



## Certification Page Regular and Emergency Rules

Revised May 2014

Emergency Rules *(After completing all of Sections 1 and 2, proceed to Section 5 below)*

Regular Rules

1. General Information			
a. Agency/Board Name Department of Administration and Information			
b. Agency/Board Address 2001 Capitol Avenue, Emerson Building		c. City Cheyenne	d. Zip Code 82002
e. Name of Contact Person Lori Eichheim		f. Contact Telephone Number (307) 777-6727	
g. Contact Email Address Lori.Eichheim@wyo.gov		h. Adoption Date November 14, 2014	
i. Program Human Resources Division			
2. Rule Type and Information: For each chapter listed, indicate if the rule is New, Amended, or Repealed.			
If "New," provide the Enrolled Act numbers and years enacted: <b>N/A</b>			
c. Provide the Chapter Number, Short Title, and Rule Type of Each Chapter being Created/Amended/Repealed <i>(Please use the Additional Rule Information form for more than 10 chapters, and attach it to this certification)</i>			
Chapter Number: <b>1</b>	Chapter Name: <b>General Provisions</b>	<input type="checkbox"/> New <input checked="" type="checkbox"/> Amended <input type="checkbox"/> Repealed	
Chapter Number: <b>2</b>	Chapter Name: <b>Recruitment &amp; Appointment</b>	<input type="checkbox"/> New <input checked="" type="checkbox"/> Amended <input type="checkbox"/> Repealed	
Chapter Number: <b>3</b>	Chapter Name: <b>Application for Employment</b>	<input type="checkbox"/> New <input type="checkbox"/> Amended <input checked="" type="checkbox"/> Repealed	
Chapter Number: <b>4</b>	Chapter Name: <b>Examinations</b>	<input type="checkbox"/> New <input type="checkbox"/> Amended <input checked="" type="checkbox"/> Repealed	
Chapter Number: <b>5</b>	Chapter Name: <b>Applicant Pool</b>	<input type="checkbox"/> New <input type="checkbox"/> Amended <input checked="" type="checkbox"/> Repealed	
Chapter Number: <b>6</b>	Chapter Name: <b>Candidacy and Appointment</b>	<input type="checkbox"/> New <input type="checkbox"/> Amended <input checked="" type="checkbox"/> Repealed	
Chapter Number: <b>3</b>	Chapter Name: <b>Position Control</b>	<input type="checkbox"/> New <input checked="" type="checkbox"/> Amended <input type="checkbox"/> Repealed	
Chapter Number: <b>7</b>	Chapter Name: <b>Position Control</b>	<input type="checkbox"/> New <input type="checkbox"/> Amended <input checked="" type="checkbox"/> Repealed	
Chapter Number: <b>4</b>	Chapter Name: <b>Position Classification</b>	<input type="checkbox"/> New <input checked="" type="checkbox"/> Amended <input type="checkbox"/> Repealed	
Chapter Number: <b>8</b>	Chapter Name: <b>Position Classification</b>	<input type="checkbox"/> New <input type="checkbox"/> Amended <input checked="" type="checkbox"/> Repealed	
d. <input checked="" type="checkbox"/> The Statement of Reasons is attached to this certification.			
e. If applicable, describe the <b>emergency</b> which requires promulgation of these rules without providing notice or an opportunity for a public hearing:			

<b>3. State Government Notice of Intended Rulemaking</b>				
a. Date on which the Notice of Intent containing all of the information required by W.S. 16-3-103(a) was filed with the Secretary of State:	08/15/2014			
b. Date on which the Notice of Intent and proposed rules in strike and underscore format and a clean copy were provided to the Legislative Service Office:	08/15/2014			
c. Date on which the Notice of Intent and proposed rules in strike and underscore format and a clean copy were provided to the Attorney General:	08/15/2014			
<b>4. Public Notice of Intended Rulemaking</b>				
a. Notice was mailed 45 days in advance to all persons who made a timely request for advance notice.	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A			
b. A public hearing was held on the proposed rules.	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No			
If "Yes:"	Date: 10/03/2014	Time: 1:00 p.m.	City: Cheyenne	Location: 122 W. 22nd Street, Herschler Building Room B63
<b>5. Final Filing of Rules</b>				
a. Date on which the Certification Page with original signatures and final rules were sent to the Attorney General's Office for the Governor's signature:	November 14, 2014			
b. Date on which final rules were sent to the Legislative Service Office:	November 14, 2014			
c. Date on which a PDF of the final rules was electronically sent to the Secretary of State:	November 14, 2014			
<b>6. Agency/Board Certification</b>				
The undersigned certifies that the foregoing information is correct.				
Signature of Authorized Individual (Blue ink as per Rules on Rules, Section 7)				
Printed Name of Signatory	David Urquidez			
Signatory Title	HRD Administrator, Department of Administration and Information			
Date of Signature	November 14, 2014			
<b>7. Governor's Certification</b>				
I have reviewed these rules and determined that they:				
<ol style="list-style-type: none"> <li>1. Are within the scope of the statutory authority delegated to the adopting agency;</li> <li>2. Appear to be within the scope of the legislative purpose of the statutory authority; and, if emergency rules,</li> <li>3. Are necessary and that I concur in the finding that they are an emergency.</li> </ol>				
Therefore, I approve the same.				
Governor's Signature				
Date of Signature				

**Attorney General:** 1. Statement of Reasons; 2. Original Certification Page; 3. Summary of Comments (regular rules); 4. Hard copy of rules: clean and strike/underscore; and 5. Memo to Governor documenting emergency (for emergency rules only).

**LSO:** 1. Statement of Reasons; 2. Copy of Certification Page; 3. Summary of Comments (regular rules); 4. Hard copy of rules: clean and strike/underscore; 5. Electronic copy of rules (PDFs) emailed to [Criss.Carlson@wyoleg.gov](mailto:Criss.Carlson@wyoleg.gov): clean and strike/underscore; and 6. Memo to Governor documenting emergency (for emergency rules only).

**SOS:** 1. PDF of clean copy of rules; and 2. Hard copy of Certification Page as delivered by the AG.



## Additional Rule Information

Revised May 2014

<b>1. General Information</b>		
a. Agency/Board Name <b>Department of Administration and Information</b>		
b. Agency/Board Address <b>2001 Capitol Avenue, Emerson Building</b>	c. City <b>Cheyenne</b>	d. Zip Code <b>82002</b>
e. Name of Contact Person <b>Lori Eichheim</b>	f. Contact Telephone Number <b>(307) 777-6727</b>	
g. Contact Email Address <b>Lori.Eichheim@wyo.gov</b>		
h. Program <b>Human Resources Division</b>		

<b>2. Rule Information, Cont.</b>
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a. Provide the Chapter Number, Short Title, and Rule Type of Each Chapter being Created/Amended/Repealed

Chapter Number: <b>5</b>	Chapter Name: <b>Compensation</b>	<input type="checkbox"/> New <input checked="" type="checkbox"/> Amended <input type="checkbox"/> Repealed
Chapter Number: <b>9</b>	Chapter Name: <b>Compensation</b>	<input type="checkbox"/> New <input type="checkbox"/> Amended <input checked="" type="checkbox"/> Repealed
Chapter Number: <b>6</b>	Chapter Name: <b>Leave</b>	<input type="checkbox"/> New <input checked="" type="checkbox"/> Amended <input type="checkbox"/> Repealed
Chapter Number: <b>10</b>	Chapter Name: <b>Leave</b>	<input type="checkbox"/> New <input type="checkbox"/> Amended <input checked="" type="checkbox"/> Repealed
Chapter Number: <b>7</b>	Chapter Name: <b>Discipline for Permanent Employees</b>	<input type="checkbox"/> New <input checked="" type="checkbox"/> Amended <input type="checkbox"/> Repealed
Chapter Number: <b>11</b>	Chapter Name: <b>Discipline for Permanent Employees</b>	<input type="checkbox"/> New <input type="checkbox"/> Amended <input checked="" type="checkbox"/> Repealed
Chapter Number: <b>8</b>	Chapter Name: <b>Grievances and Appeals for Permanent Employees</b>	<input type="checkbox"/> New <input checked="" type="checkbox"/> Amended <input type="checkbox"/> Repealed
Chapter Number: <b>12</b>	Chapter Name: <b>Grievances and Appeals for Permanent Employees</b>	<input type="checkbox"/> New <input type="checkbox"/> Amended <input checked="" type="checkbox"/> Repealed
Chapter Number: <b>9</b>	Chapter Name: <b>Performance Management</b>	<input type="checkbox"/> New <input checked="" type="checkbox"/> Amended <input type="checkbox"/> Repealed
Chapter Number: <b>14</b>	Chapter Name: <b>Performance Management</b>	<input type="checkbox"/> New <input type="checkbox"/> Amended <input checked="" type="checkbox"/> Repealed
Chapter Number: <b>10</b>	Chapter Name: <b>Service and Recognition Awards</b>	<input type="checkbox"/> New <input checked="" type="checkbox"/> Amended <input type="checkbox"/> Repealed
Chapter Number: <b>15</b>	Chapter Name: <b>Service and Recognition Awards</b>	<input type="checkbox"/> New <input type="checkbox"/> Amended <input checked="" type="checkbox"/> Repealed
Chapter Number: <b>11</b>	Chapter Name: <b>Separation</b>	<input type="checkbox"/> New <input checked="" type="checkbox"/> Amended <input type="checkbox"/> Repealed
Chapter Number: <b>13</b>	Chapter Name: <b>Dismissal of Non-Permanent Employees</b>	<input type="checkbox"/> New <input type="checkbox"/> Amended <input checked="" type="checkbox"/> Repealed
Chapter Number: <b>16</b>	Chapter Name: <b>Separation</b>	<input type="checkbox"/> New <input type="checkbox"/> Amended <input checked="" type="checkbox"/> Repealed
Chapter Number: <b>17</b>	Chapter Name: <b>Reduction in Force</b>	<input type="checkbox"/> New <input type="checkbox"/> Amended <input checked="" type="checkbox"/> Repealed
Chapter Number: <b>18</b>	Chapter Name: <b>Alternative Work Schedules</b>	<input type="checkbox"/> New <input type="checkbox"/> Amended <input checked="" type="checkbox"/> Repealed
Chapter Number: <b>Appendix A</b>	Chapter Name: <b>Definitions</b>	<input type="checkbox"/> New <input checked="" type="checkbox"/> Amended <input type="checkbox"/> Repealed
Chapter Number:	Chapter Name:	<input type="checkbox"/> New <input type="checkbox"/> Amended <input type="checkbox"/> Repealed
Chapter Number:	Chapter Name:	<input type="checkbox"/> New <input type="checkbox"/> Amended <input type="checkbox"/> Repealed

If Needed

# State of Wyoming Proposed Personnel Rules

## Statement of Principal Reasons

Amended Personnel Rules of the Executive Branch of Wyoming State Government

To Be Filed As Amended Rules

The Human Resources Division of the Department of Administration and Information proposes to amend Chapters 1, 2, 7, 8, 9, 10, 11, 12, 14, 15, 16 and Appendix A and to repeal Chapters 3, 4, 5, 6, 13, 17, and 18 of the State of Wyoming Personnel Rules to streamline and reduce its rules in accordance with Governor Mead's directive. Throughout the rules, provisions that are redundant of statute or policy are deleted, references to section and chapter numbers have been amended, and formatting changes have been made for consistency and uniformity.

Chapter 1, General Provisions, is amended as follows:

- Section 1 is amended to clarify that when the term "Human Resources Division and Human Resources Administrator" is used in these rules, it means the Department of Administration and Information Human Resources Division and the Department of Administration and Information Human Resources Division Administrator.
- Section 3 is amended to clarify that approval from the Human Resources Division means prior written approval.
- Section 7 is amended to require agency heads to notify employees that they must abide by the terms of the State of Wyoming Anti-Discrimination Policy as a condition of employment. In addition, this section is amended to correct the agency name from Employment to Workforce Services.
- Section 11(d) is added to authorize the transfer of an employee's personnel file from one agency to another in the event the employee transfers from one agency to another.
- Section 20 is added to set forth the traditional hours of work and the availability of alternative work schedules and teleworking.

Chapter 2, Recruitment, is amended to set forth the processes for recruitment through hiring. Relevant provisions from Chapter 3, Application for Employment, Chapter 4, Examinations, Chapter 5, Applicant Pool, and Chapter 6, Candidacy and Appointment, have been incorporated into Chapter 2.

Chapter 3, Application for Employment, is repealed. Relevant provisions from this chapter have been incorporated into Chapter 2.

Chapter 4, Examinations, is repealed. Relevant provisions from this chapter have been incorporated into Chapter 2.

Chapter 5, Applicant Pool, is repealed. Relevant provisions from this chapter have been incorporated into Chapter 2.

Chapter 6, Candidacy and Appointment, is repealed. Relevant provisions from this chapter have been incorporated into Chapter 2.

Chapter 7, Position Control, is renumbered to Chapter 3, and amended as follows:

- Section 2(d) is amended to clarify that falsification of a job content questionnaire is grounds for discipline up to and including dismissal.
- Section 3(a)(i) is added to notify agencies they should assign tasks to existing positions of similar content to reduce possibly reclassifying a position higher than the position is budgeted.
- Section 4(c) is added to require positions subject to a reduction in force be removed from the agencies' authorized list.

Chapter 8, Position Classification, is renumbered to Chapter 4, and amended as follows:

- Sections 2 and 6 are amended to change language from "qualifications" to "requirements" as it pertains to the minimum requirements of a classification.
- Section 5(b)(iii)(B)(I) is amended to correct the titles of the positions that comprise the classification review panel, as the Human Resource Division was reorganized in 2009 and the sections of classification and compensation and selection and recruitment were combined into one section, which is now called the Agency Services Unit.

Chapter 9, Compensation, is renumbered to Chapter 5, and amended to consistently reference the State of Wyoming Compensation Policy and to repeal provisions that are redundant of state statute and the State of Wyoming Compensation Policy.

Chapter 10, Leave, is renumbered to Chapter 6, and amended as follows:

- Subsection 1(b)(iii) is added to limit reinstatement of service credits for employees returning to state employment to a one-time occurrence.
- Sections 2(e)(i) and (ii) are amended to require an employee to maintain an accrued minimum balance of eighty (80) hours of sick leave to donate to another employee, including family members.

- Section 2(f) is deleted because there is no mechanism to transfer actual funds between participating entities.
- Section 4 is amended to limit holiday leave to eight (8) hours per holiday.
- Section 4(c)(iii) is amended to allow an employee to elect to receive of time off as regular pay as sometimes they are unable to take the required day off as specified in the rules due to staff shortages or scheduling conflicts for operations that work 24/7/365.
- Section 10(c) is amended to prohibit probationary employees from being granted educational leave.
- Section 14(b) is amended to clarify that employees furloughed for lack of funding shall be on leave without pay and shall not use any accrued paid leave during the furlough period.
- Section 16 is amended to delete language provided in federal law. Under the Family and Medical Leave Act, there are a few instances where an employer has options in administering the Act. The provisions establishing the state's option in those instances have been retained. Specifically, we require an employee to substitute accrued paid leave for unpaid leave, and the FMLA period begins when leave is first used going forward twelve (12) months.

Chapter 11, Discipline for Permanent Employees, is renumbered to Chapter 7 and amended as follows:

- Section 2 is amended to allow any level of agency management to suspend or dismiss an employee without prior discipline for “conduct of any type which agency management considers serious”. This amendment clarifies that agency management has discretion to determine what behavior warrants immediate suspension or dismissal.
- Section 3(c) is amended to clarify the process for dismissals due to employee conduct/incapacity and dismissal subsequent to a fitness for duty evaluation.
- The language in Section 3(c)(iv) is moved to its own section, Section 4(a), to ensure the procedural requirements of the entire chapter are complied with, not just Section 3.

Chapter 12, Grievances and Appeals for Permanent Employees, is renumbered to Chapter 8 and amended as follows:

- Section 1 is amended to remove unnecessary language.

- Section 2 is amended to remove unnecessary language and to remove provisions referencing the Grievance Committee and presiding officer for personnel appeal hearings. The Human Resources Division proposes to remove the Grievance Committee as it has proven to be inefficient. The employee maintains the right to request a personnel appeal hearing for specified grievances. All personnel appeal hearings are currently heard by the Office of Administrative Hearings (OAH).
- Section 3 is amended to clarify what constitutes a “grievance” and what does not.
- Section 4 on compliance with procedures was incorporated into Section 2 and eliminated.
- Section 5 was renumbered to Section 4 and amended to shorten the time periods in the grievance procedure and to remove the Grievance Committee hearings from the grievance procedure. Added language for the HRD Administrator to forward any agency head decision which involves allegations concerning violations of a statute, rule, executive order or policy to the Governor’s office for investigation in accordance with Executive Order 1997-4.
- Section 6 was eliminated and incorporated into the new section 5.
- Section 7 was renumbered Section 5 and amended to provide an opportunity and time periods to appeal an agency head decision related to dismissal, involuntary reduction in force, involuntary reassignments due to unsatisfactory work performance, and final grievance decisions concerning disciplinary suspensions.
- Proposed section 6 Added to incorporate by reference the Office of Administrative Hearing’s rules on contested cases.
- Proposed Section 7 is added to authorize the consolidation of multiple actions for efficiency purposes.

Chapter 13, Dismissal of Non-Permanent Employees, is repealed. The only provision from this chapter has been incorporated into proposed Chapter 11.

Chapter 14, Performance Management, is renumbered to Chapter 9, and amended as follows:

- Section 2 is amended to add the word “employee” to the different types of employees who are not required to be evaluated.
- Section 3 is amended to refer to the personnel rules consistently as the State of Wyoming Personnel Rules.

- Section 4 is amended to remove the statement relating to probationary employees being at-will employees as this language is already provided in the definition of “probationary employee” in Appendix A. Also removed the length of time for the probationary period, as this is already provided in Chapter 2.
- Section 5 is amended to remove language referring to prior years.
- Section 6 is amended to remove any exceptions to the evaluation date as the electronic system has defined opening dates and closing dates which once an evaluation period is closed it cannot be reopened.
- Section 7 is amended to clarify who may be an evaluator and define the responsibilities of the evaluator, including the penalties for failure of an evaluator to complete their assigned evaluations.
- Section 8 is deleted and the incorporated into Section 7. Proposed Section 8 is added to set forth the employee responsibilities including acknowledging having an evaluation, signing the evaluation, and the consequences of not signing the evaluation form.
- Section 9 is deleted because this part of the process is included in the instructions provided in the trainings and manuals. Proposed Section 9 defines the responsibilities of all individuals involved in the performance management.
- Section 10 is deleted because this part of the process is included in the instructions provided in the trainings and manuals.
- Section 11 is deleted and incorporated into Section 7.
- Section 12 is renumbered to Section 10 and amended to clarify the timing of Performance Improvement Plans and to remove references to “ratings of “improvement/growth necessary” because only an “unsatisfactory” rating requires a Performance Improvement Plan. The amendments also set forth the procedure for handling a change in evaluator during the Performance Improvement Plan period.
- Section 13 is renumbered to Section 11 and amended to remove the authority to waive the time period because the electronic system is designed for one common date which cannot be changed.
- Section 14 is renumbered to Section 12 and amended to clarify that the appeal process is only for the rating of unsatisfactory and not for issues related to procedural compliance. The amendments also add language clarifying that if an evaluator is the agency head, the appeal can go to the Human Resource Administrator as the second step in the process.

Chapter 15, Service and Recognition Awards, is renumbered to Chapter 10 and amended to establish procedures an agency is required to follow when providing a recognition award to an employee and to identify recognition awards that are acceptable and those that are prohibited.

Chapter 16, Separation, is renumbered to Chapter 11 and amended as follows:

- Combined three (3) chapters dealing with separation of employees into one chapter. Relevant provisions from Chapter 13, Dismissal of Non-Permanent Employees, Chapter 16, Separation, and Chapter 17, Reduction in Force, have been incorporated into this chapter.
- Chapter 17, Reduction in Force, is repealed and incorporated into the new Chapter 11.
- Chapter 18, Alternative Work Schedules, is repealed and the work schedules and ability for alternative or variable work schedules is incorporated into Chapter 1. The Human Resources Division has Flexible Personnel Policies outlining different alternative work schedule options.

Appendix A. Definitions. Is amended as follows:

- Added clarifying language to identify the definitions apply to the State of Wyoming Personnel Rules and any policy and interpretation related to personnel matters.
- 49. Holiday Premium, Exempt employees. Removed the words “official state” as the only time an employee should receive additional compensation or leave is when they actually work on the actual holiday listed in Chapter 5 of the rules.
- 50. Holiday Premium, Non-Exempt employees. Removed the words “official state” as the only time an employee should receive additional compensation or leave is when they actually work on the actual holiday listed in Chapter 5 of the rules.
- 73. Performance Improvement Plan. Made the definition consistent with that in the Chapter 9, Performance Management.
- 78. Probationary Appointment. Made the definition consistent throughout the rules, by defining the length of time of the probationary appointment.
- 80. Probationary Period. Made the definition consistent throughout the rules, by defining the length of time of the probationary period.
- 88. Reduction in Force. Made the definition consistent throughout the rules.

- 99. Intern Appointment. Removed the word “student” as some appointments may be individuals who are not current students in an educational setting.
- 108. Time-Limited Employee. Removed this term as “time-limited” refers to the type of a position and is not an employment status. Temporary employee is the correct term to use when referring to an employment status of an employee.
- Renumbered the remaining definitions.

CHAPTER 1  
GENERAL PROVISIONS

**Section 1. Authority.**

(a) These State of Wyoming Personnel rules are promulgated by the Human Resources Division, Department of Administration and Information, State of Wyoming, in accordance with W.S. 9-2-1002, 9-2-1019, 9-2-1022, and 16-3-101 through 16-3-115. They take precedence over all personnel rules issued by any Executive Branch State Agency.

(b) Throughout these rules, Human Resources Division shall mean the Department of Administration and Information Human Resources Division.

(c) Throughout these rules, Human Resources Administrator shall mean the Department of Administration and Information Human Resources Division Administrator.

**Section 2. Coverage.**

These rules apply to all positions and employees in the Executive Branch, with the exception of the University of Wyoming and the positions of Governor, Secretary of State, State Auditor, State Treasurer, Superintendent of Public Instruction, District Attorneys and Executive Director of the Community College Commission which are exempt from these rules. The Governor is exempt from Chapter 2 in the recruitment and appointment of agency heads. The position of Adjutant General is exempt from the State Compensation Plan (W.S. 19-7-103 (b)(ix)).

**Section 3. Interpretation.**

(a) The Human Resources Administrator or designee is solely responsible for providing official interpretations of these rules in cases of apparent internal conflicts between rules, or when questions arise about their application to specific situations, procedures or policies.

(b) In all cases where approval from the Human Resources Division is required, it shall mean prior written approval.

**Section 4. Enforcement.**

(a) The Human Resources Administrator shall ensure that these rules are enforced and applied uniformly and fairly by all Executive Branch agencies.

(b) **Agency Responsibility:**

(i) Agency heads are responsible for complying with and applying these rules within their agency, and shall ensure that all employees comply with their provisions;

(ii) Agency heads are responsible for the action of agency management employees to whom they have delegated, in writing, authority to act in their behalf in any or all aspects of personnel administration;

(iii) Agency heads shall inform all employees of these rules;

(iv) Agency heads shall provide all employees with reasonable access to these rules.

(c) Employees are responsible for familiarizing themselves with these rules and are expected to contact their supervisor or agency human resources representative for explanation of any rule they do not understand.

**Section 5. Personnel Policies.**

The Human Resources Division may issue written policy statements concerning interpretation or application of these rules, procedures for carrying out personnel functions, and other matters necessary for proper personnel administration. Agency heads shall distribute and comply with these statements.

**Section 6. Equal Employment Opportunity.**

(a) Equal employment opportunity shall be provided to applicants and employees in the administration of all personnel practices such as recruitment, appointment, promotion, performance evaluation, discipline, retention, training and other benefits, terms and conditions of employment in a manner which does not discriminate on the basis of race, color, creed, religion, sex, national origin, age, political affiliation, disability (except where disability is a bona fide occupational disqualification).

(b) The Human Resources Division shall provide assistance to agency heads in the administration of equal employment opportunity policy.

(c) Agency heads shall act in accordance with equal employment opportunity policy and shall cooperate fully with the Human Resources Division Equal Employment Opportunity Coordinator, the State of Wyoming's representative, in investigating and resolving discrimination complaints.

(d) Agency heads or designees are responsible for distributing and discussing equal employment opportunity policy with agency management and employees to assure understanding and consistent application.

(e) Agency heads shall provide employees and applicants alleging discrimination accessibility to the agency's designated Equal Employment Opportunity Coordinator who can assist the individual in order to insure that their rights are not violated. The Human Resources Division Equal Employment Opportunity Coordinator shall be contacted by the agency when an employee or applicant complains of employment discrimination.

(f) An employee or applicant alleging employment discrimination should contact the Human Resources Division Equal Employment Opportunity Coordinator who shall attempt to resolve the complaint.

(i) If the complaint cannot be resolved, the Coordinator shall provide a full report to the Human Resources Administrator and shall advise the individual of any other procedures available for resolution of the complaint.

**Section 7. Discrimination and Sexual Harassment.**

(a) The State of Wyoming Anti-Discrimination Policy is set forth in Executive Order No. 2000-4.

(b) The Anti-Discrimination Policy prohibits any form of discrimination or harassment related to an individual's race, religion, color, sex, national origin, age or disability.

(c) Employees shall be informed that they must abide by the terms of the policy as a condition of employment and of the consequences of any violation of such policy.

(d) Any employee who believes he or she has been discriminated against or harassed in violation of the Anti-Discrimination Policy should submit a complaint following the procedures set forth in the Anti-Discrimination Policy.

(e) An employee may file a discrimination complaint with the Wyoming Department of Workforce Services, Division of Labor Standards, or the Federal Equal Employment Opportunity Commission.

**Section 8. Substance Abuse.**

(a) Policy. It is the policy of the State of Wyoming to maintain a workplace free of substance abuse as set forth by Executive Order 1990-2

(b) All employees shall be given a copy of the Executive Order 1990-2 Substance Abuse Policy.

(c) Employees shall be informed that they must abide by the terms of the policy as a condition of employment and of the consequences of any violation of such policy.

**Section 9. Personnel Forms.**

The Human Resources Division shall prescribe the forms and procedures for use by State agencies in matters of personnel administration.

**Section 10. Employee Participation.**

Employees or their recognized representatives may provide comments and suggestions to the Human Resources Division relating to personnel matters affecting their interests.

**Section 11. Personnel Records.**

(a) The Human Resources Division shall have access to all agency personnel records.

(b) Employees personnel records shall be maintained as determined by the Human Resources Division and in accordance with the State Personnel Records Policy.

(c) Employees shall have access to their personnel records upon providing proper identification. An employee's representative may be given access to an employee's personnel records upon providing a release signed by the employee.

(d) When an employee transfers from one agency to another agency within the Executive Branch of State Government, the employee's personnel file shall transfer to the new agency.

(i) The hiring agency shall submit a written request to the employee's former agency requesting the official transfer of the employee's personnel file after the employee has started with the new agency.

(ii) The former agency human resource office shall ensure the file is transferred to the hiring agency human resource office within ten (10) days of the hiring agency's written request either by hand delivery or certified, return receipt mail.

**Section 12. Responsibility for Agency Functions.**

(a) Agency heads shall ensure that the following functions are performed:

(i) Establishment and maintenance of internal personnel policies and procedures, which do not conflict with the State of Wyoming Personnel Rules and policies;

(ii) Establishment and maintenance of employee personnel records;

(A) Personnel records, including selection/interview records, shall be maintained as required by W.S. 16-4-203(b) (ii) and W.S. 16-4-203(d)(iii) the Executive Branch Records Retention Schedules;

(iii) Designation of a contact position for purposes of communicating with the Human Resources Division;

(iv) Preparation of reports and other information required by the Human Resources Division.

### Section 13. **Management Rights.**

(a) To insure that the State can carry out its constitutional and statutory functions there are certain matters, which are solely functions of management, including:

(i) The right to direct the work force;

(ii) To select and determine the number and types of employees required;

(iii) To determine the content of job classification;

(iv) To hire, transfer, promote, demote, reappoint, suspend, discipline, and dismiss employees;

(v) To evaluate work performance;

(vi) To authorize leave;

(vii) To assign work to employees as required by the State;

(viii) To establish and change work schedules and assignments;

(ix) To lay off employees for lack of work;

(x) To furlough employees without pay for lack of work or funding;

(xi) To expand or diminish services;

(xii) To subcontract any work or operations;

(xiii) To establish and change methods of operation;

(xiv) To determine and change work locations and the processes and materials to be employed; and

(xv) To take all necessary actions to perform its functions in emergencies.

(b) Management shall have the right to conduct inquiries into matters affecting management policies and practices.

(c) Management shall ensure these functions are carried out fairly, equitably and in the best interest of the State.

**Section 14. Politics.**

(a) Employees shall not use official authority or influence to interfere with or influence the result of an election or nomination for office.

(b) Employees shall not directly or indirectly coerce a State officer or employee to pay, lend, or contribute anything of value to a party, committee, organization, agency, or person for political purposes.

(c) Employees shall not conduct any political activity on State time.

(d) Employees shall not be a candidate for partisan elective office if employed in a program covered by the Federal Hatch Act.

(e) Discrimination against any person in recruitment, examination, appointment, retention, discipline or any other aspect of personnel administration because of political opinion or affiliation is prohibited:

(i) No questions shall be asked on any application, examination, or interview, which would directly or indirectly require the disclosure of a person's political affiliation, preferences, or opinions.

(ii) Applicants and employees are prohibited from using political influence as an advantage in securing or making appointments or for other personal benefit for themselves or others in personnel matters.

**Section 15. Conflicts of Interest.**

(a) Employees shall not enter into any financial or other relationship with a State agency, private business, or other organization, which would constitute a conflict of interest with their State employment.

(b) Employees shall not permit themselves to be placed under any personal or other obligation, which could lead any person, group, or organization to expect official favors.

**Section 16. Personal Conduct.**

Employees shall be courteous, considerate, and impartial in dealing with and serving the public. Employees shall conduct themselves in a manner that will not bring discredit or embarrassment to the State.

**Section 17. Dual Employment.**

(a) There shall be no conflicting hours of work when a person is employed by two (2) or more State agencies or in two (2) or more positions in the same State agency:

(i) In the case of the former, both agency heads shall first agree to the terms of the dual employment;

(ii) Dual employment within State service shall have prior approval of the Human Resources Division.

(b) An agency head may allow an employee to work for another employer so long as the employee performs satisfactorily and there is no conflict of hours:

(i) No employee shall engage in outside employment or other activity which is not compatible with the efficient and proper performance of the duties of the State employment, or which tends to impair capacity to perform duties and responsibilities in an acceptable manner.

**Section 18. Use of State Property.**

No employee shall use or permit the use of State property for other than official activities. Employees shall protect and conserve State property, equipment, and supplies entrusted or issued to them.

**Section 19. Savings Clause.**

If any provision of these rules or its application to any person or circumstance is held invalid or in conflict with any other provision of these rules, the invalidity shall not affect other provisions or applications of these rules which can be given effect without the invalid provision or application, and to this end the provisions of these rules are severable.

**Section 20. Work Schedules.**

(a) All Executive Branch Agencies shall maintain traditional hours of work from 8:00 a.m. to 5:00 p.m., Monday through Friday and be staffed appropriately to insure service to the public and other agencies, unless otherwise approved in writing by the Human Resources Division.

(b) Employees shall maintain a set work schedule and conduct state business from their centralized organizational work place, their regular office or from an approved remote work site using an approved Telework Memorandum of Understanding.

(c) An employee may request an alternative or variable work schedule in contrast to the traditional hours of work:

(i) The use of an alternative or variable work schedule shall be requested in writing by the agency head to the Human Resource Division for approval prior to the schedule becoming effective;

(ii) Any change to the official workweek or alternative work schedule shall be in accordance with the overtime provisions of the Fair Labor Standards Act and policies and procedures established by the Human Resource Division.

## CHAPTER 2

### RECRUITMENT & APPOINTMENT

#### Section 1. **Recruitment.**

(a) The Human Resources Division shall establish and administer a centralized system of recruiting applicants based on competencies, relative ability, knowledge, experience, and skills to meet the human resource requirements of the State.(b) To fill any vacant position, there shall be recruitment.

(c) All recruitment shall be determined by the Human Resources Division and in accordance with the State Recruitment Policy.

#### Section 2. **Applications.**

(a) Application for appointment shall be submitted in accordance with the State Recruitment Policy and received within the prescribed time limits for positions open for recruitment.

(b) A separate application shall be submitted for each position open for recruitment.

(c) Neither the issuance of recruitment nor an application form nor an invitation to apply shall be construed as incurring an obligation to accept or approve any application subsequently submitted.

(d) The Human Resources Division may stop or limit the acceptance of applications in any manner, which is useful and expedient for the recruitment involved.

#### Section 3. **Ineligibility of Applicants.**

(a) Applications may be rejected, and/or applicants refused further consideration, examination, or appointment for any of the following reasons:

(i) Failure of the application to show the applicant meets all minimum requirements established for the classification;

(ii) Failure of an applicant to submit requested application materials according to the established procedures and/or within the prescribed time period which are complete, legible, and comprehensible;

(iii) Making a false statement and/or otherwise practicing deception and/or fraud in connection with an application;

(iv) Cheating and/or otherwise attempting to secure an undue advantage on any examination and/or obtaining information regarding examinations to which the individual is not entitled;

(v) Failure to appear for a scheduled examination and/or interview;

(vi) Failure to pass any phase of the examination process;

(vii) Applicant is determined to be unable to effectively perform the essential functions of the job, with or without reasonable accommodation;

(viii) Applicant has been dismissed from State service;

(ix) Applicant has been found to have a record of unsatisfactory work performance;

(x) Applicant is currently abusing narcotics, intoxicating liquors, and/or other substances in a manner which would affect the ability to safely, dependably and/or effectively perform the duties of the job;

(xi) Applicant has been convicted of a crime and/or has a record of convictions, the nature of which is reasonably related to the applicant's fitness for employment for the job;

(xii) Applicant has used and/or attempted to use political and/or personal pressure and/or bribery to secure an advantage in obtaining employment;

(xiii) Applicant supports and/or belongs to any organization, which advocates illegal overthrow of the government of the United State and/or of the State of Wyoming;

(xiv) No person under sixteen (16) years of age shall be employed;

(xv) No person between sixteen (16) and eighteen (18) years of age shall be employed in an occupation defined as hazardous by the United States Secretary of Labor pursuant to the "Federal Fair Labor Standards Act of 1938," as amended 29 U.S.C. 201 et. seq., also known as the Act;

(xvi) Applicant has willfully violated any provisions of these rules; or

(xvii) For any other job related reason which adversely affects the applicant's suitability for appointment.

#### **Section 4. Candidate Group.**

(a) Unless otherwise specified by the Human Resources Division, the candidate group shall consist of all eligible applicants from a specific recruitment whom consideration for appointment may be given.

(b) The Human Resources Division shall make available, upon request, to the hiring authority the names and applications of the candidate group.

(c) A permanent employee, separated from service due to a reduction in force, shall automatically be in the candidate group for the classification held at the time of separation for a period of twenty-four (24) months:

(i) A permanent employee, separated from service due to a reduction in force, shall be a state employee for a period of twenty-four (24) months when applying for position vacancies limited to state employees.

#### **Section 5. Examinations.**

(a) **Definition of Examination:** Any process, procedure, rating, interview, test, evaluation, or assessment, whether scored or not scored, formal or informal, which affects a person's eligibility for, or consideration for, appointment.

(b) Examinations shall be administered in accordance with the State Recruitment Policy.

(c) Agency management shall inform the Human Resources Division of any examinations used during the recruitment process.

(d) The content and conduct of such examinations may be subject to the review and approval of the Human Resources Division:

(i) Agency management shall coordinate through the Human Resources Division in any examination development activities.

(e) Examinations conducted by agency management or hiring authorities for the purpose of employment decisions shall be job-related:

(i) Only applicants who have successfully applied for an active recruitment, meet the minimum requirements, and have otherwise been determined to be eligible for appointment shall be eligible for an examination.

(f) Hiring authorities shall consider an adequate number of the available candidates in order to provide for competitive selection:

(i) Hiring authorities shall keep records of candidates examined, including applications, dates, ratings, and other documentation of the results of final selection examinations for a time period specified in the State's Executive Branch Records Retention Schedules;

(ii) Hiring authorities shall be responsible for any adverse actions resulting from failure to consider any candidate, taking into account valid factors relevant to the needs of the vacant position.

(g) Hiring authorities shall make reasonable accommodations to assist applicants with disabilities in the examination process:

(i) It shall be the responsibility of the applicant to notify the hiring authority of any special needs.

**Section 6. Veterans' Preference Points.**

Veterans' Preference Points shall be in accordance with W.S. 19-14-102.

**Section 7. Preconditions to Appointment.**

(a) Except for appointments of agency heads by the Governor, emergency appointments, involuntary reappointments, and lateral reappointments within the same agency, all appointments shall be from among the candidate group from the specified recruitment for the specified classification.

(b) Minimum Requirements. Except for emergency appointments, no applicant shall be appointed until the following are met:

(i) Specified time periods as defined in the State Recruitment Policy have passed;

(ii) The processing of applications and the administration of examinations is complete;

(iii) It has been determined by the Human Resources Division that the applicant meets the minimum requirements of the classification and has passed any required evaluation;

(iv) It has been determined that the applicant is able to perform the essential functions of the job, with or without reasonable accommodation; and

(v) The applicant has an acceptable record of previous job performance;

(A) The performance and / or disciplinary file of current and former state employees shall be made available to the hiring agency upon notification to and written authorization from the Human Resources Division, of the current or former state employee's selection as the final candidate(s) for appointment.

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

**Section 8. Responsibilities of Hiring Authorities.**

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

(i) Prior to the hiring of any other candidate with no greater preference, a permanent employee separated by a reduction in force shall be offered reinstatement to a vacant position within the agency, within the division (as designated for purpose of reduction in force) last employed and within the class held at the time of separation;

(ii) An individual recommended for probationary appointment, reinstatement appointment, promotional appointment, voluntary reassignment, temporary appointment, or intermittent appointment is in the candidate group;

(iii) The appointment of the individual would not conflict with the rule on employment of relatives, Section 10 of this chapter;

(iv) All legal requirements pertaining to the classification including licensing and/or certifications are met.

(b) The hiring authority shall notify all qualified candidates that applied for the specific recruitment regarding the final status of the recruitment.

**Section 9. Types of Appointment.**

(a) Probationary Appointment. The appointment of a candidate in a civil service position who shall serve a three hundred and sixty-five (365) day probationary period:

(i) An individual given a probationary appointment is an at-will employee who has no expectation of continued employment and may be dismissed at any time during the probationary period;

(ii) Time served as an intern, emergency employee, temporary employee, or intermittent employee shall not count towards the probationary period;

(iii) Leave without pay and/or time received from donated sick leave shall not count towards the probationary period.

(b) Permanent Appointment. The appointment of an individual who has completed the probationary period:

(i) Permanent appointment shall be effective on the next day following completion of the three hundred and sixty-five (365) day probationary period.

(c) **Appointment by Reinstatement.** A permanent employee, separated from service due to a reduction in force, shall have reinstatement rights for a period of twenty-four (24) months to include employment status, leave accrual rates, longevity benefits and continuous service credits held at the time of separation:

(i) A permanent employee who separated from service due to a reduction in force shall have a right to decline offers of appointment without forfeiture of reinstatement rights when:

(A) The geographical area of the position vacancy is different from that at the time of separation;

(B) The position funding is temporary or time-limited;

(C) The classification is different from that at the time of separation; or

(D) The division is different from that at the time of the separation.

(d) **At-Will Appointment.** The appointment of a candidate to a position in a non-civil service position:

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

(e) **At-Will Contract Appointment:**

(i) At-will contract appointment shall require a signed written contract agreement and shall be in accordance with W.S. 9-2-1022(a)(xi)(F);

(ii) An individual appointed as an at-will contract employee is an at-will employee who has no expectation of continued employment and may be dismissed at any time without cause or reason;

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

(A) Salary and/or rates of pay shall be comparable to similar jobs in state government and shall not include adjustments for any type of benefit including leave, insurance premium, or retirement contribution;

(iv) Appointment as an at-will contract employee shall not count towards continuous state service for purposes of longevity payments;

(v) No at-will contract employee shall be eligible for or accrue any type of leave.

(f) **Temporary Appointment.** Temporary appointment shall not continue for more than nine (9) months without prior written approval of the Human Resources Division:

(i) Temporary appointment may be made to a position:

(A) Held by another employee who is on educational leave or other extended leave;

(B) Which is seasonal and or time-limited for a period of less than nine (9) months;

(ii) No individual shall receive successive temporary appointment into the same classification within an agency during any twelve (12) month period;

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

(g) Intermittent Appointment. The employment of a candidate to perform work in a classification for varying time intervals, which shall not exceed nine (9) months full-time equivalent service:

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

(h) Emergency Appointment. When an emergency threatening public health, safety or welfare exists requiring the immediate employment of additional workers, emergency appointment may be utilized with prior verbal approval of the Human Resources Division, except for emergencies occurring at night, or on weekends or holidays, in which case such emergency appointment shall be reported to the Human Resources Division on the following work day:

(i) Emergency appointment shall not exceed thirty (30) days;

(ii) Persons given emergency appointment shall submit application forms to the Human Resources Division as soon as practical;

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

(i) Appointment of Interns:

(i) All interns shall require justification and prior written approval of the Human Resources Division Administrator or designee;

(ii) An agency may offer an internship as on-the-job training for a limited period of time provided the following;

(A) The internship, even though it includes actual operation of the agency, is similar to training which would be given in an educational environment;

(B) The internship is for the benefit of the intern;

(C) The intern shall not displace regular employees, but works under close supervision of existing staff;

(D) The agency that provides the training receives no immediate advantage from the activities; and on occasion the operations may be impeded; and

(E) The intern is not necessarily entitled to a job at the conclusion of the internship unless they are in the candidate group of an active recruitment.

(j) Volunteer:

(i) All volunteer opportunities shall require justification and prior written approval of the Human Resources Division Administrator or designee;

(ii) Volunteers shall not displace regular employees;

(iii) State employees shall not volunteer additional time to do work.

(k) Promotional Appointment. The appointment of an employee to a different position in a different classification having a higher grade than the employee's current classification.

(l) Reassignment:

(i) Voluntary Reassignment. The reassignment of an employee seeking appointment to a position in a different classification having the same or lower grade than the employee's current classification;

(A) Voluntary Reassignments shall be from among applicants in the candidate group;

(ii) Involuntary Reassignment;

(A) An agency head shall consult with the Attorney General's Office and the Human Resources Division prior to involuntarily reassigning a permanent or probationary employee to a different position in a different classification having the same or lower grade than the employee's current classification because of a reduction in force, unsatisfactory work performance or other demonstrated reason affecting the accomplishment of program goals;

(B) Prior to a reduction in force, involuntary reassignment may be between agencies if both agency heads agree;

(C) Involuntary reassignments shall require the employee meets the minimum requirements for the new classification;

(D) Involuntary reassignments of an employee may have the requirement to conduct an active recruitment waived with prior written approval of the Human Resources Division;

(iii) Lateral Reassignment. The reassignment of an employee to a vacant position within the same classification as the employee's current position;

(A) A lateral reassignment of an employee to a vacant position within the same agency may have the requirement to conduct an active recruitment waived with prior written approval of the Human Resources Division;

(iv) Interim Assignment. The reassignment of an employee on an interim basis to a different position in a higher grade than the employee's current position;

(A) An agency head shall provide written notification to the Human Resources Division prior to providing an interim assignment to an existing agency employee;

(B) Interim assignment shall not exceed twelve (12) months;

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

**Section 10. Employment of Relatives.**

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

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

(c) An agency head shall ensure employees related to each other do not directly supervise a relative.

**Section 11. Appointment of Non-U.S. Citizens.**

(a) All employees, citizens and non-citizens, hired after November 6, 1986, and working in the United States shall complete Form I-9, Employment Eligibility Verification to document they are authorized to work in the United States:

(i) Each agency shall verify and maintain I-9 documentation according to the U.S. Citizenship and Immigration Services.

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

(c) When an employee's work authorization expires, the agency shall verify the employee's employment eligibility:

(i) The employee shall present a document that shows either an extension of the employee's initial employment authorization or new work authorization;

(ii) If the employee cannot provide proof of current work authorization, the agency shall not continue to employ that individual.

(d) No agency shall be a sponsor or petitioner on behalf of any Non-U.S. Citizen without the express written consent of the Governor.

(e) No agency may contract with or permit a third party (e.g., a law firm) to petition any federal agency to change a Non-U.S. Citizen's immigration status without prior consultation with the Attorney General's Office, notification to the Human Resources Division and the written approval of the Governor.

**CHAPTER 3**  
**APPLICATION FOR EMPLOYMENT**  
**REPEALED**

CHAPTER 3  
POSITION CONTROL

**Section 1. Position Status.**

(a) The status of each position shall be designated based on authorized funding, as one of the following types:

- (i) full-time;
- (ii) part-time;
- (iii) time-limited; or
- (iv) time-share.

(b) The status of position shall not have any effect on the employment status of an individual occupying the position.

**Section 2. Job Content Questionnaires.**

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

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

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

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

**Section 3. Task Assignments.**

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

(i) To the extent possible, assignments of tasks from one position to another or of new tasks shall be assigned to existing positions of similar content to eliminate or reduce the possibility of positions being reclassified to a higher grade than funding is authorized.

**Section 4. Position Vacancies.**

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

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

(c) **Positions vacated due to a reduction in force shall be removed from the Agency's authorized position allocation.**

**Section 5. Position Appointments.**

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

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

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

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

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

(iii) **Temporary appointments to time-limited positions;**

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

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

**Section 6. Establishment of New Positions.**

(a) **When requesting gubernatorial or legislative authorization for a new position, the agency head shall provide a written request to the Human Resources Division and Department of Administration and Information Budget Division. The agency head shall provide a job content questionnaire with the written request and indicate how the new position would affect other authorized positions:**

(i) **A tentative classification of the proposed position shall be determined by the Human Resource Division and provide notification to the Administration and Information Budget Division.**

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

CHAPTER 4  
EXAMINATIONS  
REPEALED

## CHAPTER 4

### POSITION CLASSIFICATION

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

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

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

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

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

#### (c) **Class Titles:**

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

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

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

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

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

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

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

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

**Section 4. Position Classification.**

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

(b) **Classification Factors:**

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

(c) **Unrelated factors.** Classification shall not be based upon the individual characteristics and performance level of the employee occupying the position; or upon other information not pertinent to the position or classification.

**Section 5. Classification System Maintenance.**

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

(b) **Classification Reviews:**

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

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

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

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

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

(B) **Classification Review Panel;**

(I) If the employee does not agree with the initial determination by the Human Resources Division, the employee may submit a written request for reconsideration by the Classification Review Panel within thirty (30) days of the employee's notification. This panel comprised of the Director of the Department of Administration and Information, the Human Resources Administrator, the head of the Agency Services Unit, and the agency director or designee shall review the evaluation of the original request and any additional information provided by the employee and/or their

representative. The panel shall provide written notice of its final decision within sixty (60) days of receipt.

(c) **Reclassification:**

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

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

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

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

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

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

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

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

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

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

CHAPTER 5  
APPLICANT POOL  
REPEALED

CHAPTER 5  
COMPENSATION

**Section 1. Compensation Plan.**

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

(b) All employees shall be paid within the pay rates established by and in accordance with the Compensation Plan and the State of Wyoming Compensation Policy.

(c) All agencies shall comply with the State of Wyoming Compensation Policy established by the Human Resources Division:

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

**Section 2. Salary Surveys.**

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

**Section 3. Pay Rates.**

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

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

**Section 4. Compensation Adjustments.**

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

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

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

(b) Pay adjustments. An employee's pay may be adjusted in accordance with the State of Wyoming Compensation Policy.

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

**Section 5. Overtime.**

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

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

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

(i) Coordinating with the Human Resources Division to periodically review and determine overtime compensation exemptions as authorized by the Act:

(A) In cases where the agency and the Human Resources Division disagree, the Human Resources Division shall make the final determination (W.S. 27-5-101(c)(i));

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

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

- (i) Official State Workweek;
- (ii) Workweek Standard; and
- (iii) Exception to the Workweek Standard.

(e) Non-exempt employees.

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

- (A) Hours of Work Defined;
- (B) Meal Periods;
- (C) Rest Periods;
- (D) Sleeping Time;
- (E) Special Activities; and
- (F) Travel Time.

**Section 6. Compensation upon Separation.**

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

- (i) Vacation Leave;
- (ii) Sick Leave;

- (iii) Longevity; and
- (iv) Compensatory Time.

**Section 7. Executive Compensation.**

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

**CHAPTER 6**  
**CANDIDACY AND APPOINTMENT**  
**REPEALED**

CHAPTER 6

LEAVE

Section 1. **Vacation Leave.**

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

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

(b) **Service Credits to Rehired Employees.** Service Credits for non-continuous service shall be granted to a rehired employee claiming prior Executive, Judicial or Legislative Branch service followed by a separation, upon the completion of twenty-four (24) months continuous service since the most recent entrance to State employment:

(i) Prior service shall be on record with the Wyoming Retirement System or shall be otherwise verified through the Human Resource Division by the employee, agency or branch;

(ii) Service credits shall be given for any calendar month during which work was actually performed;

(iii) Reinstatement of service credits shall be limited to a one-time occurrence. Employees who leave state service after receiving reinstatement of service credit shall forfeit all prior service if subsequently rehired.

(c) **Monthly Accrual Rates.**

(i) Permanent employees, probationary employees, and at-will employees, except executive employees, at-will employees at the Governor's office, and at-will contract employees, shall accrue vacation leave according to the number of hours worked in the month;

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

(iii) Executive employees and at-will employees at the Governor's office shall follow the Executive Leave Policy;

(iv) Intermittent employees, emergency employees, interns, and at-will contract employees shall not accrue vacation leave;

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

(vi) The following rates shall be used:

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

39 or less hours - 0% of base rate

(A) Time elapsed while an employee is on any authorized paid leave, except educational leave, shall be considered hours worked for purposes of this section;

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

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

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

(ii) An agency head may authorize an employee terminating for any reason other than disciplinary reasons to use accrued unused vacation leave beyond the employee's actual last day of work or service to the state in lieu of receiving payment for the unused balance.

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

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

(i) An employee who is appointed without a separation to the State Judicial or Legislative Branch may be allowed to transfer unused accrued vacation leave if authorized by reciprocal personnel policies adopted by the appropriate entities. A copy of the personnel policies authorizing the interbranch transfer of vacation leave shall accompany the request to transfer the leave;

(ii) Absent a reciprocal personnel policy, accrued vacation leave for Executive branch employees transferring to the State Judicial or Legislative Branch shall be paid off at the time of transfer in accordance with the State Compensation Policies.

(g) An employee appointed to or from the University of Wyoming shall not be allowed to transfer unused accrued vacation leave and shall be paid out in accordance with the State Compensation Policies or applicable University of Wyoming Policy.

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

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

**Section 2. Sick Leave.**

**(a) Monthly Accrual Rates:**

(i) Permanent employees, probationary employees, at-will employees, except executive employees, at-will employees at the Governor's office, and at-will contract employees, shall accrue sick leave according to the number of hours worked in the month;

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

(iii) Executive employees and at-will employees at the Governor's office shall follow the Executive Leave Policy;

(iv) Intermittent employees, emergency employees, interns, and at-will contract employees shall not accrue sick leave;

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

(vi) The following rates shall be used:

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

(vii) Time elapsed while an employee is on any authorized paid leave, except educational leave, shall be considered hours worked for purposes of this section;

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

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

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

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

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

(d) **Approval.** The agency head shall approve the use of sick leave only after having determined that the absence was for a legitimate reason listed in 2(b) above. An employee may be required to submit substantiating evidence including, but not limited to, a health care provider's certificate. Abuse of sick leave is cause for disciplinary action:

(i) An agency head shall not approve the use of sick leave for end of service leave.

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

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

(ii) Donations between immediate family members who are State employees are not subject to the sixteen (16) hour maximum provided the employee maintains an accrued minimum balance of eighty (80) hours of sick leave;

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

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

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

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

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

(g) **Interbranch Appointments.** An employee appointed without a separation from State Judicial or Legislative Branch who has not been paid for accumulated leave, shall be allowed to transfer unused sick leave. The employee shall accrue sick leave according to established Executive Branch rules:

(i) An employee who is appointed without a separation to the State Judicial or Legislative Branch may be allowed to transfer unused accrued sick leave if authorized by reciprocal personnel policies adopted by the appropriate entities. A copy of the personnel policies authorizing the interbranch transfer of sick leave shall accompany the request to transfer the leave;

(ii) Absent a reciprocal personnel policy, accrued sick leave for Executive Branch employees transferring to the State Judicial or Legislative Branch shall be paid off at the time of transfer in accordance with the State Compensation Policies.

(h) An employee appointed to or from the University of Wyoming shall not be allowed to transfer unused accrued sick leave and shall be paid out in accordance with the State Compensation Policies or applicable University of Wyoming Policy.

**Section 3. Bereavement Leave.**

(a) Permanent employees, probationary employees, temporary employees who have been employed for six (6) continuous months of employment and at-will employees, except executive employees, at-will employees at the Governor's office, and at-will contract employees, shall be granted three (3) regularly scheduled work days not to exceed a maximum of twenty-four (24) hours of bereavement leave upon the death of an immediate family member. This leave shall be for the purposes associated with the death of the family member and shall be used before the use of any other leave authorized for this purpose:

(i) Executive employees and at-will employees at the Governor's office shall follow the Executive Leave Policy;

(ii) Intermittent employees, emergency employees, interns, and at-will contract employees shall not be granted bereavement leave.

**Section 4. Holiday Leave.**

(a) Permanent employees, probationary employees, at-will employees, except executive employees, at-will employees at the Governor's office, and at-will contract employees, shall receive holiday leave, according to the number of regularly scheduled work hours in the month:

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

(ii) Executive employees and at-will employees at the Governor's office shall follow the Executive Leave Policy;

(iii) Intermittent employees, emergency employees, interns, and at-will contract employees shall not receive holiday leave;

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

(v) The following rates shall be used:

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

(b) Employees eligible to receive holiday leave and who are not required to work shall be granted paid leave not to exceed eight (8) hours per holiday from regularly scheduled work hours occurring on the following days:

(i) New Year's Day (January 1);

(ii) Martin Luther King, Jr. / Wyoming Equality Day (Third Monday in January);

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

(c) Holidays that fall on employee's regularly scheduled day off:

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

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

(iii) If an employee is unable to take paid leave as indicated above in (i) or (ii) due to staff shortage and or scheduling conflicts, the employee may elect to receive the amount of time authorized in the form of pay to be paid at the employees regular rate of pay.

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

(e) Time elapsed while an employee is on any authorized paid leave, except educational leave, shall be considered hours worked for purposes of this section.

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

(a) Employees exempt from overtime, who are required to work on a holiday listed in Section 4(b), shall be granted paid time off at the rate of one and one-half (1½) hours off for each hour worked. Employees shall use any accumulated paid time off before being entitled to use any accrued vacation leave. As of January 1 of each year, all unused paid time off shall be paid off at the employee's hourly compensation rate, unless otherwise approved by the Human Resources Division.

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

(a) Employees who are parents of a newborn or recently adopted child, or are expectant parents, may with Agency head approval take accrued sick leave, compensatory time, vacation leave, or leave without pay beyond the time allowed under Family Medical Leave Act (FMLA) for purposes associated with the birth or adoption of a child.

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

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

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

**Section 8. Court Leave.**

(a) Permanent employees, probationary employees, temporary employees who have been employed for (6) months of continuous employment and at-will employees, except executive employees, at-will employees at the Governor's office, and at-will contract employees, required to serve as a member of a jury panel or as a witness of the court shall be granted leave with pay for their regularly scheduled work days(s) for the performance of such obligation:

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

(b) Executive and at-will employees at the Governor's office shall follow the Executive Leave Policy.

(c) Intermittent employees, emergency employees, interns, and at-will contract employees shall not be granted leave with pay under this section.

**Section 9. Legislative Leave.**

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

**Section 10. Educational Leave.**

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

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

(c) Probationary employees, intermittent employees, emergency employees, interns, and at-will contract employees shall not be granted leave with pay under this section.

**Section 11. Administrative Leave.**

(a) An agency head may grant an employee administrative leave with pay to participate in meetings, seminars, hearings, examinations, and employee organization meetings:

(i) For other requested purposes, administrative leave request must be reviewed and evaluated for approval by the Governor or his designee.

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

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

(ii) Intermittent employees, emergency employees, interns, temporary employees who have been employed with the state less than six (6) months, and at-will contract employees are not eligible for these types of paid leave;

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

(A) Employee unable to report to work due to a weather-related road closure when state offices remain in operation are required to use available vacation or compensatory time to cover the absence.

(c) An agency head or designee is responsible for tracking the usage of these types of administrative leave hours in the state payroll system and are accountable for their appropriateness.

#### **Section 12. Personal Leave.**

(a) An agency head may grant an employee up to two regularly scheduled days (not to exceed 16 hours) of personal leave with pay per calendar year in recognition of or for participating in the following activities:

(i) Employee recognition programs;

(ii) Participating in department wellness initiatives;

(iii) Merit incentive programs that have been submitted to and received prior written approval from A&I HRD;

(iv) Team based recognition – project completion that have been submitted to and received prior written approval from A&I HRD;

(v) To volunteer at a pre-approved non-profit community service organization that is exempt from federal income taxation under Section 501(c)(3) of the Internal Revenue Code;

(A) Employee must provide written verification from the organization that the organization is exempt from federal income taxation under Section 501(c)(3) of the Internal Revenue Code and that the employee volunteers their own time for that organization in order to receive personal leave;

(B) Volunteer activities must not promote religion or attempt to influence legislation, governmental policy or elections to public office;

(vi) Family departing or returning from active duty military service; and

(vii) To attend military funerals.

(b) Prohibited Activities. Personal leave may not be granted for:

(i) Birthdays;

(ii) Early release for holidays; and

(iii) Undocumented performance.

(c) Agencies authorizing leave for (a)(i) through (iv) above shall submit written plans to the Human Resources Administrator for review and approval prior to the implementation.

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

(e) The granting of personal leave is at the discretion of the agency head or their designee. It is neither an employee right nor an employee benefit.

(f) Intermittent employees, emergency employees, interns, and at-will contract employees shall not be granted leave with pay under this section.

**Section 13. Military Leave.**

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

**Section 14. Leave Without Pay.**

(a) Leave without pay may be granted at the discretion of the agency head in accordance with the following:

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

(ii) An employee on military leave described above in Section 13(a) shall, upon request, be entitled to leave without pay in accordance with W.S. 19-11-108 (a-e);

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

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

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

(b) The Governor may furlough employees due to lack of work or funding. An employee furloughed for lack of funding shall be on leave without pay and shall not use paid leave during the furlough period.

**Section 15. Administrative Review Leave.**

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

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

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

(iii) Incapacity based on fitness for duty evaluation; or

(iv) When a formal workplace investigation has commenced and removing a witness or complaining party from the workplace is prudent to conducting the investigation.

(b) The agency head shall provide the employee with written notice specifying the reason(s) for the administrative review leave and the effective date:

(i) A copy of the written notice shall be provided to the Human Resources Division Administrator;

(ii) An administrative review leave, with or without pay, may be extended beyond the thirty (30) day period with prior written approval of the Human Resources Administrator; and

(iii) If the charges are not filed, or the employee is found not guilty, the employee shall be returned to work, granted pay for any lost wages, and shall retain all rights and status previously held.

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

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

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

(c) In all instances, the twelve (12) month period shall begin when leave is first used.

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

(e) Where two spouses are employed by the State of Wyoming their aggregate leave will be limited to the amount allowed by law.

(f) Leave without Pay. If an employee's accrued paid leave is less than the total FMLA entitled workweeks, the time remaining shall be taken as unpaid FMLA leave. Any leave without pay in excess of the total FMLA entitled workweeks maximum shall be at the discretion of the agency head per Chapter 6, Section 14, Leave without Pay:

(i) An employee whose work-related illness or injury meets the criteria for a serious health condition and is receiving paid worker's compensation benefits the absence shall be counted against the FMLA leave entitlement and shall not be allowed to use paid leave;

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

(g) Certification. An agency shall require a medical certification from a health care provider for an employee's serious health condition or the employee's covered family member with a serious

health condition, or to care for a covered service member with a serious injury or illness or the appropriate certification for leave taken because of a qualifying exigency

(h) Agency requirements:

(i) Agencies shall comply with all requirements of the law and these rules and shall provide written notice detailing the specific expectations and obligations of the employee and explain any consequences of a failure to meet the obligations;

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

(i) Notice of leave:

(i) An employee shall give thirty (30) days' notice to the agency prior to the date the leave is to begin;

(ii) The employee shall advise their immediate supervisor as soon as possible and practicable if dates of scheduled leave change or are extended, or were initially unknown;

(iii) The agency head or Human Resource office shall determine the actual date on which an employee's FMLA leave commences;

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

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

(k) Time elapsed while an employee is on paid FMLA shall be considered hours worked.

(l) Time elapsed while an employee is on unpaid FMLA shall be included in calculating the total number of months of continuous service and shall not be considered time worked for purposes of accrual of any leave or other benefits.

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

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

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

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

## CHAPTER 7

### DISCIPLINE FOR PERMANENT EMPLOYEES

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

- (a) As used in this chapter, the word employee shall refer to permanent employees only.
- (b) Agency management may discipline a permanent employee for cause including, but not limited to, the following reasons:
  - (i) Absenteeism;
  - (ii) Incapacity to perform assigned duties;
  - (iii) Assault;
  - (iv) Carelessness;
  - (v) Damaging State property;
  - (vi) Dishonesty;
  - (vii) Insubordination;
  - (viii) Misconduct;
  - (ix) Refusal to work;
  - (x) Sexual harassment;
  - (xi) Theft;
  - (xii) Unsatisfactory work performance;
  - (xiii) Criminal conduct;
  - (xiv) Falsification of application for employment;
  - (xv) Violation of agency rules or policy;
  - (xvi) Violation of State Personnel Rules;
  - (xvii) Violation of the State of Wyoming Substance Abuse Policy;
  - (xviii) Violation of the State of Wyoming Anti-Discrimination Policy;
  - (xix) Violation of the State of Wyoming Electronic Mail Policy;
  - (xx) Violation of the State of Wyoming, Office of the Chief Information Officer, Information Technology Manual, Internetworking Acceptable Use Policy (CIO 1200-P143);
  - (xxi) Violation of the State of Wyoming Code of Ethics; and
  - (xxii) Violation of the Workplace Violence Policy.

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

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

(a) Agency management shall attempt to administer discipline to permanent employees in progressive stages to seek corrective results. However, conduct of any type which agency management considers serious, may result in a disciplinary suspension or dismissal without taking prior disciplinary steps.

(b) Progressive stages of discipline may include but are not limited to, letters of expectation, letters of counseling, or verbal or written warnings. However, this is not mandatory and agency management may within his/her sole discretion determine to administer any level of discipline in Section 3 herein as an initial step to a permanent employee.

(c) The agency management's determination of the appropriate action to take shall be based on adequate investigation of the facts and circumstances of the case.

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

### **(a) Written Reprimand:**

(i) A supervisor may formally discipline a subordinate employee for cause by providing a written reprimand to the employee specifying;

(A) Reason(s) for the reprimand;

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

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

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

### **(b) Disciplinary Suspension:**

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

(A) Reason(s) for the suspension;

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

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

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

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

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

(c) Dismissal of Permanent Employees:

(i) Dismissal Due to Employee Conduct/Incapacity;

(A) An agency head may dismiss an employee for cause. Prior to the dismissal of a permanent employee, the agency head shall provide to the employee written notification specifying;

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

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

(B) The agency head shall have ten (10) working days to consider the response;

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

(I) The reason(s) for the dismissal;

(II) The effective date of the dismissal; and

(III) The right to a hearing pursuant to these rules;

(ii) Dismissal Subsequent to a Fitness for Duty Evaluation;

(A) An agency head may dismiss an employee determined to be incapacitated to perform assigned duties subsequent to a fitness for duty evaluation. Prior to the dismissal of a permanent employee, the agency head shall provide to the employee written notification specifying;

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

(II) Notification that the Fitness for Duty report will not be provided directly to the employee, but may be provided directly to a qualified mental health professional of the employee's choice for interpretation; and

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

(B) The agency head shall have ten (10) working days to consider the response;

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

(I) The reason(s) for the dismissal;

(II) The effective date of the dismissal; and

(III) The right to a hearing pursuant to these rules;

(iii) A copy of the notice of dismissal shall be sent to the Human Resources Division;

(iv) If the agency head perceives that the employee's presence on the job may be detrimental to the operation of the agency, the agency head may place the employee on Administrative Review Leave, with pay, pending the dismissal review period.

**Section 4. Compliance with Procedure.**

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

## CHAPTER 8

### GRIEVANCES AND APPEALS FOR PERMANENT EMPLOYEES

#### Section 1. **Statement of Policy.**

Permanent employees shall have the right to present a grievance or appeal, pursuant to the provisions of this chapter, without coercion, restraint, discrimination, or reprisal.

#### Section 2. **General Provisions.**

##### (a) Time Periods:

(i) In computing any period of time prescribed or allowed by this chapter, the day of the act, event, or default from which the designated period of time begins shall not be included. The last day of the period so computed shall be included, unless that day is a Saturday, Sunday, or legal holiday. When the period of time prescribed or allowed is less than eleven (11) days, intermediate Saturdays, Sundays, or legal holidays shall be excluded from the computation;

(ii) The Human Resources Administrator may, upon written request and for good cause shown, extend any time period prescribed by this chapter, provided the written request is received before the expiration of the time period originally prescribed.

(b) Compliance with Procedure. An employee shall forfeit the right to pursue a grievance and / or appeal if the employee fails to follow the procedures prescribed by this chapter.

(c) Waiver of Procedure. Any procedure prescribed by this chapter may be waived by mutual written agreement between the parties. A copy of the agreement shall be forwarded to the Human Resources Administrator or the presiding officer, as applicable.

(d) Designation of Parties. As used in this chapter, the word employee shall refer to permanent employees only.

(e) Representation. An employee may be represented by any person, including legal counsel, at any stage of the grievance and / or appeal process.

(f) Administrative Leave. An employee who is a party or witnesses to a grievance or appeal shall be granted administrative leave to participate in the proceeding. An employee who has filed a grievance shall be entitled to a maximum of eight (8) hours of administrative leave to prepare for presentation of the grievance and / or appeal. Prior notice shall be given to the employee's supervisor.

(g) Custody of Records. The Human Resources Administrator shall be the official custodian of all records pertaining to the provisions of this chapter.

(h) Confidential Proceedings. All grievance and appeals proceedings shall be confidential.

(i) Service of Documents. Any person filing a document with the Human Resources Administrator in a grievance and / or appeal proceeding shall serve a copy on all parties and representatives at or before the time the document is filed with the Human Resources Administrator.

#### Section 3. **Definition of Grievance.**

(a) Grievance means a dispute, between an employee and management of the employee's agency, which involves the interpretation or application of a statute, rule, executive order, or policy concerning personnel practices and/or working conditions.

(b) "Grievance" does not include a dispute, which involves:

(i) Compensation, benefits, contributions, and other conditions, which are beyond the control of the agency head;

(ii) Discrimination;

(iii) Dismissal;

(iv) Involuntary separation due to a reduction in force; or

(v) Performance evaluation ratings.

#### **Section 4. Grievance Procedure Steps.**

(a) Within ten (10) days of the event giving rise to the grievance or of the employee having knowledge of the event, the employee may present the grievance in writing to the management employee at the lowest level giving rise to the dispute. The grievance shall include a statement of fact on which of the grievance is based and the relief sought.

(b) Within ten (10) days of receiving the written grievance, the appropriate management employee shall hold a conference with the employee to resolve the dispute and render a decision in writing to the employee within five (5) days after the conference. The written decision shall state the next step in the grievance procedure and the time limit for that step.

(c) If the decision of the management employee is unsatisfactory to the employee, the employee may, within five (5) days of the date the decision was issued or due, submit the grievance in writing to the agency head. The grievance shall include a statement of facts on which the grievance is based and the relief sought.

(d) Within ten (10) days of receiving the written grievance, the agency head and the appropriate management employee shall hold a conference with the employee to resolve the dispute and render a decision, in writing, to the employee within five (5) days after the conference. A decision by the agency head shall be the final step in the grievance procedure.

(e) In the event the management employee giving rise to the dispute is the agency head and the decision of the agency head is unsatisfactory to the employee and involves allegations concerning violations of a statute, rule, executive order, or policy, the employee shall submit the grievance in writing to the Human Resources Administrator within ten (10) days of receiving the written decision by the agency head.

(i) The Human Resource Administrator shall within ten (10) days of receiving the written grievance, forward the issue to the Governor's or his designee for investigation in accordance with Executive Order 1997-4.

#### **Section 5. Personnel Appeals.**

(a) **Right to Hearing.** An employee may appeal the following agency head decisions:

(i) Dismissal;

- (ii) Involuntary reduction in force;
- (iii) Final grievance decision concerning an involuntary reassignment due to unsatisfactory work performance; and
- (iv) Final grievance decision concerning a disciplinary suspension.

(b) Request for Hearing:

(i) Any employee may appeal the agency head's decision by filing a notice of appeal with the Human Resources Administrator setting forth the following:

(A) The name and address of the employee and the name and address of the employee's representative, if any;

(B) The decision of the agency head being appealed;

(C) A statement of the facts on which the appeal is based; and

(D) The relief sought.

(ii) Appeals shall be filed, in writing, within twenty (20) days of the date of the agency head's decision;

(A) In order to be timely filed, the Human Resources Administrator shall receive the notice of appeal within the twenty (20) day deadline.

(B) After the filing of a petition for a personnel appeal hearing, such petition may not thereafter be amended as may be allowed by the Wyoming Rules of Civil Procedure.

(iii) The employee shall serve a copy of the notice of appeal on the agency and the Attorney General's Office at the time the notice of appeal is filed.

(iv) The Human Resources Administrator shall immediately forward a file stamped copy of the notice of appeal to the Attorney General's Office.

(c) Response and Motions Challenging Timeliness or Jurisdiction:

(i) The agency shall file a response and any motions challenging the timeliness or jurisdiction of the appeal within twenty (20) days of the filing date of the notice of appeal;

(ii) The response and any motions shall be in writing and filed with the Human Resources Administrator;

(iii) The response shall include a statement of the facts on which the appeal is based;

(iv) The agency shall serve a copy of the response and any motions on the employee or employee's representative, if any, and to the Attorney General's Office at the time of filing.

(d) Response to Motion. Any response to a motion filed with the Human Resources Administrator shall be filed within ten (10) days after the motion is filed, and the party filing the response to a motion shall serve a copy of the response on the other party and the other party's representative, if any, and the Attorney General's Office at the time of filing.

(e) Human Resources Administrator's Jurisdiction:

(i) The Human Resources Administrator shall have jurisdiction to determine whether the employee has made a claim upon which relief can be granted and the timeliness of the appeal;

(ii) The Human Resources Administrator may issue orders, prior to referring the appeal to the presiding officer, on any matter within his or her jurisdiction upon motion of a party or the Human Resources Administrator's own motions.

(f) Presiding Officer:

(i) The agency shall submit the name of a presiding officer mutually agreed upon by the parties to the Human Resources Administrator within twenty-five (25) days of the date of the notice of appeal;

(ii) If the parties fail to submit notification of a mutually agreed upon presiding officer within the time allowed, the Human Resources Administrator shall immediately refer the matter to the Office of Administrative Hearings;

(iii) The Human Resources Administrator shall transfer to the presiding officer the current record of the proceedings in the case.

#### **Section 6. General Procedures for Personnel Appeal Hearings.**

(a) **Applicability of the Rules of Civil Procedures.** The Wyoming Rules of Civil Procedure, insofar as they may be applicable and not inconsistent with this chapter or the laws of Wyoming, shall apply to all personnel appeal hearings.

(b) **Incorporation by Reference:**

(i) The Office of Administrative Hearing Rules, Chapter 2, Contested Case Proceedings, edition October 17, 2014 is incorporated by reference;

(ii) The incorporated rule does not include any later amendments or editions;

(iii) The incorporated rule is maintained at the Department of Administration and Information, Human Resources Division, Emerson Building, 2001 Capitol Avenue, Cheyenne, WY 82002, and is available for public inspection and copying at cost at the same location.

**Section 7. Consolidation of Multiple Actions.** If an employee has multiple, separate, or pending grievances or appeals involving the same employee and agency, those grievances or appeals may be consolidated into one proceeding upon mutual, written agreement, if the facts and nature of the actions so allow.

## CHAPTER 9

### PERFORMANCE MANAGEMENT

#### Section 1. **Performance Management Program.**

(a) The performance management program provides agencies and employees with opportunities for performance planning, coaching, and evaluation. The program provides for the establishment of job expectations, the measurement of job performance, the identification of employee development and taking corrective action as necessary.

(b) The Human Resources Division shall be responsible for administering the performance management program to include:

(i) The development and interpretation of rules, policies and procedures specific to performance management;

(ii) The development and implementation of components of the program as necessary (such as forms, on-line evaluation system and training);

(iii) The monitoring of agency compliance; and

(iv) Reporting to state agencies, the Governor and the Legislature as necessary.

#### Section 2. **Applicability.**

(a) All employees shall be evaluated as provided in this chapter with the exception of:

(i) Elected State Officials;

(ii) At-Will Agency Heads;

(iii) Contractual Employees;

(iv) Emergency Employees;

(v) Temporary Employees;

(vi) Interns;

(vii) Seasonal Employees;

(viii) Time limited Employees;

(ix) Intermittent Employees; and

(x) Other positions as approved by the Human Resources Administrator.

#### Section 3. **Responsibility of Agency Heads.**

Agency Heads shall be responsible for performance management within their agencies in accordance with the established State of Wyoming Personnel Rules and policies. Agency Heads shall ensure that employees are evaluated using job-related performance criteria.

#### Section 4. **Probation and At-Will Status.**

(a) Conducting performance phase's evaluations on probationary employees will in no way alter or change their probationary status during their probationary period.

(b) Conducting performance evaluations on at-will status employees will in no way alter or change their at-will status.

**Section 5. Performance Management Evaluation Period.**

(a) The performance evaluation period for all employees shall be from October 1<sup>st</sup> through September 30<sup>th</sup>, except as follows:

(i) Employees with a hire date on or before June 30<sup>th</sup> shall have a performance evaluation conducted by the end of September following hiring;

(ii) Employees with a hire date on or after July 1<sup>st</sup> through September 30<sup>th</sup>, shall have a performance evaluation conducted by the end of the second September following hiring;

(iii) Upon the completion of the first evaluation, thereafter, the evaluation period shall revert to October 1<sup>st</sup> through September 30<sup>th</sup>.

**Section 6. Evaluation Date.**

(a) All employees' performance evaluations shall be completed by September 30<sup>th</sup>.

**Section 7. Evaluator Responsibilities.**

(a) Except as provided for in subsection 10 (e) or as otherwise authorized by the Human Resources Administrator, the evaluator shall be the immediate supervisor of the employee. An evaluator shall have at least ninety (90) days of direct supervision of the employee prior to conducting an evaluation:

(i) If an evaluator changes positions after July 1<sup>st</sup>, the evaluator shall complete all evaluations on employees they have supervised for at least 90 days prior to the change of position;

(ii) If the evaluator is not available or the position is vacant, the second level evaluator shall complete evaluations for direct reports.

(b) The evaluator shall have received training on the performance management program as prescribed by the Human Resources Division. Evaluators shall be trained on the performance evaluation program prior to evaluating the performance of any employee. Evaluators shall be required to attend continuing performance evaluation education programs as deemed necessary by the Human Resources Division:

(i) When there is no qualified evaluator for an employee, the Agency Head shall determine the appropriate evaluator for that employee with approval of the Human Resources Division prior to conducting performance evaluations.

(c) The evaluator shall use the forms developed by the Human Resources Division to conduct and complete the planning, coaching and evaluation for each employee when applicable.

(d) The evaluator shall be responsible to provide written comments regarding the performance evaluation.

(e) The evaluator shall complete all procedural requirements established under the performance management program including but not limited to the phases or evaluation on the appropriate forms within the prescribed time periods.

(f) Failure to complete each applicable phase for direct reports shall result in "unsatisfactory" rating in the supervisor sections for the evaluator and may result in disciplinary action in accordance with Chapter 7 of the State of Wyoming Personnel Rules.

**Section 8. Employee Responsibility.**

(a) The employee shall complete the procedural requirements established under the performance management program including:

(i) Acknowledging receipt of the evaluation. Signing the evaluation demonstrates the employee has participated in a performance evaluation meeting. It does not demonstrate agreement or disagreement with the evaluation;

(ii) If left unsigned or employee does not sign the evaluation it will be deemed incomplete.

**Section 9. Agency Human Resource Contact or Designee Responsibility.**

(a) Agency Human Resource Contact or Designee approved by the Human Resources Division shall ensure that employees are evaluated using job-related performance criteria and substantiated by evaluator documentation. The Agency Human Resource Contact shall complete the procedural requirements established under the performance management program including:

(i) Assign each employee to an evaluator and substitute a second level supervisor when necessary, to ensure each employee is evaluated;

(ii) Agency Human Resource contact shall notify supervisors of required training and enroll supervisors in performance management training required prior to assessing evaluations for an employee;

(iii) Agency Human Resource contact shall report on supervisor's completion and the applicable deadlines to the Agency Head;

(iv) Retain as confidential according to the Wyoming Public Records Act (W.S. 16-4-201) and the State of Wyoming Personnel Records Policy.

**Section 10. Performance Improvement Plan For Permanent Employees.**

(a) Performance Improvement Plan is a written document used to guide an employee in achieving a rating above "unsatisfactory" on the annual performance evaluation.

(b) If the permanent employee's overall performance is rated as "unsatisfactory", the evaluator shall discuss and document the performance deficiencies requiring improvement and immediately but no later than fifteen (15) days of the evaluation and provide the permanent employee with a written Performance Improvement Plan which shall be considered a written letter of expectation in accordance with Chapter 7 of the State of Wyoming Personnel Rules:

(i) The duration of the first Performance Improvement Plan shall be forty-five (45) days. At the conclusion of the first Performance Improvement Plan, the evaluator shall review the permanent employee's deficiencies listed in the Performance Improvement Plan and if those deficiencies still remain, may begin or continue disciplinary action in accordance with Chapter 7 of the State of Wyoming Personnel Rules;

(ii) A second Performance Improvement Plan shall be developed and shall not exceed forty-five (45) days in duration and may be closed at any time prior to the expiration of the forty-five (45) days if other action is taken unless a change of evaluator has occurred in accordance with subsection (e) of this section;

(iii) At the conclusion of the second Performance Improvement Plan, the evaluator shall review the permanent employees deficiencies listed in the second Performance Improvement Plan and if those deficiencies still remain, shall begin, or continue disciplinary action in accordance with Chapter 7 of the State of Wyoming Personnel Rules.

(c) No permanent employee shall be provided more than two (2) consecutive Performance Improvement Plans within a year of the overall initial "unsatisfactory" rating:

(i) Any changes in the permanent employee's position necessitating changes in the Performance Improvement Plan that occur during the Performance Improvement Plan shall be discussed between the evaluator and the permanent employee and documented on the Performance Improvement Plan.

(d) A Performance Improvement Plan shall include:

(i) A description of the impact of behaviors or performance deficiencies on others, and if applicable, a statement of any policies, procedures, or rule violations and how to address the problem;

(ii) A description of the permanent employee's performance in areas that are rated as "unsatisfactory";

(iii) A description of the expectations for improvement in areas that are rated as "unsatisfactory";

(iv) An explanation of the consequences if the permanent employee's performance does not improve; and

(v) Offering the permanent employee any appropriate assistance in achieving satisfactory job performance.

(e) Change of Evaluator. If a permanent employee currently on a Performance Improvement Plan has a change of evaluator, the new evaluator shall immediately review the Performance Improvement Plan with the second level evaluator's assistance and the permanent employee. Upon the completion of a minimum of forty-five (45) days of direct supervision, the new evaluator shall review the permanent employee's performance on the Performance Improvement Plan in accordance with this Section .

**Section 11. Time Periods.**

(a) In computing any period of time prescribed or allowed by this chapter, the day of the act, event or default from which the designated period of time begins shall not be included. The last day of the period so computed shall be included, unless that day is a Saturday, Sunday or legal holiday.

**Section 12. Performance Appeal For Permanent Employees.**

(a) Any disputes involving the evaluation ratings given through the performance management program shall not be subject to the grievance procedures pursuant to Chapter 8 of the State of Wyoming Personnel Rules. Any disputes involving procedural compliance shall be subject to the Grievances and Appeals for Permanent Employees Chapter of the State of Wyoming Personnel Rules.

(b) Performance Appeal. A permanent employee receiving an overall rating of "unsatisfactory" shall have ten (10) days from receipt of the performance evaluation rating to submit an appeal to the permanent employee's performance evaluator. The appeal shall contain a brief and specific statement of the permanent employee's contentions as to why the rating is inaccurate and relief sought:

(i) The appeal shall include the specific facts, which establish that;

(A) The overall "unsatisfactory" rating lacks supporting documentation; and /

or

(B) The evaluator disregarded factors and circumstances, which substantially support a higher rating and thereby deprived the employee of a performance evaluation rating based on job-related performance criteria.

(c) Response to Appeal. Within ten (10) days of receipt of the permanent employee's appeal, the performance evaluator shall review the information provided by the employee, review the evaluation, and provide a written response to the permanent employee that includes a brief and specific statement from the performance evaluator responding to the specific contentions of the permanent employee:

(i) Based on the review the evaluator may revise or maintain the employee's rating(s).

(d) Appeal to Agency Head. Within ten (10) days of the evaluator's response to the employee's appeal and if the permanent employee's overall performance evaluation rating remains as "unsatisfactory," the employee shall have ten (10) days to submit in writing an appeal to the Agency Head:

(i) In the case where the permanent employee's evaluator is the Agency Head, the employee shall have ten (10) days to submit in writing an appeal directly to the Human Resource Administrator;

(ii) If the evaluator does not respond to the employee's appeal, the employee shall have fifteen (15) days from the date that the appeal was submitted to the evaluator to submit in writing a request for review to the Agency Head;

(iii) The permanent employee shall include in the appeal a brief and specific statement of the permanent employee's contentions and relief sought. The appeal to the Agency Head shall be directed specifically to the performance evaluator's evaluation and any response. The appeal to the Agency Head shall include specific facts, which establish that;

(A) The overall "unsatisfactory" rating lacks supporting documentation;  
and/or

(B) The evaluator disregarded factors and circumstances, which substantially support a higher rating and thereby deprived the employee of a performance evaluation rating based on job-related performance criteria.

(e) Response to Appeal to Agency Head. If the employee has filed a timely appeal, the Agency Head shall respond to the appeal within ten (10) days of receipt of the appeal:

(i) The Agency Head may delegate this authority in accordance with Chapter 1, Section 4(b)(ii), of the State of Wyoming Personnel Rules;

(ii) Before making a determination regarding the appeal, the Agency Head or designee, shall review the evaluation and the evaluator's response, if any and all documentation submitted by the performance evaluator and the employee;

The Agency Head or designee shall make a determination as to whether; (i)

(A) The overall "unsatisfactory" rating lacks supporting documentation;  
and/or

(B) The evaluator disregarded factors or circumstances, which substantially support the permanent employee's position and thereby deprived the employee of a performance evaluation rating based on job-related performance criteria;

(iii) The determination shall be in writing and may direct the evaluator to make any appropriate adjustment(s) to the employee's evaluation.

(f) Appeal to the Human Resources Administrator. Within ten (10) days of receipt of the Agency Head or designee's response to the employee's appeal, the employee may appeal, in writing, the Agency Head or designee's response to the Human Resource Administrator:

(i) If the Agency Head does not respond to the employee's appeal within ten (10) days of the appeal, the employee shall have fifteen (15) days from the date that the appeal was submitted to the Agency Head to appeal, in writing, to the Human Resources Administrator;

(ii) The Human Resources Administrator shall have fifteen (15) days after receipt of all documents and necessary information to make a determination on the employee's appeal. The Human Resources Administrator shall review the evaluation, the evaluator's response, if any, and all documentation submitted by the performance evaluator, the employee and the Agency Head or designee;

(iii) If the Human Resources Administrator determines that the Agency Head or designee's response was contrary to the State Personnel Rules, state or agency policies, or law, or finds;

(A) The overall "unsatisfactory" rating lacks supporting documentation; and /  
or

(B) The evaluator disregarded factors and circumstances, which substantially support a higher rating and thereby deprived the employee of a performance evaluation rating based on job-related performance criteria, the Human Resources Administrator shall require the Agency Head to correct the evaluation;

(iv) Should the Human Resources Administrator determine that there is a conflict of interest a designee shall be appointed by the Governor to review the appeal.

(g) Compliance with Procedure. If an employee does not comply with the deadlines in this section, the employee shall forfeit rights granted by this section for further appeal.

## CHAPTER 10

### SERVICE AND RECOGNITION AWARDS

#### Section 1. **Non-Cash Service and Awards.**

(a) **Service Awards.** Employees are eligible for a service award pin and certification upon completion of each five (5) year period, sixty (60) months, of total service with the State. The total service credits may include employment with one (1) or more executive branch departments and the judicial and legislative branches.

(b) Service credits will be granted for non-continuous service to a rehired employee claiming prior State service in any branch followed by a separation. Service credits shall be given for any calendar month during which work was actually performed. As soon as the employee has completed sixty (60) months of total service, that employee is eligible for a service award pin and certificate. There is no twenty-four (24) month completion requirement necessary due to broken service before a service award pin and certification may be presented.

(c) The Human Resources Division will issue the service awards pins and certificates each month.

(d) Service award pins and certificates are awarded in five (5) year increments, beginning with five (5) years and ending with forty (40) years.

(e) Service award pins and certificates are not considered additional compensation to an employee.

#### Section 3. **Recognition Awards.**

(a) Recognition awards may be ordered by agencies at their discretion:

(i) The following level of review and approval shall be followed prior to the purchase of any recognition award;

(A) Justification for awards that exceed ten (10.00) dollars per person that are to be purchased with agency funds shall be submitted to the Agency Head for prior written approval;

(B) Justification for awards that exceed fifty (50.00) dollars per person shall be submitted to the Department of Administration and Information Human Resource Division for prior written approval;

(ii) Expenditures for approved awards shall come from the Agency's existing budget;

(iii) Written approval for individual awards that cost more than ten (10.00) dollars shall be attached to related invoices and submitted to State Auditor's Office for payment.

(b) **Acceptable Recognition Awards.** Awards of work related items are acceptable recognition awards and include pins, plaques, pens, or pencils, portfolios with agency name and or logo, desktop items with the agency name and or logo, including mugs.

(c) **Unacceptable Recognition Awards.** Awards of a personal type are unacceptable recognition awards, which include but are not limited to:

(i) Flowers;

- (ii) Tickets to concerts, athletic events, sports equipment, etc.;
- (iii) Clothing and or items of personal nature;
- (iv) Art and / or collectibles; and
- (v) Entertainment, meals, and / or food.

CHAPTER 11  
SEPARATION

**Section 1. Resignation.**

(a) **Notification.** An employee intending to voluntarily separate from State service shall submit written notification to the immediate supervisor specifying the effective time and date of the intended resignation. Notification shall be provided as far in advance as possible but not less than fourteen (14) days prior to the date of the intended resignation:

(i) **Retirement.** Employees separating from State service due to retirement shall follow procedures established by the Wyoming Retirement System.

(b) **Effective Date.** A resignation shall be effective on the date specified in the employee's notification, or on the effective date provided to the Human Resources Division by the agency head if the employee failed to provide any notice.

(c) **Rescinding Notification.** An employee who has provided a resignation notice and who wishes to change the effective date or rescind the notification may be allowed to do so with the approval of the agency head.

(d) **Failure to Notify.** An employee who fails to provide advance notification without valid reason(s) shall not be considered to have separated in good standing. Such failure to notify shall be documented and forwarded to the Human Resource Division as part of the employee's permanent record.

**Section 2. Dismissal of Non-Permanent Employees.**

(a) **Definition.** A non-permanent employee is an at-will employee who has no expectations of continued employment and may be dismissed at any time without cause or reason:

(i) Non-permanent employees include the employment status of probationary, at-will, at-will contract, temporary, emergency, intermittent, and intern.

(b) An agency head shall dismiss a non-permanent employee upon the expiration of the applicable time limit, or when the services of the employee are no longer required.

**Section 3. Dismissal of Permanent Employees.**

Permanent employee dismissed by the agency head shall be separated pursuant to the provisions of Chapter 7, Section 3(c) pertaining to dismissal of permanent employees.

**Section 4. Reduction in Force.**

(a) A reduction in force shall not be used as a disciplinary action.

(b) Each Agency shall designate divisions for purposes of a reduction in force:

(i) Designations are effective after approval of the Governor;

(ii) Approved designations shall be filed with the Human Resource Administrator and be provided to all agency employees;

(iii) An agency shall not change division designations within sixty (60) days of a reduction in force;

(iv) Prior to the actual reduction in force, employees in the affected positions shall be given a transfer or reappointment within the agency to available vacant positions;

(A) Permanent employee shall also be offered positions held by non-permanent employees within their designated division only. A reduction in one division shall not displace an employee in another division;

(B) Employees transferred or reappointed must meet the minimum requirements for the new position and shall be responsible for any cost of relocation.

(c) Identification of affected position(s) and order of separation:

(i) If a reduction in force is needed, the agency head shall;

(A) Determine from within the Agency the affected designated reduction in force division;

(B) Determine the affected job classification;

(C) Determine the affected geographical area; and

(D) Identify the affected employee(s) having the least amount of continuous Executive Branch service from the most recent date of hire;

(I) Employees with non-permanent status shall be identified for reduction in force prior to employees with permanent status;

(II) If two (2) or more employees within the same job classification have the same amount of continuous Executive Branch service, the agency head shall determine in its discretion which employee is to be separated.

(d) Responsibilities of the Agency Head:

(i) The agency head shall provide at least thirty (30) days notification of the separation date in writing to the affected employee and the Human Resources Division;

(ii) An agency head shall automatically consider a permanent employee, who has been separated due to a reduction in force, in the candidate group for the class held at the time of separation for a period of twenty-four (24) months;

(A) Prior to the employment of any other candidate with no greater preference, a permanent employee separated by a reduction in force shall be offered reinstatement to a vacant position within the agency, within the division (as designated for purpose of reduction in force) last employed and within the class held at the time of separation;

(B) Reinstatement shall be made in reverse order of separation (last separated, first hired).

CHAPTER 13  
DISMISSAL OF NON-PERMANENT EMPLOYEES  
REPEALED

CHAPTER 17  
REDUCTION IN FORCE  
REPEALED

CHAPTER 18  
ALTERNATIVE WORK SCHEDULES  
REPEALED

## APPENDIX A

### DEFINITIONS

The following definitions are an integral part of the State of Wyoming Personnel Rules and whenever used in these rules, policy, interpretation, memorandum, correspondence or any personnel related matter these terms shall be understood to have the following meanings:

1. **Administrative Review.** Removal from State premises of an employee who has been charged with or is under investigation for the commission of a crime which would raise reasonable doubt concerning the employee's suitability for continued employment; or allegations of misconduct have been made and, if confirmed, the employee's presence on the job may be detrimental to the operation of the agency.
2. **Agency.** A department, board, commission or council of the Executive Branch of government; an agency may be governed by a board, commission, council, or may be directly accountable to the Governor.
3. **Agency Head.** The director of a State agency; the director may be responsible to a governing board, commission, council, or directly to the Governor.
4. **Agency Management.** An agency head, supervisor or other employee having the authority to exercise management rights, develop management policies or to effectively make such recommendations requiring the use of independent judgment not of a routine nature.
5. **Applicant.** A person who has submitted a State application to the Human Resources Division according to prescribed instructions and procedures.
6. **Applicant Pool.** A list of candidates who have passed the required minimum qualifications and have otherwise been determined to be eligible for appointment to specific classes.
7. **Appointing Authority.** An agency head, a person having constitutional or statutory authority to appoint candidates to positions or a specified management employee having lawfully delegated authority to appoint candidates to positions in the agency.
8. **Appointment.** The final selection of a candidate by an appointing authority subject to the approval of the Human Resources Division.
9. **At-Will Appointment.** An appointment of an individual to a position which is either statutorily required or approved by the Human Resource Division to serve at the pleasure of the Governor or Agency Head.
10. **At-Will Employee.** An employee whom has no expectation of continued employment and may be dismissed at any time without cause or reason.
11. **At-Will Contract Employee.** An individual hired by the State of Wyoming to provide technical or professional services through a contract which clearly states the duties, responsibilities, and benefits for a specific period of time. The terms and conditions of employment are defined in the contract.
12. **Behavioral Competency.** Behaviors obtained through formal or non-formal education, work experience, or other means. They are described in observable and measurable terms that are necessary in order to perform a particular type or level of work activity. They are behavioral characteristics, defining

qualities each employee needs not only to be successful at their job, but to excel in carrying out the mission of the State.

13. **Bonus Payments.** Money or an equivalent given as an addition to an employee's usual compensation as a non-base pay adjustment.

14. **Break in Service.** See Separation.

15. **Call-Back Pay.** A non-base pay adjustment given to a non-exempt employee who is called back to work during other than normally scheduled work hours.

16. **Candidate.** A person who may be given selection consideration for appointment.

17. **Candidate Group.** Those applicants who may be given selection consideration for appointment from the applicant pool.

18. **Class or Classification.** A set of similar positions classified to the same grouping and designated by a class title and class code. Class and Classification are interchangeable terms under these rules.

19. **Compensation Adjustment.** A change in the base pay for an employee who remains in the same position number and the same classification.

20. **Compensatory Time, Non-Exempt.** Time which may be taken with pay for overtime worked by a non-exempt employee.

21. **Compressed Work Week.** A compressed workweek is a forty (40) hour work week completed in fewer than five days by increasing the number of hours worked per day.

22. **Core Functions.** Core functions of a job are the reason the job exists.

23. **Day.** A calendar day, unless otherwise specified.

24. **Disciplinary Suspension.** Suspension from State service of an employee, without pay, for cause for up to thirty (30) days in a calendar year.

25. **Dismissal.** Involuntary separation from State service.

26. **Educational Compensation.** Compensation of up to 100% of an employee's base pay during the time when educational leave is granted.

27. **Eligible Applicant.** Applicants who have passed all appropriate examinations, have been approved by the Human Resources Division as meeting minimum qualifications and from whom selection consideration for appointment to a specific recruitment has been determined.

28. **Emergency Appointment.** An appointment made in response to an emergency, threatening public health, safety or welfare.

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

30. **Employee.** A person working in and compensated by the Executive Branch of State Government, over which management has the right to direct and control the way the person works, both as to the final results and as to the details of when, where and how the work is done.
31. **Employee Status.** A designation based on the most recent of the following types of appointments: probationary, permanent, temporary, emergency, intermittent, at-will, or intern.
32. **End of Service Leave.** Use of accrued unused vacation leave when terminating from state service for any reason except disciplinary action in lieu of receiving a lump sum payment for accrued unused vacation leave.
33. **Ex-parte Communication.** Communication with one side or one party of a grievance without the other party present.
34. **Exempt Paid Time Off.** Time which may be taken by an exempt employee as authorized leave with pay for having worked on an official state holiday.
35. **Equivalent Service.** The amount of Executive Branch service, calculated on the basis of the number of months actually worked or on authorized leave (except leave without pay, educational leave or disciplinary suspension).
36. **Evaluation period.** The length or portion of time established under a performance management system for reviewing employee performance.
37. **Examination or Exam.** Any process, procedure, rating, interview, test, evaluation or assessment, whether scored or not scored, formal or informal, which affects a person's eligibility for, or consideration for, appointment.
38. **Executive Employee.** An individual appointed by the Governor or a state board or commission to serve as a cabinet director or separate operating agency director. This does not include the executive secretary or director, board administrator or head of a board or commission.
39. **Exempt Employee.** An employee who is not required to receive overtime in accordance with the Fair Labor Standards Act.
40. **Factors.** Elements used to determine a job's value to the Executive Branch of State Government.
41. **Flextime.** Flextime allows the employee, with the agency head's approval, to choose an arrival and departure time within a specified time period as their regular work schedule.
42. **Focal Date.** A date in which employees are evaluated annually (i.e., September 30th).
43. **Full-Time Position.** An authorized position funded for a salary expenditure of at least forty (40) hours of work per week.
44. **Furlough.** Unpaid leave approved by the Governor.
45. **Geographical Area.** An area surrounding a work location which includes those places within a distance from which an employee would reasonably be expected to be willing to commute to work. For purposes of these rules such distance will normally be considered to be fifty (50) miles from the work location.

46. **Goals.** Specific, measurable, attainable, relevant, and time based acts or processes, based on the primary areas of responsibility that are a regular part of the job or based on a particular assignment or special project, that reflects and establishes what shall be accomplished during the performance evaluation period.
47. **Grievance.** Any dispute, excluding discrimination, dismissal, involuntary separation due to a reduction in force or performance evaluation rating, between a permanent employee and management of the employee's agency which involves the interpretation or application of a statute, rule, executive order, or policy concerning personnel practices and/or working conditions.
48. **Holiday Premium, Exempt.** Exempt employees who are required to work on the holiday shall be granted paid time off at the rate of one and one-half hours off for each hour worked.
49. **Holiday Premium, Non-exempt.** Non-exempt employees who are required to work on the holiday shall be granted either holiday premium pay or compensatory time at one and one-half times their compensation rate for all hours worked.
50. **Hours of Work.** Generally, hours worked includes all time the employee is required to be on duty or on the agency's premises or at a prescribed work place and all time that employee is suffered or permitted to work for the State.
51. **Human Resources Division.** The Human Resources Division (HRD) of the Department of Administration and Information established pursuant to W.S. 9-2-1019 through 9-2-1022.
52. **Immediate Family.** A person who is related to an employee and is a spouse, parent, stepparent, parent-in-law, child, stepchild, child-in-law, sibling, half-sibling, step-sibling, sibling-in-law, grandparent, step-grandparent, grandparent-in-law, and grandchild.
53. **Interim Assignment.** The assignment of an employee to a different position for a period not to exceed twelve (12) months.
54. **Involuntary Reassignment.** An unsought appointment of a permanent or probationary employee, by the employee's agency head or designee, due to a reduction in force or unsatisfactory work performance, or other demonstrated reason affecting the accomplishment of program goals. Such appointments will be made to a different position in a different classification having the same or lower grade than the employee's current classification.
55. **Job-Shared Position.** See Time-Shared Position.
56. **Layoff.** See Reduction in Force.
57. **Leave.** An authorized absence from work during normally scheduled working hours.
58. **Management Employee.** See Agency Management.
59. **Memo of Understanding.** The Memorandum of Understanding between the agency and the employee is a legally binding document that establishes a clear understanding of the role and responsibilities between the agency, the supervisor, and the teleworking employee.

60. **Minimum Qualifications.** Standards which designate the typical types and minimum levels of training and/or experience through which one would be expected to acquire the knowledge, skills, abilities and other requirements necessary for performance upon entry to a class.
61. **Non-exempt Employee.** An employee who is required to receive overtime in accordance with the Fair Labor Standards Act.
62. **Non-permanent Employee.** Any employee other than a permanent employee who is an at-will employee who has not expectation of continued employment and may be dismissed at any time without cause or reason.
63. **Official State Workweek.** The official state workweek begins at 12:01 A.M. Saturday, continues for seven (7) consecutive days (168 hours) and ends at 12:00 midnight on Friday.
64. **On-Call Pay.** A non-base pay adjustment for non-exempt employees who are required to remain on the agency's premises or so close that the time cannot be used effectively for that employee's own purposes.
65. **Overall Score.** The calculated rating for all performance components.
66. **Overtime.** Time worked by a non-exempt employee in excess of the workweek standard or the work period standard.
67. **Part-Time Position.** An authorized position funded for a salary expenditure of less than forty (40) hours of work per week.
68. **Pay Range.** The range of pay rates, from minimum to maximum, set for a class. Used as a policy for setting individual employee pay or salary rates.
69. **Pay Rate.** A set dollar amount between the minimum and maximum of a pay range.
70. **Pay Table(s).** A schedule of pay ranges for each class in the classification system.
71. **Performance Evaluation.** The process and the determination through observation and careful study of the employee's overall behavior and goal outcomes to meet the target and objectives of the agency and the State.
72. **Performance Improvement Plan.** A written document used to guide an employee toward achieving a rating above "unsatisfactory" on the annual performance evaluation.
73. **Performance Management.** An ongoing, continuous process of communicating and clarifying job responsibilities, priorities and performance expectations in order to ensure mutual understanding between supervisor and employee. It emphasizes communication and focuses on adding value to the organization by promoting improved job performance and encouraging skill development. It involves clarifying the job duties, defining performance standards, and documenting, evaluating and discussing performance with each employee.
74. **Permanent Appointment.** The appointment of an employee to permanent status upon completion of the probationary period.

75. **Position.** A job for which funding has been authorized by the Governor or the Legislature, consisting of a set of assigned tasks with defined boundaries of responsibility and authority.
76. **Position Class.** See Class or Classification.
77. **Probationary Appointment.** An appointment of a candidate in a civil service position who shall serve a three hundred sixty-five (365) day probationary period.
78. **Probationary employee.** Is an at-will employee who has no expectation of continued employment and may be dismissed at any time during the probationary period without cause or reason.
79. **Probationary Period.** An examination period of three hundred sixty-five (365) days) utilized for closely observing an employee's work, for securing the most effective adjustment of the employee to the position and for dismissing any employee without right of appeal.
80. **Promotion.** An appointment of an employee having permanent or probationary status, through a competitive recruitment process, to a different position number with a different classification having a higher grade.
81. **Qualified applicant.** See Eligible Applicant.
82. **Rating.** Summarizes performance by evaluating against components in an employee performance plan then compares performance over a period of time with absolute measurement scales that indicate varying levels of performance.
83. **Rating Scale.** Describes the varying levels of proficiency of performance into which each competency and goal can be divided. It is used to assign a performance rating for each performance component on the performance evaluation.
84. **Reappointment.** See Involuntary Reappointment and Voluntary Reappointment.
85. **Reclassification.** The assignment of a position to a different classification.
86. **Recruitment.** A process to attract suitable numbers of qualified applicants to compete for appointments.
87. **Reduction in Force.** A reduction in force is an involuntary termination of an employee from State employment because of a shortfall of funding, lack of work, organizational changes requiring a reduction in the number of positions in state employment.
88. **Re-employment.** An employee re-employed to the same classification within four (4) months after separation provided they meet the specific minimum qualifications.
89. **Reinstatement.** The re-employment to any class of a previous permanent employee within twenty-four (24) months of a separation due to a reduction in force.
90. **Relative(s).** A person connected with another by blood or marriage.
91. **Resignation.** Voluntary separation from state service.

92. Selection Examination or Consideration. An interview, background evaluation or other examination of candidates used in making an appointment decision.

93. Separation. A break in service resulting from a resignation, termination, retirement, dismissal or reduction in force. A twenty four (24) hour break in service not including normal days off.

94. Serious Health Condition. Is defined as an illness, injury, impairment, or physical or mental condition that involves inpatient care in a hospital, hospice or residential medical facility; or continuing treatment by a health care provider.

95. Service Credits.

(a) The number of calendar months during which work was actually performed in the Executive, Judicial or Legislative Branch which has not been interrupted by a separation. If a previous permanent employee is reinstated to State service within twenty-four (24) months of a reduction in force, then such separation shall not constitute a break in continuous service; however, the time period during the separation does not count as months worked. If an employee receives another appointment effective on the next work day following the effective date of a separation, then such separation shall not constitute a break in continuous service.

(b) Credit shall not be given for a calendar month in which an employee was on leave without pay, educational leave, or disciplinary suspension when no work was actually performed. Time during which an employee was absent from work because of a valid workers' compensation claim or Family and Medical Leave, while not considered as time worked, shall be included in calculating the total number of months of continuous service. Time during which an employee was on any other authorized leave shall be considered time worked for purposes of this definition.

96. Shift Differential. A premium paid to those employees whose regularly assigned hours of work are outside 6 am to 6 pm Monday through Friday.

97. Specific Minimum Qualifications. Specific minimum qualifications are separate distinctive minimum qualifications established within a classification.

98. Intern Appointment. A time-limited appointment made of an individual where such employment constitutes a recognized phase of the individual's educational or training program.

99. Supervisor. An employee having statutory or properly delegated authority to appoint, suspend, transfer, promote, dismiss, lay off, demote, assign work, reward, direct, resolve grievances of or discipline other employees; or to effectively recommend such actions if the exercise of such authority requires the use of independent judgment and is not routine in nature.

100. Supplementary Compensation. A non-base pay adjustment given to employees in accordance with the State Compensation Policy.

101. Suspension. See Disciplinary Suspension.

102. Telework. Telework allows state employees to conduct state business from an approved remote work site other than their regular office.

103. Temporary Appointment. An appointment of a candidate to a position in a class for a limited period of time.

104. **Temporary Employee.** An at-will employee who has no expectation of continued employment and may be dismissed at any time without cause or reason.
105. **Termination.** A separation of an employee in good standing.
106. **Test.** See Examination.
107. **Time-Limited Appointment.** An emergency, intermittent, temporary, or intern appointment made for defined duration.
108. **Time-Limited Position.** An authorized position funded for a limited time period.
109. **Time-Shared Position.** Two (2) employees who voluntarily occupy one (1) position or three (3) employees who voluntarily occupy two (2) positions with the agency head's approval, providing that the total salary expenditures for those employees do not exceed the amount authorized for the position or positions (W.S. 9-2-1022 (f)).
110. **Training Expenses.** Reimbursement of expenses to employees by the state for job-related training.
111. **Transfer.** The appointment of an employee from one agency to another agency within the same classification.
112. **Voluntary Reassignment.** A reassignment of an employee voluntarily seeking an appointment to a different position in a different class having the same or lower grade than the employee's current class.

CHAPTER 1  
GENERAL PROVISIONS

Section 1. **Authority.**

(a) These State of Wyoming Personnel rules are promulgated by the Human Resources Division, Department of Administration and Information, State of Wyoming, in accordance with W.S. 9-2-1002, 9-2-1019, 9-2-1022, and 16-3-101 through 16-3-115. They take precedence over all personnel rules issued by any Executive Branch State Agency.

(b) Throughout these rules, Human Resources Division shall mean the Department of Administration and Information Human Resources Division.

(c) Throughout these rules, Human Resources Administrator shall mean the Department of Administration and Information Human Resources Division Administrator.

Section 2. **Coverage.**

These rules apply to all positions and employees in the Executive Branch, with the exception of the University of Wyoming and the positions of Governor, Secretary of State, State Auditor, State Treasurer, Superintendent of Public Instruction, District Attorneys and Executive Director of the Community College Commission which are exempt from these rules. The Governor is exempt from Chapter 6-2 through 6-2 in the recruitment and appointment of agency heads. The position of Adjutant General is exempt from the State Compensation Plan (W.S. 19-7-103 (b)(ix)).

Section 3. **Interpretation.**

(a) The Human Resources Administrator or designee is solely responsible for providing official interpretations of these rules in cases of apparent internal conflicts between rules, or when questions arise about their application to specific situations, procedures or policies.

(b) In all cases where approval from the Human Resources Division is required, it shall mean prior written approval.

Section 4. **Enforcement.**

(a) The Human Resources Administrator shall ensure that these rules are enforced and applied uniformly and fairly by all Executive Branch agencies.

(b) Agency Responsibility:

(i) Agency heads are responsible for complying with and applying these rules within their agency, and shall ensure that all employees comply with their provisions.

(ii) Agency heads are responsible for the action of agency management employees to whom they have delegated, in writing, authority to act in their behalf in any or all aspects of personnel administration.

(iii) Agency heads shall inform all employees of these rules.

(iv) Agency heads shall provide all employees with reasonable access to these rules.

(c) Employees are responsible for familiarizing themselves with these rules and are expected to contact their supervisor or agency human resources representative for explanation of any rule they do not understand.

#### Section 5. Personnel Policies.

The Human Resources Division may issue written policy statements concerning interpretation or application of these rules, procedures for carrying out personnel functions, and other matters necessary for proper personnel administration. Agency heads shall distribute and comply with these statements.

#### Section 6. Equal Employment Opportunity.

(a) Equal employment opportunity shall be provided to applicants and employees in the administration of all personnel practices such as recruitment, appointment, promotion, performance appraisal/evaluation, discipline, retention, training and other benefits, terms and conditions of employment in a manner which does not discriminate on the basis of race, color, creed, religion, sex, national origin, age, political affiliation, disability (except where disability is a bona fide occupational disqualification).

(b) The Human Resources Division shall provide assistance to agency heads in the administration of equal employment opportunity policy.

(c) Agency heads shall act in accordance with equal employment opportunity policy and shall cooperate fully with the Human Resources Division Equal Employment Opportunity Coordinator, the State of Wyoming's representative, in investigating and resolving discrimination complaints.

(d) Agency heads or designees are responsible for distributing and discussing equal employment opportunity policy with agency management and employees to assure understanding and consistent application.

(e) Agency heads shall provide employees and applicants alleging discrimination accessibility to the agency's designated Equal Employment Opportunity Coordinator who can assist the individual in order to insure that their rights are not violated. The Human Resources Division Equal Employment Opportunity Coordinator shall be contacted by the agency when an employee or applicant complains of employment discrimination.

(f) An employee or applicant alleging employment discrimination should contact the Human Resources Division Equal Employment Opportunity Coordinator who shall attempt to resolve the complaint.

(i) If the complaint cannot be resolved, the Coordinator shall provide a full report to the State Human Resources Administrator and shall advise the individual of any other procedures available for resolution of the complaint.

#### Section 7. Discrimination and Sexual Harassment.

(a) The State of Wyoming Anti-Discrimination Policy is set forth in Executive Order No. 2000-4.

(b) The Anti-Discrimination Policy prohibits any form of discrimination or harassment related to an individual's race, religion, color, sex, national origin, age or disability.

(c) Employees shall be informed that they must abide by the terms of the policy as a condition of employment and of the consequences of any violation of such policy.

~~(e) The Anti-Discrimination Policy outlines the following:~~

- ~~(i) prohibited conduct;~~
- ~~(ii) complaint procedures;~~
- ~~(iii) investigations into complaints of prohibited conduct; and~~
- ~~(iv) corrective action that will be taken in response to complaints of conduct prohibited by the Anti-Discrimination Policy.~~

(d) Any employee who believes he or she has been discriminated against or harassed in violation of the Anti-Discrimination Policy should submit a complaint following the procedures set forth in the Anti-Discrimination Policy.

(e) An employee may file a discrimination complaint with the Wyoming Department of Employment Workforce Services, Division of Labor Standards, or the Federal Equal Employment Opportunity Commission.

#### Section 8. Substance Abuse.

(a) Policy. It is the policy of the State of Wyoming to maintain a workplace free of substance abuse as set forth by Executive Order 1990-2:

~~(i) Reporting to work or performing work for the State while impaired by or under the influence of illegal drugs or alcohol is prohibited. Testing for drug or alcohol use is not required in determining whether an employee is impaired by or under the influence of drugs or alcohol. Eyewitness evidence of unusual behavioral and physical signs and symptoms can be used to determine reasonable cause to inquire whether an employee is impaired or under the influence of drugs or alcohol.~~

~~(ii) The illegal use, possession, dispensation, distribution, manufacture or sale of a controlled substance by an employee in the workplace is prohibited.~~

~~(iii) Violation of such prohibitions by an employee shall result in discipline in accordance with the State of Wyoming Personnel Rules and applicable agency policies and procedures.~~

~~(iv) The conviction of an applicant or employee for the illegal use, possession, dispensation, distribution, manufacture or sale of a controlled substance outside the workplace shall be taken into consideration in determining job qualification or in administering disciplinary action up to and including dismissal.~~

~~(v) Employee shall notify their agency of any criminal drug statute conviction not later than five (5) days after such conviction.~~

~~(vi) Agencies that receive federal grants or contracts must report any criminal drug statute convictions of their employees engaged in the performance of a federal grant or contract, to federal agencies from which grants or contracts are received within ten (10) days after receiving notice from the employee or otherwise receives actual notice of such conviction.~~

(b) ~~(vii)~~ All employees shall be given a copy of the Executive Order 1990-2 Substance Abuse Policy.

(c) Employees shall be informed that they must abide by the terms of the policy as a condition of employment and of the consequences of any violation of such policy.

#### Section 9. Personnel Forms.

The Human Resources Division shall prescribe the forms and procedures for use by State agencies in matters of personnel administration.

**Section 10. Employee Participation.**

Employees or their recognized representatives may provide comments and suggestions to the Human Resources Division relating to personnel matters affecting their interests.

**Section 11. Personnel Records.**

(a) The Human Resources Division shall have access to all agency personnel records.

(b) Employees personnel records shall be maintained as determined by the Human Resources Division and in accordance with the State Personnel Records Policy.

(c) Employees shall have access to their personnel records upon providing proper identification. An employee's representative may be given access to an employee's personnel records upon providing a release signed by the employee.

(d) When an employee transfers from one agency to another agency within the Executive Branch of State Government, the employee's personnel file shall transfer to the new agency.

(i) The hiring agency shall submit a written request to the employee's former agency requesting the official transfer of the employee's personnel file after the employee has started with the new agency.

(ii) The former agency human resource office shall ensure the file is transferred to the hiring agency human resource office within ten (10) days of the hiring agency's written request either by hand delivery or certified, return receipt mail.

**Section 12. Responsibility for Agency Functions.**

(a) Agency heads shall ensure that the following functions are performed:

(i) Establishment and maintenance of internal personnel policies and procedures, which do not conflict with the State of Wyoming Personnel Rules~~rules and policies;~~

(ii) Establishment and maintenance of employee personnel records~~;~~

(A) Personnel records, including selection/interview records, shall be maintained as required by W.S. 16-4-203(b)(ii) and W.S. 16-4-203(d)(iii) the Executive Branch Records Retention Schedules;

(iii) Designation of a contact position for purposes of communicating with the Human Resources Division~~;~~

(iv) Preparation of reports and other information required by the Human Resources Division.

**Section 13. Management Rights.**

(a) To insure that the State can carry out its constitutional and statutory functions there are certain matters, which are solely functions of management, including:

(i) ~~the~~The right to direct the work force;

- ~~\_\_\_\_\_~~ (ii) ~~to~~To select and determine the number and types of employees required;
- ~~\_\_\_\_\_~~ (iii) ~~to~~To determine the content of job classification;
- ~~\_\_\_\_\_~~ (iv) ~~to~~To hire, transfer, promote, demote, reappoint, suspend, discipline, and dismiss employees;
- ~~\_\_\_\_\_~~ (v) ~~to~~To evaluate work performance;
- ~~\_\_\_\_\_~~ (vi) ~~to~~To authorize leave;
- ~~\_\_\_\_\_~~ (vii) ~~to~~To assign work to employees as required by the State;
- ~~\_\_\_\_\_~~ (viii) ~~to~~To establish and change work schedules and assignments;
- ~~\_\_\_\_\_~~ (ix) ~~to~~To lay off employees for lack of work;
- ~~\_\_\_\_\_~~ (x) ~~to~~To furlough employees without pay for lack of work or funding;
- ~~\_\_\_\_\_~~ (xi) ~~to~~To expand or diminish services;
- ~~\_\_\_\_\_~~ (xii) ~~to~~To subcontract any work or operations;
- ~~\_\_\_\_\_~~ (xiii) ~~to~~To establish and change methods of operation;
- ~~\_\_\_\_\_~~ (xiv) ~~to~~To determine and change work locations and the processes and materials to be employed; and
- ~~\_\_\_\_\_~~ (xv) ~~to~~To take all necessary actions to perform its functions in emergencies.

~~\_\_\_\_\_~~ (b) Management shall have the right to conduct inquiries into matters affecting management policies and practices.

~~\_\_\_\_\_~~ (c) Management shall ensure these functions are carried out fairly, equitably and in the best interest of the State.

**Section 14. Politics.**

(a) Employees shall not use official authority or influence to interfere with or influence the result of an election or nomination for office~~;~~

~~\_\_\_\_\_~~ (b) ~~Employees shall not~~ directly or indirectly coerce a State officer or employee to pay, lend, or contribute anything of value to a party, committee, organization, agency, or person for political purposes~~;~~

~~\_\_\_\_\_~~ (c) ~~Employees shall not~~ conduct any political activity on State time ~~or~~;

~~\_\_\_\_\_~~ (d) ~~Employees shall not~~ be a candidate for partisan elective office if employed in a program covered by the Federal Hatch Act.

~~(b)~~ Discrimination against any person in recruitment, examination, appointment, retention, discipline or any other aspect of personnel administration because of political opinion or affiliation is prohibited~~;~~

(i) No questions shall be asked on any application, examination, or interview, which would directly or indirectly require the disclosure of a person's political affiliation, preferences, or opinions.

(ii) Applicants and employees are prohibited from using political influence as an advantage in securing or making appointments or for other personal benefit for themselves or others in personnel matters.

#### Section 15. **Conflicts of Interest.**

(a) Employees shall not enter into any financial or other relationship with a State agency, private business, or other organization, which would constitute a conflict of interest with their State employment.

(b) Employees shall not permit themselves to be placed under any personal or other obligation, which could lead any person, group, or organization to expect official favors.

#### Section 16. **Personal Conduct.**

Employees shall be courteous, considerate, and impartial in dealing with and serving the public. Employees shall conduct themselves in a manner that will not bring discredit or embarrassment to the State.

#### Section 17. **Dual Employment.**

(a) There shall be no conflicting hours of work when a person is employed by two (2) or more State agencies or in two (2) or more positions in the same State agency—;

(i) In the case of the former, both agency heads shall first agree to the terms of the dual employment—;

(ii) Dual employment within State service shall have prior approval of the Human Resources Division.

(b) An agency head may allow an employee to work for another employer so long as the employee performs satisfactorily and there is no conflict of hours—;

(i) No employee shall engage in outside employment or other activity which is not compatible with the efficient and proper performance of the duties of the State employment, or which tends to impair capacity to perform duties and responsibilities in an acceptable manner.

#### Section 18. **Use of State Property.**

No employee shall use or permit the use of State property for other than official activities. Employees shall protect and conserve State property, equipment, and supplies entrusted or issued to them.

#### Section 19. **Savings Clause.**

If any provision of these rules or its application to any person or circumstance is held invalid or in conflict with any other provision of these rules, the invalidity shall not affect other provisions or applications of these rules which can be given effect without the invalid provision or application, and to this end the provisions of these rules are severable.

#### Section 20. **Work Schedules.**

(a) All Executive Branch Agencies shall maintain traditional hours of work from 8:00 a.m. to 5:00 p.m., Monday through Friday and be staffed appropriately to insure service to the public and other agencies, unless otherwise approved in writing by the Human Resources Division.

(b) Employees shall maintain a set work schedule and conduct state business from their centralized organizational work place, their regular office or from an approved remote work site using an approved Telework Memorandum of Understanding.

(c) An employee may request an alternative or variable work schedule in contrast to the traditional hours of work:

(i) The use of an alternative or variable work schedule shall be requested in writing by the agency head to the Human Resource Division for approval prior to the schedule becoming effective;

(ii) Any change to the official workweek or alternative work schedule shall be in accordance with the overtime provisions of the Fair Labor Standards Act and policies and procedures established by the Human Resource Division.

## CHAPTER 2

### RECRUITMENT & APPOINTMENT

#### Section 1. Recruitment.

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

(b) To fill any vacant position, there shall be recruitment.

(c) All recruitment shall be determined by the Human Resources Division and in accordance with the State Recruitment Policy.

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

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

#### Section 2. Applications.

(a) Application for appointment shall be submitted in accordance with the State Recruitment Policy and received within the prescribed time limits for positions open for recruitment.

(b) A separate application shall be submitted for each position open for recruitment.

(c) Neither the issuance of recruitment nor an application form nor an invitation to apply shall be construed as incurring an obligation to accept or approve any application subsequently submitted.

(d) The Human Resources Division may stop or limit the acceptance of applications in any manner, which is useful and expedient for the recruitment involved.

#### Section 3. Ineligibility of Applicants.

(a) Applications may be rejected, and/or applicants refused further consideration, examination, or appointment for any of the following reasons:

(i) Failure of the application to show the applicant meets all minimum requirements established for the classification;

(ii) Failure of an applicant to submit requested application materials according to the established procedures and/or within the prescribed time period which are complete, legible, and comprehensible;

(iii) Making a false statement and/or otherwise practicing deception and/or fraud in connection with an application;

(iv) Cheating and/or otherwise attempting to secure an undue advantage on any examination and/or obtaining information regarding examinations to which the individual is not entitled;

(v) Failure to appear for a scheduled examination and/or interview;

(vi) Failure to pass any phase of the examination process;

(vii) Applicant is determined to be unable to effectively perform the essential functions of the job, with or without reasonable accommodation;

(viii) Applicant has been dismissed from State service;

(ix) Applicant has been found to have a record of unsatisfactory work performance;

(x) Applicant is currently abusing narcotics, intoxicating liquors, and/or other substances in a manner which would affect the ability to safely, dependably and/or effectively perform the duties of the job;

(xi) Applicant has been convicted of a crime and/or has a record of convictions, the nature of which is reasonably related to the applicant's fitness for employment for the job;

(xii) Applicant has used and/or attempted to use political and/or personal pressure and/or bribery to secure an advantage in obtaining employment;

(xiii) Applicant supports and/or belongs to any organization, which advocates illegal overthrow of the government of the United State and/or of the State of Wyoming;

(xiv) No person under sixteen (16) years of age shall be employed;

(xv) No person between sixteen (16) and eighteen (18) years of age shall be employed in an occupation defined as hazardous by the United States Secretary of Labor pursuant to the "Federal Fair Labor Standards Act of 1938," as amended 29 U.S.C. 201 et. seq., also known as the Act;

(xvi) Applicant has willfully violated any provisions of these rules; or

(xvii) For any other job related reason which adversely affects the applicant's suitability for appointment.

#### Section 4. Candidate Group.

(a) Unless otherwise specified by the Human Resources Division, the candidate group shall consist of all eligible applicants from a specific recruitment whom consideration for appointment may be given.

(b) The Human Resources Division shall make available, upon request, to the hiring authority the names and applications of the candidate group.

(c) A permanent employee, separated from service due to a reduction in force, shall automatically be in the candidate group for the classification held at the time of separation for a period of twenty-four (24) months;

(i) A permanent employee, separated from service due to a reduction in force, shall be a state employee for a period of twenty-four (24) months when applying for position vacancies limited to state employees.

**Section 5. Examinations.**

(a) Definition of Examination: Any process, procedure, rating, interview, test, evaluation, or assessment, whether scored or not scored, formal or informal, which affects a person's eligibility for, or consideration for, appointment.

(b) Examinations shall be administered in accordance with the State Recruitment Policy.

(c) Agency management shall inform the Human Resources Division of any examinations used during the recruitment process.

(d) The content and conduct of such examinations may be subject to the review and approval of the Human Resources Division:

(i) Agency management shall coordinate through the Human Resources Division in any examination development activities.

(e) Examinations conducted by agency management or hiring authorities for the purpose of employment decisions shall be job-related:

(i) Only applicants who have successfully applied for an active recruitment, meet the minimum requirements, and have otherwise been determined to be eligible for appointment shall be eligible for an examination.

(f) Hiring authorities shall consider an adequate number of the available candidates in order to provide for competitive selection:

(i) Hiring authorities shall keep records of candidates examined, including applications, dates, ratings, and other documentation of the results of final selection examinations for a time period specified in the State's Executive Branch Records Retention Schedules;

(ii) Hiring authorities shall be responsible for any adverse actions resulting from failure to consider any candidate, taking into account valid factors relevant to the needs of the vacant position.

(g) Hiring authorities shall make reasonable accommodations to assist applicants with disabilities in the examination process:

(i) It shall be the responsibility of the applicant to notify the hiring authority of any special needs.

**Section 6. Veterans' Preference Points.**

Veterans' Preference Points shall be in accordance with W.S. 19-14-102.

**Section 7. Preconditions to Appointment.**

(a) Except for appointments of agency heads by the Governor, emergency appointments, involuntary reappointments, and lateral reappointments within the same agency, all appointments shall be from among the candidate group from the specified recruitment for the specified classification.

(b) Minimum Requirements. Except for emergency appointments, no applicant shall be appointed until the following are met:

(i) Specified time periods as defined in the State Recruitment Policy have passed;

(ii) The processing of applications and the administration of examinations is complete;

(iii) It has been determined by the Human Resources Division that the applicant meets the minimum requirements of the classification and has passed any required evaluation;

(iv) It has been determined that the applicant is able to perform the essential functions of the job, with or without reasonable accommodation; and

(v) The applicant has an acceptable record of previous job performance;

(A) The performance and / or disciplinary file of current and former state employees shall be made available to the hiring agency upon notification to and written authorization from the Human Resources Division, of the current or former state employee's selection as the final candidate(s) for appointment.

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

#### Section 8. Responsibilities of Hiring Authorities.

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

(i) Prior to the hiring of any other candidate with no greater preference, a permanent employee separated by a reduction in force shall be offered reinstatement to a vacant position within the agency, within the division (as designated for purpose of reduction in force) last employed and within the class held at the time of separation;

(ii) An individual recommended for probationary appointment, reinstatement appointment, promotional appointment, voluntary reassignment, temporary appointment, or intermittent appointment is in the candidate group;

(iii) The appointment of the individual would not conflict with the rule on employment of relatives, Section 10 of this chapter;

(iv) All legal requirements pertaining to the classification including licensing and/or certifications are met.

(b) The hiring authority shall notify all qualified candidates that applied for the specific recruitment regarding the final status of the recruitment.

#### Section 9. Types of Appointment.

(a) Probationary Appointment. The appointment of a candidate in a civil service position who shall serve a three hundred and sixty-five (365) day probationary period;

(i) An individual given a probationary appointment is an at-will employee who has no expectation of continued employment and may be dismissed at any time during the probationary period;

(ii) Time served as an intern, emergency employee, temporary employee, or intermittent employee shall not count towards the probationary period;

(iii) Leave without pay and/or time received from donated sick leave shall not count towards the probationary period.

(b) Permanent Appointment. The appointment of an individual who has completed the probationary period:

(i) Permanent appointment shall be effective on the next day following completion of the three hundred and sixty-five (365) day probationary period.

(c) Appointment by Reinstatement. A permanent employee, separated from service due to a reduction in force, shall have reinstatement rights for a period of twenty-four (24) months to include employment status, leave accrual rates, longevity benefits and continuous service credits held at the time of separation:

(i) A permanent employee who separated from service due to a reduction in force shall have a right to decline offers of appointment without forfeiture of reinstatement rights when:

(A) The geographical area of the position vacancy is different from that at the time of separation;

(B) The position funding is temporary or time-limited;

(C) The classification is different from that at the time of separation; or

(D) The division is different from that at the time of the separation.

(d) At-Will Appointment. The appointment of a candidate to a position in a non-civil service position:

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

(e) At-Will Contract Appointment:

(i) At-will contract appointment shall require a signed written contract agreement and shall be in accordance with W.S. 9-2-1022(a)(xi)(F);

(ii) An individual appointed as an at-will contract employee is an at-will employee who has no expectation of continued employment and may be dismissed at any time without cause or reason;

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

(A) Salary and/or rates of pay shall be comparable to similar jobs in state government and shall not include adjustments for any type of benefit including leave, insurance premium, or retirement contribution;

(iv) Appointment as an at-will contract employee shall not count towards continuous state service for purposes of longevity payments;

(v) No at-will contract employee shall be eligible for or accrue any type of leave.

(f) Temporary Appointment. Temporary appointment shall not continue for more than nine (9) months without prior written approval of the Human Resources Division;

(i) Temporary appointment may be made to a position:

(A) Held by another employee who is on educational leave or other extended leave;

(B) Which is seasonal and or time-limited for a period of less than nine (9) months;

(ii) No individual shall receive successive temporary appointment into the same classification within an agency during any twelve (12) month period;

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

(g) Intermittent Appointment. The employment of a candidate to perform work in a classification for varying time intervals, which shall not exceed nine (9) months full-time equivalent service;

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

(h) Emergency Appointment. When an emergency threatening public health, safety or welfare exists requiring the immediate employment of additional workers, emergency appointment may be utilized with prior verbal approval of the Human Resources Division, except for emergencies occurring at night, or on weekends or holidays, in which case such emergency appointment shall be reported to the Human Resources Division on the following work day;

(i) Emergency appointment shall not exceed thirty (30) days;

(ii) Persons given emergency appointment shall submit application forms to the Human Resources Division as soon as practical;

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

(i) Appointment of Interns:

(i) All interns shall require justification and prior written approval of the Human Resources Division Administrator or designee;

(ii) An agency may offer an internship as on-the-job training for a limited period of time provided the following;

(A) The internship, even though it includes actual operation of the agency, is similar to training which would be given in an educational environment;

(B) The internship is for the benefit of the intern;

(C) The intern shall not displace regular employees, but works under close supervision of existing staff;

(D) The agency that provides the training receives no immediate advantage from the activities; and on occasion the operations may be impeded; and

(E) The intern is not necessarily entitled to a job at the conclusion of the internship unless they are in the candidate group of an active recruitment.

(j) Volunteer:

(i) All volunteer opportunities shall require justification and prior written approval of the Human Resources Division Administrator or designee;

(ii) Volunteers shall not displace regular employees;

(iii) State employees shall not volunteer additional time to do work.

(k) Promotional Appointment. The appointment of an employee to a different position in a different classification having a higher grade than the employee's current classification.

(l) Reassignment:

(i) Voluntary Reassignment. The reassignment of an employee seeking appointment to a position in a different classification having the same or lower grade than the employee's current classification;

(A) Voluntary Reassignments shall be from among applicants in the candidate group;

(ii) Involuntary Reassignment:

(A) An agency head shall consult with the Attorney General's Office and the Human Resources Division prior to involuntarily reassigning a permanent or probationary employee to a different position in a different classification having the same or lower grade than the employee's current classification because of a reduction in force, unsatisfactory work performance or other demonstrated reason affecting the accomplishment of program goals;

(B) Prior to a reduction in force, involuntary reassignment may be between agencies if both agency heads agree;

(C) Involuntary reassignments shall require the employee meets the minimum requirements for the new classification;

(D) Involuntary reassignments of an employee may have the requirement to conduct an active recruitment waived with prior written approval of the Human Resources Division;

(iii) Lateral Reassignment. The reassignment of an employee to a vacant position within the same classification as the employee's current position;

(A) A lateral reassignment of an employee to a vacant position within the same agency may have the requirement to conduct an active recruitment waived with prior written approval of the Human Resources Division;

(iv) Interim Assignment. The reassignment of an employee on an interim basis to a different position in a higher grade than the employee's current position;

(A) An agency head shall provide written notification to the Human Resources Division prior to providing an interim assignment to an existing agency employee;

(B) Interim assignment shall not exceed twelve (12) months;

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

#### **Section 10. Employment of Relatives.**

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

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

(c) An agency head shall ensure employees related to each other do not directly supervise a relative.

#### **Section 11. Appointment of Non-U.S. Citizens.**

(a) All employees, citizens and non-citizens, hired after November 6, 1986, and working in the United States shall complete Form I-9, Employment Eligibility Verification to document they are authorized to work in the United States:

(i) Each agency shall verify and maintain I-9 documentation according to the U.S. Citizenship and Immigration Services.

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

(c) When an employee's work authorization expires, the agency shall verify the employee's employment eligibility:

(i) The employee shall present a document that shows either an extension of the employee's initial employment authorization or new work authorization;

(ii) If the employee cannot provide proof of current work authorization, the agency shall not continue to employ that individual.

(d) No agency shall be a sponsor or petitioner on behalf of any Non-U.S. Citizen without the express written consent of the Governor.

(e) No agency may contract with or permit a third party (e.g., a law firm) to petition any federal agency to change a Non-U.S. Citizen's immigration status without prior consultation with the

Attorney General's Office, notification to the Human Resources Division and the written approval of the Governor.

## CHAPTER 3

### APPLICATION FOR EMPLOYMENT

#### REPEALED

##### ~~Section 1. — Application Procedure.~~

~~(a) — Application for employment shall be made on such forms and according to such procedures as may be prescribed by the Human Resources Division. A separate application form shall be submitted for each class code number applied for unless otherwise specified by the Human Resources Division. Applications shall be filed at the office of the Human Resources Division or at such other places as may be approved by the Human Resources Division on or before any specified final filing dates; postmarks will not be accepted. Applicants shall submit such documents or supplemental information as required by the Human Resources Division in order to verify or accurately evaluate the applicant's qualification or background.~~

~~(b) — Applications shall only be accepted for currently announced openings.~~

~~(c) — Applications which are incomplete or improperly executed may, at the discretion of the Human Resources Division, be returned to applicants for proper completion. However, this shall not obligate the Human Resources Division to reprocess applications if they are not properly completed and resubmitted on or before the announced final filing date, or in time to be processed for consideration for a vacancy, or in time for the administration of required examinations.~~

~~(d) — Neither the issuance of an application form nor an invitation to apply shall be construed as incurring an obligation to accept or approve any application subsequently submitted.~~

~~(e) — The Human Resources Division may stop or limit the acceptance of applications in any manner which is useful and expedient for the class involved.~~

##### ~~Section 2. — Causes of Ineligibility of Applicants.~~

~~(a) — Applications may be rejected and/or applicants refused further consideration, examination or appointment for any of the following reasons:~~

~~—— (i) — Failure of the application to show the applicant meets all minimum qualifications established for the class;~~

~~—— (ii) — Failure of an applicant to submit requested application materials according to established procedures or within a prescribed time period;~~

~~—— (iii) — Failure of an applicant to complete application according to instructions, or failure to submit required documents or additional information, or failure to submit a legible, comprehensible application;~~

~~—— (iv) — Making a false statement or otherwise practicing deception or fraud in connection with an applications;~~

~~—— (v) — Cheating or otherwise attempting to secure an undue advantage on any examination;~~

- ~~\_\_\_\_\_ (vi) \_\_\_\_\_ The application submitted is for a job class for which applications are not being accepted at that time;~~
- ~~\_\_\_\_\_ (vii) \_\_\_\_\_ Failure to appear for a scheduled examination;~~
- ~~\_\_\_\_\_ (viii) \_\_\_\_\_ Failure to pass any phase of the examination process;~~
- ~~\_\_\_\_\_ (ix) \_\_\_\_\_ The application has been on file for over twelve (12) months;~~
- ~~\_\_\_\_\_ (x) \_\_\_\_\_ The applicant has obtained information regarding examinations to which the individual is not entitled;~~
- ~~\_\_\_\_\_ (xi) \_\_\_\_\_ Applicant is determined to be unable to effectively perform the essential functions of the job, with or without reasonable accommodation;~~
- ~~\_\_\_\_\_ (xii) \_\_\_\_\_ Applicant has been dismissed from State service;~~
- ~~\_\_\_\_\_ (xiii) \_\_\_\_\_ Applicant has been found to have a record of unsatisfactory work performance;~~
- ~~\_\_\_\_\_ (xiv) \_\_\_\_\_ Applicant is currently abusing narcotics, intoxicating liquors, or other substances in a manner which would affect the ability to safely, dependably or effectively perform the duties of the job;~~
- ~~\_\_\_\_\_ (xv) \_\_\_\_\_ Applicant has been convicted of a crime or has a record of convictions, the nature of which is reasonably related to the applicant's fitness for employment for the job;~~
- ~~\_\_\_\_\_ (xvi) \_\_\_\_\_ Applicant has used or attempted to use political or personal pressure or bribery to secure an advantage in obtaining employment;~~
- ~~\_\_\_\_\_ (xvii) \_\_\_\_\_ Applicant supports or belongs to any organization which advocates illegal overthrow of the government of the United State or of the State of Wyoming;~~
- ~~\_\_\_\_\_ (xviii) \_\_\_\_\_ Applicant is under 16 years of age;~~
- ~~\_\_\_\_\_ (xix) \_\_\_\_\_ Applicant is between 16 and 18 years of age and has applied for a job which is defined as hazardous by the United States Secretary of Labor pursuant to the "Federal Fair Labor Standards Act of 1938," as amended 29 U.S.C. 201 et seq, also known as the Act.~~
- ~~\_\_\_\_\_ (xx) \_\_\_\_\_ Applicant has willfully violated any provisions of these rules; or~~
- ~~\_\_\_\_\_ (xxi) \_\_\_\_\_ For any other job related reason which adversely affects the applicant's suitability for appointment.~~

## CHAPTER 73

### POSITION CONTROL

#### Section 1. Position Status.

(a) The status of each position shall be designated ~~on the basis of~~ based on authorized funding, as one of the following types:

- (i) full-time;
- (ii) part-time;
- (iii) time-limited; or
- (iv) time-share.

(b) The status of position shall not have any effect on the employment status of an individual occupying the position.

#### Section 2. Job Content Questionnaires.

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

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

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

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

#### Section 3. Task Assignments.

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

(i) To the extent possible, assignments of tasks from one position to another or of new tasks shall be assigned to existing positions of similar content to eliminate or reduce the possibility of positions being reclassified to a higher grade than funding is authorized.

**Section 4. Position Vacancies.**

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

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

(c) Positions vacated due to a reduction in force shall be removed from the Agency's authorized position allocation.

**Section 5. Position Appointments.**

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

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

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

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

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

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

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

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

~~Section 6. Interim Assignments.~~

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

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

Section ~~76~~. **Establishment of New Positions.**

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

(i) ~~A tentative classification of the proposed position shall be determined by the Human Resource Division and provide notification to the Administration and Information Budget Division.~~

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

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

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

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

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

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

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

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

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

CHAPTER 4  
EXAMINATIONS

REPEALED

~~Section 1. — Nature and Development of Examinations.~~

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

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

~~Section 2. — Veterans' Preference Points Upon Initial Appointment.~~

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

~~Section 3. — Final Selection Examinations.~~

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

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

~~Section 4. — Probationary Period. (a) — The probationary period is an integral part of the examination process and shall be utilized for closely observing the employee's work, for securing the most effective adjustment of~~

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

~~the employee to the position, and for dismissing any employee without right of appeal.~~

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

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

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

## CHAPTER 84

### POSITION CLASSIFICATION

#### Section 1. Position Classification Plan.

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

#### Section 2. Class Specifications.

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

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

#### (c) Class Titles:

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

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

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

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

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

#### Section 3. Position Information.

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

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

#### Section 4. Position Classification.

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

#### (b) Classification Factors:

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

(c) Unrelated factors. Classification shall not be based upon the individual characteristics and performance level of the employee occupying the position; or upon other information not pertinent to the position or classification.

#### Section 5. Classification System Maintenance.

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

#### (b) Classification Reviews:

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

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

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

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

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

#### (B) Classification Review Panel:

(I) If the employee does not agree with the initial determination by the Human Resources Division, the employee may submit a written request for reconsideration by the Classification Review Panel within thirty (30) days of the employee's notification. This panel comprised of the Director of the Department of Administration and Information, the Human Resources Administrator, the ~~head of the Agency Services Unit~~ ~~Classification and Compensation Manager~~, and the agency director or designee shall review the evaluation of ~~re-evaluate~~ the original request and any

additional information provided by the employee and/or their representative. The panel shall provide written notice of its final decision within sixty (60) days of receipt.

(c) **Reclassification:**

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

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

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

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

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

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

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

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

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

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

CHAPTER 5  
APPLICANT POOL

REPEALED

~~Section 1. — **Applicant Pool.**~~

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

~~Section 2. — **Removal of Applicants from Applicant Pool.**~~

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

~~Section 3. — **Availability of Applicants.**~~

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

CHAPTER 95  
COMPENSATION

Section 1.      **Compensation Plan.**

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

~~(i)      The official classification listing;~~

~~(ii)     One or more pay tables;~~

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

(c)      All agencies shall comply with the State of Wyoming Compensation Policy established by the Human Resources Division:

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

~~(ii)     Agency heads shall be in accordance with the State Compensation Policy established by the Human Resources Division.~~

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

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

Section 2.      **Salary Surveys.**

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

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

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

~~(iii)    Labor market data analysis will be provided by the Human Resources Division for review and evaluation by the Governor. (A) The official pay table(s) shall be posted on the Human Resources Division web site.~~

Section 3.      **Pay Rates.**

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

(i)      Hiring rates;

- (ii) Re-employment ~~rates;~~
- (iii) Return from leave without pay ~~rates; and~~
- (iv) Reinstatement ~~rates.~~

**Section 4. Compensation Adjustments.**

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

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

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

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

~~(i) Pay Adjustments authorized by the Legislature.~~

~~(ii) Base pay adjustments:~~

~~(A) Compensation Adjustments.~~

~~(B) Educational Compensation.~~

~~(C) Holiday Premium.~~

~~(D) Promotions.~~

~~(E) Reclassifications.~~

~~(F) Interim Assignment.~~

~~(G) Voluntary/Involuntary Reappointments.~~

~~(H) Leave without Pay.~~

~~(I) Merit adjustments.~~

~~(iii) Non base pay adjustments:~~

~~(A) Bonus Payments~~

~~(B) Call Back Pay.~~

~~(C) Longevity Pay—An employee shall be compensated at the established longevity rate for each sixty (60) months of continuous State service in the Executive, Legislative or Judicial Branch. Longevity payments shall begin the month following the accrual of sixty (60) months continuous service. (1) Service credits shall be granted for previous State Executive, Legislative or Judicial Branch service to a rehired employee upon completion of twenty four (24) months of continuous service since the most recent entrance to state employment. Such prior service shall be on record with the Wyoming Retirement System or otherwise be verified by the employing agency or branch. Service credits shall be given for any calendar month during which work was actually performed.~~

~~(D) On-Call Pay.~~

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

~~(F) Shift Differential.~~

~~(G) Supplementary Compensation.~~

~~(H) Training Expenses.~~

~~(I) Employee Requested Training.~~

~~(II) Agency Required Training.~~

~~(I) Geographic differential~~

~~(J) Merit~~

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

#### Section 5. Overtime.

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

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

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

(i) Coordinating with the Human Resources Division to Determine and periodically review and determine employee overtime compensation exemptions as authorized by the Act.

(A) In cases where the agency and the Human Resources Division disagree, the Human Resources Division shall make the final determination (W.S. 27-5-101(c)(i)).

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

~~(d) Official State Workweek.~~

(d) (+) The following areas will be established and set forth in accordance with the ~~s~~State of Wyoming eCompensation ~~p~~Policy:

(i) ~~(A) Official State Workweek.~~

~~(ii) (B) — Workweek Standard; and~~

~~(iii) (C) — Exception to the Workweek Standard.~~

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

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

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

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

(e) Non-exempt employees.

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

(A) Hours of Work Defined;

(B) Meal Periods;

(C) Rest Periods;

(D) Sleeping Time;

(E) Special Activities; and

(F) Travel Time.

#### Section 6. Compensation upon Separation.

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

(i) Vacation Leave;

(ii) Sick Leave;

(iii) Longevity; and

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

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

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

#### Section 7. Executive Compensation.

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

## CHAPTER 6

### CANDIDACY AND APPOINTMENT

#### REPEALED

##### ~~Section 1. — Determination of Candidate Group.~~

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

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

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

##### ~~Section 2. — Preconditions to Appointment.~~

###### ~~(a) — Minimum Qualifications.~~

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

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

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

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

##### ~~Section 3. — Responsibilities of Appointing Authorities.~~

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

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

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

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

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

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

~~Section 4. ——— Veterans' Preference Upon Initial Appointment.~~

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

~~Section 5. ——— Probationary Appointment.~~

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

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

~~Section 6. ——— Appointments by Promotion.~~

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

~~Section 7. ——— Emergency Appointments.~~

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

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

~~Section 8. ——— Temporary Appointment.~~

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

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

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

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

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

~~Section 9. — At-Will Appointment.~~

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

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

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

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

~~Section 10. — Permanent Appointment.~~

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

~~Section 11. — Appointment of Students on Intern Programs.~~

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

~~Section 12. — Intermittent Appointment.~~

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

~~An intermittent employee is an at-will employee who has no expectation of continued employment and may be dismissed at any time without~~

~~Section 13. — Reappointments.~~

~~(a) — Involuntary Reappointment. — An agency head, in consultation with the Attorney General's Office, may involuntarily reappoint a permanent or probationary employee, not in the applicant pool, to a different position in a different class having the same or lower grade than the employee's current class because of a reduction in force, unsatisfactory work performance or other demonstrated reasons affecting the accomplishment of program goals. Prior to a reduction in force, involuntary reappointments may be made between agencies if both agency heads agree. The agency head shall ensure~~

~~that the employee meets the minimum qualifications for the new classification with written approval from the Human Resources Division. The Human Resources Division may require information or administer examinations as necessary to determine the qualification status of the employee.~~

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

~~(c) — Same Class Reappointment:~~

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

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

#### ~~Section 14. — Employment of Relatives.~~

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

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

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

#### ~~Section 15. — Appointment of Non-U.S. Citizens.~~

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

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

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

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

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

CHAPTER ~~406~~

LEAVE

Section 1. **Vacation Leave.**

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

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

(b) **Service Credits to Rehired Employees.** Service Credits for non-continuous service shall be granted to a rehired employee claiming prior Executive, Judicial or Legislative Branch service followed by a separation, upon the completion of twenty-four (24) months continuous service since the most recent entrance to State employment—;

(i) Prior service shall be on record with the Wyoming Retirement System or ~~may~~ shall be otherwise verified through the Human Resource Division by the employee, agency or branch—;

(ii) Service credits shall be given for any calendar month during which work was actually performed—;

(iii) Reinstatement of service credits shall be limited to a one-time occurrence. Employees who leave state service after receiving reinstatement of service credit shall forfeit all prior service if subsequently rehired.

(c) **Monthly Accrual Rates.**

(i) Permanent employees, probationary employees, and at-will employees, except executive employees, at-will employees at the Governor's office, and at-will contract employees, shall accrue vacation leave according to the number of hours worked in the month—;

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

(iii) Executive employees and at-will employees at the Governor's office shall follow the Executive Leave Policy—;

(iv) Intermittent employees, emergency employees, ~~student~~-interns, and at-will contract employees shall not accrue vacation leave—;

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

(vi) The following rates shall be used:

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

39 or less hours - 0% of base rate

(A) Time elapsed while an employee is on any authorized paid leave, except educational leave, shall be considered hours worked for purposes of this section;

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

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

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

(ii) An agency head may authorize an employee terminating for any reason other than disciplinary reasons to use accrued unused vacation leave beyond the employee's actual last day of work or service to the state in lieu of receiving payment for the unused balance.

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

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

(i) An employee who is appointed without a separation to the State Judicial or Legislative Branch may be allowed to transfer unused accrued vacation leave if authorized by reciprocal personnel policies adopted by the appropriate entities. A copy of the personnel policies authorizing the interbranch transfer of vacation leave shall accompany the request to transfer the leave;

(ii) Absent a reciprocal personnel policy, accrued vacation leave for Executive branch employees transferring to the State Judicial or Legislative Branch shall be paid off at the time of transfer in accordance with the State Compensation Policies.

(g) An employee appointed to or from the University of Wyoming shall not be allowed to transfer unused accrued vacation leave and shall be paid out in accordance with the State Compensation Policies or applicable University of Wyoming Policy.

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

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

Section 2. Sick Leave.

(a) Monthly Accrual Rates:

(i) Permanent employees, probationary employees, at-will employees, except executive employees, at-will employees at the Governor's office, and at-will contract employees, shall accrue sick leave according to the number of hours worked in the month:

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

(iii) Executive employees and at-will employees at the Governor's office shall follow the Executive Leave Policy:

(iv) Intermittent employees, emergency employees, ~~student~~-interns, and at-will contract employees shall not accrue sick leave:

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

(vi) The following rates shall be used:

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

(vii) Time elapsed while an employee is on any authorized paid leave, except educational leave, shall be considered hours worked for purposes of this section:

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

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

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

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

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

(d) Approval. The agency head shall approve the use of sick leave only after having determined that the absence was for a legitimate reason listed in 2(b) above. An employee may be required to submit substantiating evidence including, but not limited to, a health care provider's certificate. Abuse of sick leave is cause for disciplinary action.

(i) An agency head shall not approve the use of sick leave for end of service leave.

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

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

(ii) Donations between immediate family members who are State employees are not subject to the sixteen (16) hour maximum provided the employee maintains an accrued minimum balance of eighty (80) hours of sick leave.

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

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

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

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

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

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

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

(hg) Interbranch Appointments. An employee appointed without a separation from State Judicial or Legislative Branch who has not been paid for accumulated leave, shall be allowed to transfer unused sick leave. The employee shall accrue sick leave according to established Executive Branch rules.

(i) An employee who is appointed without a separation to the State Judicial or Legislative Branch may be allowed to transfer unused accrued sick leave if authorized by reciprocal

personnel policies adopted by the appropriate entities. A copy of the personnel policies authorizing the interbranch transfer of sick leave shall accompany the request to transfer the leave.

(ii) Absent a reciprocal personnel policy, accrued sick leave for Executive Branch employees transferring to the State Judicial or Legislative Branch shall be paid off at the time of transfer in accordance with the State Compensation Policies.

(h) An employee appointed to or from the University of Wyoming shall not be allowed to transfer unused accrued sick leave and shall be paid out in accordance with the State Compensation Policies or applicable University of Wyoming Policy.

### Section 3. Bereavement Leave.

(a) Permanent employees, probationary employees, temporary employees who have been employed for six (6) continuous months of employment and at-will employees, except executive employees, at-will employees at the Governor's office, and at-will contract employees, shall be granted three (3) regularly scheduled work days not to exceed a maximum of twenty-four (24) hours of bereavement leave upon the death of an immediate family member. This leave shall be for the purposes associated with the death of the family member and shall be used before the use of any other leave authorized for this purpose.

(i) Executive employees and at-will employees at the Governor's office shall follow the Executive Leave Policy.

(ii) Intermittent employees, emergency employees, ~~student~~-interns, and at-will contract employees shall not be granted bereavement leave.

### Section 4. Holiday Leave.

(a) Permanent employees, probationary employees, at-will employees, except executive employees, at-will employees at the Governor's office, and at-will contract employees, shall receive holiday leave, according to the number of regularly scheduled work hours in the month.

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

(ii) Executive employees and at-will employees at the Governor's office shall follow the Executive Leave Policy.

(iii) Intermittent employees, emergency employees, ~~student~~-interns, and at-will contract employees shall not receive holiday leave.

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

(v) The following rates shall be used:

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

(b) Employees eligible to receive holiday leave and who are not required to work shall be granted paid leave not to exceed eight (8) hours per holiday from regularly scheduled work hours occurring on the following days:

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

(c) Holidays that fall on employee's regularly scheduled day off:

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

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

(iii) If an employee is unable to take paid leave as indicated above in (i) or (ii) due to staff shortage and or scheduling conflicts, the employee may elect to receive the amount of time authorized in the form of pay to be paid at the employees regular rate of pay.

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

(e) Time elapsed while an employee is on any authorized paid leave, except educational leave, shall be considered hours worked for purposes of this section.

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

(a) Employees exempt from overtime, who are required to work on ~~an official State holiday~~ a holiday listed in Section 4(b), shall be granted paid time off at the rate of one and one-half (1½) hours off for each hour worked. Employees shall use any accumulated paid time off before being entitled to use any accrued vacation leave. As of January 1 of each year, all unused paid time off shall be paid off at the employee's hourly compensation rate, unless otherwise approved by the Human Resources Division.

#### Section 6. Parental Leave.

(a) Employees who are parents of a newborn or recently adopted child, or are expectant parents, may with Agency head approval take accrued sick leave, compensatory time, vacation leave, or leave without pay beyond the time allowed under Family Medical Leave Act (FMLA) for purposes associated with the birth or adoption of a child.

**Section 7. Voting Leave.**

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

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

**Section 8. Court Leave.**

(a) Permanent employees, probationary employees, temporary employees who have been employed for (6) months of continuous employment and at-will employees, except executive employees, at-will employees at the Governor's office, and at-will contract employees, required to serve as a member of a jury panel or as a witness of the court shall be granted leave with pay for their regularly scheduled work days(s) for the performance of such obligation.

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

(b) Executive and at-will employees at the Governor's office shall follow the Executive Leave Policy.

(c) Intermittent employees, emergency employees, ~~student~~-interns, and at-will contract employees shall not be granted leave with pay under this section.

**Section 9. Legislative Leave.**

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

**Section 10. Educational Leave.**

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

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

(c) ~~Probationary employees, intermittent-intermittent~~ Probationary employees, emergency employees, ~~student~~-interns, and at-will contract employees shall not be granted leave with pay under this section.

**Section 11. Administrative Leave.**

(a) An agency head may grant an employee administrative leave with pay to participate in meetings, seminars, hearings, examinations, and employee organization meetings.

(i) For other requested purposes, administrative leave request must be reviewed and evaluated for approval by the Governor or his designee.

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

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

(ii) Intermittent employees, emergency employees, ~~student~~-interns, temporary employees who have been employed with the state less than six (6) months, and at-will contract employees are not eligible for these types of paid leave.

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

(A) Employee unable to report to work due to a weather-related road closure when state offices remain in operation are required to use available vacation or compensatory time to cover the absence.

(c) An agency head or designee is responsible for tracking the usage of these types of administrative leave hours in the state payroll system and are accountable for their appropriateness.

## Section 12. **Personal Leave.**

(a) An agency head may grant an employee up to two regularly scheduled days (not to exceed 16 hours) of personal leave with pay per calendar year in recognition of or for participating in the following activities:

(i) Employee recognition programs.

(ii) Participating in department wellness initiatives.

(iii) Merit incentive programs that have been submitted to and received prior written approval from A&I HRD.

(iv) Team based recognition – project completion that have been submitted to and received prior written approval from A&I HRD.

(v) To volunteer at a pre-approved non-profit community service organization that is exempt from federal income taxation under Section 501(c)(3) of the Internal Revenue Code.

(A) Employee must provide written verification from the organization that the organization is exempt from federal income taxation under Section 501(c)(3) of the Internal Revenue Code and that the employee volunteers their own time for that organization in order to receive personal leave.

(B) Volunteer activities must not promote religion or attempt to influence legislation, governmental policy or elections to public office.

(vi) Family departing or returning from active duty military service and

(viii) To attend military funerals.

(b) Prohibited Activities. Personal leave may not be granted for:

(i) Birthdays;

(ii) Early release for holidays, and;

(iii) Undocumented performance.

(c) Agencies authorizing leave for (a)(i) through (iv) above shall submit written plans to the Human Resources Administrator for review and approval prior to the implementation.

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

(e) The granting of personal leave is at the discretion of the agency head or their designee. It is neither ~~not~~ an employee right nor an employee benefit.

(f) Intermittent employees, emergency employees, ~~student~~-interns, and at-will contract employees shall not be granted leave with pay under this section.

#### Section 13. Military Leave.

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

#### Section 14. Leave Without Pay.

(a) Leave without pay may be granted at the discretion of the agency head in accordance with the following:

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

(ii) An employee on military leave described above in Section 13(a) shall, upon request, be entitled to leave without pay in accordance with W.S. 19-11-108 (a-e);

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

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

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

(b) The Governor may furlough employees due to lack of work or funding. An employee furloughed for lack of funding shall be on leave without pay and shall not use paid leave during the furlough period.

#### Section 15. Administrative Review Leave.

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

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

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

(iii) Incapacity based on fitness for duty evaluation; or

(iv) When a formal workplace investigation has commenced and removing a witness or complaining party from the workplace is prudent to conducting the investigation.

(b) The agency head shall provide the employee with written notice specifying the reason(s) for the administrative review leave and the effective date.

~~(i) A copy of the written notice shall be provided to the Human Resources Division Administrator.~~

~~(ii) An administrative review leave, with or without pay, may be extended beyond the thirty (30) day period with prior written approval of the Human Resources Administrator, and~~

~~(iii) If the charges are not filed, or the employee is found not guilty, the employee shall be returned to work, granted pay for any lost wages, and shall retain all rights and status previously held.~~

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

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

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

~~(c) In all instances, the twelve (12) month period shall begin when leave is first used.~~

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

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

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

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

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

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

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

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

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

~~(1) Leave taken for this purpose can be used for a period of seven (7) calendar days beginning on the date a covered military member is notified of an impending call or order to active duty in support of a contingency operation;~~

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

~~(C) Childcare and school activities;~~

~~(D) Financial and legal arrangements;~~

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

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

~~(1) Eligible employees may take up to five (5) calendar days of leave for each instance of rest and recuperation.~~

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

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

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

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

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

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

~~(i) Birth and care of a child;~~

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

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

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

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

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

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

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

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

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

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

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

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

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

~~(j) In all instances of FMLA Leave, the twelve (12) month period shall commence when leave is first used.~~

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

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

~~(A) If an employee is using FMLA leave in increments of less than one week, the holiday will not count against the employee's FMLA entitlement unless the employee was otherwise scheduled and expected to work during the holiday. (ii) An employee who incurs a work related illness or injury elects whether to receive paid leave or worker's compensation benefits. An employee shall not receive both.~~

~~(f) Leave without Pay. If an employee's accrued paid leave is less than the total FMLA entitled workweeks, the time remaining shall be taken as unpaid FMLA leave. Any leave without pay in excess of the total FMLA entitled workweeks maximum shall be at the discretion of the agency head per Chapter 106, Section 14, Leave without Pay.~~

(i) An employee whose work-related illness or injury meets the criteria for a serious health condition and is receiving paid worker's compensation benefits the absence shall be counted against the FMLA leave entitlement and shall not be allowed to use paid leave.

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

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

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

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

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

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

~~(ng) Medical Certification. An agency shall require a medical certification from a health care provider for an employee's serious health condition or the employee's covered family member with a serious health condition, or to care for a covered service member with a serious injury or illness or the appropriate certification for leave taken because of a qualifying exigency.~~

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

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

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

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

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

(qh) Agency requirements—;

(~~iii~~) Agencies shall comply with all requirements of the law and these rules and shall provide written notice detailing the specific expectations and obligations of the employee and explain any consequences of a failure to meet the obligations;

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

(fi) Notice of leave—;

~~\_\_\_\_\_ (i) An employee shall give thirty (30) days' notice to the agency prior to the date the leave is to begin—;~~

~~\_\_\_\_\_ (ii) The employee shall advise their immediate supervisor as soon as possible and practicable if dates of scheduled leave change or are extended, or were initially unknown—;~~

~~\_\_\_\_\_ (iii) The agency head or Human Resource office shall determine the actual date on which an employee's FMLA leave commences—;~~

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

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

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

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

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

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

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

~~(ii) Brothers and sisters;~~

~~(iii) Grandparents;~~

~~(iv) Aunts and Uncles;~~

~~(v) First cousins;~~

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

~~(y) Definition of son or daughter of a covered service member means the service member's biological, adopted, or foster child, stepchild, legal ward or a child for whom the employee stood in loco parentis, who is on active duty or call to active duty status, and who is of any age.~~ (z)(k) Time elapsed while an employee is on paid FMLA shall be considered hours worked.

~~(l) Time elapsed while an employee is on unpaid FMLA shall be included in calculating the total number of months of continuous service and shall not be considered time worked for purposes of accrual of any leave or other benefits. (aa) Insurance. During any FMLA leave the agency head shall maintain the employee's coverage under any group health plan on the same conditions as coverage would have been provided if the employee had been continuously employed during the entire leave period. If family member coverage is provided to an employee, family member coverage shall be maintained during the FMLA leave.~~

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

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

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

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

~~(ac) Job Restoration. Upon return from FMLA leave an employee shall be restored to their original position, or to an "equivalent" position with equivalent pay, benefits, and other employment~~

~~terms and conditions. During the leave, the employee is not entitled to any employment benefits, nor to any right, benefit, or position of employment other than what the employee would have been entitled to had the leave not been taken.~~

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

## CHAPTER ~~++7~~

### DISCIPLINE FOR PERMANENT EMPLOYEES

#### Section I. **Reasons for Discipline.**

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

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

- (i) Absenteeism;
- (ii) Incapacity to perform assigned duties;
- (iii) Assault;
- (iv) Carelessness;
- (v) Damaging State property;
- (vi) Dishonesty;
- (vii) Insubordination;
- (viii) Misconduct;
- (ix) Refusal to work;
- (x) Sexual harassment;
- (xi) Theft;
- (xii) Unsatisfactory work performance;
- (xiii) Criminal conduct;
- (xiv) Falsification of application for employment;
- (xv) Violation of agency rules or policy;
- (xvi) Violation of State Personnel Rules;
- (xvii) Violation of the State of Wyoming Substance Abuse Policy;
- (xviii) Violation of the State of Wyoming Anti-Discrimination Policy;
- (xix) Violation of the State of Wyoming Electronic Mail Policy;
- (xx) Violation of the State of Wyoming, Office of the Chief Information Officer, Information Technology Manual, Internetworking Acceptable Use Policy (CIO 1200-P143);
- (xxi) Violation of the State of Wyoming Code of Ethics; and
- (xxii) Violation of the Workplace Violence Policy.

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

### Section 2. Determination of Appropriate Discipline.

(a) Agency ~~heads management~~ shall, ~~except in cases of flagrant behavior,~~ attempt to administer discipline to permanent employees in progressive stages ~~so as to seek corrective results. However, conduct of any type which agency management considers serious, may result in a disciplinary suspension or dismissal without taking prior disciplinary steps. In determining appropriate disciplinary action, the agency head should consider the following factors:~~

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

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

~~(c) The agency management's determination of the appropriate action to take shall be based on adequate investigation of the facts and circumstances of the case.~~

### Section 3. Types of Discipline.

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

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

- ~~(i) (A) Reason(s) for the reprimand;~~
- ~~(ii) (B) Previous letters of expectation, letters of counseling, verbal or written warnings, unacceptable performance appraisals, discussions, or reprimands, if any;~~
- ~~(iii) (C) Corrective action necessary to avoid further disciplinary action; and~~
- ~~(iv) (D) The right to present a grievance pursuant to these rules.~~

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

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

- ~~(i) (A) Reason(s) for the suspension;~~

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

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

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

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

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

(dc) Dismissal of Permanent Employees:

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

(A) An agency head may dismiss an employee for cause. Prior to the dismissal of a permanent employee, the agency head shall provide to the employee written notification specifying:

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

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

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

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

(I) The reason(s) for the dismissal;

(II) The effective date of the dismissal; and

(III) The right to a hearing pursuant to these rules;

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

(A) An agency head may dismiss an employee determined to be incapacitated to perform assigned duties subsequent to a fitness for duty evaluation. Prior to the dismissal of a permanent employee, the agency head shall provide to the employee written notification specifying:

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

~~(II) Notification that the Fitness for Duty report will not be provided directly to the employee, but may be provided directly to a qualified mental health professional of the employee's choice for interpretation; and An opportunity for the employee, within ten (10) working days, to respond in writing to the charge(s). If the employee chooses to have a qualified mental health professional interpret the report for them, the time period for response may be extended upon mutual agreement.~~

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

~~(B) The agency head shall have ten (10) working days to consider the response;~~

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

~~(I) The reason(s) for the dismissal;~~

~~(II) The effective date of the dismissal; and~~

~~(III) The right to a hearing pursuant to these rules;~~

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

~~(iv) If the agency head perceives that the employee's presence on the job may be detrimental to the operation of the agency, the agency head may place the employee on Administrative Review Leave, with pay, pending the dismissal review period. Failure to comply with the procedural steps in this chapter by the agency terminates the dismissal procedure without prejudice. Parties shall be restored to the previous status held prior to the disciplinary action.~~

#### Section 4. Compliance with Procedure.

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

CHAPTER 128

GRIEVANCES AND APPEALS FOR PERMANENT EMPLOYEES

Section 1. **Statement of Policy.**

~~Permanent~~ It is the policy of the State of Wyoming to resolve employee grievances and appeals in a fair and timely manner. Employees may voluntarily participate in the mediation program which assists disputing parties in reaching a mutually acceptable resolution to issues and concerns raised by the parties. Employees who voluntarily choose to participate in the mediation program shall not forfeit their right to present a grievance in accordance with this chapter. Employees shall have the right to present a grievance or appeal, pursuant to the provisions of this chapter, without coercion, restraint, discrimination, or reprisal. No State agency covered by these Personnel Rules shall adopt or implement a separate or different employee grievance procedure. In implementing and facilitating this policy, all state agencies shall comply with these rules and all other applicable law.

Section 2. **General Provisions.**

(a) **Time Periods:**

(i) In computing any period of time prescribed or allowed by this chapter, the day of the act, event, or default from which the designated period of time begins shall not be included. The last day of the period so computed shall be included, unless that day is a Saturday, Sunday, or legal holiday. When the period of time prescribed or allowed is ~~less than eleven (11) ten (10)~~ days, intermediate Saturdays, Sundays, or legal holidays shall be excluded from the computation;

(ii) ~~When these rules or a notice given there under is required or allowed to be done at or within a specified time, (The Human Resources Administrator may, upon written request application, and for good cause shown, at his discretion extend or enlarge any the time period prescribed by this chapter, provided that the any such written request is received before the expiration of the time period originally prescribed.~~

(b) Compliance with Procedure. An employee shall forfeit the right to pursue a grievance and / or appeal if the employee fails to follow the procedures prescribed by this chapter.

(c) Waiver of Procedure.— (iii) Any procedure prescribed procedural step allowed by this chapter these rules may be waived by mutual written agreement between the parties involved. A copy of the this agreement shall be forwarded to the Human Resources Administrator or the Presiding Officer, as applicable.

(bd) Designation of Parties. As used in this chapter, the word employee shall refer to permanent employees only.

(ee) Representation. In all proceedings provided under this chapter an An employee who is a party to the proceedings shall have the right to appear personally and may be accompanied by his/her chosen representative may be represented by any person, including legal counsel, at any stage of the grievance and / or appeal process.

(df) Administrative Leave/Release Time. An The employee who is a party to the proceedings, any employees who are or witnesses to a grievance or appeal subpoenaed by the Presiding Officer for a party or are requested to appear by a Grievance Committee, and employee Grievance Committee members shall be granted administrative leave to participate while participating in the any proceeding, s provided under this chapter. In accordance with Section 5 (a) and Section 5 (e), a An employee who has

filed a grievance shall be entitled to a maximum of eight (8) hours of administrative leave to prepare for presentation of the grievance and / or appeal. Prior notice shall be given to the employee's supervisor.

~~(e) Grievance Committee: Membership and Compensation. Grievance Committee members shall be individuals who have consented to serve as such and who are not parties to the dispute, nor employees from the same agency as either party to the dispute, nor advocates of either party to the dispute. Grievance Committee members shall not have any ex parte communication with the parties to the dispute during the grievance process. Non-employee Grievance Committee members shall serve without compensation but shall be reimbursed for expenses in the same manner and at the same rate as employees.~~

~~(f) Personnel Appeal Hearing: Presiding Officer and Compensation. As used in these Rules, Presiding Officer shall mean the person agreed upon by the employee and the agency to preside over the personnel appeal hearing, or, if the employee and the agency are unable to agree upon such a person, Presiding Officer shall mean the hearing officer assigned from the Office of Administrative Hearings. The Presiding Officer shall be an individual who has consented to serve as such and who is fair, impartial and disinterested and who is not a party to the dispute, is not from the same agency as either party to the dispute and is not an advocate of either party to the dispute. Presiding Officers shall be compensated and have their expenses reimbursed as provided in W.S. 9-2-1019(a).~~

~~(i) The Presiding Officer shall have original jurisdiction in all hearings which involve the dismissal or the involuntary separation due to a reduction in force of a permanent employee and jurisdiction in disciplinary suspension appeals, pursuant to Chapter 12, Section 6 of these Rules.~~

~~(g) Grievance Committee Decisions. Decisions of a Grievance Committee shall require a majority vote of the body. No hearing shall be conducted without the presence of all committee members, unless stipulated to by the parties. The hearing may be conducted by telephone or other electronic media.~~

~~(hg) Custody of Records. The State Human Resources Administrator shall be the official custodian of all papers and records pertaining to the provisions of this chapter.~~

~~Such material shall be considered confidential, but the parties and/or their representative shall have access to any and all materials associated with the employee, the grievance or the appeal except as prohibited by statute and rules adopted in accordance with the Wyoming Administrative Procedure Act.~~

~~(ih) Confidential Proceedings. Grievance or appeal proceedings may be conducted in executive session not open to the public, unless the employee requests a public hearing pursuant to W.S. 6-4-405 et. seq. All grievance and appeals proceedings shall be confidential.~~

~~(i) Service of Documents. Any person filing a document with the Human Resources Administrator in a grievance and / or appeal proceeding shall serve a copy on all parties and representatives at or before the time the document is filed with the Human Resources Administrator.~~

### **Section 3. Definition of Grievance.**

~~(a) A gGrievance means is a dispute, excluding a dismissal or an involuntary separation due to a reduction in force, between an employee and management of the employee's agency, which involves the interpretation or application of a statute, policies, rules, executive order, or policy regulations, and/or statutes which have been adopted by an agency, Governor's Executive Order, or the State Legislature to ever concerning personnel practices and/or working conditions.~~

~~(b) "Grievance" does not include a dispute, which involves:~~

(i) Compensation, benefits, contributions, and other conditions, which are beyond the control of the agency head;

(ii) Discrimination;

(iii) Dismissal;

(iv) Involuntary separation due to a reduction in force; or

(v) Performance evaluation ratings.

#### **Section 4. ~~Compliance with Procedure.~~**

~~If an employee does not properly comply with the procedural steps required by this chapter, the employee shall have forfeited rights granted by these provisions for the grievance. If the agency does not properly comply with the procedural steps, the employee may proceed to the next step in the grievance procedure within ten (10) days of the agency's noncompliance with the procedural steps.~~

#### **Section 54. Grievance Procedure Steps.**

(a) Within ten (10) days of the event giving rise to the grievance or of the employee having knowledge of the event, the employee may present the grievance in writing to the management employee at the lowest level giving rise to the dispute. ~~When the grievance involves the allegation of sexual harassment, the employee may present the grievance to the agency head in accordance with Section 5 (e) of this chapter. When the management employee is the agency head, the grievance shall be presented to the agency head in accordance with Section 5 (e) of this chapter.~~ The grievance shall include specify the time, parties involved, a brief statement of fact on which of the grievance is based and the relief sought.

(b) Within ten (10) days of receiving the written grievance, the appropriate management employee shall hold a conference with the employee to resolve the dispute and render a decision in writing to the employee within ~~five ten (5+0)~~ days after the conference. The written decision shall state the next step in the ~~grievance appeal procedure process for the employee~~ and the time limit for that step.

(c) If the decision of the management employee is unsatisfactory to the employee, the employee may, within ~~fiveten (5+0)~~ days of the date ~~of the decision was issued or due~~, submit the grievance in writing to the agency head. The grievance shall ~~includespecify the time, parties involved, a brief statement of~~ facts on which the grievance is based and the relief sought.

(d) Within ten (10) days of receiving the written grievance, the agency head ~~or his/her designee~~ and the appropriate management employee shall hold a conference with the employee to resolve the dispute and render a decision, in writing, to the employee within ~~fiveten (5+0)~~ days after the conference. A decision by the agency head ~~or the designee~~ shall be the final step in the grievance procedure ~~unless the grievance involves a dispute in accordance with Section 5 (e) of this chapter.~~

(e) In the event the management employee giving rise to the dispute is the agency head and the decision of the agency head is unsatisfactory to the employee and involves allegations concerning violations of a statute, rule, executive order, or policy, the employee shall submit the grievance in writing to the Human Resources Administrator within ten (10) days of receiving the written decision by the agency head.

(i) The Human Resource Administrator shall within ten (10) days of receiving the written grievance, forward the issue to the Governor's or his designee for investigation in accordance with Executive Order 1997-4.

~~(e) — If the decision of the agency head or the designee is unsatisfactory to the employee and if the grievance involves a written reprimand, a disciplinary suspension or an involuntary reappointment due to unsatisfactory work performance, the employee may, within ten (10) days of the date of the decision, request the Human Resources Administrator to establish a Grievance Committee to hear the matter. Other matters may be considered by a Grievance Committee at the discretion of the State Human Resources Administrator. All requests shall be submitted, in writing, to the State Human Resources Administrator and shall include the nomination of an individual to serve as a Grievance Committee member. A copy of this request to establish a grievance committee shall be provided to the employee's agency head by the employee.~~

~~(f) — Within ten (10) days of the date of a request for the establishment of a Grievance Committee, the State Human Resources Administrator or his/her designee shall notify the head of the agency with which the employee has the dispute, and request the nomination of a Grievance Committee member. The agency head shall notify the State Human Resources Administrator or his/her designee of the nomination within ten (10) days.~~

~~(g) — Within ten (10) days of receipt of the agency head nomination, the State Human Resources Administrator shall notify the two (2) nominees that they are to serve as Grievance Committee members, and that they shall within fifteen (15) days of receipt of such notice form the committee by selecting a third member. A chairperson and secretary shall be selected from among committee members.~~

~~(h) Grievance Committee Purpose and Authority.~~

~~(i) The purpose of the Grievance Committee is to resolve a dispute which falls within Section 5 (e) of this chapter.~~

~~(ii) The Grievance Committee has the authority to affirm, modify or reverse any action(s) so long as the decisions and recommendations are not in conflict with Personnel Rules, State Statutes, or agency rules and regulations. Decisions of the Committee are final unless the grievance is appealable in accordance with Section 6 of this chapter.~~

~~(i) — Grievance Hearings.~~

~~(i) — Within forty five (45) days of the formation of a Grievance Committee, the Committee shall schedule and hold a hearing or render a decision without a hearing, based solely on the written record.~~

~~(A) — The written record shall constitute and is limited to the documentation provided by the parties in Chapter 12 Section 5(a)(b)(c) and (d).~~

~~(B) — If the issues raised by either or both parties are such that further proceedings are unnecessary, the Committee shall submit a written decision to the State Human Resources Administrator who shall forward copies to both parties.~~

~~(C) — If the issues raised by either or both parties are such that further proceedings are necessary, the Committee shall initiate a hearing. The hearing shall be concluded within ten (10) days of initiation, provided that the hearing may be extended with the agreement of both parties and a majority of the Grievance Committee. The Grievance Committee shall select a location for the hearing which is most convenient for the parties and their interest.~~  
~~(ii) — General Provisions for a Grievance Hearing.~~

~~(A) — The chairperson shall ensure a fair, orderly, and expeditious hearing. Decisions to accept or reject evidence, upon objection by another committee member, shall require a~~

~~majority vote of the Grievance Committee. Upon initiation of the hearing, the chairperson shall read the "Chairperson's Opening Statement" and answer any questions regarding procedure prior to proceeding with the hearing.~~

~~\_\_\_\_\_ (B) The hearing shall be confined to those issues related to the subject matter presented in the original written grievance and issues reasonably necessitated by intervening development, and shall not be allowed to develop into a general inquiry into the policies and operation of an agency.~~

~~\_\_\_\_\_ (C) The Grievance Committee may issue requests to produce evidence.~~

~~\_\_\_\_\_ (D) If a party does not appear at the hearing, the Grievance Committee may base its decision on a consideration of the documents provided and on the presentation of the case by the party present.~~

~~\_\_\_\_\_ (E) The Grievance Committee may allow a party at its request to examine items which the other party intends to submit as evidence in the hearing. Such examination shall be completed at least three (3) days prior to the hearing unless the parties stipulate to a different time.~~

~~\_\_\_\_\_ (iii) The hearing shall be opened with an announcement including identification of the parties and their representatives, identification of the Grievance Committee members and the date. No record shall be made of this hearing. The chairperson shall read aloud the following statement which shall constitute the guidelines under which the hearing is to be conducted. "This hearing will be conducted as informally as is compatible with an orderly process. As presiding officer for this hearing, I will take whatever action is necessary to ensure a fair, orderly, and expeditious hearing. This hearing will not be bound by rules of evidence. In the event that another member of this Grievance Committee objects to my decision to accept or reject evidence, the majority vote of the Grievance Committee shall govern. Documents pertinent to this dispute have been provided by the State Human Resources Administrator to this Grievance Committee. The employee or the employee's representative may present an opening statement. The agency may then present an opening statement. The employee will call witnesses who will give the committee any information they have pertinent to the grievance. Upon completion of the employee's presentation, the agency may present its case. Each party will be given the opportunity, at the appropriate times, to ask questions of the witnesses. Any member of the Grievance Committee may direct questions to any party or witness at any time during the proceedings. Before the conclusion of the hearing, each party may present a brief summary or closing statement. Only evidence relevant to the grievance will be allowed, and evidence which is repetitive will be excluded. Witnesses are asked not to discuss this case with anyone, other than the party for whom they are appearing until after they are excused. Witnesses are to remain available until they are excused by the Grievance Committee with the consent of both parties. Witnesses, except for the parties, shall not remain in the hearing room except when called. The Grievance Committee will report its written findings and decision, with all documents presented, to the State Human Resources Administrator within fifteen (15) days of the conclusion of the hearing. Are there any questions by either party?"~~

~~(iv) Within fifteen (15) days following conclusion of a hearing, the Grievance Committee shall prepare a written summary statement of the evidence and its findings, decision and recommendations. Any committee members voting in the minority may prepare a minority statement which shall be a part of the material submitted. The chairperson shall ensure that all evidence, findings, decisions and minority statements and recommendations are forwarded to the State Human Resources Administrator, agency head, employee, and the employee's representative, if any.~~

#### ~~Section 6. Disciplinary Suspension or Involuntary Reappointment Due To Unsatisfactory Work Performance Appeal.~~

If the disciplinary action being grieved by the employee is a disciplinary suspension or an involuntary reappointment due to unsatisfactory work performance, either party may, within twenty (20) days of the date of the decision of the Grievance Committee, file a petition for a personnel appeal hearing with the State Human Resources Administrator. Such appeal hearing shall be conducted as a new hearing, with opportunity for the presentation of evidence, as provided in Section 7 of this chapter. If neither party files a petition for a personnel appeal hearing within the time frame prescribed above, the Grievance Committee determination shall be final.

**Section 75. ~~Dismissal/Reduction in Force/Disciplinary Suspension/Involuntary Reappointment Due to Unsatisfactory Work Performance Appeals, Personnel Appeals.~~**

(a) ~~Within twenty (20) days of the date of a notice of dismissal, an involuntary separation due to a reduction in force, an appeal from a disciplinary suspension, an involuntary reappointment due to unsatisfactory work performance, a permanent employee may file a petition for a personnel appeal hearing with the State Human Resources Administrator. In order to be timely filed, the State Human Resources Administrator must receive the petition within the twenty (20) day deadline. The petitioning party shall be referred to hereinafter as the petitioner and the responding party as the respondent. The petition shall include a brief statement of the events giving rise to the dismissal, the involuntary separation due to a reduction in force, the disciplinary suspension or the involuntary reappointment due to unsatisfactory work performance and the relief sought. Within five (5) days of receipt of the petition for a personnel appeal hearing, the Human Resources Administrator or designee shall provide a copy to the Attorney General, the employing agency and the employee or their representative as appropriate. If an employee or an agency does not petition for a personnel appeal hearing within the time prescribed, there shall be no other or further right to appeal, and the dismissal or the involuntary separation due to a reduction in force shall stand. The Grievance Committee decision shall stand if an employee or an agency does not petition for a personnel appeal hearing within the time prescribed in the case of a disciplinary suspension or an involuntary reappointment due to unsatisfactory work performance.~~

(a) Right to Hearing. An employee may appeal the following agency head decisions:

(i) Dismissal;

(ii) Involuntary reduction in force;

(iii) Final grievance decision concerning an involuntary reassignment due to unsatisfactory work performance; and

(iv) Final grievance decision concerning a disciplinary suspension.

(b) Request for Hearing:

(i) Any employee may appeal the agency head's decision by filing a notice of appeal with the Human Resources Administrator setting forth the following:

(A) The name and address of the employee and the name and address of the employee's representative, if any;

(B) The decision of the agency head being appealed;

(C) A statement of the facts on which the appeal is based; and

(D) The relief sought.

(ii) Appeals shall be filed, in writing, within twenty (20) days of the date of the agency head's decision;

(A) In order to be timely filed, the Human Resources Administrator shall receive the notice of appeal within the twenty (20) day deadline.

(B) After the filing of a petition for a personnel appeal hearing, such petition may not thereafter be amended as may be allowed by the Wyoming Rules of Civil Procedure.

(iii) The employee shall serve a copy of the notice of appeal on the agency and the Attorney General's Office at the time the notice of appeal is filed.

(iv) The Human Resources Administrator shall immediately forward a file stamped copy of the notice of appeal to the Attorney General's Office.

~~(b) Within twenty (20) days of the date of the petition for a personnel appeal hearing, the respondent shall file a written response and any motions challenging the timeliness of the petition for a personnel appeal hearing, the petition's compliance with Chapter 12, Section 7(a) of these Rules or the employee's status as a permanent employee with the State Human Resources Administrator. The response shall include a brief statement of the cause(s) for dismissal, the involuntary separation due to a reduction in force, the disciplinary suspension, the involuntary reappointment due to unsatisfactory work performance. The respondent shall send by mail or hand deliver a copy of the response and any motions to the petitioner or the petitioner's designated representative. Any response to a motion filed with the State Human Resources Administrator shall be filed within ten (10) days after the motion is filed, and the party filing the response to a motion shall at the time of filing the response send by mail or hand deliver a copy of the response to the other party and the other party's representative, if applicable. (c) Response and Motions Challenging Timeliness or Jurisdiction:~~

(i) The agency shall file a response and any motions challenging the timeliness or jurisdiction of the appeal within twenty (20) days of the filing date of the notice of appeal;

(ii) The response and any motions shall be in writing and filed with the Human Resources Administrator;

(iii) The response shall include a statement of the facts on which the appeal is based;

(iv) The agency shall serve a copy of the response and any motions on the employee or employee's representative, if any, and to the Attorney General's Office at the time of filing.

~~(e) Immediately following the filing of the response to the petition, the agency and the employee, or their designated representatives, if any, shall confer and attempt to select a mutually agreed upon Presiding Officer. Within twenty five (25) days of the filing of a petition for a personnel appeal hearing, the agency shall file with the State Human Resources Administrator a *Designation of Presiding Officer* on the appropriate form designated by the State Human Resources Administrator. The *Designation of Presiding Officer* shall provide the name of the Presiding Officer agreed upon by the parties, or shall indicate that the parties were unable to agree upon a Presiding Officer, and shall be signed by the employee and the agency head or his/her designee and their representatives, if applicable. The failure to timely file a completed *Designation of Presiding Officer* shall result in an assignment of the appeal to the Office of Administrative Hearings. The State Human Resources Administrator shall have jurisdiction to determine the timeliness and sufficiency of the *Designation of Presiding Officer*. If the agency files a completed and signed *Designation of Presiding Officer* naming a Presiding Officer upon which the employee and the agency agree, the State Human Resources Administrator shall assign the matter to the named Presiding Officer within twenty (20) days of the date the petition for personnel~~

appeal hearing was filed. (d) Response to Motion. Any response to a motion filed with the Human Resources Administrator shall be filed within ten (10) days after the motion is filed, and the party filing the response to a motion shall serve a copy of the response on the other party and the other party's representative, if any, and the Attorney General's Office at the time of filing.

(e) Human Resources Administrator's Jurisdiction:

(i) The Human Resources Administrator shall have jurisdiction to determine whether the employee has made a claim upon which relief can be granted and the timeliness of the appeal;

(ii) The Human Resources Administrator may issue orders, prior to referring the appeal to the presiding officer, on any matter within his or her jurisdiction upon motion of a party or the Human Resources Administrator's own motions.

(f) Presiding Officer:

(i) The agency shall submit the name of a presiding officer mutually agreed upon by the parties to the Human Resources Administrator within twenty-five (25) days of the date of the notice of appeal;

(ii) If the parties fail to submit notification of a mutually agreed upon presiding officer within the time allowed, the Human Resources Administrator shall immediately refer the matter to the Office of Administrative Hearings;

(iii) The Human Resources Administrator shall transfer to the presiding officer the current record of the proceedings in the case.

#### Section 6. General Procedures for Personnel Appeal Hearings.

(a) Applicability of the Rules of Civil Procedure. The Wyoming Rules of Civil Procedure, insofar as they may be applicable and not inconsistent with this chapter or the laws of Wyoming, shall apply to all personnel appeal hearings.

(b) Incorporation by Reference:

(i) The Office of Administrative Hearing Rules, Chapter 2, Contested Case Proceedings, edition October 17, 2014 is incorporated by reference;

(ii) The incorporated rule does not include any later amendments or editions;

(iii) The incorporated rule is maintained at the Department of Administration and Information, Human Resources Division, Emerson Building, 2001 Capitol Avenue, Cheyenne, WY 82002, and is available for public inspection and copying at cost at the same location.

Section 7. Consolidation of Multiple Actions. If an employee has multiple, separate, or pending grievances or appeals involving the same employee and agency, those grievances or appeals may be consolidated into one proceeding upon mutual, written agreement, if the facts and nature of the actions so allow.

(d) If the parties are unable to agree upon a Presiding Officer, the State Human Resources Administrator shall assign the matter to the Office of Administrative Hearings within thirty-five (35) days of the date the petition for personnel appeal hearing was filed. Within ten (10) days after an appeal is assigned to the Office of Administrative Hearings, the Office of Administrative Hearings shall issue a

~~docketing notice to the parties notifying the parties that the appeal has been docketed in the Office of Administrative Hearings and notifying the parties of the hearing officer assigned to hear the appeal. Each party may exercise only one (1) preemptory challenge against only one (1) Office of Administrative Hearings hearing officer. Any motion for a preemptory disqualification of an Office of Administrative Hearings hearing officer shall be filed with the Office of Administrative Hearings within ten (10) days of the issuance of the Office of Administrative Hearings docketing notice. Motions for disqualification of a hearing officer for cause shall be made in accordance with Rule 40.1(b) of the Wyoming Rules of Civil Procedure.~~

~~(e) After a petition for a personnel appeal hearing is filed, the State Human Resources Administrator shall have jurisdiction, in addition to that specified elsewhere in these Rules, to determine the timeliness of the petition, whether the petition complies with the requirements of Wyoming Personnel Rules Chapter 12, Section 7(a), and whether the employee is a permanent employee entitled to the relief provided by Chapter 12 of the Wyoming Personnel Rules. Motions to resolve any question not within the jurisdiction specifically granted to the State Human Resources Administrator by these Rules shall be filed with the Presiding Officer. The State Human Resources Administrator may issue orders on any matter within his jurisdiction prior to transferring the appeal to the Presiding Officer. The State Human Resources Administrator may issue orders on any matter within his jurisdiction either upon motion of a party or on his own motion.~~

~~(f) The State Human Resources Administrator shall provide the Presiding Officer with the original or certified copies of the entire record of the proceedings under review on the same date the State Human Resources Administrator assigns the appeal to the Presiding Officer.~~

~~(g) Upon final appointment, the Presiding Officer shall have the authority to:~~

~~(i) conduct hearings in accordance with W.S. 16-3-112(b)(i) through (vii) of the Wyoming Administrative Procedure Act and the personnel rules of the executive branch of the state;~~

~~(ii) rule upon any motion not previously decided by the State Human Resources Administrator, including motions addressed to jurisdictional issues;~~

~~(iii) determine if the agency complied with relevant procedural requirements of the personnel rules of the executive branch of the state of Wyoming;~~

~~(iv) determine, based upon the evidence presented at hearing, whether the agency established facts by a preponderance of the evidence constituting good cause for the personnel action, in which event the action shall be affirmed, or whether the facts established by the agency do not constitute good cause for the personnel action, in which event the action shall be reversed; and~~

~~(v) recommend alternative management action.~~

~~(h) Personnel Appeal Hearing.~~

~~(i) Unless the parties stipulate in writing to an extension of the time period provided in this section or the matter is continued for good cause by the Presiding Officer, the Presiding Officer shall open a hearing and render a decision within thirty (30) days of the close of evidence. Any disposition made without a hearing shall be in accordance with Rule 56 of the Wyoming Rules of Civil Procedure.~~

~~(A) If the Presiding Officer determines that the issues raised by either or both parties are such that further proceedings are unnecessary, the Presiding Officer shall make and issue a~~

~~finding that further proceedings are unnecessary and shall submit a written decision to the State Human Resources Administrator who shall forward copies to both parties.~~

~~(B) — If the Presiding Officer determines that the issues raised by either or both parties are such that further proceedings are necessary, the Presiding Officer shall make and issue a finding that further proceedings are necessary and shall initiate a hearing.~~

~~(ii) General Provisions for a Personnel Appeal Hearing:~~

~~(A) A personnel appeal hearing shall be conducted in accordance with applicable provisions of the Wyoming Administrative Procedure Act (Reference W.S. 16-3-110 through 16-3-115), the Wyoming Rules of Civil Procedure and, if assigned to the Office of Administrative Hearings, the Office of Administrative Hearings Rules. If any rule of the Wyoming Rules of Civil Procedure, except Rule 40.1(b), or any rule of the Office of Administrative Hearings Rules conflicts with a rule of the Wyoming Personnel Rules, the Wyoming Personnel Rules shall govern.~~

~~(B) — The Presiding Officer shall establish a file and docket the case. A case file shall be made up of all documents, evidence, transcripts and exhibits pertaining to the case.~~

~~(C) — If a party does not appear at the hearing, the Presiding Officer may base its decision on a consideration of the documents filed and on the presentation of the case by the party present.~~

~~(D) — The expense of the hearing shall be charged to and borne by the agency pursuant to W.S. 9-2-1019.~~

~~(iii) — The hearing shall be opened by the Presiding Officer with an announcement of the docket number and the title of the matter and case to be heard.~~

~~(iv) — Opening statements may be made and each of the parties may offer rebuttal evidence within the discretion of and by order of the Presiding Officer.~~

~~(v) — At the conclusion of the hearing, closing statements may be made by the parties and/or designated representatives. The time for oral arguments may be limited by the Presiding Officer.~~

~~(vi) — Within thirty (30) days of adjournment of the hearing, the Presiding Officer shall file with the State Human Resources Administrator a written decision and order containing Findings of Fact and Conclusions of Law and shall provide written certified notice of the decision to all parties to the appeal.~~

~~(i) Final Agency Action and Appeal.~~

~~(i) — The decision of a Presiding Officer under Chapter 12, Section 7 of these Rules constitutes final agency action, and any party, including the State of Wyoming, aggrieved by a decision of a Presiding Officer may seek judicial review of that decision in district court pursuant to W.S. 16-3-114. The district court or supreme court may award reasonable fees and costs to the prevailing party.~~

~~(ii) — Upon reversal of a personnel action, and in lieu of seeking judicial review as provided above, the agency shall retain authority to take other management actions, as recommended by the Presiding Officer, including less severe personnel action, based upon the facts found at the hearing, and subject to the provisions of the Wyoming Personnel Rules governing said personnel action. The agency shall either seek judicial review of the Presiding Officer's decision or take other management action recommended by the Presiding Officer within the thirty (30) day time period prescribed by Rule 12~~

~~of the Wyoming Rules of Appellate Procedure. The agency's decision to take other management actions recommended by the Presiding Officer shall constitute final agency action, and the employee may seek judicial review of that action in district court pursuant to W.S. 16-3-114. Judicial review of the recommended management action shall be based upon the record of the personnel appeal hearing~~

CHAPTER 149

PERFORMANCE MANAGEMENT

Section 1. **Performance Management Program.**

(a) The performance management program provides agencies and employees with opportunities for performance planning, coaching, and evaluation. The program provides for the establishment of job expectations, the measurement of job performance, the identification of employee development and taking corrective action as necessary.

(b) The Human Resources Division shall be responsible for administering the performance management program to include:

(i) The development and interpretation of rules, policies and procedures specific to performance management;

(ii) The development and implementation of components of the program as necessary (such as forms, on-line evaluation system and training);

(iii) The monitoring of agency compliance; and

(iv) Reporting to state agencies, the Governor and the Legislature as necessary.

Section 2. **Applicability.**

(a) All employees shall be evaluated as provided in this chapter with the exception of:

(i) Elected State Officials;

(ii) At-Will Agency Heads;

(iii) Contractual Employees;

(iv) Emergency Employees;

(v) Temporary Employees;

(vi) Interns;

(vii) Seasonal Employees;

(viii) Time limited Employees;

~~(viii)~~ Intermittent Employees; and

~~(viii)~~ Other positions as approved by the Human Resources Administrator.

Section 3. **Responsibility of Agency Heads.**

Agency ~~heads-Heads~~ shall be responsible for performance management within their agencies in accordance with the established State of Wyoming personnel-Personnel rules-Rules and policies. Agency ~~heads-Heads~~ shall ensure that employees are evaluated using job-related performance criteria.

Section 4. **Probation and At-Will Status.**

(a) Conducting performance phase's evaluations on probationary employees will in no way alter or change their probationary status during their probationary period.

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

~~(ii) Conducting performance evaluations on at-will status employees will in no way alter or change their at-will status.~~

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

#### Section 5. Performance Management Evaluation Period.

(a) The performance evaluation period for all employees shall be from October 1<sup>st</sup> through September 30<sup>th</sup>, except as ~~set forth in subsection (b), follows:—~~

~~(b) For employees hired on or after October 1, 2011, the first evaluation period shall be from the date of hire until the evaluation date described below:~~

(i) Employees with a hire date on or ~~after October 1<sup>st</sup> and on or before~~ June 30<sup>th</sup> shall have a performance evaluation conducted by the end of September following hiring;

(ii) Employees with a hire date on or after July 1<sup>st</sup> ~~and on or before through~~ September 30<sup>th</sup>, shall have a performance evaluation conducted by the end of the second September following hiring;

(iii) Upon the completion of the first evaluation, thereafter, ~~as a permanent employee,~~ the evaluation period shall revert to October 1<sup>st</sup> through September 30<sup>th</sup>.

#### Section 6. Evaluation Date.

(a) All employees' performance evaluations shall be completed by September 30<sup>th</sup>.

~~(b) Exceptions to the evaluation completion date and the evaluation period may be granted by the Human Resources Administrator upon written request.~~

~~(c) Additional performance evaluations may be conducted at any time during the evaluation period at the discretion of the evaluator or the agency head.—~~

#### Section 7. Evaluator ~~Qualifications~~ Responsibilities.

(a) Except as provided for in subsection ~~12-10~~ (e) or as otherwise authorized by the State Human Resources Administrator, the evaluator shall be the immediate supervisor of the employee. An evaluator shall have at least ninety (90) days of direct supervision of the employee prior to conducting an evaluation;

(i) If an evaluator changes positions after July 1<sup>st</sup>, the evaluator shall complete all evaluations on employees they have supervised for at least 90 days prior to the change of position.

~~(ii) If the evaluator is not available or the position is vacant, the second level evaluator shall complete evaluations for direct reports.~~

(b) The evaluator shall have received training on the performance management program as prescribed by the Human Resources Division. Evaluators shall be trained on the performance evaluation program prior to ~~assessing-evaluating~~ the performance of any employee. Evaluators shall be required to attend continuing performance evaluation education programs as deemed necessary by the Human Resources Division.

(i) When there is no qualified evaluator for an employee, the ~~Agency~~ ~~Head~~ shall determine the appropriate evaluator for that employee ~~with approval and shall notify of~~ the Human Resources Division prior to conducting performance evaluations.

~~(c) The evaluator shall use the forms developed by the Human Resources Division to conduct and complete the planning, coaching and evaluation for each employee when applicable.~~

~~(d) The evaluator shall be responsible to provide written comments regarding the performance evaluation.~~

~~(e) The evaluator shall complete all procedural requirements established under the performance management program including but not limited to the phases or evaluation on the appropriate forms within the prescribed time periods.~~

~~(f) Failure to complete each applicable phase for direct reports shall result in "unsatisfactory" rating in the supervisor sections for the evaluator and may result in disciplinary action in accordance with Chapter 7 of the State of Wyoming Personnel Rules.~~

#### Section 8. ~~Performance Evaluation Forms.~~ Employee Responsibility.

~~(a) The employee shall complete the procedural requirements established under the performance management program including:~~ ~~The evaluator shall use the forms developed by the Human Resources Division to conduct and complete the planning, coaching and evaluation for each employee.~~

~~(i) Acknowledging receipt of the evaluation. Signing the evaluation demonstrates the employee has participated in a performance evaluation meeting. It does not demonstrate agreement or disagreement with the evaluation;~~

~~(ii) If left unsigned or employee does not sign the evaluation it will be deemed incomplete.~~

#### Section 9. ~~Performance Planning.~~ Agency Human Resource Contact or Designee Responsibility.

~~(a) The evaluator shall conduct a performance planning, goal setting and review meeting with the employee by October 30<sup>th</sup> or within thirty (30) days of appointment to a position.~~

~~(b) During this meeting the evaluator shall:~~

~~(i) Define and review the core competencies and workplace standards;~~

~~(ii) Develop goals for the performance evaluation period and identify a target range for each applicable competency.~~

(a) Agency Human Resource Contact or Designee approved by the Human Resources Division shall ensure that employees are evaluated using job-related performance criteria and substantiated by evaluator documentation. The Agency Human Resource Contact shall complete the procedural requirements established under the performance management program including:

(i) Assign each employee to an evaluator and substitute a second level supervisor when necessary, to ensure each employee is evaluated;

(ii) Agency Human Resource contact shall notify supervisors of required training and enroll supervisors in performance management training required prior to assessing evaluations for an employee;

(iii) Agency Human Resource contact shall report on supervisor's completion and the applicable deadlines to the Agency Head;

(iv) Retain as confidential according to the Wyoming Public Records Act (W.S. 16-4-201) and the State of Wyoming Personnel Records Policy.

~~Section 10. Mid-Year Performance Review.~~

~~(a) The evaluator shall conduct at least one (1) mid-year performance review with the employee. The mid-year performance review shall be documented on the approved Performance Management forms.~~

~~(b) The mid-year review provides an opportunity for the evaluator and employee to review the employee's previously established performance plan and focus on employee performance to date. The evaluator may adjust the employee's goals, competency target ranges, and workplace standards for the evaluation period. If necessary, the evaluator shall determine appropriate employee development.~~

~~Section 11. Performance Evaluation.~~

~~The evaluator shall complete and document the employee's performance evaluation on the appropriate forms. The evaluator's supervisor and the agency Human Resources representative or their designee shall review the performance evaluation for procedural compliance as specified in this chapter, how the employee's rating was determined, and written justification with~~

supporting documentation. The evaluator shall meet and discuss the final ratings with the employee. The employee shall be given the opportunity to provide written comments regarding the performance evaluation. Any disputes concerning the review of the performance evaluation and the performance management program shall be resolved by the agency head or designee.

#### **Section 210. Performance Improvement Plan For Permanent Employees.**

(a) Performance Improvement Plan is a written document used to guide an employee in achieving a rating above "unsatisfactory" on the annual performance evaluation.

(ab) If the permanent employee's overall performance is rated as "unsatisfactory", the evaluator shall discuss and document the performance deficiencies requiring improvement and immediately but no later than fifteen (15) days of the evaluation and provide the permanent employee with a written ~~performance~~ Performance improvement Improvement plan-Plan which shall be considered a written letter of expectation in accordance with Chapter ~~11~~ 7 of the State of Wyoming Personnel Rules.

(i) The duration of the first performance-Performance improvement-Improvement plan-Plan shall be forty-five (45) days. At the conclusion of the first performance-Performance improvement-Improvement plan-Plan, the evaluator shall review the permanent employee's deficiencies listed in the Performance Improvement Plan and if those deficiencies still remain, may begin or continue disciplinary action in accordance with Chapter 7 of the State of Wyoming Personnel Rules; the permanent employee shall be reevaluated on the performance evaluation form. In accordance with Chapter 11 of the personnel rules, disciplinary action may begin or continue during any performance improvement plan period.

(ii) A second Performance Improvement Plan shall be developed and shall not exceed forty-five (45) days in duration and may be closed at any time prior to the expiration of the forty-five (45) days if other action is taken unless a change of evaluator has occurred in accordance with subsection (e) of this section;

(b) ~~Upon the reevaluation and an overall rating of "unsatisfactory", a second performance improvement plan shall be developed within the evaluation period. The second performance improvement plan shall not exceed forty five (45) days in duration and may be closed at any time prior to the expiration of the forty five (45) days if other action is taken unless a change of evaluator has occurred in accordance with subsection (e).~~

(iii) At the conclusion of the second pPerformance improvement pPlan, the evaluator shall review the permanent employees' deficiencies listed in the second Performance Improvement Plan and if those deficiencies still remain, shall begin, or continue disciplinary action in accordance with Chapter 7 of the State of Wyoming Personnel Rules. shall be reevaluated on the performance evaluation form. Disciplinary action in accordance with Chapter 11 of the personnel rules shall be taken at the conclusion of the second performance improvement plan upon a permanent employee's reevaluation overall rating of "unsatisfactory";

~~\_\_\_\_\_~~ (c) No permanent employee shall be provided more than two (2) consecutive ~~p~~Performance ~~i~~Improvement ~~p~~Plans within a year of the overall initial “unsatisfactory” rating—;

(i) Any changes in the permanent employee’s position necessitating changes in the ~~p~~Performance ~~i~~Improvement ~~p~~Plan that occur during the ~~evaluation period~~ Performance Improvement Plan shall be discussed between the evaluator and the permanent employee and documented on the ~~Performance Evaluation Forms~~ Performance Improvement Plan.

(d) A ~~p~~Performance ~~i~~Improvement ~~p~~Plan shall ~~be documented on the appropriate forms as approved by the Human Resources Division. The performance improvement plan shall inform the permanent employee, through a detailed explanation of the permanent employee’s job performance deficiencies which have resulted in an overall rating of “unsatisfactory” job performance. The plan shall address behaviors and/or performance deficiencies identified during the performance evaluation to include:~~

(i) A description of the impact of behaviors or performance deficiencies on others, and if applicable, a statement of any policies, procedures, or rule violations and how to address the problem;

(ii) A description of the permanent employee’s performance in areas that are rated as ~~“growth/improvement needed” and “unsatisfactory”~~;

(iii) A description of the expectations for improvement in areas that are rated as ~~“growth/improvement needed” and “unsatisfactory”~~;

(iv) An explanation of the consequences if the permanent employee’s performance does not improve; and

(v) Offering the permanent employee any appropriate assistance in achieving satisfactory job performance.

(e) Change of Evaluator. If a permanent employee currently on a Performance Improvement Plan has a change of evaluator, the new evaluator shall immediately review the Performance Improvement Plan with the second level evaluator’s assistance and the permanent employee. Upon the completion of a minimum of forty-five (45) days of direct supervision, the new ~~supervisor evaluator~~ shall ~~reevaluate~~ review the permanent employee’s performance on the ~~p~~Performance ~~evaluation forms~~ Improvement Plan in accordance with this Section ~~12(a) and (b)~~.

#### Section ~~13~~11. Time Periods.

(a) In computing any period of time prescribed or allowed by this chapter, the day of the act, event or default from which the designated period of time begins shall not be included. The last day of the period so computed shall be included, unless that day is a Saturday, Sunday or legal holiday.

~~\_\_\_\_\_ (b) Any time period prescribed by this chapter may be waived by mutual written agreement between the parties involved, provided such written agreement specifies the step in the procedure being~~

~~extended and for what length of time, and provided that the agreement is acknowledged by both parties within the prescribed time period being waived. A copy of this agreement shall be forwarded to the State Human Resources Administrator.~~

~~(c) The State Human Resources Administrator may upon written application and for good cause extend any time period set forth in this chapter.~~

**Section ~~1412~~. Performance ~~Reevaluation and~~ Appeal For Permanent Employees.**

~~(a) At any time during reevaluation, review and/or appeal process, documentation may be included in support of a request for reevaluation, review or appeal or in support to any response thereto.~~

~~(b) Any disputes involving the evaluation ratings given through the performance management program shall not be subject to the grievance procedures pursuant to Chapter ~~12-8~~ of the State of Wyoming Personnel Rules. Any disputes involving procedural compliance shall be subject to the Grievances and Appeals for Permanent Employees Chapter of the State of Wyoming Personnel Rules.~~

~~(b) Request for Reevaluation Performance Appeal. A permanent employee receiving an overall rating of "unsatisfactory" shall have ten (10) days from receipt of the performance evaluation rating to submit a written request for reevaluation an appeal to the permanent employee's performance evaluator. The request appeal shall contain a brief and specific statement of the permanent employee's contentions as to why the rating is inaccurate and relief sought;~~

~~(i) The permanent employee has receipt of the evaluation when the employee acknowledges and signs or declines to sign the evaluation form. The appeal shall include the specific facts, which establish that:~~

~~(A) The overall "unsatisfactory" rating lacks supporting documentation; and /~~  
~~or~~

~~(B) The evaluator disregarded factors and circumstances, which substantially support a higher rating and thereby deprived the employee of a performance evaluation rating based on job-related performance criteria.~~

~~(d) Response to Request for Reevaluation Appeal. Within ten (10) days of receipt of the permanent employee's request for reevaluation appeal, the performance evaluator shall review the information provided by the employee, review the evaluation, and provide a written response to the permanent employee that includes a brief and specific statement from the performance evaluator responding to the specific contentions of the permanent employee-;~~

~~(i) Based on the review the evaluator may revise or maintain the employee's rating(s).~~

~~(e) Request for Appeal to Agency Head Review. Within ten (10) days of ~~receipt of the~~ evaluator's response to the employee's request for reevaluation appeal and if the permanent employee's~~

overall performance evaluation rating remains as "unsatisfactory," the employee shall have ten (10) days to submit in writing ~~a request for review~~ an appeal to the ~~a~~ Agency hHead:

~~\_\_\_\_\_ (i) \_\_\_\_\_~~ In the case where the permanent employee's evaluator is the Agency Head, the employee shall have ten (10) days to submit in writing an appeal directly to the Human Resource Administrator;

~~\_\_\_\_\_ (ii) \_\_\_\_\_~~ If the evaluator does not respond to the ~~request for reevaluation~~ employee's appeal, the employee shall have fifteen (15) days from the date that the ~~request~~ appeal was submitted to the evaluator to submit in writing a request for review to the ~~a~~ Agency hHead;

~~\_\_\_\_\_ (iii) \_\_\_\_\_~~ The permanent employee shall include in the ~~request for review~~ appeal a brief and specific statement of the permanent employee's contentions and relief sought. The ~~request~~ appeal for to the a Agency hHead review shall be directed specifically to the performance evaluator's evaluation and any response. The ~~request for appeal to the a~~ Agency hHead review shall include specific facts, which establish that;

~~\_\_\_\_\_ (i) \_\_\_\_\_~~ The evaluator violated procedural requirements established for or under the performance management program; and/or

~~\_\_\_\_\_ (#A) \_\_\_\_\_~~ The overall "unsatisfactory" rating lacks supporting documentation;  
and/or

~~\_\_\_\_\_ (#B) \_\_\_\_\_~~ The evaluator disregarded factors and circumstances, which substantially support a higher rating and thereby deprived the employee of a performance evaluation rating based on job-related performance criteria.

~~\_\_\_\_\_ (fe) \_\_\_\_\_~~ Response to ~~Request for Appeal to Agency Head~~ Review. If the employee has filed a timely ~~request for review~~ appeal, the ~~a~~ Agency hHead shall respond to the ~~request~~ appeal within ten (10) days of receipt of the ~~request~~ appeal;

~~\_\_\_\_\_ (i) \_\_\_\_\_~~ The ~~a~~ Agency hHead may delegate this authority in accordance with Chapter 1, Section 4(b)(iii), of the State of Wyoming Personnel Rules;

~~\_\_\_\_\_ (ii) \_\_\_\_\_~~ Before making a determination regarding the appeal, the ~~a~~ Agency hHead or designee, shall review the evaluation and the evaluator's response, if any and all documentation submitted by the performance evaluator and the employee;

~~\_\_\_\_\_ (iii) \_\_\_\_\_~~ The ~~a~~ Agency hHead or designee shall make a determination as to whether the performance evaluator;

~~\_\_\_\_\_ (i) \_\_\_\_\_~~ ~~Violated procedural requirements established for or under the performance management program; and/or~~

~~\_\_\_\_\_ (#A) \_\_\_\_\_~~ The overall "unsatisfactory" rating lacks supporting documentation;  
and/or

~~\_\_\_\_\_ (#B)~~ The evaluator disregarded factors or circumstances, which substantially support the permanent employee's position and thereby deprived the employee of a performance evaluation rating based on job-related performance criteria;

~~(iviii)~~ The determination shall be in writing and may direct the evaluator to make any appropriate adjustment(s) to the employee's evaluation.

~~(g)~~ Appeal to ~~the State~~ Human Resources Administrator. Within ten (10) days of receipt of the ~~aAgency hHead's or designee's~~ response to the employee's ~~request for review~~ appeal, the employee may appeal, in writing, the ~~aAgency hHead's or designee's~~ response to the ~~State~~ Human Resources Administrator;

(i) ~~\_\_\_\_\_~~ If the ~~aAgency hHead~~ does not respond to the ~~employee's appeal~~ request for review within ten (10) days of the ~~request~~ appeal, the employee shall have fifteen (15) days from the date that the ~~appeal request~~ was submitted to the ~~Agency hHead~~ to appeal, in writing, to the ~~State~~ Human Resources Administrator;

(ii) The ~~State~~ Human Resources Administrator shall have ~~thirty-five (30)~~ ~~15~~ days after receipt of all documents and necessary information to make a determination on the employee's appeal. The ~~State~~ Human Resources Administrator shall review the evaluation, the evaluator's response, if any, and all documentation submitted by the performance evaluator, the employee and the ~~aAgency hHead or designee~~;

~~\_\_\_\_\_ (iii)~~ If the ~~State~~ Human Resources Administrator determines that the ~~aAgency hHead's or designee's~~ response was contrary to the State Personnel Rules, state or agency policies, or law, or finds:

~~\_\_\_\_\_ (A) The overall "unsatisfactory" rating lacks supporting documentation; and / or~~

~~(B) The evaluator disregarded factors and circumstances, which substantially support a higher rating and thereby deprived the employee of a performance evaluation rating based on job-related performance criteria, the State Human Resources Administrator shall require the aAgency hHead to correct the evaluation, or conduct another evaluation, or withdraw the evaluation.~~

(iv) Should the ~~State~~ Human Resources Administrator determine that there is a conflict of interest, a designee shall be appointed by the Governor to review the appeal.

~~(hg)~~ Compliance with Procedure. If an employee does not comply with the deadlines in this section, the employee shall forfeit rights granted by this section for further ~~review and/or~~ appeal.

CHAPTER ~~15~~10

SERVICE AND RECOGNITION AWARDS

Section 1. Non-Cash Service and Awards.

(a) Service Awards. Employees are eligible for a service award pin and certification upon completion of each five (5) year period, sixty (60) months, of total service with the State. The total service credits may include employment with one (1) or more executive branch departments and the judicial and legislative branches.

(b) Service credits will be granted for non-continuous service to a rehired employee claiming prior State service in any branch followed by a separation. Service credits shall be given for any calendar month during which work was actually performed. As soon as the employee has completed sixty (60) months of total service, that employee is eligible for a service award pin and certificate. There is no twenty-four (24) month completion requirement necessary due to broken service before a service award pin and certification may be presented.

~~(c) Each department will provide the Human Resources Division with a typed listing of the names and dates of service of employees eligible for an award. Departments shall submit their requests at least two (2) months prior to the presentation date, should their request contain a large number of awards to be presented. The Human Resources Division will issue the service awards pins and certificates each month.~~

(d) Service award pins and certificates are awarded in five (5) year increments, beginning with five (5) years and ending with forty (40) years.

~~(e) Service award pins and certificates are not considered additional compensation to an employee.~~

Section ~~23~~. Recognition Awards.

~~(a) Recognition awards will be issued by the Human Resources Division to requesting departments may be ordered by agencies at their discretion:~~

~~(i) The following level of review and approval shall be followed prior to the purchase of any recognition award:~~

~~(A) Justification for awards that exceed ten (10.00) dollars per person that are to be purchased with agency funds shall be submitted to the Agency Head for prior written approval;~~

~~(B) Justification for awards that exceed fifty (50.00) dollars per person shall be submitted to the Department of Administration and Information Human Resource Division for prior written approval;~~

~~(ii) Expenditures for approved awards shall come from the Agency's existing budget;~~

~~(iii) Written approval for individual awards that cost more than ten (10.00) dollars shall be attached to related invoices and submitted to State Auditor's Office for payment.~~

~~(b) Acceptable Recognition Awards. The recognition award is a plaque and will contain such items as the State seal, department name, name of recipient, date and a statement of recognition for services rendered to the State. Awards of work related items are acceptable recognition awards and~~

include pins, plaques, pens, or pencils, portfolios with agency name and or logo, desktop items with the agency name and or logo, including mugs.

(c) Unacceptable Recognition Awards. Awards of a personal type are unacceptable recognition awards, which include but are not limited to:

- (i) Flowers;
  - (ii) Tickets to concerts, athletic events, sports equipment, etc.;
  - (iii) Clothing and or items of personal nature;
  - (iv) Art and / or collectibles; and
  - (v) Entertainment, meals, and / or food.
- ~~(i) Recipients of recognition awards.~~

~~(A) Employees who retire with at least twenty five (25) years of service.~~

~~(I) Departments may request this award in addition to the regular twenty five (25) year or more service award when they submit their requests to the Human Resources Division.~~

~~(B) Officials whose terms of election or appoint will soon expire.~~

~~(C) Board or commission members whose appointment will soon expire.~~

CHAPTER ~~1611~~

SEPARATION

Section 1. **Resignation.**

(a) Notification. An employee intending to voluntarily separate from State service shall submit written notification to the immediate supervisor specifying the effective time and date of the intended resignation. Notification shall be provided as far in advance as possible but not less than fourteen (14) days prior to the date of the intended resignation.

(i) Retirement. Employees separating from State service due to retirement shall follow procedures established by the Wyoming Retirement System.

(b) Effective Date. A resignation shall be effective on the date specified in the employee's notification, or on the effective date provided to the Human Resources Division by the agency head if the employee failed to provide any notice.

(c) Rescinding Notification. An employee who has provided a resignation notice and who wishes to change the effective date or rescind the notification may be allowed to do so with the approval of the agency head.

(d) Failure to Notify. An employee who fails to provide advance notification without valid reason(s) shall not be considered to have separated in good standing. Such failure to notify shall be documented and forwarded to the Human Resource Division as part of the employee's permanent record.

Section 2. ~~Termination-Dismissal of Time-Limited-Employment, Non-Permanent Employees.~~

~~(a) Definition. A non-permanent employee is an at-will employee who has no expectations of continued employment and may be dismissed at any time without cause or reason:~~

~~(i) Non-permanent employees include the employment status of probationary, at-will, at-will contract, temporary, emergency, intermittent, and intern.~~

~~(b) An agency head shall terminate-dismiss on a non-permanent employee having provisional, emergency or temporary status upon the expiration of the applicable time limit, or when the services of the employee are no longer required.~~

Section 3. **Dismissal of Permanent Employees.**

Permanent employee dismissed by the agency head shall be separated pursuant to the provisions of Chapter ~~17~~ 7, Section 3(c) pertaining to ~~Dismissal of permanent employees.~~

Section 4. **Reduction in Force.**

~~Employees laid off due to a reduction in force shall be separated in accordance with Chapter 17 of these rules pertaining to Reduction in Force. (a) A reduction in force shall not be used as a disciplinary action.~~

~~(b) Each Agency shall designate divisions for purposes of a reduction in force:~~

~~(i) Designations are effective after approval of the Governor:~~

(ii) Approved designations shall be filed with the Human Resource Administrator and be provided to all agency employees;

(iii) An agency shall not change division designations within sixty (60) days of a reduction in force;

(iv) Prior to the actual reduction in force, employees in the affected positions shall be given a transfer or reappointment within the agency to available vacant positions;

(A) Permanent employee shall also be offered positions held by non-permanent employees within their designated division only. A reduction in one division shall not displace an employee in another division;

(B) Employees transferred or reappointed must meet the minimum requirements for the new position and shall be responsible for any cost of relocation.

(c) Identification of affected position(s) and order of separation:

(i) If a reduction in force is needed, the agency head shall:

(A) Determine from within the Agency the affected designated reduction in force division;

(B) Determine the affected job classification;

(C) Determine the affected geographical area; and

(D) Identify the affected employee(s) having the least amount of continuous Executive Branch service from the most recent date of hire;

(I) Employees with non-permanent status shall be identified for reduction in force prior to employees with permanent status;

(II) If two (2) or more employees within the same job classification have the same amount of continuous Executive Branch service, the agency head shall determine in its discretion which employee is to be separated.

(d) Responsibilities of the Agency Head:

(i) The agency head shall provide at least thirty (30) days notification of the separation date in writing to the affected employee and the Human Resources Division;

(ii) An agency head shall automatically consider a permanent employee, who has been separated due to a reduction in force, in the candidate group for the class held at the time of separation for a period of twenty-four (24) months;

(A) Prior to the employment of any other candidate with no greater preference, a permanent employee separated by a reduction in force shall be offered reinstatement to a vacant position within the agency, within the division (as designated for purpose of reduction in force) last employed and within the class held at the time of separation;

(B) Reinstatement shall be made in reverse order of separation (last separated, first hired).

CHAPTER 13  
DISMISSAL OF NON-PERMANENT EMPLOYEES

REPEALED

~~Section 1. — Dismissal of Non-permanent Employees.~~

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

CHAPTER 17  
REDUCTION IN FORCE

REPEALED

~~Section 1. Definition.~~

~~A reduction in force is an involuntary separation of an employee from State service due to a shortage of funds, lack of work, organizational changes, or other reasons of business necessity which require a reduction in staff. Separation by reduction in force shall not be used to discipline an employee for unsatisfactory work performance or undesirable conduct.~~

~~Section 2. Procedures.~~

~~(a) Each agency shall designate divisions within the agency for purposes of reduction in force.~~

~~(i) These designations are effective upon approval by the Governor.~~

~~(b) An agency may not change its divisions within (60) days prior to a reduction in force.~~

~~(c) Prior to a reduction in force, employees in the affected positions shall be given a transfer or reappointment within the agency to available vacant positions. Permanent employees shall also be offered positions held by non permanent employees within their designated division only. Employees transferred or reappointed must qualify for the new position and be responsible for any cost of relocation.~~

~~(d) If a reduction in force is necessary, the agency head shall separate the employee having the least amount of continuous equivalent Executive Branch service, from the most recent date of hire, within the class, within the agency, within the division, and same geographical area by employee status category. The order of separation for employee status categories shall be as follows:~~

~~(i) Non permanent;~~

~~(ii) Permanent.~~

~~If two (2) or more employees within the class have the same amount of continuous equivalent service, the agency head shall determine who is to be separated.~~

~~(e) The agency head shall notify, in writing, the Human Resources Division and the affected employee at least thirty (30) days in advance of the separation date.~~

~~Section 3. Reinstatement Rights.~~

~~A permanent employee, who has been separated due to a reduction in force, shall have reinstatement rights for a period of twenty four (24) months to employee status, performance appraisal date, leave accrual rates, longevity benefits, and continuous service credits held at the time of separation.~~

~~Section 4. Reinstatement Appointments.~~

~~(a) A permanent employee, who has been separated due to a reduction in force, shall automatically be considered in the candidate group for the class held at the time of separation for a period of twenty four (24) months. Reinstatement shall be made in reverse order of separation (last separated, first hired).~~

~~(i) Prior to the appointment of any other candidates with no greater preference, a permanent employee separated by a reduction in force shall be offered reinstatement to a vacant position within the agency, within the division (as designated for purpose of reduction in force) last employed and within the class held at the time of separation.~~

~~(b) A permanent employee, who has been separated due to a reduction in force, shall be considered as a state employee for a period of twenty-four (24) months when applying for position vacancies limited to state employees.~~

~~(c) A permanent employee shall have a right to decline offers of employment without forfeiture of reinstatement rights when:~~

~~(i) The geographical area of the position vacancy is different from that at the time of separation;~~

~~(ii) The position funding is temporary or time limited; or~~

~~(iii) The class is different from that at the time of separation. (iv) The division is different from that at the time of separation.~~

~~(d) The rate of pay upon reinstatement of a permanent employee separated due to a reduction in force shall be established at any point in the pay band for the class so long as the new rate does not exceed an increase of 15% of the employee's base pay at the time of separation.~~

CHAPTER 18  
ALTERNATIVE WORK SCHEDULES

REPEALED

~~Section 1. Telework:~~

~~(a) Telework allows state employees to conduct state business from an approved remote work site other than their regular office.~~

~~(b) Agreements:~~

~~(i) Participation in telework may be terminated by the employee or the supervisor at any time without cause by providing fifteen (15) days written notice. The agency head or supervisor may immediately terminate the employee's participation and Memo of Understanding for cause at any time.~~

~~(ii) Employees participating in telework shall comply with all applicable statutes, rules, policies, procedures and the terms of the Memo of Understanding. Failure to do so may result in terminating the employee's continued participation in telework and may include disciplinary action.~~

~~(c) Eligibility:~~

~~(i) Teleworking is not an employee right nor an employee benefit. It is an alternative work schedule mutually agreed upon by the employee, supervisor, and agency head. Agency heads shall determine eligibility of employee participation in teleworking.~~

~~(ii) Teleworking is available only to employees whose job, in the judgment of their supervisor, may be effectively performed by teleworking. No employee shall be required to telework.~~

~~(iii) Application to participate in teleworking requires the agency head approval on the appropriate forms. A copy of such forms shall be submitted to the Human Resources Division.~~

~~(iv) The Telework Memorandum of Understanding shall be approved by the agency head. A copy of the Memo of Understanding shall be submitted to the Human Resources Division.~~

~~(d) Remote Work Site. The employee's remote work site may be the employee's home, a State owned or leased office in another location within the State or near the employee's home, a satellite neighborhood work center, or other approved location.~~

~~(e) Telework Options:~~

~~(i) Regular. Employee teleworks a predetermined schedule on a continuing regular basis.~~

~~(A) Scheduling. A regular teleworking schedule shall consist of one (1) to three (3) days per week. Exceptions to this schedule shall be requested and approved in writing by the agency head.~~

~~(B) A regular teleworking schedule requires a Memo of~~

~~Understanding and Telework Application:~~

~~(ii) Project Based. Telework agreements of a temporary, or project based nature and shall be for a definite time period.~~

~~\_\_\_\_\_ (iii) Medical Telework from an approved remote work site, on a full-time or part-time basis based on a legitimate medical need. This option may require documentation from a health care provider.~~

~~\_\_\_\_\_ (f) Training. Employees, supervisors, and managers participating in telework shall receive training and attend continuing educational programs as deemed appropriate by the Human Resources Division. The training shall be based on the guidelines developed by the Human Resources Division.~~

### ~~\_\_\_\_\_ Section 2. Flextime.~~

~~\_\_\_\_\_ (a) Flextime allows the employee, with the agency head's approval, to choose an arrival and departure time within a specified time period as their regular work schedule.~~

#### ~~\_\_\_\_\_ (b) Agreements.~~

~~\_\_\_\_\_ (i) Flextime is not an employee right nor an employee benefit. It is an alternative work schedule mutually agreed upon in writing by the employee, supervisor, and agency head. Agency heads and supervisors shall determine eligibility of employee participation in flextime. An employee shall not be required to accept a flextime schedule.~~

~~\_\_\_\_\_ (ii) Participation in flextime may be terminated by the employee or the supervisor at any time without cause by providing fifteen (15) days written notice. The agency head or supervisor may immediately terminate the employee's participation for cause at any time.~~

~~\_\_\_\_\_ (iii) Employees participating in flextime shall comply with all applicable statutes, rules, policies, and procedures. Failure to do so may result in terminating the employee's continued participation in flextime and may include disciplinary action.~~

#### ~~\_\_\_\_\_ (c) Time periods.~~

~~\_\_\_\_\_ (i) Flexband. The flexbands are the time periods whereby an employee chooses an arrival and departure time. The arrival flexband is from 6:30 a.m. to 9:30 a.m., and the departure flexband is from 3:30 p.m. to 6:30 p.m.. The lunch flexband is from 11:00 a.m. to 2:00 p.m. with a half hour as the minimum lunch period.~~

~~\_\_\_\_\_ (ii) Core Time. Core time is the period of the day when all employees must be present at their regular work stations. The core time period is from 9:30 a.m. to 3:30 p.m.~~

~~\_\_\_\_\_ (iii) Leave. Leave resulting from annual, sick, leave without pay, compensatory time, or other approved leave shall require charging a like number of hours the employee is regularly scheduled to work.~~

~~\_\_\_\_\_ (A) Holiday Leave. Refer to Chapter 10, Section 4(a). Eight hours is the maximum number of hours allowed for holiday leave.~~

### ~~\_\_\_\_\_ Section 3. Compressed Workweek.~~

~~\_\_\_\_\_ (a) A compressed workweek is a forty (40) hour work week completed in fewer than five days by increasing the number of hours worked per day.~~

~~\_\_\_\_\_ (b) Approval. The use of a compressed workweek schedule shall be requested in writing by the agency head, and approved in writing by the Human Resources Division. Any changes to the official work week shall be in accordance with Chapter 9, Section 10 (a)(ii).~~

~~(c) Eligibility. The compressed workweek schedule is available to employees whose jobs in the judgment of their supervisors, may be effectively performed through employee participation.~~

~~(i) The compressed workweek schedules are not an employee right nor an employee benefit. It is an alternative work schedule mutually agreed upon in writing by the employee, supervisor, and agency head. Agency heads and supervisors shall determine eligibility of employee participation in compressed workweeks. An employee shall not be required to accept a compressed workweek schedule.~~

~~(ii) Participation in a compressed workweek schedule may be terminated by the employee or the supervisor at any time without cause by providing fifteen (15) days written notice. The agency head or supervisor may immediately terminate the employee's participation for cause at any time.~~

~~(iii) Employees participating in compressed workweeks shall comply with all applicable statutes, rules, policies, and procedures. Failure to do so may result in terminating the employee's continued participation in a compressed workweek schedule and may include disciplinary action.~~

~~(iv) Compressed workweeks may be used for employees who are participating in telework.~~

~~(d) Scheduling. Established compressed workweek schedules shall be in effect subject to agency staffing needs.~~

~~(e) Leave. Leave resulting from annual, sick, leave without pay, compensatory time, holidays, or other approved leave shall require charging a like number of hours the employee is regularly scheduled to work.~~

~~(i) Holiday Leave. Refer to Chapter 10, Section 4(a). Eight hours is the maximum number of hours allowed for holiday leave.~~

## APPENDIX A

### DEFINITIONS

The following definitions are an integral part of ~~these the State of Wyoming Personnel #Rules~~ and whenever used in these rules policy, interpretation, -or in any personnel policy statement memorandum, or correspondence or any personnel related matter these terms shall be understood to have the following meanings:

1. **Administrative Review.** Removal from State premises of an employee who has been charged with or is under investigation for the commission of a crime which would raise reasonable doubt concerning the employee's suitability for continued employment; or allegations of misconduct have been made and, if confirmed, the employee's presence on the job may be detrimental to the operation of the agency.
2. **Agency.** A department, board, commission or council of the Executive Branch of government; an agency may be governed by a board, commission, council, or may be directly accountable to the Governor.
3. **Agency Head.** The director of a State agency; the director may be responsible to a governing board, commission, council, or directly to the Governor.
4. **Agency Management.** An agency head, supervisor or other employee having the authority to exercise management rights, develop management policies or to effectively make such recommendations requiring the use of independent judgment not of a routine nature.
5. **Applicant.** A person who has submitted a State application to the Human Resources Division according to prescribed instructions and procedures.
6. **Applicant Pool.** A list of candidates who have passed the required minimum qualifications and have otherwise been determined to be eligible for appointment to specific classes.
7. **Appointing Authority.** An agency head, a person having constitutional or statutory authority to appoint candidates to positions or a specified management employee having lawfully delegated authority to appoint candidates to positions in the agency.
8. **Appointment.** The final selection of a candidate by an appointing authority subject to the approval of the Human Resources Division.
9. **At-Will Appointment.** An appointment of an individual to a position which is either statutorily required or approved by the Human Resource Division to serve at the pleasure of the Governor or Agency Head.
10. **At-Will Employee.** An employee whom has no expectation of continued employment and may be dismissed at any time without cause or reason.
11. **At-Will Contract Employee.** An individual hired by the State of Wyoming to provide technical or professional services through a contract which clearly states the duties, responsibilities, and benefits for a specific period of time. The terms and conditions of employment are defined in the contract.
12. **Behavioral Competency.** Behaviors obtained through formal or non-formal education, work experience, or other means. They are described in observable and measurable terms that are necessary in

order to perform a particular type or level of work activity. They are behavioral characteristics, defining qualities each employee needs not only to be successful at their job, but to excel in carrying out the mission of the State.

13. **Bonus Payments.** Money or an equivalent given as an addition to an employee's usual compensation as a non-base pay adjustment.

14. **Break in Service.** See Separation.

15. **Call-Back Pay.** A non-base pay adjustment given to a non-exempt employee who is called back to work during other than normally scheduled work hours.

16. **Candidate.** A person who may be given selection consideration for appointment.

17. **Candidate Group.** Those applicants who may be given selection consideration for appointment from the applicant pool.

18. **Class or Classification.** A set of similar positions classified to the same grouping and designated by a class title and class code. Class and Classification are interchangeable terms under these rules.

19. **Compensation Adjustment.** A change in the base pay for an employee who remains in the same position number and the same classification.

20. **Compensatory Time, Non-Exempt.** Time which may be taken with pay for overtime worked by a non-exempt employee.

21. **Compressed Work Week.** A compressed workweek is a forty (40) hour work week completed in fewer than five days by increasing the number of hours worked per day.

22. **Core Functions.** Core functions of a job are the reason the job exists.

23. **Day.** A calendar day, unless otherwise specified.

24. **Disciplinary Suspension.** Suspension from State service of an employee, without pay, for cause for up to thirty (30) days in a calendar year.

25. **Dismissal.** Involuntary separation from State service.

26. **Educational Compensation.** Compensation of up to 100% of an employee's base pay during the time when educational leave is granted.

27. **Eligible Applicant.** Applicants who have passed all appropriate examinations, have been approved by the Human Resources Division as meeting minimum qualifications and from whom selection consideration for appointment to a specific recruitment has been determined.

28. **Emergency Appointment.** An appointment made in response to an emergency, threatening public health, safety or welfare.

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

30. **Employee.** A person working in and compensated by the Executive Branch of State Government, over which management has the right to direct and control the way the person works, both as to the final results and as to the details of when, where and how the work is done.
31. **Employee Status.** A designation based on the most recent of the following types of appointments: probationary, permanent, temporary, emergency, intermittent, at-will, or ~~student~~-intern.
32. **End of Service Leave.** Use of accrued unused vacation leave when terminating from state service for any reason except disciplinary action in lieu of receiving a lump sum payment for accrued unused vacation leave.
33. **Ex-parte Communication.** Communication with one side or one party of a grievance without the other party present.
34. **Exempt Paid Time Off.** Time which may be taken by an exempt employee as authorized leave with pay for having worked on an official state holiday.
35. **Equivalent Service.** The amount of Executive Branch service, calculated on the basis of the number of months actually worked or on authorized leave (except leave without pay, educational leave or disciplinary suspension).
36. **Evaluation period.** The length or portion of time established under a performance management system for reviewing employee performance.
37. **Examination or Exam.** Any process, procedure, rating, interview, test, evaluation or assessment, whether scored or not scored, formal or informal, which affects a person's eligibility for, or consideration for, appointment.
38. **Executive Employee.** An individual appointed by the Governor or a state board or commission to serve as a cabinet director or separate operating agency director. This does not include the executive secretary or director, board administrator or head of a board or commission.
39. **Exempt Employee.** An employee who is not required to receive overtime in accordance with the Fair Labor Standards Act.
40. **Factors.** Elements used to determine a job's value to the Executive Branch of State Government.
41. **Flextime.** Flextime allows the employee, with the agency head's approval, to choose an arrival and departure time within a specified time period as their regular work schedule.
42. **Focal Date.** A date in which employees are evaluated annually (i.e., September 30th).
43. **Full-Time Position.** An authorized position funded for a salary expenditure of at least forty (40) hours of work per week.
44. **Furlough.** Unpaid leave approved by the Governor.
45. **Geographical Area.** An area surrounding a work location which includes those places within a distance from which an employee would reasonably be expected to be willing to commute to work. For purposes of these rules such distance will normally be considered to be fifty (50) miles from the work location.

46. Goals. Specific, measurable, attainable, relevant, and time based acts or processes, based on the primary areas of responsibility that are a regular part of the job or based on a particular assignment or special project, that reflects and establishes what shall be accomplished during the performance evaluation period.

47. Grievance. Any dispute, excluding ~~discrimination, dismissal, or an~~ involuntary separation due to a reduction in force, ~~or performance evaluation rating,~~ between a permanent employee and management of the employee's agency which involves the interpretation or application of ~~a statute, policies, rules, executive order, or policy regulations and/or statutes which have been adopted by an agency, Governor's Executive Order or the State Legislature to cover~~ concerning personnel practices and/or working conditions.

48. Holiday Premium, Exempt. Exempt employees who are required to work on the ~~official state~~ holiday shall be granted paid time off at the rate of one and one-half hours off for each hour worked.

49. Holiday Premium, Non-exempt. Non-exempt employees who are required to work on the ~~official state~~ holiday shall be granted either holiday premium pay or compensatory time at one and one-half times their compensation rate for all hours worked.

50. Hours of Work. Generally, hours worked includes all time the employee is required to be on duty or on the agency's premises or at a prescribed work place and all time that employee is suffered or permitted to work for the State.

51. Human Resources Division. The Human Resources Division (HRD) of the Department of Administration and Information established pursuant to W.S. 9-2-1019 through 9-2-1022.

52. Immediate Family. A person who is related to an employee and is a spouse, parent, stepparent, parent-in-law, child, stepchild, child-in-law, sibling, half-sibling, step-sibling, sibling-in-law, grandparent, step-grandparent, grandparent-in-law, and grandchild.

53. Interim Assignment. The assignment of an employee to a different position for a period not to exceed twelve (12) months.

54. Involuntary ~~Reappointment~~ Reassignment. An unsought appointment of a permanent or probationary employee, by the employee's agency head or designee, due to a reduction in force or unsatisfactory work performance, or ~~agency reorganization~~ other demonstrated reason affecting the accomplishment of program goals. Such appointments will be made to a different position in a different classification having the same or lower grade than the employee's current classification.

55. Job-Shared Position. See Time-Shared Position.

56. Layoff. See Reduction in Force.

57. Leave. An authorized absence from work during normally scheduled working hours.

58. Management Employee. See Agency Management.

59. Memo of Understanding. The Memorandum of Understanding between the agency and the employee is a legally binding document that establishes a clear understanding of the role and responsibilities between the agency, the supervisor, and the teleworking employee.

60. **Minimum Qualifications.** Standards which designate the typical types and minimum levels of training and/or experience through which one would be expected to acquire the knowledge, skills, abilities and other requirements necessary for performance upon entry to a class.
61. **Non-exempt Employee.** An employee who is required to receive overtime in accordance with the Fair Labor Standards Act.
62. **Non-permanent Employee.** Any employee other than a permanent employee who is an at-will employee who has not expectation of continued employment and may be dismissed at any time without cause or reason.
63. **Official State Workweek.** The official state workweek begins at 12:01 A.M. Saturday, continues for seven (7) consecutive days (168 hours) and ends at 12:00 midnight on Friday.
64. **On-Call Pay.** A non-base pay adjustment for non-exempt employees who are required to remain on the agency's premises or so close that the time cannot be used effectively for that employee's own purposes.
65. **Overall Score.** The calculated rating for all performance components.
66. **Overtime.** Time worked by a non-exempt employee in excess of the workweek standard or the work period standard.
67. **Part-Time Position.** An authorized position funded for a salary expenditure of less than forty (40) hours of work per week.
68. **Pay Range.** The range of pay rates, from minimum to maximum, set for a class. Used as a policy for setting individual employee pay or salary rates.
69. **Pay Rate.** A set dollar amount between the minimum and maximum of a pay range.
70. **Pay Table(s).** A schedule of pay ranges for each class in the classification system.
71. **Performance Evaluation.** The process and the determination through observation and careful study of the employee's overall behavior and goal outcomes to meet the target and objectives of the agency and the State.
72. **Performance Improvement Plan.** A written document used to guide an employee toward achieving a rating above "unsatisfactory" on the annual performance evaluation. ~~that identifies specific steps the employee must take to improve performance within a forty-five day period.~~
73. **Performance Management.** An ongoing, continuous process of communicating and clarifying job responsibilities, priorities and performance expectations in order to ensure mutual understanding between supervisor and employee. It emphasizes communication and focuses on adding value to the organization by promoting improved job performance and encouraging skill development. It involves clarifying the job duties, defining performance standards, and documenting, evaluating and discussing performance with each employee.
74. **Permanent Appointment.** The appointment of an employee to permanent status upon completion of the probationary period.

75. Position. A job for which funding has been authorized by the Governor or the Legislature, consisting of a set of assigned tasks with defined boundaries of responsibility and authority.

76. Position Class. See Class or Classification.

77. Probationary Appointment. An appointment of a candidate in a civil service position who shall serve a three hundred sixty-five (365) day probationary period to a position in a class to serve a probationary period.

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

79. Probationary Period. An examination period of three hundred sixty-five (365) days utilized for closely observing an employee's work, for securing the most effective adjustment of the employee to the position and for dismissing any employee without right of appeal.

80. Promotion. An appointment of an employee having permanent or probationary status, through a competitive recruitment process, to a different position number with a different classification having a higher grade.

81. Qualified applicant. See Eligible Applicant.

82. Rating. Summarizes performance by evaluating against components in an employee performance plan then compares performance over a period of time with absolute measurement scales that indicate varying levels of performance.

83. Rating Scale. Describes the varying levels of proficiency of performance into which each competency and goal can be divided. It is used to assign a performance rating for each performance component on the performance evaluation.

84. Reappointment. See Involuntary Reappointment and Voluntary Reappointment.

85. Reclassification. The assignment of a position to a different classification.

86. Recruitment. A process to attract suitable numbers of qualified applicants to compete for appointments.

87. Reduction in Force. A reduction in force is an involuntary separation-termination of an employee from State service due to a shortage of funds employment because of a shortfall of funding, lack of work, organizational changes or other reasons of business necessity which requires requiring a reduction in staff the number of positions in state employment.

88. Re-employment. An employee re-employed to the same classification within four (4) months after separation provided they meet the specific minimum qualifications.

89. Reinstatement. The re-employment to any class of a previous permanent employee within twenty-four (24) months of a separation due to a reduction in force.

90. Relative(s). A person connected with another by blood or marriage.

91. Resignation. Voluntary separation from state service.

92. Selection Examination or Consideration. An interview, background evaluation or other examination of candidates used in making an appointment decision.

93. Separation. A break in service resulting from a resignation, termination, retirement, dismissal or reduction in force. A twenty four (24) hour break in service not including normal days off.

94. Serious Health Condition. Is defined as an illness, injury, impairment, or physical or mental condition that involves inpatient care in a hospital, hospice or residential medical facility; or continuing treatment by a health care provider.

95. Service Credits.

(a) The number of calendar months during which work was actually performed in the Executive, Judicial or Legislative Branch which has not been interrupted by a separation. If a previous permanent employee is reinstated to State service within twenty-four (24) months of a reduction in force, then such separation shall not constitute a break in continuous service; however, the time period during the separation does not count as months worked. If an employee receives another appointment effective on the next work day following the effective date of a separation, then such separation shall not constitute a break in continuous service.

(b) Credit shall not be given for a calendar month in which an employee was on leave without pay, educational leave, or disciplinary suspension when no work was actually performed. Time during which an employee was absent from work because of a valid workers' compensation claim or Family and Medical Leave, while not considered as time worked, shall be included in calculating the total number of months of continuous service. Time during which an employee was on any other authorized leave shall be considered time worked for purposes of this definition.

96. Shift Differential. A premium paid to those employees whose regularly assigned hours of work are outside 6 am to 6 pm Monday through Friday.

97. Specific Minimum Qualifications. Specific minimum qualifications are separate distinctive minimum qualifications established within a classification.

98. ~~Student~~ Intern Appointment. A time-limited appointment made of an ~~student-individual~~ where such employment constitutes a recognized phase of the ~~individual's~~~~student's~~ educational or training program.

99. Supervisor. An employee having statutory or properly delegated authority to appoint, suspend, transfer, promote, dismiss, lay off, demote, assign work, reward, direct, resolve grievances of or discipline other employees; or to effectively recommend such actions if the exercise of such authority requires the use of independent judgment and is not routine in nature.

100. Supplementary Compensation. A non-base pay adjustment given to employees in accordance with the State Compensation Policy.

101. Suspension. See Disciplinary Suspension.

102. Telework. Telework allows state employees to conduct state business from an approved remote work site other than their regular office.

103. Temporary Appointment. An appointment of a candidate to a position in a class for a limited period of time.

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

105. Termination. A separation of an employee in good standing.

106. Test. See Examination.

107. Time-Limited Appointment. An emergency, intermittent, temporary, or ~~student~~—intern appointment made for defined duration.

~~108.—Time-limited Employee. An at-will employee who has no expectation of continued employment and may be dismissed at any time without cause or reason.~~

~~109~~108. Time-Limited Position. An authorized position funded for a limited time period.

~~110~~109. Time-Shared Position. Two (2) employees who voluntarily occupy one (1) position or three (3) employees who voluntarily occupy two (2) positions with the agency head's approval, providing that the total salary expenditures for those employees do not exceed the amount authorized for the position or positions (W.S. 9-2-1022 (f)).

~~111~~110. Training Expenses. Reimbursement of expenses to employees by the state for job-related training.

~~112~~111. Transfer. The appointment of an employee from one agency to another agency within the same classification.

~~113~~112. Voluntary ~~Reappointment~~Reassignment. A ~~reappointment~~—~~reassignment~~ of a ~~permanent or probationary~~—~~an~~ employee voluntarily seeking an appointment to a different position in a different class having the same or lower grade than the employee's current class.