the Merit System are covered by their agency's personnel rules.

If contemplating discipline of a represented employee contact the State Labor Relations Manager for your Collective Bargaining agreement. Contract assignments are located on the [DAS Labor Relations Unit](#) page.

If contemplating discipline of an employee other than represented contact DAS Human Resource Policy Unit at chro.policy@oregon.gov.

In certain situations, the agency may wish to contact the Department of Justice Labor and Employment Section, at the agency's expense, at, 503-947-4600.

GARRITY RIGHTS

In the case of [Garrity v. New Jersey](#), (link: <http://caselaw.findlaw.com/us-supreme-court/385/493.html>) (1967) the U.S. Supreme Court determined that public employees could not be forced under threat of discipline, to incriminate themselves as this violates a person's rights under the 5th Amendment of the U.S. Constitution. This decision established what has come to be known as "Garrity Rights" for public employees.

The Garrity rule is somewhat similar to Miranda rights. Employees have certain rights when they are compelled under threat of discipline, to provide the employer with self-incriminating information about possible criminal conduct. These rights are generally asserted when an employee believes they are being investigated for possible criminal conduct. Once an employee has asserted Garrity rights, it is recommended that management stop the meeting and consult with Department of Justice (DOJ) Labor and Employment. Contact DOJ at 503-947-4600.

It is recommended that DOJ Labor and Employment be involved in any matter involving potential or real criminal conduct of an employee, prior to interviewing an involved employee. Failure to do so could restrict future disciplinary action by the employer and jeopardize a District Attorney's ability to prosecute criminal acts.

HUMAN RESOURCES IN A UNION ENVIRONMENT

The Department of Administrative Services Labor Relations Unit (LRU) represents the Governor on behalf of all executive branch agencies in collective bargaining with approximately ten (10) different labor unions. Currently LRU administers 36 Collective Bargaining Agreements (CBA's) covering approximately 28,000 employees.

Generally the agency Human Resource (HR) section and select agency management assist LRU with negotiations for their agency's CBA. The agency also turns to their HR shop to interpret and apply the CBA in day-to-day operations. LRU provides services to agency HR in interpreting the CBA or any other matters



relating to represented employees.

It is important that HR and the agency maintain professional working relationships with union officials and stewards. LRU can assist an agency in forging these relationships.

INVESTIGATORY MEETINGS

The following are guidelines for conducting an investigatory meeting, also called a fact-finding meeting. Differences are noted regarding the rights of represented employees and the rights of management service and unrepresented employees. The role of the agency Human Resource (HR) section is to guide or assist supervisors or the agency in conducting investigatory meetings.

If discipline is contemplated, in most circumstances the agency must conduct an investigatory meeting with the employee. The purpose of the meeting is to gather information.

Representation

Schedule the meeting in advance. Let the employee know it is investigatory. If the employee is represented, the employee has a right to request and obtain union representation while being questioned if the employee has a reasonable belief the meeting could result in discipline. These are called **Weingarten Rights**. If an employee wants representation, the employee needs to arrange to use a steward at the worksite if one is available or the nearest available steward. A union steward must arrange with their supervisor to take time away from work to represent an employee. The steward may represent an employee telephonically. Check the Collective Bargaining Agreement for notice requirements and pay status of stewards for investigatory meetings.

If the employee is management service or unrepresented and brings an attorney the agency should consider having an attorney from the Department of Justice Labor and Employment Section present.

Questioning

An investigatory meeting is the agency's meeting. HR or the supervisor seeks information for the agency and must maintain control of the meeting. Keep the meeting low key and model respectful behavior. The purpose of the meeting is to investigate an issue, get the employee's version, ask clarifying questions and determine whether there are mitigating factors. To fulfill this purpose, ask open-ended questions to elicit a complete version of what occurred from the employee's perspective.

Prepare pertinent questions before the meeting. A second manager may attend to take notes. The employee, a steward and an attorney may take notes too. Notes may become discoverable once the investigation is complete and action has been taken. If recording the meeting is considered, contact DOJ at 503-947-4600 for guidance.



During the Meeting

Go into the meeting with an open mind. Don't make the decision to discipline before the meeting. With this mindset, the person conducting the meeting (either HR, the supervisor or both) will be able to listen better to what the employee is saying.

Set simple ground rules at the start of the meeting such as: clarifying the steward's or the attorney's role; stating the employee's requirement to answer the questions; informing everyone that leaving the meeting to consult will not be permitted; etc.

An employee is obligated to answer questions during an investigation. However, an exception to the obligation is if the employee feels he or she might self-incriminate regarding possible criminal activity, the employee may invoke their **Garrity Rights** and refuse to answer based on the 5th Amendment to the United States (US) Constitution. If the agency continues with questioning it may jeopardize the agency's ability to pursue criminal prosecution based on information received. Contact DOJ at 503-947-4600 for guidance if an employee invokes their Garrity Rights.

The union steward or an attorney can only ask clarifying questions at the investigatory meeting. The steward or attorney may not advise the employee how to answer questions or advise the employee not to answer questions. The steward or attorney and the employee may not leave the room during the questioning to have a "caucus" or speak in private. The union steward or attorney may suggest to the employer other witnesses to interview and may describe relevant practices, prior situations or mitigating factors that could have some bearing on the employer's deliberations concerning discipline.

Do not tell or suggest to the employee during the meeting that the agency has made a decision about imposing discipline. The purpose of the meeting is to discover the facts, not render a judgment.

After the Meeting

After the meeting, HR and the supervisor should review the information with each other. Take facts and mitigating circumstances into consideration before making the decision to discipline or not. A decision should be made within a reasonable timeframe and the employee should be informed of the decision of whether or not discipline is the result.

JUST CAUSE STANDARD FOR REPRESENTED EMPLOYEES

Just Cause Standard: Labor contracts permit discipline for "just cause." In Grief Bros. Cooperage Corp., 42 Labor Arb. Reports 555 (1964) the arbitrator provided a detailed explanation of the phrase. The phrase was translated into a series of "ultimate" questions that the employer must answer to support a discipline of a represented employee. The seven (7) elements of just cause are the criteria that must be met before administering discipline. Note: Just Cause Standards do not apply to temporary or limited duration employees.



- 1. Did the employer forewarn the employee of possible consequences of the conduct?**

Are the rules or policies about the type of conduct at issue? Are they oral or written? If oral, how would the employee hear about them? If written, has the employee been given access? Did the employee say they knew about the rule? How would the employee know about the rule? If there is no formal or informal rule, is the conduct the type that employees could still be expected to know was not permitted?
- 2. Was the rule or policy involved reasonably related to the orderly, efficient, and safe operation of the agency?**

Why was the rule put in place? Does the rule protect others? Does the rule fairly give guidance to the employee about how to act? Without the rule would the employee be uncertain what to do?
- 3. Before administering discipline did the employer make an effort to discover whether the employee did, in fact, violate or disobey the rule or order?**

Did anyone find out what happened? Who was the person? Is there a report? If no report, is there a reason that one was not drafted? Are there notes showing an investigation?
- 4. Was the employer's investigation conducted fairly and objectively?**

Are there any prior problems between the investigator and the employee that could be raised to question the objectivity of investigator? Can any claim of bias be made based on the wording in the investigation report? Did the investigator evidence anger or frustration during the interview that could be raised to claim bias? Does the report cover the facts, both harmful and helpful, to the employee? Were all logical sources covered that could provide information or does the report leave questions in the mind of the reader about why other sources were not contacted?
- 5. In an investigation, did the employer obtain sufficient evidence or proof that the employee was guilty as charged?**

What did the employee do? Is there any physical evidence to show what happened? Are there any witnesses who observed the conduct? Are the conclusions about what happened logical in light of the existing evidence? Is there "speculation" to fill in gaps in the evidence? Do the conclusions take into account all the evidence, even if some evidence is contrary to other evidence?
- 6. Has the employer applied its rules, orders, and penalties evenhandedly and without discrimination?**

Has this conduct, or similar conduct, happened before in this workplace? Was discipline imposed? At what level? Did the prior disciplines contain any explanation to support why they were given? If this is the first time this type of conduct has occurred, what factors make the agency want to impose discipline? Examples of factors: an employee needs to understand not to do it again; other employees would do the same if this employee allowed to; past actions of the employee show the employee needs to be put on notice; or the conduct has the potential to create great risk for the employer.
- 7. Was the degree of discipline reasonably related to the seriousness of the offense and the employee's record?**

On a continuum, is it intrinsically unethical behavior on one extreme or a lapse in judgment on the other extreme? Has there been adverse publicity about the conduct? Would publicity about the conduct be



detrimental to the public's view of the employer? Should employee have known better? Was the conduct intentionally done or the result of poor judgment?

LOUDERMILL RIGHTS

Both State HR policy and Collective Bargaining Agreement (CBA) require that if an employer is contemplating dismissal, the employee has a right to know the charges and be able to defend him or herself. The policy and CBA language are due in large part to a 1985 U.S. Supreme Court decision, with the case of [Cleveland Board of Education v. Loudermill](#). This decision established what has come to be called "Loudermill Rights" for public employees. Loudermill rights generally apply to discharge or termination actions and in Oregon for suspensions without pay.

Loudermill rights provide that prior to being terminated, a "tenured public employee is entitled to oral or written notice of the charges against him or her, an explanation of the employer's evidence, and an opportunity to present his or her side of the story." Tenured employee means a regular status employee. The employer has an obligation to provide notice, and give the employee an opportunity to respond.

Under Loudermill, the employee has the right to speak or not to speak at a pre-dismissal meeting or to present written information to be considered. Also, the employee has a right to union representation, and the union representative may speak on behalf of the employee. If the employee chooses not to attend the Loudermill (or "pre-dismissal") meeting, or to present written information, the employer may base its decision to discipline on the available information.

Loudermill is why agencies provide an employee with a pre-dismissal notice that contains the charges against the employee, and gives the employee an opportunity to defend him or herself. Check the CBA regarding time requirements for notifying a represented employee and the union.

SPECIAL STATUS OF UNION STEWARDS

If you are in a Human Resource (HR) section of an agency where some of the employees are represented by a Union, you will have the opportunity to work with individuals selected by the union membership to represent the union employee's interests. An applicable Collective Bargaining Agreement (CBA) may outline rules a steward must follow in their steward role. For more information about union stewards, contact the DAS Labor Relations Unit at lru@oregon.gov.

Under labor law, stewards and union officers have a protected legal status. When engaged in representational activities, stewards are considered to be equals with management. Three rules apply to stewards in recognition of their need to vigorously advocate when representing an employee. These rules are:

The Equality Rule: Allows a steward to raise a voice, gesture, challenge management's claim of truthfulness, threaten legal action or raise the possibility of group protests. The employer cannot label this behavior as insubordinate and impose discipline. This rule applies only when a steward acts in his or her representational capacity. If you are unsure whether a steward is acting in his or her representational role you can ask the steward to clarify in which role he or she is acting.



The No-Reprisal Rule: A steward cannot be punished or threatened with punishment because management considers his or her grievances to be overly frequent, petty or offensively written. Reprisals against stewards are unfair labor practices. For example, an employer violates the no-reprisal rule if it segregates a steward from other workers, deprives a steward of overtime or other benefits, or transfers a steward to a different job or shift, just because the employee is a steward.

The Same Standards Rule: When carrying out their work assignments, stewards should be treated no worse and no better than any other employee. Employers must apply the same standards to stewards as they do to other employees. Employers cannot say, “Of all people, you're supposed to know the rules,” then impose discipline for failure to meet a higher standard.

TRIAL SERVICE

Trial service generally occurs upon initial appointment to state service, transfer from another state agency, and upon promotion or demotion. Trial service is when the agency observes the performance of duties and work place behavior of an individual selected to fill a vacant position. Trial service is the last step in the selection process.

Employees need positive and corrective feedback at frequent intervals, especially during the trial service period. When performance is poor, it is important to remind an employee that if their performance does not improve, removal from trial service is a possibility.

It is important to check the applicable CBA and relevant policies for trial service language.

Ideally, a supervisor meets with a new employee monthly to review the employee’s progress or lack thereof. This way, the employee will not be surprised when they pass or if they fail trial service.

State HR Policy Trial Service (40-065-01) discusses the terms under which a management service or unrepresented employee is in trial service, how trial service may be extended and how the employee may be removed from trial service if needed. Unclassified Executive Service, Limited Duration and temporary employees do not serve a trial service.

WEINGARTEN RIGHTS

If you are conducting an investigatory or fact-finding meeting with an employee represented by a labor union, the employee may have certain rights afforded to them called [Weingarten Rights](#). Weingarten Rights allow an employee to have union representation at an investigatory meeting if the employee reasonably believes the meeting may result in discipline. An employee who believes a meeting could lead to discipline has the responsibility to request representation.

Weingarten rights require three elements to be present:

1. An investigatory meeting
2. The employee’s reasonable belief that discipline may result
3. The employee’s request for representation.



Prior to the meeting, check the applicable CBA to see what notice to the union is required.

At the onset of the meeting, the role of the union representative is to assist the employee but not argue the merits of a case. Consequently, the union representative may ask about the purpose of the meeting and ask about the general subject matter of the questioning to follow.

During the investigatory meeting, the union representative may ask clarifying questions but may not counsel the employee on how or whether to answer the employer's questions. Interrupting the meeting so the union representative may meet privately with the employee is not permitted.

After the employer has finished questioning the employee, the union representative may ask the employee questions designed to clarify previous answers or to elicit further relevant information. Before the end of the meeting, the representative may suggest other witnesses to interview and may describe relevant practices, prior situations, or mitigating factors that could have some bearing on the employer's deliberations concerning discipline. Because this is a meeting to obtain information from the employee about relevant facts to the situation, it is not appropriate for the union representative to question the employer.

NOTE: The role of a union representative at the pre-dismissal meeting is generally much broader than the limited role permitted at an investigatory meeting. At a pre-dismissal meeting the union representative may act as the employee's advocate. In addition, some Collective Bargaining Agreements may provide rights in other circumstances, such as grievance meetings.

If you have any questions about Weingarten Rights or conducting an investigatory meeting with represented employees, contact the DAS Labor Relations Unit.



POSITION MANAGEMENT AND MORE

A critical role of Human Resources (HR) is to manage positions for the agency and find ways to meet workload need. Funding has a major impact on both. Temporary workload increases, or difficulty finding qualified applicants presents a challenge to HR. At times positions are only funded on a temporary basis and HR must determine what to do with those employees when the funding runs out. Agencies hire employees on a permanent full-time, permanent part-time, limited duration, seasonal and temporary basis. There are procedures for hiring employees through a competitive process, provisions for making direct appointments to positions, provisions for hiring retirees from the State of Oregon and filling positions in other than what positions are classified.

Most positions are permanent and are full-time or part-time, the positions are filled according to the intended classification and position description. When filling positions, check the appropriate Collective Bargaining Agreement or policy for correct procedures. Seek [assistance](#) from DAS Labor Relations Unit, DAS Human Resource Policy Unit, DAS Executive Recruitments, the agency's or DAS Budget Analyst, or the DAS Classification and Compensation unit for other assistance.

Each agency has an individual or a team of individuals who are responsible for the agency budget. Each agency has a liaison from the Department of Administrative Services (DAS) Budget and Management (BAM) section that can guide the agency through the budget process and answer questions about the budget.

HR must work with the budget section of their agency and DAS BAM to establish and fund positions or fund work accomplished through other than established positions.

CATEGORIES OF SERVICE

Review each position description for appropriate category of service. The categories of service are in [ORS 240.195](#) Categories of Positions in State Service. ORS 240.195 defines the categories of service as Classified, Management, Exempt and Unclassified. Executive service is defined in DAS policy.

Classified Service, [ORS 240.210](#): The classified service comprises all positions in the state service existing on June 16, 1945, or created after, and which are not listed in ORS 240.200, 240.205 or 240.212.

Management Service, [ORS 240.212](#): The management service comprises all positions not in the unclassified or exempt service that are confidential employees, supervisory employees or managerial employees, as defined in [ORS 243.650\(6\)\(16\)\(23\)](#).

Exempt Service, [ORS 240.200](#):

1. Officers elected by popular vote and persons appointed to fill vacancies in elective offices.
2. Members of boards and commissions who serve on a part-time basis and who, if compensated, receive compensation on a per diem basis.
3. Judges, referees, receivers, jurors and notary public.
4. Officers and employees of the Legislative Assembly.



5. Persons employed in a professional or scientific capacity to make or conduct a temporary and special inquiry, investigation or examination on behalf of the Legislative Assembly or a committee thereof, or by authority of the Governor.
6. Any other position designated by law as exempt.

Unclassified Service, [ORS 240.205](#):

1. One executive officer and one secretary for each board or commission, the members of which are elected officers or are appointed by the Governor.
2. The director of each department of state government, each full-time salaried head of a state agency required by law to be appointed by the Governor and each full-time salaried member of a board or commission required by law to be appointed by the Governor.
3. The administrator of each division within a department of state government required by law to be appointed by the director of the department with the approval of the Governor.
4. Principal assistants and deputies and one private secretary for each executive or administrative officer specified in [ORS 240.200](#) (1) and in subsections (1) to (3) of this section. "Deputy" means the deputy or deputies to an executive or administrative officer listed in subsections (1) to (3) of this section who is authorized to exercise that officer's authority upon absence of the officer. "Principal assistant" means a manager of a major agency organizational component who reports directly to an executive or administrative officer listed in subsections (1) to (3) of this section or deputy and who is designated as such by that executive or administrative officer with the approval of the Director of the Oregon Department of Administrative Services.
5. Employees in the Governor's office and the principal assistant and private secretary in the Secretary of State's division.
6. The director, principals, instructors and teachers in schools operated under [ORS 346.010](#).
7. Apprentice trainees only during the prescribed length of their course of training.
8. Licensed physicians and dentists employed in their professional capacities and student nurses, interns, and patient or inmate help in state institutions.
9. Lawyers employed in their professional capacities.
10. All members of the Oregon State Police appointed under [ORS 181.250](#) and [181.265](#)
11. Deputy superintendents and associate superintendents in the Department of Education.
12. Temporary seasonal farm laborers engaged in single phases of agricultural production or harvesting.
13. Any individual employed and paid from federal funds received under the Emergency Job and Unemployment Assistance Act of 1974 (United States Public Law 93-567) or any other federal program intended primarily to alleviate unemployment. However, persons employed under this subsection shall be treated as classified employees for purposes of [ORS 243.650](#) to [243.782](#).
14. Managers, department heads, directors, producers and announcers of the state radio and television network.
15. Employees, including managers, of the foreign trade offices of the Economic and Community Development Department located outside the country.
16. Any other position designated by law as unclassified.



Executive Service is not a category defined by ORS but is an administratively defined group of unclassified positions in [OAR 105-010-0000](#) and State HR Policy Position Management (30-000-01).

For a position to be considered Executive Service, the position must be one of the first five categories as listed in [ORS 240.205](#) above.

Positions identified as principal assistants, pursuant to [ORS 240.205](#) (4) require the approval of the Director of DAS to be placed in the unclassified executive service.

CLASS STUDIES AND REALLOCATIONS

A class study may occur when the Department of Administrative Services (DAS) questions the accuracy of a classification or a series of classifications. Classes are looked at as a whole for statewide application.

When the DAS Classification and Compensation Unit announces a classification study, each agency Human Resource (HR) section should review all agency positions for applicability to the study even when it is not a classification being revised, eliminated or added. HR must submit to DAS the position descriptions that are requested or those that may be appropriate for the study. Position descriptions may be no older than 12 months and must include current organization charts.

A reallocation occurs when a classification being studied results in revision, elimination or addition of a new classification.

When a position is reallocated, the incumbent in the position may be affected. State HR Policy Effect of Position Change on Incumbents (30-005-01) explains the effect the change will have on the incumbent for management, unrepresented and unclassified employees. Collective Bargaining Agreement explain the effect the change will have on represented employees.

[Current classification](#) studies are located online. For assistance, agencies should contact their assigned Classification and Compensation Analyst.

CLASSIFYING A POSITION

After writing a position description, the position needs to be properly classified. The [Classification Specifications](#) are located online and give examples of duties typically performed by employees in the classification. Use the Classification Specifications as a guide to determine the appropriate classification for a position. Duties listed in the position description should be similar to duties described in the Classification Specification. Some classification series have additional information about the classification in documents called Job Family Definitions.

The general description, series concept, and the distinguishing features of the classification contain the best information to determine the appropriate classification. For further instructions, refer to the Classification Guides.



Check the representation codes to ensure your agency can use that classification. Agencies contact CHRO, Classification and Compensation if a business need exists to add a representation code to the classification specifications.

The classification salary range is established for a compensation plan. Agencies work with their agency or DAS budget analyst to determine if the agency is able to fund a position at that level of classification.

Each classification has minimum qualifications (MQs). The MQs are used determine who can hold the position and are listed on the recruitment announcement.

State HR Policy Classification Plan Development and Maintenance (20-000-01) provides more information about classification.

There is an online training that provides an overview of the State's classification and compensation system available in [iLearnOregon](#).

DESK AUDITS

The purpose of a desk or job audit (named a desk audit in Oregon state service) is to find out what a worker does, how and why a worker performs their duties and to verify the accuracy of a position description. A desk audit involves observing an employee performing their assigned duties or by interviewing an employee about their duties.

Most employees enjoy talking about their jobs, but are nervous if they think the job audit can have a direct result on how their job is classified and how they are paid. Carefully planning and conducting a desk audit is critical to receiving good information.

Keys to a successful desk audit include articulating questions, listening, thinking analytically, discretely control and direct conversation, and establish cooperative and friendly relationships.

Before a Desk Audit

- Review any past audits and the current position description. If there is no change in duties, a desk audit is necessary only to ensure the employee is performing duties listed on the position description.
- Prepare open-ended interview questions that cover position purpose, major responsibilities, major challenges, and knowledge, skills and abilities required to perform the duties.

Contact the supervisor to gain permission to visit the work site and find out the best time so operations are not adversely affected.

During a Desk Audit

- Meet with the employee in an area free from distraction. Explain the purpose of a desk audit and the classification process.
- Ask prepared questions of the employee and write down the employee's responses.



- While at the worksite, observe how the work is accomplished. Look at the equipment, forms and systems used and how they are used to perform duties.

Document the audit by recording important facts, such as the date, agency, unit, employee's name, position, information gathered about the work and examples that illustrate points raised.

After a Desk Audit

- Review and categorize the audit notes and write a summary report about the work.
- Confirm the facts as necessary with the supervisor.
- Write or make updates to the position description.
- Ensure the classification, category of service, FLSA status and service type designation are correct.
- Redraft the organization chart if necessary.
- If the updated position description falls into a different classification, pursue reclassification or remove duties. If duties are removed, update the position description.

Sample Questions

Position Purpose – Ask one or more of the following:

- What is your position designed to accomplish? Or, what are the products of your position?
- Briefly describe the main purpose of your position?
- What is the essential reason for your position?
- What are you paid to accomplish for the State?

Major Responsibilities – Ask if appropriate:

- How does your position fit within the structure of the State of Oregon? (Review the organization chart and probe any unusual aspects of the job.)
- What major functions do you perform and why?
- On what, specifically, do you spend most of your time and why?
- If the position has supervisory responsibilities, what are the major responsibilities of the subordinate employees?
- What is the nature of your internal contacts? Whom do you contact and what is the frequency and purpose? Repeat the question for external contacts.
- What aspects of your job require creativity and to what extent?
- What decisions can you make without your supervisor's approval?
- On what matters must you refer to others or gain approval before acting?

Major Challenges – Ask one or more of the following:

- What is the toughest part of your position?
- What about your position really makes you think?
- What are your biggest problems with the job?
- What is the worst mistake you could make in the job? What are the consequences?



Knowledge, Skills and Abilities:

- In your opinion, what do you need to know in order to do your work at an acceptable level?
- What kinds of abilities and skills are required to do your job?
- What is your background experience and education? Do your colleagues have similar backgrounds?

DIRECT APPOINTMENTS

For positions that are covered by a Collective Bargaining Agreement (CBA), review the applicable CBA to fulfill contractual obligations for filling vacancies.

Generally, an agency recruits for all vacancies that are classified unrepresented, management service and for the initial appointment to all classified positions through a competitive process. However, [OAR 105-040-0050](#) offers an alternative method to the open competitive process when making appointments to positions in state service. An agency head has the delegated authority and discretion to make direct appointments consistent with the criteria established in OAR 105-040-0050, as follows:

Direct appointments can occur for any of the following reasons:

- A failed recruitment within the past six (6) months
- An agency has critical timing needs affecting recruitment
- The position requires special or unique professional skills
- The appointment is made consistent with a court or administrative order, consent decree, court or administrative settlement, or negotiated tort claim settlement
- The appointee must be qualified or become qualified for the position within twelve (12) months.

An agency must document each direct appointment and retain the documentation in the employee's file. The documentation cites the applicable rule criteria, results of any open competitive recruitment, the qualifications of the individual selected, and the agency appointing authority's signature.

DUTIES

The duties listed in a position description are the functions and tasks assigned to the position. The duties give a clear picture of what the employee must do in the position. Duties not included in the position description are developmental, incidental, or temporary.

Begin each duty statement with an action that describes the activity, whether physical or mental. Assure duty statements describe what the employee does, how the employee does the duty and for what purpose. List the percentage of time the duty is performed on average in a week. Percentages generally do not go below 5%. Be specific and complete. Designate the duty as an essential or non-essential function.

The classification specifications give examples of duties typically performed by employees in the classification.



Designating Essential Functions

The position description lists essential functions of the position. The essential functions are used to determine accommodation issues with the Americans with Disabilities Act (ADA) and return rights from Family and Medical Leave.

A duty is considered an essential function if one of the following is true:

- The position exists to perform the duty
- There are a limited number of employees who can perform the duty
- The duty is a highly specialized duty.

An employee is required to perform all essential functions of the position with or without accommodation. In the event an employee makes a request for accommodation, the position description is used to determine which duties can be modified or eliminated. Duties marked essential functions are not eliminated.

EMPLOYING PERS RETIREES

[ORS 238.078](#) and [238.082](#) are the primary statutes that control re-employment of PERS retirees.

Go to [Working After Retirement](#) for additional information.

Employing PERS Retirees as Permanent Employees

It is permissible to hire a PERS retiree into a state position. In fact, retirees are often a wealth of information and experience. However, the employee's choice of retirement plan will make a difference when the retiree can return to state service and for how many hours. The retiree is responsible for knowing what is allowable under their individual retirement plan and to track their hours worked so they do not exceed the maximum hours allowed per year.

Employing PERS Retirees as Limited Duration (LD) Employees

Hiring a PERS retiree into a limited duration appointment follows the same procedure as for hiring non-retirees into limited duration appointments. The retiree is not eligible for PERS contributions and is not eligible for restoration of sick leave. Use the Limited Duration Agreement Template, making modifications to fit the employee's individual employment circumstance.

Employing PERS Retirees as Temporary Employees

Each retiree has a retirement plan that dictates the number of hours the retiree may work in a year. A retiree's hours are also affected by the geographic location and type of work the retiree will perform. However, statutory language governing temporary employees says that a temporary employee cannot work for more than six (6) months or 1040 hours in a one year time period. The PERS retiree cannot exceed the total number of hours the retiree is allowed to work in a calendar year by their retirement plan nor can the PERS retiree exceed the number of hours set by the statute governing temporary employment.

PPDB NOTE: When an employee retires and returns to work in some capacity in the same pay period following retirement, contact the [PPDB Group](#) for guidance before inputting the retiree into the PPDB system.



See the following:

[Employing Temporary Employees](#)

[Limited Duration Employees](#)

EMPLOYING TEMPORARY EMPLOYEES

These are the things you will need when hiring state [temporary employees](#) and extending temps.

FLSA DESIGNATION

The Fair Labor Standards Act (FLSA) established a set of criteria to determine whether positions are exempt from overtime liability. To comply with the law, the agency Human Resource (HR) section evaluates all positions for proper FLSA status.

Read more information in the [Fair Labor Standards Act Designation Overview](#) and the **Fair Labor Standards Act Guide**. These websites provide an explanation of factors to consider in determining FLSA status. Also included are worksheets to test a position for appropriateness for Executive and Supervisory Exemption, Administrative Exemption, Professional Exemption, and Computer Exemption. If a position falls into one of these categories the position is considered exempt and is generally not eligible for overtime. Conversely, if a position does not fall into one of these categories it is considered non-exempt and is eligible for overtime. However, occasionally a collective bargaining agreement may allow overtime for an employee who is FLSA exempt.

CREATE, BUDGET, AND UTILIZE POSITIONS

The following is an introduction to fundamental budget-related issues for state employees and positions. For more information about the budget visit the [Chief Financial Office](#) website.

The state's budget process results in a specific number of positions being authorized as each agency's budget passes in the legislature. Two terms are used in reference to measuring state employee resources in the budget: position and full-time equivalent (FTE).

The term **position** is used to measure the number of slots regardless of whether the position is full-time or part-time.

The term **full-time equivalent (FTE)** accounts for the amount of time each position is budgeted. For example, a full-time position that is budgeted for all 24 months of a biennium is 1.0 FTE. A position filled full-time for only 12 months of the biennium or is a half-time position is 0.5 FTE.

[ORS 240.185](#) limits the number of state employees to 1.5% of the state's population in the prior year. Certain employees are exempt from the limit in ORS 240.185, including employees of the Legislative and Judicial Branches, Governor's Office, Secretary of State, Treasury, Employment Department, and employees of the University System that are funded by gifts, grants and contracts programs.



Uniqueness of a Position

Each position has a set of specific characteristics including budget authorization number, salary level, job classification and funding mix. A position is grouped or classified with other positions that have similar duties, responsibilities, pay, qualifications and authority. Positions are grouped in similar occupational categories such as financial management, health care, human resources, biologists or managers. Some classes have only a few employees because of the uniqueness of the duties, while others like the clerical and management series have hundreds of employees because the general duties are very similar from one agency to the next. The Department of Administrative Services (DAS) reviews and revises classifications as part of an ongoing maintenance to the classification plan.

Reclassification

A state agency uses a process termed “reclassification” (reclass) if it wishes to change the position classification. A reclass of a position must be approved by DAS. The agency must identify a business reason for the change, including:

- New agency priorities based on a new law or other change in direction
- An agency reorganization leading to added duties for an existing position
- In some cases, greater responsibilities are placed on a position
- The need for a new skill set because of a change in technology or business practice.

The Executive Branch may reclass a position if it meets a number of steps, including:

- The proposed position classification was reviewed by a human resource professional
- Resources are identified in the current budget to fund any resulting increase in spending
- Permanent financing is prepared to ensure the reclass will not increase costs in future budget periods. For example, if an agency determines a position must be reclassified upward, the agency must identify another position to reclass downward to provide the budgetary resources.

The Legislature can approve a position reclassification as a part of the budget process or through Emergency Board action without meeting the requirements outlined above.

Flexibility

Permanent positions cannot be established without legislative approval. DAS Budget and Management (BAM) may approve a limited duration position if the position can be financed with existing resources, will not produce future budgetary increases, conforms to approved salary policies and other limitations do not prohibit approval. Limited duration positions are authorized only until the end of the biennium in which they were created and only become permanent with the approval of the Legislature.

Position Types

- **Permanent full-time positions** continue from one biennium to the next unless eliminated by the Legislature.
- **Permanent part-time positions** continue from one biennium to the next but are authorized and budgeted for less than full-time.
- **Seasonal positions**, both full-time and part-time, are only required for part of a year to meet seasonal workload and may continue from one biennium to the next.



- **Limited duration positions**, both full-time and part-time, are used for positions whose source of funding is not permanent (e.g. grants or contracts) or the services are required for a short time period. Limited duration positions are only authorized for the current biennium unless reauthorized by the Legislature or DAS for another biennium.
- **Academic positions**, both full-time and part-time, are located either at the School for the Blind or the School for the Deaf. The Oregon University System (OUS) positions are not included in the statewide Position Inventory Control System (PICS), the primary budget tracking system for state positions. OUS has its own position control system.
- **Temporary employment** is used to perform specific functions and to meet emergency, nonrecurring or short-term workload needs. There are no positions for temporary employees and they do not appear in total budgeted position counts. The amount of time a temporary employee can work is generally limited to six months out of each 12 month period. Temporary employees are not eligible for flexible benefits (e.g. health insurance), but retirement contributions are paid for individuals who are employed as temporaries for more than six months.

How Positions are Funded

Each position has a specific funding mix: General Fund, Lottery Funds, Other Funds, or Federal Funds. General Fund-only positions are found across state government but are concentrated in the Department of Corrections, Oregon Youth Authority, Oregon State Police, the Judicial Branch and the Legislature. A percentage of positions are funded with a combination of General Fund and other sources. These positions are predominately located in the Department of Human Services and the Oregon Youth Authority where General Fund is used to match Federal Funds. Other agencies with positions funded in part with General Fund include the Judicial Branch, Department of Justice (Support Enforcement) and Department of Revenue. Almost half of all state positions have no General Fund resources. A majority of these positions are in the Departments of Transportation, Consumer and Business Services, Employment, Administrative Services and the natural resource agencies. Less than 1% of positions have no funding designated. Most of these are “pro-tem” judges (retired) used by the court system to meet the demands of court activity.

Determining Salary

Each employee is assigned a unique position with a specific classification and salary range. The employee’s salary rate must be within that range. Salary ranges have several steps. Each step is approximately 4.75% greater than the previous step. A newly hired employee is generally hired at the first or second step. Once a year, the employee is usually eligible to receive a step or merit increase. The date of the increase is referred to as the salary eligibility date. Once employees reach the top step of the salary range, they are no longer eligible for further step or merit increases. In years they are authorized, general increases are given to represented employees as set by collective bargaining agreements and for non-represented employees as set by the Governor.



How Positions are Treated

The budget for personal services such as salaries, benefits and retirement is based on information for each position using the Position Inventory Control System (PICS). The sequence of steps in building the budget relating to positions is outlined below.

- In the spring of even numbered years (generally after the April Emergency Board meets) information for individual positions is subject to a process termed the “**PICS freeze.**” At the time of the freeze, existing salary and related Other Payroll Expenses (e.g. health benefits, retirement), are used to project costs for the upcoming biennium. After the freeze date, any changes to information on an individual position such as changes in classification, are not included in and do not change the base budget projections.
- The salary for each position is usually adjusted for any scheduled merit or step increases for salary eligibility dates remaining in the current biennium and for any scheduled general increases.
- Adjustments are made to provide 24 months of funding for the budget of the next biennium for positions phased in during the current biennium.
- Funding for one merit or salary step increase is provided in the development of the next biennium where the employee has not reached the top step. This applies to agencies with more than 10.0 FTE and the resources for the second step increase for eligible employees must be funded by savings in the agency’s budget. Agencies with less than 10.0 FTE are provided resources for both merit or step increases since smaller agencies usually have less staff turnover or other budget savings.
- If a position is vacant at the time of the PICS freeze, funding for that position is provided at the second step of the salary range. All merit or step increases and general increase adjustments are factored into the calculations as if the position were filled.

Double Filling a Position

Agencies use a process called “double-filling” when more than one person is assigned to a single position. There is no additional funding available to an agency if it decides to double-fill a position. Double-filling is not used to permanently increase legislatively approved staffing levels. An agency must identify savings elsewhere in its budget or reprioritize its resources to fund the additional costs of a double-fill. Vacancy savings are a primary source of funding for a double-fill. DAS’ administrative rules list specific purposes for a double-filled position, including:

- To cover or backfill for an employee on leave when other alternatives, such as temporary employee appointment, do not work
- Short-term transition and training when an employee will soon leave state employment
- Job sharing when the total FTE of the employees assigned to the position is no more than one FTE
- When a position is awaiting establishment in the PICS system
- To address a specific budget issue when directed by BAM
- For emergency workload need.

Why Positions are Vacant

At any given time, roughly 10% to 15% of authorized state positions are vacant. The reasons include:

- **Position turnover:** Someone leaves a position through retirement or other reasons and the agency is in the process of filling the position. The hiring process can take weeks or longer after factoring in recruitment, interviewing, criminal records checks and other activities that occur prior to a hire. Some positions take longer to fill if they are in a field with shortages of viable candidates.



- **Double-fill funding:** Agencies leave positions vacant to provide funding for another position that might be double-filled.
- **Seasonal:** A small percentage of positions, excluding higher education positions, are seasonal in nature and may be vacant depending on the time of year. Many natural resource agencies depend on seasonal positions for their core functions.
- **Eliminated (abolished) positions:** At any point in time there may be positions that were abolished but continue to be in PICS until the end of the biennium.
- **No funding:** When a position depends on a revenue source that is not generating the anticipated amount or is terminated, the position may be left vacant until there are sufficient revenues. If there is a long range revenue issue, the budget process generally results in a review of the program and abolishment of positions.
- **Phase-in positions:** A position may be created during the legislative session, but the funding for the position is not scheduled to phase-in or begin until later in the biennium. An example of this is a caseworker or eligibility worker position tied to caseload growth that is projected to occur later in a biennium. The position is filled when the funding becomes available.
- **Unbudgeted costs:** Agencies often leave positions vacant to provide resources for costs not included in the agency's budget. These may include unanticipated costs such as health care, growing caseloads, overtime and utilities.
- **Overall budget shortfalls:** Budget shortfalls can occur due to specific and unspecified reductions in the budget. Correcting budget shortfall can take the form of allotment plan reductions, hiring freezes and positions left vacant.
- **Post-factor:** Vacant positions also occur because of staffing patterns for 24-hour institutions. For example, the Department of Corrections applies a "post factor" to specific positions that must be staffed 24 hours a day, seven days a week within a correctional facility. This drives the need for more than 1.0 FTE to provide all of the resources for the 24-hour period. A part-time position is established to provide the necessary resources beyond the full-time FTE.
- **Reorganization:** A reorganization of an agency or program may leave positions unfilled until final decisions are made on the responsibilities and classifications of the positions.

Review of long-term vacancies (over six months) provides the best opportunity to determine whether the agency still needs the positions. Even for long-term vacancies, the largest share of unfilled positions are in the process of being filled.

On a quarterly basis, agencies report any position that has been vacant for at least six months ([ORS 291.263](#)). DHS and Corrections must report biennially to the Legislature on the number of vacant positions and their impact on delivery of services, use of overtime, use of temporary employees and employee workload ([ORS 291.371](#)).

Vacant Positions Effect the Budget

The formal budget process utilizes a vacancy factor calculation, which estimates the budget savings expected to occur because of staff turnover. This calculation uses turnover history in the previous biennium and accounts for cases where the vacancy savings are used to fund other personal services costs, including double-filled positions and temporary employees. Vacation payouts of employees leaving employment, as well as benefits and other personal services costs, are factored into the calculation.



The Legislature, as part of its budget process, reviews vacant positions to achieve further savings. At times the Joint Committee on Ways and Means eliminates vacant positions for budget savings. The elimination of vacant positions is labor intensive since each position has to be reviewed to determine whether it is necessary to be retained. In addition, a vacancy list is only current on the day it is printed, since positions are always being filled or vacated in the normal turnover of state employees.

Contracting Out Work

Some state funded services are already “contracted out” to private businesses and organizations. Some examples are: medical-related services through the Oregon Health Plan, senior and disabled services, road construction and maintenance, information systems development, various laboratory services, firefighting, fish production functions, vehicle repair and maintenance, state park concessions and mental health treatment services.

Collective bargaining, through case law and state statute, assumes that contracting out is a mandatory bargaining subject since it affects job security and wage issues. Generally, this means the impact of the decision is bargained.

In addition to policy considerations, certain requirements must be met prior to contracting out services or functions state employees currently provide. Collective bargaining agreements may outline the requirements and may require agencies to complete feasibility or other agency development forms.

Limited Duration Employees

A limited duration (LD) position is used when a source of funding is not permanent. A limited duration position follows the same process as a permanently funded position.

The need for a limited duration position occurs when the agency has additional work that cannot be absorbed by current staff. A position description is written and a classification analysis is conducted. Agencies work with the agency or BAM budget analyst to determine available funding.

When a current employee enters into a LD agreement, the employee generally relinquishes rights to their former position unless a CBA provides return rights. Some CBA’s have a timeframe for limited duration agreements. For example, SEIU provides layoff rights after 17 months. A formal agreement between the Labor Relations Unit (LRU) and the union is generally required to extend the timeframe of an LD agreement.

[OAR 105-040-0040](#) Types of Appointments, refers to classified unrepresented and management service positions. LD appointments under this OAR are the appointment of a person for a study, project, workload need or when position reduction is anticipated. An appointment made for a study or project may not exceed two years, except when the position is grant funded and will expire upon the completion of the study or project or when funding is exhausted. Appointments made when position reduction is anticipated shall not exceed the end of the current biennium or current season that ends prior to the end of the biennium. Appointments made for workload need cannot exceed two years.

The agency should inform the employee accepting the LD appointment of the conditions of the appointment, including the employee’s status at the termination of the appointment. The employee acknowledges in writing



acceptance of the appointment under those conditions.

Use the [Limited Duration Agreement](#), making modifications to fit each employee's individual appointment circumstance. Contact HR Policy Unit with questions about LD agreements for management service and unrepresented. Contact LRU with questions about LD agreements for represented staff.

Management Service Types

If a position is in management service, the agency Human Resource (HR) section designates the position as confidential, managerial or supervisory.

Confidential: One who assists and acts in a confidential capacity to a person who formulates, determines and effectuates management policies in the area of collective bargaining (the primary confidential employee.) The person being assisted must be found to be confidential before finding that an assistant to a confidential employee is confidential.

Managerial: One who possesses authority to formulate and carry out management decisions, or who represents management's interest by taking or effectively recommending discretionary actions that control or implement employer policy, and who has the discretion in the performance of these management responsibilities beyond routine discharge of duties.

Supervisory: One who has the authority to hire, discharge, reward, discipline, and respond to grievances or effectively recommend such action.

Read more information in the [Management Designation Check List](#). This tool explains the difference between confidential, managerial or supervisory designations and provides examples of positions that meet or do not meet each designation.

Human Resource (HR) managers help their agencies ensure all employees have current, accurate, and signed position descriptions that comply with applicable laws, rules, policies and Collective Bargaining Agreements (CBA).

POSITION DESCRIPTIONS

The purpose of a position description is to document the duties, responsibilities, level of authority assigned to an employee and other relevant position information. In addition, the position description is used to determine the proper classification. The position description identifies the essential functions of the position (necessary to comply with the Americans with Disabilities Act (ADA)), lets the employee know what is expected and provides a written document of duties. Position descriptions are also used to identify special job requirements for layoff and recall purposes.

The current [position description template](#) and instructions are on the CHRO website.



Contents

Follow the position description instructions to complete the position description. The elements of the position description determine the classification, pay, service type and eligibility for overtime (FLSA status).

When to Update a Position Description

Each time a review occurs, ensure the duties, classification, service type and FLSA status are correct.

If the position is union represented, review an applicable collective bargaining agreement for language regarding reviewing position descriptions.

Update duties as they change.

Review the position description when there is a change in the direct management of the position.

Update a position description prior to filling vacancies and formulating a recruitment announcement.

Review and update the position description prior to an employee's performance evaluation. Review the position description with the employee at performance evaluation time.

Obtain necessary signatures and dates when the position description is changed or reviewed with the employee.

Additional information about position descriptions is located in the [Classification Guide](#).

There is an online course, [How to Write Position Descriptions](#), in iLearnOregon available to agencies.

POSITION AND PERSONNEL DATABASE

The Position and Personnel Database (PPDB) is an electronic record keeping system. The system serves as the official record of employment, containing current, historical, and summarized employment history for individuals in the three branches of Oregon State Government, including the Oregon State Lottery. It does not include employee or position data for the Oregon University System.

PPDB provides a single, centralized source of employee history data maintained through on-line, real-time updating for individual transactions and batch processing for mass updating. This information is provided to other systems such as Payroll.

Access to the PPDB system is limited. Either an agency Human Resource (HR) section or the Department of Administrative Services (DAS) will have access to this database to enter and maintain information. PPDB position database information is located online.

An agency must update the PPDB database each time an action occurs that affects an employee or position. The codes to use when updating the database can be found on the PPDB web site at the address above.



Shortly after the data entry is made, an agency will receive a computer generated personnel action indicating the information that was updated. This printout is commonly referred to as a “turn-around.” The turn-around is filed in the employee’s personnel file and a copy is generally provided to the employee. The turn-around does not include private information such as social security numbers or protected class information.

Mass input into the PPDB system by DAS, such as cost of living increases, will also generate a turn-around. This is filed in the employee’s personnel file.

The Chief Human Resources Office – HR Systems periodically schedule Personnel Information Exchange (P.I.E.) meetings to inform agency HR Technicians of upcoming changes to the PPDB system. Agencies are notified of upcoming P.I.E. meetings via email and through the PPDB electronic newsletter. For the PPDB newsletter and latest bulletins, access PPDB on the mainframe, type in PBNG in the “NXT ACT” field in the mini-menu and enter.

PPDB training is provided upon request to new users of the system. Depending on the need, either display or update training is available. To request training, email the PPDB Group at: group.ppdb@state.or.us.

RECLASSIFYING A POSITION

A reclassification occurs when the duties of a position are not in alignment with the current classification. Incorrect classification may occur because of new duties assigned to the position or the gradual addition of duties.

Reclassification ensures a position is properly classified and the incumbent receives pay within the appropriate salary range. Reclassification is not used for rewarding employees through increased compensation.

For guidelines on classification procedures, including writing a classification analysis, go to the Classification Guide.

Selecting the proper classification begins with an accurate, updated position description. Ensure the duties are clear. If there is confusion over duties, the supervisor or Human Resources (HR) clarifies duties with the employee or conducts a desk audit with the employee. HR reviews the position description to ensure it is complete and FLSA, service-type designation, appropriate representation code and essential functions are accurate.

If the position’s representation code needs to change, contact DAS Human Resource Management Consultation for guidance. If the position is moving from represented to management service or to a different bargaining unit, contact the DAS Labor Relations Unit (LRU). LRU notifies the union of the change. If the position is vacant, moving the position from represented to unrepresented or management does not require union consent.

An agency must seek permission from the DAS HR Administrator to move a position into or out of the unclassified executive service.



After reviewing the position description, Human Resources conducts a classification analysis. Procedures for conducting a classification analysis are contained in the “Classification Guide” referenced above. It is useful to send a draft of the analysis to DAS Classification and Compensation for pre-review. Classification and Compensation will give guidance for completing the final draft.

After completing the position description analysis, HR works with the agency or DAS budget analyst to put together a budget package.

Submit the reclassification request to DAS Classification and Compensation for final approval. The reclassification request includes the position description, the classification analysis and the budget package.

Depending on the result of the reclassification request, the position may change. As such, an incumbent in the position may be affected. State HR Policy Effect of Position Change on Incumbents (30-005-01) provides specific steps or timelines to follow for reclassification of management, unclassified and unrepresented employees. For steps or timelines to follow for represented employees, consult the appropriate CBA.

If the position is at a higher classification, work with the agency or DAS budget analyst to prepare the reclassification to take to the legislature. Gaining approval through the legislature requires timing in a biennium and coordination with agency budget requests.

Compensation for management, unclassified and unrepresented employees whose positions are reclassified is addressed in State HR Policy Pay Practices (20-005-10) and in Effect of Position Classification Change on Incumbents (30-005-01). An applicable CBA addresses compensation for represented employees.

The above referenced Classification Guide contains procedures for writing a classification analysis.

[Budget Package for Classification Changes](#)

Elements of a complete budget package include:

1. A cover memo justifying reclassification
2. A permanent finance plan
3. A classification analysis for each position in the package
4. A position description and organization chart for each position in the package (Position description must be signed by the appointing authority)



Steps for Reclassifying a Position

Responsible Party	Action
Supervisor and Human Resources	Write a position description
Human Resources	Classify the position description and write the classification analysis
Human Resources on behalf of the agency head	Write a justification for the reclassification
Fiscal officer or budget analyst	Put together a permanent finance plan
Human Resources or fiscal officer or budget analyst	Follow up with DAS Budget and Management to ensure completion of the package

SALARY, CLASSIFICATION, AND COMPENSATION

For more information about salary, compensation and classification contact [DAS Classification and Compensation](#).

Hay Evaluation Method

[ORS 240.190](#) requires the State of Oregon to use a neutral and objective method of job evaluation.

The Hay system method used by the State of Oregon determines the compensation of most positions. It is a quantitative method that applies common factors with standard definitions to each class of work or individual benchmark position.

The Hay method of job evaluation is a structured means to rank positions and classifications. It compares dissimilar types of work using a common set of values and assumptions.

The Hay System has three job factors that apply to all jobs:

- Know-How (technical, specialized, managerial and human relations)
- Problem-Solving (thinking environment and thinking challenge)
- Accountability (freedom to act, impact on end results and magnitude)

A job context factor applied to some jobs is: Working Conditions (sensory and muscular effort, physical environment and hazards and work demands.)

The evaluation sets up relative internal relationships among classes and benchmark positions. The point-to-pay relationship adopted by the state translates the evaluation to the internal salary level. This is an important factor in setting the salary level for a classification.



Central Evaluation Team

State management employees trained in the Hay method make up the Central Evaluation Team (CET). They are from the Department of Administrative Services (DAS) and other state agencies. The CET generally meets twice a month, depending on need and other priorities.

From a statewide perspective, the CET evaluates new or significantly changed class specifications. The CET also evaluates individual Management and Executive Service "benchmark" positions in the Principal Executive/Manager (PE/M) series. The State HR Policy Merit Pay System (20-005-05) defines classification benchmark positions and identifies mandatory benchmarks.

Classification

A classification, in general, is a systematic arrangement of positions in groups or categories according to established criteria. State classifications are organized into the Classification Plan.

The Classification Plan is a management tool that organizes the State's diverse activities into groups of work and levels of skill, effort and responsibility.

A Classification Specification is a general description of work: its difficulty and complexity, its independence and authority, its supervisory responsibilities, and the qualifications needed for entry. The [Classification Specification](#) is the standard used when comparing individual positions for correct classification.

Positions are assigned to a classification (e.g., Natural Resource Specialist 2) after comparing the position's attributes as expressed in a position description with different Classification Specifications. The objective of this comparative review is to achieve the best possible fit when comparing the position description against the classification specification, which is the standard.

Pay Option Codes

Certain pay option codes are used with certain classification series. The codes determine the salary rate available for each classification. For more information read the [Pay Option Codes](#).

UNDERFILLING, OVERFILLING, CROSSFILLING, AND DOUBLEFILLING POSITIONS

Contact the agency or DAS budget analyst for guidance when filling a position in any method. The following methods for filling positions are used on a temporary basis until permanent funding is available:

Underfilling is filling a position on a temporary basis with someone who is qualified for a lower classification. An agency may recruit and hire an employee as an underfill for a position that is difficult to fill. The employee must meet the qualifications for the classification just below the vacant position (or a similar classification to the vacancy) and be able to meet the qualifications for the actual classification within 36 months.

Generally, an agency cannot underfill a position if there are applicants who are qualified for the position at the full level.



Overfilling, crossfilling and doublefilling is the temporary use of a position in a lower or same salary range to hire for a position that has been legislatively approved. Once the funding goes through, the overfill, crossfill or doublefill must be cleared.

Overfilling is filling a position on a temporary basis with someone who is qualified and hired for a higher classification, but the funding for the higher level position is not yet available.

Crossfilling is filling a position on a temporary basis that is the same salary range but is a different classification from what the position shows.

Doublefilling is placing more than one person on a position number on a temporary basis.

[OAR 105-040-0070](#) Alternate Methods of Filling Positions provides more information.

RESPONDING TO COMPLAINTS

At times, an agency will receive complaints about employees and the agency. Complaints will range in complexity from harassment, hostile work environment, lawsuits, grievances and interoffice disputes, to complaints about the temperature, furniture or decorations in the office. Human Resources (HR) will have a role in responding to the majority of these complaints or to assist in preparing the agency's response.

If an agency is notified of a complaint or pending complaint, the agency may be compelled to begin immediate retention of any documentation surrounding the complaint, including current, archived, electronic and hard copy documentation. There may be special considerations regarding requests for electronically stored information. DOJ Labor and Employment can advise your agency regarding retention and submission of information contained in this format.

Regardless of the type of complaint, complaints need, and in some cases require a response. The type of complaint will dictate the response. It may be detailed or simple. The agency response may determine if a minor complaint goes to a lawsuit, or the person registering the complaint is satisfied and drops the complaint.

Department of Justice (DOJ) Labor and Employment Section

Many times a complaint will require legal guidance from the DOJ Labor and Employment Section. (This is different from the DOJ, Business Activity Section that advises agencies on business activities.) Calls to DOJ are at the agency's expense. Call DOJ Labor and Employment at 503-947-4600 if the agency receives a complaint of harassment or discrimination, or receives notice of tort claims, lawsuits, BOLI and EEOC complaints.



RECRUITMENT AND SELECTION

Recruitment is a collaborative process between Human Resource (HR) and the Hiring Manager. Together, you can attract skilled and talented individuals to serve the citizens of Oregon. Each recruitment contains several components; preparation of the positions description, development of selection criteria, development of job announcement, advertising and outreach, review of application materials, conducting interviews, checking references, making an offer, and hiring.

As a foundation for recruitment and selection federal and state law, administrative rules, state HR policies and collective bargaining agreements (CBAs) that govern state of Oregon hiring practices are followed.

NOTE: If your agency employs minors, the agency must have a certificate to hire minors issued by the Bureau of Labor and Industries (BOLI). For further information on the employment of minors and the application for the certificate, please go to BOLI's [website](#).

Relevant [Oregon Revised Statutes](#) (ORS) are:

- **ORS Chapter 659A:** Unlawful Discrimination in Employment, Public Accommodations and Real Property Transactions; Administrative and Civil Enforcement
- **ORS Chapter 240 (240.306-240.400):** Method of Selecting Employees for Service in Classified Positions
- **ORS Chapter 408 (408.225-408.290):** Advantages Given Veterans in Public Employment

Relevant [Oregon Administrative Rules](#) (OAR) are as follows:

- **OAR Division 40:** Filling Positions
- **OAR Division 50:** Workforce Management

Relevant [State HR Policies](#) are as follows:

- **State HR Policy 40-010-01:** Recruitment and Selection Records Retention
- **State HR Policy 40-025-01:** Temporary Appointments
- **State HR Policy 40-035-01:** Unclassified Service Employment and Termination
- **State HR Policy 40-045-01:** Transfers
- **State HR Policy 40-055-01:** Appointment to the Unclassified Executive Service
- **State HR Policy 40-055-10:** Current Employee Relocation
- **State HR Policy 40-055-20:** New Employee Relocation
- **State HR Policy 40-065-01:** Trial Service Period

To locate relevant Collective Bargaining Agreements, [click here](#).

There is an online training for managers on what veterans' preference is and how to apply it during the hiring process, [click here](#) to access it in iLearnOregon.

See the [Recruitment Toolkit](#) for resources and more information.



For questions regarding applicable policies and Oregon Administrative Rules, contact the CHRO Policy Unit chro.policy@oregon.gov.

For questions regarding applicable Collective Bargaining Agreement (CBA) language, contact the Labor Relations Unit at lru@oregon.gov.

WHAT TO DO WHEN AN EMPLOYEE LEAVES

Employees leave their jobs for a variety of reasons. Some promote or transfer to another unit or state agency, some retire, some quit state service and others are terminated. When an employee leaves, the agency's role is to fill the position with a qualified person and make a smooth transition. Upon receiving notification of an employee's separation, the agency must perform and complete certain tasks. The checklist at the end of this document outlines many of these tasks.

Celebrations

In the case of promotion, transfer or retirement, employees themselves frequently tell others where they are going and why. With the exiting employee's permission, an event is often planned to celebrate a promotion, transfer or retirement. Remember that public funds are not used for this purpose.

Terminations

Human Resources (HR) should remind supervisors not to tell other employees if an employee was terminated, removed from trial service or left under unfavorable circumstances. Employees may be told the person is no longer with the unit but details cannot be given. Be sensitive to any circumstance under which an employee left the agency. Employees will be watching the actions of HR and the supervisor. They will notice if the exiting employee was treated with dignity and respect and if confidentiality was maintained.

Consider the time of day the termination meeting occurs and when an exiting employee collects their personal belongings. Sometimes the supervisor or HR will collect the belongings and either send them to the employee, or arrange for the employee to collect their belongings at a later date.

Exit Interview Survey & Memorandum

In order for the state to have consistent information about employees who voluntarily leave state service or transfer to another state agency, the Governor's Affirmative Action Office and DAS CHRO ask that exiting employee's complete an [on-line exit interview](#). The tool gathers exit information to show trends and possible areas of concern that can be addressed through changes in policy and practice.

DAS CHRO will work with agencies to pull reports from the data received. Those reports can be statewide or agency specific. If the agency has a similar survey in place, HR should share the data with DAS CHRO for inclusion in the statewide report.

See the following:

[Sample Supervisor Check List for Employee Separation](#)