

OVERVIEW

Description

Agencies, at their discretion, may temporarily assign a permanent or probationary classified employee to a work out of class (WOOC) assignment. During a WOOC assignment, employees perform substantially all the duties of a temporarily unoccupied classified position in a different classification in their own agency.

When an employee is assigned to a WOOC assignment, they are not appointed to a new classification, rather the employee is temporarily assigned different duties than the employee's permanent or probationary position and may be paid at a higher rate as required or permitted by the applicable collective bargaining agreement (CBA) or compensation plan.

Agency Human Resources considering a WOOC assignment for a probationary employee **must** contact MMB Labor Relations prior to discussing with or extending the assignment to the employee.

WOOC assignments may be terminated at any time at the discretion of the appointing authority.

Objective

To establish procedures for appropriate, consistent, and effective application of the WOOC provisions of the applicable collective bargaining agreement (CBA) or compensation plan.

Scope

This administrative procedure applies to all WOOC assignments in executive branch agencies (M.S. 43A.02, subds. 2 & 22), Minnesota State Retirement System, Public Employees Retirement Association, and Teachers Retirement Association.

This administrative procedure applies only to permanent or probationary classified employees and permanent classified positions.

Definitions and Key Terms

Key Term	Definition
<i>Agency</i>	A department, commission, board, institution, or other employing entity of the State civil service, in which all positions are under the same appointing authority.
<i>Appointing Authority</i>	A person or group of persons empowered by the constitution, statute, or executive order to employ persons in or to make appointments to positions in the State civil service.
<i>Authority Delegate</i>	The individual in an agency, generally the HR Director, who is granted the delegated authority to conduct certain HR functions associated with the Commissioner of Management and Budget's authority as provided in a delegation agreement signed by the Commissioner of Management and Budget. The Authority Delegate for Executive Branch agencies that do not have delegation of authority is the Small Agency Resource Team (SmART), Minnesota Management and Budget (MMB), or another agency.
<i>Minimum Time Requirement</i>	The minimum number of work days the WOOC assignment is anticipated to exceed before the employee can be compensated at a higher rate. The number of days is determined by the relevant CBA or compensation plan covering the employee's permanent or probationary class.
<i>Permanent or Probationary Classification</i>	The classification of the unlimited classified position occupied by a permanent or probationary classified employee (not the WOOC assignment).
<i>Position-Filling Process</i>	Actions taken by an appointing authority to fill a vacant position.
<i>Temporarily Unoccupied Position</i>	A position that is temporarily unoccupied for reasons other than vacation.
<i>Work Out of Class (WOOC) Differential</i>	An increase in rate of pay required or permitted by CBAs or compensation plans covering the permanent classification to compensate an employee assigned to WOOC if the WOOC assignment is in a classification at a higher rate of pay than the employee's permanent or probationary classification. Refer to Administrative Procedure 15.6 .

RESPONSIBILITIES

I. Agencies

- a. Establish internal procedures for agency appointing authorities to apply WOOC provisions for all relevant CBAs and compensation plans.
- b. Determine if a WOOC assignment is necessary and appropriate (refer to Attachment A of this document, Decision Chart: Work Out of Class or Appointment). Agencies should consider employee growth and development opportunities for all staff when announcing and selecting for WOOC assignments. Posting requirements for WOOC assignments depend on various factors. Refer to [HR/LR Policy #1434](#) Recruitment and Selection for posting requirements on announcing WOOC assignments.
- c. Verify and document that the employee meets any required licensure or certification requirement(s) prior to assigning the employee to a WOOC.
- d. Agencies considering a WOOC assignment for a probationary employee: Agency Human Resources **must** contact MMB Labor Relations for approval prior to extending the assignment to the employee.
- e. Assign employees to WOOC and, if eligible, begin any WOOC pay differential if the assignment is anticipated to exceed the minimum time requirement. The eligibility for WOOC pay differential and the minimum time requirement are specified in the CBA or compensation plan covering the employee's permanent or probationary class.
- f. Provide employee a new Wage Notice as required by [M.S. 181.032](#).
- g. Monitor and communicate the anticipated WOOC assignment end date.
- h. Extend or end WOOC assignments before the original WOOC assignment end date and in accordance with the "Duration" section below.

II. Minnesota Management and Budget:

- a. Provide guidance to agencies in the areas of:
 - i. Position Management, including job classification determination and appropriate duration of assignments.
 - ii. Total compensation:
 - Appropriateness of WOOC differentials (i.e., promotion/demotion/transfer) and the rate of pay for the WOOC assignment.
 - WOOC language interpretation in the applicable CBA, compensation plan, and this Administrative Procedure.
 - iii. HR Business Systems, review WOOC assignments for appropriateness and notify agencies when corrective action is necessary.
 - iv. Labor Relations, including WOOC assignments for probationary employees.
 - v. Agency and Applicant Services, approval under Provisions, Section II Duration, for WOOC assignments exceeding one (1) year.

PROVISIONS

I. Eligibility/Qualifications

- a. Employees assigned to WOOC:
 - i. **Must** be permanent or probationary classified employees of the agency.
 - ii. **Must** be assigned substantially all the duties of the temporarily unoccupied classified position in a different classification.
 - iii. **Must** meet any licensure or certification requirement(s) of the WOOC assignment. Employees are not required to meet all the minimum qualifications for the job classification of the WOOC assignment.
 - iv. *To be eligible for a WOOC differential, must* exceed the minimum time requirement outlined in the applicable CBA or compensation plan.
- b. A WOOC assignment does not include situations when an employee's permanent or probationary classified position requires the temporary assumption of some supervisory or management duties, or some but not substantially all of the duties of a temporarily unoccupied position in a different classification.
- c. When an occupied classified position is changed in allocation it is considered vacant. At the agency's discretion, the incumbent may be assigned a WOOC and, if eligible, be paid the WOOC differential if they continue to work in the position during the position-filling process.

II. Duration

- a. Reference the CBA or compensation plan covering the employee's permanent or probationary classification for the minimum and maximum time requirements.
- b. No WOOC assignment for position-filling purposes shall exceed 90 days when a qualified applicant pool exists for the vacancy.
- c. No WOOC assignment (including extensions) may exceed one (1) year except as permitted by the CBA or compensation plan covering the employee's permanent or probationary classification AND as provided below:
 - i. The WOOC assignment is related to filling behind another agency employee who is temporarily on an interchange (formerly mobility) assignment of more than one year.
 - ii. The employee's WOOC assignment is to fill behind another agency employee's approved leave of absence anticipated to exceed more than one year.
 - iii. A class study or major exam study is being conducted in conjunction with MMB.
 - iv. Other reasons, if the CBA or compensation plan covering the employee's permanent or probationary classification does not specify a maximum duration **and** approval is received from MMB prior to the end of the original WOOC assignment.
- d. WOOC assignments may be terminated at any time at the discretion of the appointing authority.

III. Compensation

- a. WOOC differentials, if any, must be consistent with the CBA or compensation plan covering the employee's permanent or probationary classification and with [Administrative Procedure 15.6](#). The CBA or compensation plan covering the employee's permanent or probationary class must be reviewed first to determine:

- i. Eligibility for a WOOC differential.
 - ii. The minimum time requirement to be eligible for a WOOC differential.
- b. Eligibility for and payment of overtime is based upon the duties performed in the WOOC assignment. If the employee is eligible for overtime based on their WOOC duties, overtime payment amounts are as directed by the CBA or compensation plan covering the employee's permanent or probationary classification, unless provided otherwise by the CBA or compensation plan.
- i. The calculation and type of hours counted toward any overtime, and the value of any overtime hours (e.g., straight time, time and one half), is determined by the provisions of the CBA or compensation plan that covers the employee's permanent or probationary classification, unless provided otherwise by the CBA or compensation plan.
 - ii. In the absence of any applicable provisions of the CBA or compensation plan, overtime payment amounts are determined by the requirements of the federal Fair Labor Standards Act (FLSA) or other applicable law.
- c. Employees in WOOC assignments are entitled to all salary increases due in their permanent or probationary classification. Agencies shall consider the employee's performance in the WOOC when determining a performance-based increase for the employee.
- d. To maintain any WOOC differential required by the applicable CBA or compensation plan, the WOOC differential shall be recalculated whenever a salary range reassignment or progression in the employee's permanent or probationary classification occurs.
- e. General adjustments should be applied to the WOOC rate only when the CBA or compensation plan covering the employee's permanent or probationary classification **and** the WOOC assigned position have been ratified on an interim or permanent basis under [M.S. 3.855](#) and are in effect for the period of the WOOC.

IV. Seniority, Benefits, Anniversary Date, Probationary Periods

- a. Employees earn no classification seniority in the WOOC assignment's classification. Employees continue to earn classification seniority in their permanent or probationary classification.
- b. Benefits accrue as provided for in the employee's permanent or probationary classification.
- c. In accordance with the FLSA, the duties performed in the WOOC assignment will determine if an employee is exempt or nonexempt while performing the WOOC assignment.
- d. If an employee is subsequently appointed to the classification of the WOOC assignment, the employee's anniversary date, class seniority, and eligibility for progression increases begin on the date of probationary appointment to the classification. The employee's anniversary date, class seniority, and eligibility for progression increases are unaffected by the WOOC assignment.
- e. Time worked during a WOOC assignment is not credited toward completion of the probationary period in any position or classification, unless permitted by the applicable CBA or compensation plan. Agency Human Resources considering a WOOC assignment for a probationary employee **must** contact MMB Labor Relations prior to discussing with or extending the assignment to the employee.
- f. Any additional pay differentials (e.g., on call, shift differential, etc.) the employee is eligible for are determined by the applicable CBA or compensation plan covering the employee's permanent or

probationary classification, unless provided otherwise by the CBA or compensation plan covering the employee's permanent or probationary classification.

V. Bargaining Unit Membership

- a. During a WOOC assignment, the employee remains in the bargaining unit to which the employee's permanent or probationary classification is assigned.

RELEVANT AUTHORITIES

The following authorities should be reviewed for a complete understanding of the subject:

[M.S. 43A.17](#), subd. 1 Salary Limits

[M.S. 43A.18](#) Total Compensation; Collective Bargaining Agreements; Plans

[M.S. 43A.37](#), subd. 1 Payrolls

[M.S. 181.032](#) Required Statement of Earnings by Employer; Notice to Employee

[Personnel Rule 3900.7500](#) Appointments

Collective Bargaining Agreements and Compensation Plans established pursuant to [M.S. 43A.18](#)

[Administrative Procedure 15.6](#) Transfers/Demotions/Promotions

Fair Labor Standards Act (FLSA)

ATTACHMENT A

Decision Chart: Work Out of Class or Appointment

A WOOC assignment is only appropriate for permanent or probationary classified employees and permanent classified unoccupied positions. Use the following chart to determine the appropriate transaction.

Status of Employee	Status of Unoccupied Position	Appropriate Transaction
Permanent or Probationary Classified	Permanent Classified	Work Out of Class
Permanent or Probationary Classified	Statutory Unclassified	Unclassified Service leave and Statutory Unclassified appointment
Permanent or Probationary Classified	Temporary Unclassified (M.S. 43A.08 , subd. 2a)	Unclassified Service leave and Temporary Unclassified appointment
Temporary Classified	Permanent Classified	Temporary Classified or Temporary Unclassified appointment
Temporary Classified	Statutory Unclassified	Statutory Unclassified Appointment
Temporary Classified	Temporary Unclassified (M.S. 43A.08 , subd. 2a)	Temporary Unclassified Appointment
Statutory Unclassified	Permanent Classified	Temporary Classified or Temporary Unclassified Appointment
Statutory Unclassified	Statutory Unclassified	Statutory Unclassified appointment
Statutory Unclassified	Temporary Unclassified (M.S. 43A.08 , subd. 2a)	Temporary Unclassified appointment
Temporary Unclassified	Permanent Classified	Temporary Classified or Temporary Unclassified appointment
Temporary Unclassified	Statutory Unclassified	Statutory Unclassified appointment
Temporary Unclassified	Temporary Unclassified (M.S. 43A.08 , subd. 2a)	Temporary Unclassified appointment