

<b>SUBJECT:</b> Temporary Appointments	<b>NUMBER:</b> 40.025.01
<b>DIVISION:</b> Human Resource Services Division	<b>EFFECTIVE DATE:</b> 08/13/09

**APPROVED: Signature on file with Human Resource Services Division**

**POLICY STATEMENT:** Agencies may make temporary non-status, noncompetitive appointments to meet workload needs that are emergency, nonrecurring, or short-term when the use of existing positions, or establishing new positions, is not appropriate or feasible.

**AUTHORITY:** ORS 180.140 (3), 238.082, 240.307 and 240.309; OAR 105-040-0040(C), 115-045-0017 and 839-006-0146

**APPLICABILITY:** All temporary employees where not in conflict with an applicable collective bargaining agreement

**ATTACHMENTS:** PD 412 "Conditions of Temporary Appointment"; PD412A "Temporary Appointment Extension"

**DEFINITIONS:** "Emergency need" is a sudden and unanticipated workload need.  
"Nonrecurring need" means a special one-time project that requires additional staff.  
"Short-term workload need" refers to covering workload for less than six months.  
See also State HR Policy 10.000.01 Definitions; and OAR 105-010-0000

**POLICY**

- (1) An appointing authority may make a temporary appointment in the following situations:
  - (a) A workload need exists that is emergency, nonrecurring or short-term.
  - (b) Using an existing position, or establishing a new position, is not appropriate or feasible.
- (2) An appointing authority or designee first offers the appointment to persons who meet minimum qualifications, and whose names appear on applicable agency layoff lists. If no qualified person's name appears on the layoff list(s), the appointing authority or designee may use other recruitment sources consistent with affirmative action practices.
- (3) Beyond an agency's requirement to offer the appointment to persons on applicable agency layoff lists when making an appointment, the State encourages agencies to consider persons on the appropriate lists of applicants and re-employment lists referenced in Oregon Administrative Rule 105-040-0020, Types and Order of Applicant Lists.

- (4) Agencies must pay temporary employees at an hourly rate (for FLSA non-exempt work) or a salary rate (for FLSA exempt work) equivalent to an appropriate step within the range for the classification of the work performed.
- (5) A temporary employee, other than one filling in behind an employee on approved leave, may not work beyond six calendar months for the same workload need. An appointing authority may extend a temporary appointment beyond six calendar months (not to exceed 1040 hours) for the same emergency workload need when all of the following conditions are met:
  - (a) The original emergency continues to exist.
  - (b) No other reasonable means exists to meet the emergency.
  - (c) Using an existing position or establishing a new position is not appropriate or feasible.
  - (d) A limited duration appointment in a permanent position is not appropriate or feasible.
- (6) If an extension is necessary, the appointing authority must approve it in a timely manner to ensure uninterrupted continuation of the appointment.
- (7) Employment of a temporary employee for different workload needs may not exceed the equivalent of six calendar months (1,040 hours) in a 12-month period.
- (8) An agency may make a temporary appointment to fill behind an employee on approved leave. Such an appointment may continue beyond six months (1,040 hours) only when the temporary employee replaces a single employee on approved leave. The temporary appointment may not exceed the period of the approved leave.
- (9) The Department of Justice, the Office of Administrative Hearings and, the Public Utilities Commission may use a temporary appointment for a student law clerk for a period not to exceed 24 months.
- (10) The Department of Justice may use a temporary appointment for assistants trained in the law for a period not to exceed 15 months.
- (11) A state agency may use temporary appointments for a period not to exceed 48 months for student interns enrolled in high school or are under 19 years of age and training to receive a General Educational Development (GED) certificate. (Student interns are not eligible for benefits under ORS 243.105 to 243.285.)
- (12) The Oregon Military Department appoints members of the organized militia ordered to active state duty to temporary status. These appointments are not subject to ORS 240 or ORS 243.650 to ORS 243.782 (Collective Bargaining). The limitation on employment imposed by ORS 238.082 (2) does not apply to a retired member of PERS who attained normal retirement age and is on active state duty.
- (13) The appointing authority or designee provides proper documentation to temporary employees for every temporary appointment and extension. Complete Form PD 412, Conditions of Temporary Appointment, and PD 412A, Temporary Appointment Extension (addendums to this policy) for every temporary appointment and extension (see applicable collective bargaining agreement). The agency provides a copy of the completed and signed forms to the employee and maintains originals in the employee personnel file.
- (14) At the time of appointment, the appointing authority or designee provides written notice to the employee of the right to file a complaint alleging violations of ORS 240.309. Written notice is contained on Form PD 412, an addendum to this policy. Providing the employee a copy of Form PD 412 fulfills the written notice requirements for the employer.

- (15) An employee who believes that the terms and conditions of the temporary employment in any way violate the provisions of ORS 240.309 may file a written complaint with the Employment Relations Board within 30 days after the employee knew or should have known of the alleged violation. For SEIU-represented temporary employees, grievances alleging violations of ORS 240.309 the Union files directly with the Department of Administrative Services level for full and final review.
  
  - (16) Policy Clarification
    - (a) An employee, who worked the equivalent of six calendar months in a 12-month period, may work again as a temporary employee of the State during subsequent 12-month periods beginning from the initial date of appointment. For purposes of temporary appointments, the State is one employer. A temporary employee may not work more than the equivalent of six calendar months in a 12-month period for any single or combination of State agencies except for temporary appointments made to fill in behind an employee on approved leave.
  
    - (b) A temporary employee who suffers an injury on the job, files for worker's compensation and seeks to return to temporary employment upon release, has return rights that extend only to the period of appointment remaining on the written notice provided at time of appointment.
  
    - (c) An employer found to be in violation of ORS 240.309 by the Employment Relations Board may be required to pay an affected employee damages for any lost wages, benefits, and rights.
  
    - (d) For purposes of retirement, retired state employees are generally limited to 1,039 hours of temporary employment per calendar year. ORS 238.082 provides exceptions to this general rule, including: state work in a correctional institution; State Police work located in a county with less than 75,000 inhabitants; or where the retired member is employed to temporarily replace an employee called to active federal duty in the National Guard or in a reserve unit of the United States Armed Forces. However, temporary appointments of retirees made pursuant to 238.082 still must comply with ORS 240.309, this policy, and may not exceed the equivalent of six calendar months (1040 hours) in a 12-month period unless filling behind an employee on an approved leave.
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(1) Performance Measure: Percent of temporary appointments with an executed agreement provided to employee at time of appointment.

Performance Standard: 100 percent