

101 KAR 3:050. Unclassified service; promotion, transfer, and disciplinary actions.

RELATES TO: KRS 12.040, 12.050, 18A.110, 18A.115, 18A.155

STATUTORY AUTHORITY: KRS 18A.110 (2), 18A.155(1)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 18A.110 (2) requires the Secretary of Personnel to promulgate comprehensive administrative regulations for the unclassified service. KRS 18A.155(1) requires the Secretary of Personnel to promulgate administrative regulations for persons in positions as established in KRS 18A.115(1)(g), (h), (i), (j), (k), (p), (t), and (u). This administrative regulation establishes requirements for the employment, promotion, transfer, or discipline of employees in unclassified service.

Section 1. Appointment. (1) An employee appointed to a position in the unclassified service, subject to this administrative regulation, shall meet the minimum requirements established for the class of position to which the appointment is made.

(2) If an interim employee serves in an interim capacity, the interim shall be for less than nine (9) full months in a single department or office during a twelve (12) month period.

(3) An employee appointed to a position subject to this administrative regulation shall serve at the will of the appointing authority and shall be subject to termination without prior notice or cause.

(4) If the appointment is to a position requiring approval pursuant to KRS 12.040 or 12.050, approval shall be obtained prior to the effective date of the appointment.

Section 2. Promotion. (1) A vacant graded position subject to this administrative regulation, other than an interim position, may be filled by promotion from the classified or unclassified service.

(2) If the promotion is to a position requiring approval pursuant to KRS 12.040 or 12.050, approval shall be obtained prior to the effective date of the promotion.

Section 3. Transfer. (1) A vacant position subject to this administrative regulation, other than an interim position, may be filled by transfer within the unclassified service, if in the best interest of the agency.

(2) If the transfer is to a position requiring approval pursuant to KRS 12.040 or 12.050, approval shall be obtained prior to the effective date of the transfer.

Section 4. Demotion. (1) An employee subject to this administrative regulation, other than an interim employee, may be demoted to another position with or without cause on a voluntary or involuntary basis. An involuntary demotion shall be done on an intra-agency basis only.

(2) If the demotion is to a position requiring approval pursuant to KRS 12.040 or 12.050, approval shall be obtained prior to the effective date of the action.

Section 5. Detail to Special Duty. (1) If the services of an employee subject to this administrative regulation, other than an interim employee, are needed in a vacant unclassified position within an agency other than the position to which regularly assigned, the employee may be detailed to that position for a period not to exceed one (1) year with approval of the Secretary of Personnel.

(2) If the detail is to a position requiring approval pursuant to KRS 12.040 or 12.050, approval shall be obtained prior to the effective date of the detail.

(3) The appointing authority shall notify the employee, in writing, of:

(a) The detail to special duty;

- (b) The reasons for the action; and
- (c) The pay grade of the position to which the employee is detailed, the work week, and the salary.

Section 6. Temporary Overlap. (1) For training purposes or if it is in the best interests of the service, with the approval of the secretary, an agency may place an employee, other than an interim employee, in an unclassified position currently occupied by another employee. If an employee is so placed, the period shall not exceed ninety (90) calendar days.

(2) If the overlap is in a position requiring approval pursuant to KRS 12.040 or 12.050, approval shall be obtained prior to the effective date of the action.

Section 7. Detail to Special Duty with Temporary Overlap. (1) For training purposes or the best interest of the service, with the approval of the secretary, an agency may detail an employee to a position currently occupied by another employee. If an employee is so placed, the period shall not exceed ninety (90) calendar days. This detail with temporary overlap shall not be considered a part of the one (1) year detail to special duty to a vacant position. The detail to special duty with temporary overlap shall be a separate action.

(2) If the overlap is in a position requiring approval pursuant to KRS 12.040 or 12.050, approval shall be obtained prior to the effective date of the action.

(3) The appointing authority shall notify the employee, in writing, of:

- (a) The detail to special duty with temporary overlap;
- (b) The reasons for the action; and
- (c) The pay grade of the position to which the employee is detailed with temporary overlap, the work week, and the salary.

Section 8. Separations. (1) Resignations and retirement.

(a) An employee who decides to terminate his or her service shall submit a written resignation or notice of retirement to the appointing authority.

(b) A resignation or notice of retirement shall be submitted at least fourteen (14) calendar days' before the final working day. A copy of an employee's notice shall be attached to the separation personnel action and placed in the personnel files maintained by the agency and the Personnel Cabinet.

(c) Failure of an employee to give fourteen (14) calendar days notice may result in forfeiture of accrued annual leave, based on:

1. If the fourteen (14) day deadline was:

- a. Practicable under the circumstances;
- b. Appropriate for the situation; and
- c. Complied with; or

2. If the appointing authority and the employee have agreed that the employee shall retain the leave.

(2) Termination. An employee subject to this administrative regulation may be terminated with or without cause.

(a) If the appointing authority elects to terminate the employee for cause, the employee shall be provided with notice in writing of the reasons for termination and of the employee's right to appeal to the Personnel Board pursuant to KRS 18A.095.

(b) If the appointing authority elects to terminate the employee without cause, this decision shall be stated in the written notice to the employee.

Section 9. Applicability for Unclassified Employees. Except as provided in this administrative

regulation, the provisions of 101 KAR 2:095, 2:105, 2:106, 2:140, 2:150 and 2:160 shall apply to an employee in the unclassified service. (13 Ky.R. 439; eff. 9-4-1986; 15 Ky.R. 2101; 16 Ky.R. 590; 1221; 1585; eff. 2-3-1990; 26 Ky.R. 413; 716; eff. 9-22-1999; 39 Ky.R. 2375; 40 Ky.R. 269; eff. 9-6-2013; 45 Ky.R. 144; eff. 10-5-2018.)