

## WORK OUT OF CLASS

Description and Scope - Appointing authorities may assign permanent or probationary classified employees to work out of class in temporarily unoccupied classified positions which are allocated to a different classification. Payment for these assignments must be made in accordance with the applicable provisions of appropriate collective bargaining agreements or plans established pursuant to M.S. § 43A.18.

Objective - To provide appointing authorities with procedures for appropriate, consistent and effective application of work-out-of-class provisions of collective bargaining agreements and plans.

### Definitions -

"Job-Filling Process" means the actions taken by an appointing authority to permanently fill a vacant position.

"Permanent Class" means the classification of the duties assigned to the employee before assigned to work out of class. Throughout the work-out-of-class assignment, the employee retains the classification of the duties regularly assigned, i.e., remains in the permanent class, but may be paid at a rate appropriate to the class of temporarily assigned duties. The employee assigned to work out of class is not appointed to another class.

"Minimum Time Requirement" means the minimum number of days the assignment must last before the employee may be compensated at the higher rate. Use the specified number of days included in the collective bargaining agreement or plan for the employee's permanent position.

"Work-Out-of-Class Differential" means the increase in rate of pay required/permitted by collective bargaining agreements or plans to compensate an employee assigned to work out of class performing duties of a higher classification.

"Higher Classification" means the assignment to the temporarily unoccupied position would be considered a promotion if the assignment were permanent (see Administrative Procedure 15.6, Transfers/Demotions/Promotions).

### Responsibilities -

#### A. Appointing Authorities:

- Establish internal agency procedures for effective administration of work out of class.
- Determine if a work-out-of-class assignment is necessary and appropriate (see Attachment A – Work Out of Class vs. Appointment Decision chart).

- Ensure that the position is properly allocated. If the duties of the position are changed, the allocation of the position must be reviewed by the DOER Strategic Staffing Division or by the Human Resources Office of an agency with delegated classification authority before the work assignment is made.
- Ensure that all temporarily unoccupied positions covered by a junior/senior plan are filled at the junior level unless the assigned employee's permanent class is at or above the senior level.
- Verify and document that employees possess all licensure or certification required for positions to which they are assigned to work out of class.
- Assign employee to work out of class and begin work-out-of-class payment in accordance with requirements of collective bargaining agreements, plans, and this Administrative Procedure.
- Extend or end work-out-of-class assignments prior to the original end date of the assignment and in conformity with Provisions B. "Duration" below.

B. Department of Employee Relations:

Provide guidance to agencies in the areas of:

Strategic Staffing

- Position Management
  - (a) job classification determinations
  - (b) appropriate duration of assignments

Total Compensation

- Determination on appropriateness of work-out-of-class pay differentials, i.e., promotion/demotion/transfer and the rate of pay for the assignment.
- Interpretations of work-out-of-class language from collective bargaining agreements, plans, and this Administrative Procedure.

SEMA4 HR Services

- Review work-out-of-class assignments for appropriateness.
- Notify agencies when corrective action is necessary.

Provisions -

## A. Eligibility/Qualifications:

1. Work out of class may be used for both permanent or probationary classified employees assigned all the duties of another classified position.
2. Employees assigned to work in positions which require licensure or certification must possess the required licensure or certification.
3. The classification of employees in positions designated as "assistant supervisors" is based in part on ongoing responsibility to assume all supervisory duties in the absence of the regular supervisor. Periodic assumption of all supervisory duties is, therefore, a requirement of the employee's permanent position and not a basis for work out of class.
4. If an occupied position is changed in allocation, the position is considered vacant and the incumbent may be paid for work-out-of-class assignment during the position-filling process.
5. Employees assigned to work out of class must be assigned substantially all the duties of the vacant position.

## B. Duration:

1. Reference contract or pay plan for minimum time requirements.
2. No work-out-of-class assignment may exceed limits on duration as outlined in the collective bargaining agreement or plan covering the employee's permanent position.
3. No work-out-of-class assignment for position filling purposes shall exceed 90 days when an appropriate eligible list or applicant pool exists.
4. No work-out-of-class assignment (including extensions) may exceed one year except as provided below.
  - a. the assignment is related to a mobility assignment of more than one year;
  - b. the employee's assignment is behind an approved leave of more than one year;
  - c. a class study or major exam study is being conducted in conjunction with DOER.

## C. Compensation for Work out of Class:

1. All work-out-of-class payments must be consistent with requirements of collective bargaining agreements and plans covering the permanent position regarding when and at what rate a work-out-of-class differential shall be paid.
2. Employees in work-out-of-class assignments shall be granted all salary increases, including progression and general adjustments, due in their permanent position.

- 3 To maintain any work-out-of-class differential required/permitted by collective bargaining agreements or plans, the work-out-of-class rate shall be recomputed whenever a salary range reassignment or progression in permanent position occurs.
4. General adjustments should be applied to the work-out-of-class rate only when both contracts/plans covering both positions have settled for the period in question.

D. Seniority, Benefits, Overtime Eligibility, Anniversary Date, Probationary Period

1. Employees earn no classification seniority in the new class during a work-out-of-class assignment. They continue to earn classification seniority in their permanent class.
2. Benefits accrue as provided for in the employee's permanent position.
3. Eligibility for overtime is based upon the duties performed in the assigned class, in accord with the Federal Fair Labor Standards Act.
4. If an employee is subsequently appointed to the class in which the work-out-of-class assignment occurred, the employee's anniversary date, class seniority and eligibility for progression increases begin on the date of probationary appointment and are unaffected by the work-out-of-class assignment.
5. Time worked during a work-out-of-class assignment is not credited toward completion of the probationary period in the new class.

E. Bargaining Unit Membership

During a work-out-of-class assignment, the employee remains in his/her permanent position and, therefore, in the bargaining unit to which that position is assigned.

Other Relevant Laws, Personnel Rules, Contracts and Administrative Procedures

The following items have an impact on material contained in this procedure. Review of these items is essential for a total understanding of the subject.

- A. M.S. § 43A.18 - Total Compensation; Collective Bargaining Agreements; Plans.
- B. M.S. § 43A.37, Subd. 1, Clause 2 - Payrolls; Certification.
- C. Personnel Rule 3900.7500 - Appointments.
- D. Collective Bargaining Agreements and Plans Established Pursuant to M.S. § 43A.18.
- E. Administrative Procedure 15.6, Transfers/Demotions/Promotions.
- F. SEMA4 On-line Help.

**Work Out of Class Versus Appointment Decision Chart**

- A work-out-of-class assignment is not always appropriate depending on the employment status of the employee and the status of the position. For example, a temporary employee cannot be assigned work-out-of-class duties. Instead, another temporary appointment or an unclassified appointment is more appropriate. Use the following chart to determine the appropriate action.

<b>Status of Employee</b>	<b>Status of Temporarily Unoccupied Position</b>	<b>Appropriate Transaction</b>
Classified Permanent or Probationary	Classified	Work Out of Class
	Statutory Unclassified	Unclassified Service leave and Statutory Unclassified appointment
	Temporary Unclassified (M.S. 43A.08, Subd. 2a)	Unclassified Service leave and Temporary Unclassified appointment
Classified Temporary	Classified	New Temporary appointment
	Statutory Unclassified	Statutory Unclassified appointment
	Temporary Unclassified (M.S. 43A.08, Subd. 2a)	Temporary Unclassified appointment
Statutory Unclassified	Classified	Temporary appointment
	Statutory Unclassified	New Statutory Unclassified appointment
	Temporary Unclassified (M.S. 43A.08, Subd. 2a)	Temporary Unclassified appointment
Temporary Unclassified	Classified	Temporary appointment
	Statutory Unclassified	Statutory Unclassified appointment
	Temporary Unclassified (M.S. 43A.08, Subd. 2a)	New Temporary Unclassified appointment