

## **EMPLOYMENT CATEGORIES**

### **Number 5.1**

**Effective Date:** December 18, 2019

**Supersedes:** Personnel Policy 5.1, dated December 31, 2016  
Personnel Policy 5.1, dated March 1, 1996

**Applicable To:** All classified, exempt, appointed, and temporary employees of the Executive Branch of the State of Vermont

**Issued By:** Department of Human Resources

**Approved By:** Susanne Young, Secretary of Administration

### **PURPOSE AND POLICY STATEMENT**

The purpose of this document is to define the various categories of employment in the Executive Branch of Vermont State Government, and to establish the employment policies and procedures applicable to each.

It is the policy of the State that each person hired by the State of Vermont shall be engaged in the appropriate category as defined herein, and his or her employment shall be in accordance with the policies relating to that particular category.

All employment with the Executive Branch of State government is either classified or exempt and is enumerated by statute or regulation into specific categories of employment. The classified category includes permanent and limited service positions. The exempt category includes, but is not limited to, State Police, temporary, elected, and appointed.

### **GENERAL INFORMATION**

**Separation of Powers:** No agency, department, or other unit within the Executive Branch of State government shall employ any member of the Vermont legislature during his/her term of office, except as authorized under the provisions of 21 V.S.A. § 496 and the current collective bargaining agreements, if applicable.

**Simultaneous Payments:** No full-time or part-time employee shall enter into an employment arrangement or a contract agreement which will result in concurrent payments from the State of Vermont under more than one category without prior review and approval from the Department of Human Resources. For example, a full-time employee shall not be concurrently engaged under contract or as a temporary employee with the same or another department without prior approval. Exceptions may be made by the Commissioner of the Department of Human Resources in special circumstances when there is documented evidence of necessity based upon lack of available qualified

personnel in the open market, and when the work involved will in no way conflict with an employee's regular working hours or performance of his/her regular duties. A classified employee shall not be granted a leave of absence from his/her regular position to accept other employment with the State, including temporary, contract, or other arrangement with the State except in accordance with the applicable provisions of the appropriate collective bargaining agreement and/or Agency of Administration Bulletin No. 3.5 as applicable.

### **EXEMPT EMPLOYEES**

Exempt service positions are excluded from the classified service by State statute. These positions include, but are not limited to, State Police, temporary positions, elected and appointed positions.

**State Police Positions:** Permanent positions within the Department of Public Safety for uniformed personnel, plainclothes members of the department with powers of arrest, and certain positions in the communications, records, and fire prevention units of the department, as determined by the Commissioner of Public Safety, and to be filled in accordance with its rules and regulations applicable to the State Police.

**Temporary Positions:** Positions of persons employed in a temporary capacity pursuant to 3 V.S.A. §§ 311 and 331, and as defined therein. Temporary positions must be approved in writing by the Commissioner of Human Resources upon the request of an appointing authority and may be approved only if the position and person are needed:

- (a) to meet a seasonal employment need of State government;
- (b) to respond to a bona fide emergency;
- (c) to fill in for the temporary absence of an existing employee, or a vacancy in an existing position; or
- (d) to perform a governmental function that requires only intermittent, sporadic, or ongoing employment.

Such employment, if for the specified purposes ***other than to meet a seasonal employment need***, may not exceed 1280 work hours in any one calendar year. The employment of persons employed in a temporary capacity to meet a seasonal employment need may exceed 1280 hours in any calendar year, but the period of such employment may not exceed seven months in any 12-month period, unless such period is approved by the Commissioner of Human Resources, pursuant to 3 VSA§ 331(c)(3).

Employment in a Temporary Position created to respond to a bona fide emergency, to fill in for an absence or vacancy, or to perform a governmental function may only exceed 1280 work hours in any calendar year if, upon request of an appointing authority, the Commissioner of Human Resources so authorizes and finds, in writing, that a bona fide emergency, as defined in 3 VSA § 323(2) exists. Such authorization is not required in the case of temporary positions created for seasonal employment, as defined by 3 VSA § 323(5).

Employment in a Temporary Position does not confer access to permanent employment in state government. Temporary employees must compete on an equal footing (or "open competitive basis") with other non-state employee applicants for permanent employment. If hired on a permanent basis, a former temporary employee must satisfactorily complete an original probationary period, as would any newly hired employee.

**Elected and Appointed Positions:** Permanent positions that are excluded from the classified service by statute and are generally filled through the elective or appointive process. Such positions include, but are not limited to:

- Agency secretaries, commissioners, deputy commissioners, private secretaries, principal assistants, executive directors, and assistant attorneys general.
- Positions in the office of the Governor.
- Positions filled by popular vote or by the legislature.
- Members of boards, commissions, councils, or similar bodies.
- Attorneys employed as legal advisors or special counsel outside the office of the Attorney General.

### **CLASSIFIED EMPLOYEES**

A classified employee is an employee of the State of Vermont who is hired to fill a position in the classified service in accordance with merit principles as administered by the Department of Human Resources, and who is paid a salary for work performed in a position in the State classification plan.

The classified service includes all positions and categories of employment except as otherwise provided by law.

**Permanent Full-Time Positions:** Positions in the classified service with duties and responsibilities of a continuing nature which require an employee to work a full-time, year-round work schedule.

**Permanent Part-Time Positions:** Positions in the classified service with duties and responsibilities which are of a predictable, continuing nature, but which require an employee to work for less than forty (40) hours per week, and/or less than five (5) workdays per week.

**Limited Service Positions:** Positions in the classified service which, when initially established, are reasonably expected to exist for a limited duration of less than three (3) years but more than one (1) year. Such positions have a definite termination date and are usually associated with a specially funded project or program.

Approved:



Susanne Young  
Secretary of Administration

12/18/19  
Date

## **STATEMENT OF EMPLOYMENT CONDITIONS FOR TEMPORARY EMPLOYEES**

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The State of Vermont strives to keep the use of temporary employees to a minimum. Nevertheless, some State agencies have pressing logistical needs for temporary staff. You should be aware that temporary status employment carries certain restrictions. As a temporary employee, you do not have the same rights and benefits as classified or exempt status employees. The hiring of a temporary employee is covered by 3 VSA § 331. You are required to review the conditions of temporary employment set forth below, and sign in the space provided at the end of the document to acknowledge your understanding of the restrictions imposed on your employment.

### **TEMPORARY EMPLOYMENT**

**IS LIMITED TO 1,280** hours of work per calendar year, for those temporary employees: (1) hired to respond to a bona fide emergency; (2) to fill in for the temporary absence of an existing employee; (3) or a vacancy in an existing position, or to perform a governmental function that requires only intermittent, sporadic, or ongoing employment, except in those cases of emergency as authorized by the Commissioner of Human Resources pursuant to 3 VSA § 331(c)(1) . Without such authorization by the Commissioner of Human Resources, no such temporary employee is permitted to work more than 1,280 hours in any given calendar year. Temporary employees hired to meet a seasonal employment need may work more than 1,280 hours in any given calendar year without authorization from the Commissioner of Human Resources, but their employment is limited to a period of not more than seven months in any 12 month period, unless the period of more than seven months has been approved by the Commissioner of Human Resources pursuant to 3 V.S.A. § 331(c)(3).

**IS NOT EXPECTED TO BE FULL-TIME.** Temporary work is typically for variable hours. The State does not guarantee 40 hours of work per week to temporary employees.

**DOES NOT CONFER ACCESS TO PERMANENT EMPLOYMENT IN STATE GOVERNMENT.** Temporary employees must compete on an equal footing (or "open competitive basis") with all other applicants for permanent employment. If hired on a permanent basis, a former temporary employee must satisfactorily complete an original probationary period, as would any newly hired employee.

### **TEMPORARY EMPLOYEES:**

**ARE ENTITLED TO OVERTIME IN ACCORDANCE WITH FEDERAL LAW.** The State cannot guarantee how long a temporary job will last and cannot guarantee 40 hours of work per week to temporary employees.

**ARE NOT ELIGIBLE FOR THESE STATE BENEFITS:** medical benefits programs, dental insurance, long term disability insurance, group life insurance, annual leave, personal leave, retirement benefits, and holiday compensation for time not actually worked.

**MAY BE ELIGIBLE FOR BENEFITS UNDER THE AFFORDABLE CARE ACT:** Temporary employees with the State of Vermont are not eligible for medical benefits. Therefore, you may wish to explore coverage options through the Health Insurance Marketplace. For more information about the Marketplace insurance options please see the "New Health Insurance Marketplace Coverage Options and Your Health Coverage" notice for temporary employees or visit [HealthCare.gov](http://HealthCare.gov).

**ARE NOT COVERED BY RIGHTS, BENEFITS, PROCEDURES, AND PRIVILEGES OF CLASSIFIED EMPLOYMENT** including but not limited to those conferred by the collective bargaining agreement.

**ARE NOT COVERED BY ANY DEPARTMENTAL POLICIES GOVERNING DISCIPLINE** which may guarantee classified employees certain review procedures before the disciplinary action is taken (unless specifically noted in the department's policy).

**ARE ALLOWED WHISTLE BLOWER PROTECTION RIGHTS.** Temporary employees are entitled to whistleblower protections, rights and remedies provided to State Employees pursuant to 3 V.S.A. § 971, et. seq.

**ARE EMPLOYED AT WILL** under the law. This means that temporary employees have no right to continued employment or a proprietary right to a job. Temporary employment may be terminated at any time for any reason, except as prohibited by law. (e.g., state and federal laws governing discrimination, workers' compensation, fair employment practices, maternity leave, disabilities, wages and hours and the like, apply to all employees, including temporaries.)

I, \_\_\_\_\_, hereby acknowledge and understand that I am being (or have been) hired as a temporary employee by the State of Vermont in the Agency or Department of \_\_\_\_\_. I have read and understand the above conditions of employment. I also understand that this statement of working conditions supersedes anything inconsistent with it, and that these conditions may only be changed by law, or by written order of the Governor or his or her representative.

Employee Signature: \_\_\_\_\_

Date: \_\_\_\_\_

Hiring Manager: \_\_\_\_\_

Date: \_\_\_\_\_

Dept./Location: \_\_\_\_\_