

902 KAR 8:040. Definitions for 902 KAR Chapter 8.

RELATES TO: KRS 211.015, 211.170(1), (2), 211.1751, 212.170(4), 212.870, Chapter 337, 29 U.S.C. 207, 29 C.F.R. Part 541

STATUTORY AUTHORITY: KRS 194A.050(1), 211.1755(2)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 194A.050(1) requires the Cabinet for Health and Family Services to promulgate administrative regulations necessary to operate programs and fulfill the responsibilities vested in the cabinet. KRS 211.1755(2) requires the cabinet to promulgate administrative regulations establishing the policies and procedures for the local health department personnel program. This administrative regulation establishes definitions for the terms used in 902 KAR Chapter 8.

Section 1. Definitions. (1) "Above minimum salary" means approval by the department for a minimum salary upon appointment for a specific classification which is higher than the minimum salary established by the Compensation plan or given for additional years of experience above what is required to qualify for the classification.

(2) "Agency" is defined by KRS 211.1751(1).

(3) "Annual Increment" means a yearly salary increase for performance based on annual evaluation as approved by the Board of Health not to exceed five (5) percent of the employee's current salary.

(4) "Appeal" means the right to appear before a hearing officer appointed by the department and be heard on matters of discrimination or disciplinary actions.

(5) "Appointing authority" means the board of health or public health department director authorized under KRS Chapter 212 to make appointments.

(6) "Cabinet" is defined by KRS 211.015(1)(a).

(7) "Certification of eligible applicants" means a list of individuals issued by the Department for Public Health to the agency certifying that the individuals listed meet the established minimum qualifications of the position, passed the required examination, if any, and may be considered for employment.

(8) "Class" means a group of positions similar as to the duties performed; degree of supervision exercised or required; minimum requirements of training, experience, or skill; and other relevant characteristics.

(9) "Classification plan" is defined by KRS 211.175(2).

(10) "Classified service" means employment subject to 902 KAR 8:060 through 902 KAR 8:130 except for:

(a) An employee appointed on a provisional, temporary, or emergency basis as described in 902 KAR 8:080;

(b) An employee appointed as a janitor; or

(c) An employee appointed under 902 KAR 8:080 to work a variable schedule as needed by an agency and whose hours of actual work do not exceed 800 hours per year.

(11) "Compensation plan" is defined by KRS 211.1751(3).

(12) "Compensatory time" means the accumulation of leave time for time worked on an hour-for-hour basis in excess of thirty-seven and one-half (37.5) hours per week subject to KRS Chapter 337 and the Fair Labor Standards Act, 29 U.S.C. 207.

(13) "Continuous open recruitment" means the local health department accepts applications at any time for a designated classification.

(14) "Council" is defined by KRS 211.1751(4).

(15) "Demotion" means a change of an employee from a position in one (1) class to a position in another class having a lower entrance salary and less discretion or responsibility.

(16) "Department" is defined by KRS 211.1751(5).

(17) "Detail to special duty" means the assignment of an employee to a position for not more than twenty-six (26) pay periods to fulfill the responsibilities of an employee on leave or the assumption of additional job duties which are temporary.

(18) "Discipline" means a practice to correct behavior or performance that is below acceptable standards. "Discrimination" means any administrative decision that violates KRS 344.040.

(20) "Eligible" means an individual whose name appears on a register for a particular class.

(21) "Emergency appointment" means the appointment of a person to a position, for a period not to exceed seven (7) pay periods, if an emergency makes it impractical or impossible to fill the position through standard appointment procedures.

(22) "Excessive absenteeism" means absences from the employee's work station or assigned place of work that cause the irregular attendance with or without approval of the agency; including:

(a) Tardiness;

(b) Leaving early;

(c) Abuse in the use of sick leave;

(d) Excessive unexcused absence that causes repetitive disruption of job performance and responsibilities of the employees and the agency;

(e) Abuse in the use of annual leave;

(f) Violating agency break policy; or

(g) Violation of agency lunch policy.

(23) "Exempt" means an employee in an executive, administrative, or professional position who receives an exemption from the minimum wage and overtime pay requirements under the Fair Labor Standards Act, 29 C.F.R. Part 541, based upon salary level, salary basis, and job duties.

(24) "Full-time employee" means an employee who works at least thirty-seven and one-half (37.5) hours in a work week and is compensated on a salary basis for a standard biweekly pay period.

(25) "In-Range adjustment" means an increase in an employee's salary because the employee's position duties and responsibilities have changed, but not to the extent that would warrant a reclassification.

(26) "Initial probationary period" means a minimum period of six (6) months that an employee is required to serve prior to becoming a regular employee in an agency.

(27) "Insubordination" means the refusal or the ignoring of a request to perform a task or to comply with an order given to the employee by a supervisor under circumstances where:

(a) The employee understands the order or request; and

(b) Refusal to perform is not justified by a reasonable safety concern.

(28) "Local health department" means an agency subject to 902 KAR 8:040 through 902 KAR 8:140.

(29) "Lump sum merit payment" means a single payment made to an employee based on that employee's outstanding job performance.

(30) "Midpoint" means the salary is equidistant between the minimum and maximum rates of salary compensation set for a classification.

(31) "Minimum qualifications" means a comprehensive statement which establishes the minimum background required as to education and experience.

(32) "Minimum salary" means the lowest rate of pay in the salary range for a class of positions.

(33) "Nonexempt" means the employee is required to receive minimum wage and overtime pay benefits under the Fair Labor Standards Act, 29 C.F.R. Part 541.

(34) "Part-time employee" means an employee who works an average of less than 100 hours per month

(35) "Partial year appointment" means the employment of a person to a position that shall contain regularly-scheduled hours, with a break of time not to exceed seven (7) pay periods per year, during which the incumbent remains an employee but is not at work.

(36) "Part-time 100 hour employee" means an employee who works an average of 100 hours per month or more.

(37) "Pay status" means a period of time for which an employee receives pay for:

(a) Time worked;

(b) A holiday; or

(c) Approved accumulated leave of absence, including:

1. Sick leave;

2. Extended sick leave;

3. Vacation, using annual or compensatory leave;

4. Military leave; or

5. Another type of paid leave provided by 902 KAR 8:120.

(38) "Performance evaluation" means a method of appraising each employee on the employee's capability of performing the duties and responsibilities of the job.

(39) "Position description" means a written narrative of responsibilities and duties for an individual employee that:

(a) The employee is expected to assume for a particular position; and

(b) Is in line with the job description for the designated classification.

(40) "Probationary employee" means an employee serving the required initial probationary period following appointment.

(41) "Promotional probationary period" means a period during which an employee is required to demonstrate knowledge of skill in the duties to which the employee has been promoted by actual performance of the duties of the position.

(42) "Reallocated" means the placement of an employee in one position to a newly established class, or to another class due to the employee's current class having been abolished.

(43) "Re-employ" means an employee who was laid off and has been recalled for employment to the same or another position based on needs of the agency. Re-employment rights last for one (1) year.

(44) "Register" means an officially promulgated list of eligible applicants for a job classification.

(45) "Regular status employee" means an employee who has successfully completed a required initial probationary period upon appointment, and any extension, and is subject to 902 KAR Chapter 8.

(46) "Reinstatement" means to return a former employee to a position which the employee held in previous employment.

(47) "Revert" means to return an employee to a previously held position.

(48) "Salary range" means the rate and range of pay established for a classification of positions.

(49) "Variable hour position" means the employee:

(a) Works irregular hours and does not follow a regular schedule for work; and

(b) Is paid per service or paid an hourly rate salary. (19 Ky.R. 2760; 20 Ky.R. 367; 511; eff. 9-3-1993; 21 Ky.R. 580; eff. 9-21-1994; 23 Ky.R. 2192; 25 Ky.R. 566; eff. 8-19-1998; 27 Ky.R. 2250; 2806; eff. 4-9-2001; 37 Ky.R. 1767; 2161; eff. 4-1-2011; 46 Ky.R. 1698; eff. 2-27-2020.)