

Personnel Rule 2.2 – Exemption From the Classified Service

2.2.0 Authority

SMC 4.04.040 and subsequent revisions thereto, Administration

SMC 4.04.050 and subsequent revisions thereto, Rule-making authority

SMC 4.04.130 and subsequent revisions thereto, Determinations regarding exemptions from Civil Service

SMC 4.13.010 and subsequent revisions thereto, Exemptions from the Civil Service and Public Safety Civil Service Systems

SMC 4.34.065 and subsequent revisions thereto, Payment in lieu of use of vacation credit

City Charter Article 16, Section 3, Civil Service

2.2.1 Definitions

- A. “Acting appointment” shall mean an appointment by the Mayor to be the appointing authority of an employing unit, either pending confirmation by the City Council or on an interim basis pending the nomination of the Mayor’s candidate for confirmation.
- B. “Appointing authority” shall mean the head of an employing unit, or a designated management representative, authorized by ordinance or City Charter to employ others on behalf of the City. The term includes and can be used interchangeably with department head, department director, superintendent and chief.
- C. “Classified service” shall mean all employment positions in the City that are not excluded by ordinance, City Charter or State law from the provisions of Seattle Municipal Code Chapter 4.04 or the Personnel Rules adopted pursuant thereto related to selection, discipline, termination or appeals of personnel actions to the Civil Service Commission .
- D. “Employing unit” shall mean any department of the City and, within the Executive and Legislative Departments, any office created by ordinance.
- E. “Exempt position” shall mean a position of employment held by an at-will employee who serves at the discretion of the appointing authority in a position that is excluded by ordinance, City Charter or State law from compliance with the provisions of Seattle Municipal Code Chapter 4.04 or the Personnel Rules adopted pursuant thereto related to selection, discipline, termination or appeals of personnel actions to the Civil Service Commission.
- F. “Seattle Human Resources Director” shall mean the director of the Seattle Department of Human Resources or his or her designated management representative.

- G. "Reallocation" shall mean the placement of a position in a different classification because its management has made a deliberate decision to assign to it a new body of duties that substantively changes its nature and scope.
- H. "Reconsideration" shall mean a process whereby a position incumbent or departmental management may, following the issuance of a position exemption recommendation, submit additional material to the Seattle Human Resources Director that they believe may change such determination.
- I. "Regularly appointed employee" shall mean an employee who has a probationary, regular or exempt appointment to a position of employment in the City.

2.2.2 Application of this Rule

- A. This Rule applies to regularly appointed employees.
- B. For regularly appointed employees who are represented under the terms of a collective bargaining agreement, this Rule prevails except where it conflicts with the collective bargaining agreement, any memoranda of agreement or understanding signed pursuant to the collective bargaining agreement, or any recognized and established practice relative to the members of the bargaining unit.
- C. This Rule does not apply to individuals who are employed under the terms of a grant that includes provisions that conflict with this Rule.
- D. This Rule does not apply to individuals hired by the City on a temporary, intermittent or a seasonal basis, or for a work schedule of fewer than 20 hours per week; nor does it apply to individuals hired under contract to the City.
- E. Appointing authorities may establish written policies and procedures for the implementation and administration of this Rule to facilitate the management of the personnel systems within their employing units, provided that such procedures do not conflict with the provisions of this Rule.

2.2.3 Designation of Exempt Status

- A. The Seattle Human Resources Director shall review the duties and responsibilities of positions to determine whether they shall be allocated to the classified service or designated as exempt, and shall identify the appropriate title for those positions designated as exempt.
- B. Positions exhibiting the following characteristics may be exempted from the classified service:
 - 1. Positions requiring a particularly high degree of professional responsiveness and individual accountability; or
 - 2. Positions requiring a confidential or fiduciary relationship with the appointing authority; or
 - 3. Judicial positions requiring insulation as a third branch of government.

2.2.4 Position Exemption

- A. Any position may be exempted from the classified service by State law, the City Charter, or by approval of two thirds of the City Council. An exempt position may

be returned to the classified service upon the approval of two thirds of the City Council.

- B. The Seattle Human Resources Director shall have the sole authority to determine whether a position has been exempted from the classified service.

2.2.5 Review of Exempt Positions

- A. The Seattle Human Resources Director may conduct a review of the exempt designation of any position when he or she deems it necessary.
- B. The appointing authority shall report to the Seattle Human Resources Director any substantive changes to the duties and responsibilities of exempt positions and shall request a review of a position's exempt designation at the time the assigned duties and responsibilities change.
- C. When an exempt position is transferred between employing units, the appointing authority in the receiving employing unit shall submit to the Seattle Human Resources Director a description of its new duties and responsibilities.

2.2.6 Implementation of Position Exemption

- A. The effective date of a position's exemption from the classified service shall be the same as the effective date of the legislation that exempts it.
- B. The position incumbent may request reconsideration only of the Seattle Human Resources Director's recommendation to exempt a classified service position.
- C. The appointing authority may request reconsideration of the Seattle Human Resources Director's title determination as well as the recommendation to exempt a classified service or a new position.

2.2.7 Effects of Exemption on Position Incumbent

- A. An employee who is appointed to an exempt position shall not serve a probationary period in the exempt position.
- B. An exempt employee's appointment may be terminated at any time for any reason not prohibited by law.

2.2.8 Movement from Exempt to Classified Service Position

- A. An employee who is appointed from a classified service position to an exempt position in the same employing unit has the right to return to the same or like classification in which he or she last held regular standing prior to exempt appointment upon termination of the exempt appointment, unless such termination was for cause.
 - 1. The right to return to the classified service only applies to an employee's first exempt appointment from the classified service. Subsequent exempt appointments terminate the return rights.
 - 2. The employee may only exercise his or her return right if the classified service position in which he or she last held regular standing prior to the

exempt appointment, the exempt position from which he or she wishes to exercise the return right, and the classified service position to which he or she would return are all in the same employing unit.

3. Upon return to the classified service, an employee's service credit for purposes of layoff shall be calculated from the date of regular appointment to a position in the classification in which the employee held regular standing immediately prior to the exempt appointment, provided there was no break in service and provided that the return is to the same classification. Time served in the exempt position shall not be included in the service credit calculation for layoff.
 4. If the employing unit does not have a position vacancy in the classification to which an employee has return rights, the appointing authority shall request an order of layoff for the classified service title.
- B. The movement of a position from an exempt designation to the classified service shall be treated as a reallocation. A selection process shall be required to fill the reallocated position.

2.2.9 Acting Appointment

- A. The Mayor may fill an appointing authority vacancy by appointing a current City employee to be the acting head of an employing unit. The employee shall remain in his or her regular position and shall be compensated using the out-of-class mechanism and pay structure except as provided by Rule 2.2.8(B). The employee's service credit for layoff and salary step progression purposes, if applicable, shall not be affected by the acting appointment; nor will his or her eligibility to accumulate and use vacation, executive leave or merit leave be affected.
- B. At the Mayor's discretion, a current City employee designated by him or her to be the acting head of an employing unit may be appointed to the vacant position for the duration of the appointment, rather than paid out-of-class.
1. An employee who is appointed to the position of appointing authority shall cash out any unused vacation balance accumulated pursuant to SMC 4.34.020 and Rule 7.5.4(D). He or she shall be awarded 30 days (i.e., 240 regular pay hours) of vacation immediately and every January 1st thereafter that the employee retains the acting appointment. The vacation award may not be cashed out or carried over into the subsequent calendar year. Upon reappointment to his or her previous position, the employee shall be permitted to retain and use the unused balance of the current 30-day award until the end of the current calendar year.
 2. An employee who has an acting appointment may use any unused executive and merit leave balances while serving in such capacity. Executive leave shall not be awarded to an employee who has an acting appointment during the first full pay period of January; however, upon return to an eligible title, he or she shall receive 1 day of executive leave for each calendar quarter that the employee is in the eligible title during the first full pay period of the quarter. The employee shall be ineligible for

consideration for merit leave during the period of time that he or she has an acting appointment.

3. The accrual of service credit for layoff and salary step progression purposes, if applicable, shall be suspended during the acting appointment. Upon return from the acting appointment, service credit shall be calculated from the date of initial regular appointment to the classification, provided there was no break in service, but time served in the acting appointment shall not be included in the calculation of credit.
- C. The Mayor may appoint an individual who is not a current City employee to be the acting head of an employing unit. The appointee shall receive all the benefits of the position, including 30 days of vacation upon appointment and each subsequent January 1 that he or she is in the position.