
TYPES OF EMPLOYMENT

APPLICATION: Covered and wage employees.

PURPOSE The purpose of this policy is to identify categories of state employment and define the terms and conditions of each.

DEFINITIONS

Classified Position Salaried position assigned to an Occupational Family and Career Group based on duties and responsibilities, and to a Role Code based on the compensable factors of Complexity, Results, and Accountability.

Covered Employee Salaried employee whose terms and conditions of employment are subject to the Virginia Personnel Act (Va. Code § 2.2-2900 and following) and who is employed in a classified position.

Non-Covered Employee A salaried employee who is not subject to the Virginia Personnel Act; also called excepted employee. Includes teaching, research, administrative and professional faculty; employees in the Judicial, Legislative, and Independent Branches; employees in the Executive Branch who are appointed by a court to exercise judicial functions; Governor's appointees ('at-will' employees); and employees of certain specifically excepted agencies and entities. See Va. Code § 2.2-2905 and § 23-38.114.

NOTE: Salaried, non-faculty and wage university employees subject to the Management Agreement between the Commonwealth and the university, as defined by the Restructured Higher Education Act (Chapter 4.10 of Title 23 of the Code of Virginia), are not covered by the Virginia Personnel Act. These employees are covered by the personnel policies of the institution of higher education where they are employed.

Non-Restricted Position A position funded by sources considered continuous or recurring, such as Educational and General Funds, which may be classified or non-classified.

TYPES OF EMPLOYMENT**POLICY NO.:** 2.20
EFFT. DATE: 9/16/93
REV. DATE: 8/1/06
REV. DATE: 6/10/07

Probationary Period

The period (normally 12 months) following hire or re-hire into a classified position during which the covered employee does not have access to the grievance procedure.

Restricted Position

A classified position with at least 10% of its funding from non-continuous or non-recurring funding sources, such as grants, donations, contracts, capital outlay projects, or higher education auxiliary enterprise revenues. The employee in a classified restricted position is normally a covered employee.

Wage Employee

An employee who receives pay for hours worked rather than a fixed salary. Wage employees are sometimes referred to as hourly or P-14 employees. Wage employment is intended to cover peak workloads and seasonal or short-term needs.

GENERAL PROVISIONS

The terms and conditions of employment vary depending on the category or type of employment. Tenure of employment, compensation, benefits, access to the grievance procedure, eligibility for layoff and severance benefits, and certain other employment conditions and actions are specific to the employee's type of employment. Changes from one category to another can involve certain consequences.

Agencies may establish additional terms and conditions of employment as long as they do not conflict with those set forth in this or any other DHRM policy, or with any provisions of state or federal law.

Any records related to the hiring or employment of all employees must be managed in accordance with Policy 6.05, Personnel Records Disclosure, Policy 6.10, Personnel Records Management, and with all applicable sections of the Code of Virginia.

No covered or wage employee of the state has any guarantee of employment for a particular term; all may be terminated in compliance with policy.

All state employees addressed by this policy are eligible to receive benefits accorded by the Virginia Workers' Compensation Act in compliance with the qualification criteria of that program.

**COVERED
EMPLOYEES****General Terms and
Conditions**

Covered employees are salaried employees in classified positions, which may be either non-restricted or restricted positions. Covered employees have no guarantee of employment for a particular term, and may be terminated in accordance with the policies of the Department of Human Resource Management.

An employee may hold only one 100% classified position at a time. An employee may hold two classified positions, each 50% FTE or 20 hours per week. The total FTE filled by an employee may not exceed 100%.

Covered employees have access to:

- the grievance procedure provided by the Virginia Personnel Act (Va. Code 2.2-3000 -- 3008) following completion of the probationary period (see Policy 1.45, Probationary Period) and
- the State Employees' Discrimination Complaint procedures administered by the Office of Equal Employment Services of the Department of Human Resources Management.

Agencies establish the compensation of covered employees based on the Pay Band to which the position is assigned, the pay factors as described in Policy 3.05, Compensation, and compliance with other related policies.

NOTE: Non-probationary law enforcement officers employed by the Department of State Police, the Virginia Marine Resources Commission, the Department of Game and Inland Fisheries, the Department of Alcoholic Beverage Control, and the Department of Motor Vehicles also have access to the procedural guidelines of Va. Code § 9.1-500 – 507 in cases of investigation of work-related matters that could lead to the dismissal, demotion, suspension or transfer for punitive reasons of a law-enforcement officer. (This Code section also applies to certain non-covered employees who are law enforcement officers employed by the Division of Capitol Police and the Virginia Port Authority.)

Covered employees are assigned to one of the following status

types based on scheduled hours of work:

- F: Full-time employees whose work schedule is the equivalent of 40 hours per week for 12 months per year.
- Q: Quasi-full-time employees whose work schedule is either
 - (1) **30-39.9** hours per week for 12 months per year or
 - (2) 40 hours per week for 9, 10, or 11 consecutive months per year **for at least 1560 hours per year.**
- P: Part-time employees whose work schedule is either
 - (1) **20-29** hours per week for 12 months per year or
 - (2) less than 40 hours per week and at least 1040 hours per year **but no more than 1500 hours** for 9, 10, or 11 consecutive months per year.

See Policy 1.25, Hours of Work, for further information on these status types.

Policy amended effective 6-25-14.

Compensation

Compensation must be within the Salary Range to which the employee's position is assigned as defined in Policy 3.05, Compensation.

Compensation is determined by Policy 3.05, Compensation, the State Human Resource Management Manual, Agency Salary Administration Plans, and other state and agency policies related to the administration of employee compensation and classification.

Benefits

In accordance with DHRM policies, covered employees:

- accumulate and use paid leave;
- may receive approval to take unpaid leave;
- participate in state retirement, life insurance, and related plans;
- participate in the Virginia Sickness and Disability Program by opting in during an enrollment period or by being hired or rehired on or after January 1, 1999;
- are eligible to participate in the state health plan and flexible benefits program; and
- are subject to the provisions of all DHRM policies,

TYPES OF EMPLOYMENT**POLICY NO.:** 2.20
EFFT. DATE: 9/16/93
REV. DATE: 8/1/06
REV. DATE: 6/10/07

including the due process procedures of Policy 1.30, Layoff, and (after probation) Policy 1.60, Standards of Conduct.

Employees in Classified Restricted Positions

The terms and conditions of employment for employees in classified restricted positions are generally the same as for other covered positions. Exceptions are as follows:

- Employees in positions designated as restricted have access to the placement provisions of Policy 1.30, Layoff, only if their immediate prior service (i.e., with no break) was as a full-time non-restricted covered employee. Employees in restricted positions are treated separately in the layoff process and therefore may be laid off earlier in the sequence than employees in non-restricted positions. (See Policy 1.30, Layoff, for further information.)
- Full-time employees in restricted grant-funded positions as defined in the Catalog of Federal Domestic Assistance (CFDA) are eligible to receive severance benefits ONLY if the funding source has agreed to assume all financial responsibility in its written contract with the Commonwealth. Employees in other restricted positions (those not funded by CFDA sources) are eligible to receive severance benefits according to the same criteria as other covered employees.

NON-COVERED EMPLOYEES**General Terms and Conditions**

The terms and conditions of employees not covered by the Virginia Personnel Act are established by their agencies, the agencies' governing bodies, or the Governor.

Compensation

Non-covered employees' compensation is determined by their agencies, the agencies' governing bodies, or the Governor.

Benefits

The benefits of non-covered employees are determined by their agencies, the agencies' governing bodies, or the Governor.

Change from Non-Covered to Covered

A non-covered salaried employee who enters covered, classified employment shall have his or her salaried service in the non-

TYPES OF EMPLOYMENT**POLICY NO.:** 2.20
EFFT. DATE: 9/16/93
REV. DATE: 8/1/06
REV. DATE: 6/10/07

Employment

covered position counted as state service for the purposes of:

- determining the rate of annual leave accrual;
- computing eligibility for Service Recognition awards; and
- crediting months of service for VSDP benefits.

A non-covered salaried employee who enters covered, classified employment without a break in service shall have his or her salaried service in the non-covered position counted as state service for the purpose of:

- determining seniority as it is considered by Policy 1.30, Layoff.

Leave balances accrued by non-covered salaried employees may be transferred when the employee moves without a break in service to a classified position only if: (1) the leave was accrued at the same or lower rate as that for covered employees; **and** (2) the receiving agency chooses to accept the accrued balance.

A non-covered salaried employee who enters covered employment (with or without a break in service) must serve a probationary period. See Policy 1.45, Probationary Period.

For the impact on VSDP benefits of changing from non-covered to covered status, see Policy 4.57, Virginia Sickness and Disability Program.

WAGE EMPLOYEES**General Terms and Conditions**

Wage employees have no guarantee of employment for a particular term. They serve at the pleasure of the appointing authority and may be terminated from employment at any time.

Wage employment is intended to cover peak work loads and seasonal needs or short-term needs. Agencies receive authorization for wage employees from the Department of Human Resource Management by either blanket authorization or single-position approval. Agencies may hire wage employees according to their own agency policies and in compliance with relevant state and federal laws.

Wage employees are not eligible to use the state grievance procedure. However, wage employees may consult with the Department of Employment Dispute Resolution concerning work-related problems. Wage employees are entitled to use the State

Employees' Discrimination Complaint procedures administered by the Office of Equal Employment Services of the Department of Human Resources Management.

Wage employees are limited to working 1,500 hours per agency per year, which is calculated as the 365-day period **from May 1st through April 30th each year.**

- When an employee has reached the maximum of 1,500 hours within the 365-day period, he or she may not be permitted to work again in that agency during that 365-day period. The agency may rehire the employee following that period, starting a new 365-day period.
- **No exceptions to the 1,500-hour limit are permitted.**

Rehiring a wage employee by the same agency during the same 365-day period in which he or she has already worked the maximum 1,500 hours is expressly prohibited.

Policy amended effective 6-25-14.

Compensation

Wage employees receive pay only for hours actually worked. Accordingly, agencies must keep thorough and accurate records of all time worked by wage employees. Wage employees are not eligible for paid holidays or any other paid time off.

Compensation for wage employees is determined by Policy 3.05, Compensation, the State Human Resource Management Manual, Agency Salary Administration Plans, and other state and agency policies related to the administration of employee compensation and classification. Compensation must be within the Salary Range to which an employee's position is assigned as defined in Policy 3.05, Compensation.

Wage employees may be eligible to receive pay increases granted by the Governor and/or the General Assembly. The Department of Human Resource Management advises agencies regarding such adjustments.

Wage employees are considered non-exempt for the purposes of application of the Fair Labor Standards Act unless they are engaged as teachers, lawyers, physicians, or as computer employees paid \$27.63 or more per hour.

Benefits

Wage employees are not eligible to receive the benefits listed in this policy for covered employees. However, agencies shall grant the following to wage employees:

TYPES OF EMPLOYMENT**POLICY NO.:** 2.20
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REV. DATE: 8/1/06
REV. DATE: 6/10/07

- leave without pay for family and medical reasons in accordance with Policy 4.20, Family and Medical Leave;
- Workers' Compensation benefits, and
- leave without pay for military service. When a wage employee returns from active military service, reemployment will be granted under the terms provided in the United Services Employment and Reemployment Rights Act (USERRA).

Other Personnel Policies

In general, personnel policies promulgated by the Department of Human Resource Management apply to wage employees only as specified in each policy.

Agencies should document the job duties and performance of wage employees. To distinguish between types of employees and their benefits, the Employee Work Profile form described in Policy 1.40, Performance Planning and Evaluation, **may not** be used for defining wage positions or evaluating wage employees. Agencies are encouraged to work with wage employees to remedy performance problems. Significant and/or continued unsatisfactory performance by a wage employee should result in termination of the employee.

Retirees from state service may not return to any state position, including a wage position, for at least 30 days after retirement. Employees and agencies are prohibited from making re-hire arrangements prior to the employee's retirement. Contact the Virginia Retirement System for further details.

Wage employees may apply for posted classified positions. Wage employees are considered internal applicants in their agencies.

Change from Wage to Covered Employment

A wage employee hired into a classified position shall not receive service credit for any period of wage employment. A wage employee who enters covered employment must serve a probationary period. (See Policy 1.45, Probationary Period.) Compensation shall be determined using the starting pay policy.

AUTHORITY

The Department of Human Resource Management issues this policy pursuant to the authority provided in § 2.2-1200 and following of the Code of Virginia.

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REV. DATE: 8/1/06
REV. DATE: 6/10/07

INTERPRETATION

The Director of the Department of Human Resource Management is responsible for official interpretation of this policy, in accordance with § 2.2-1200 and following of the Code of Virginia.

Questions regarding the application of this policy should be directed to the Department of Human Resource Management's Agency Human Resource Services section.

RELATED POLICIES

Policy 1.25, Hours of Work
Policy 1.30, Layoff
Policy 1.45, Probationary Period
Policy 1.57, Severance
Policy 1.60, Standards of Conduct
Policy 3.05, Compensation
Policy 4.20, Family and Medical Leave
Policy 4.57, Virginia Sickness and Disability Program
Policy 6.05, Personnel Records Disclosure
Policy 6.10, Personnel Records Management
