

Emergency Administrative Procedure

Emergency Reassignment and Redeployment

Effective Date: 03/17/2020

Revision Date:

Legal References: Executive Order 20-07, M.S. 12.21, subds. 3(10), (12); 15.51-15.59; 43A.06, 43A.07, 43A.09, 43A.10, 43A.14, 43A.17

GENERAL PROCEDURES AND INSTRUCTIONS

Description

On March 13, 2020, the Governor issued Executive Order 20-01 and declared a peacetime emergency because the COVID-19 pandemic, an act of nature, threatens the lives of Minnesotans, and local resources are inadequate to address the threat (“COVID-19 peacetime emergency” or “peacetime emergency”). On March 17, 2020, the Governor issued Executive Order 20-07 authorizing the Commissioner of Management and Budget to address state workforce needs during the COVID-19 peacetime emergency. The Executive Order recognized that the peacetime emergency places special responsibilities on state agency employees to work as effectively as possible to maintain government operations, to secure the health and safety of Minnesotans, and to take care that the laws are faithfully executed.

Executive Order 20-07 authorized and directed the Commissioner of Management and Budget, in consultation with state agencies, to transfer the direction, personnel, and/or functions of state agencies, including but not limited to redeploying executive branch employees from one state agency to another state agency, and between job classifications, to protect health and safety, perform or facilitate emergency response and recovery efforts, and minimize the impact of the peacetime emergency on government operations.

To ensure state agencies are able to timely and effectively mobilize their workforce to address the peacetime emergency, Executive Order 20-07 suspended provisions in collective bargaining agreements and compensation plans during the peacetime emergency that otherwise limit the appointing authority's ability to determine employee work schedules and hours of work; notice periods for changes in work schedules, work hours, or work locations; seniority requirements for filling vacancies, reassignment, or distribution of overtime or on-call work; restrictions on appointment, assignment or reassignment; and notice requirements for seasonal layoff and recall.

Executive Order 20-07 also directed the Commissioner of Management and Budget to review statewide policies, administrative procedures, rules, collective bargaining agreements and compensation plans to determine whether any provisions unnecessarily impede agencies' ability to efficiently and effectively address the peacetime emergency, and to suspend such provisions as deemed necessary. The Executive Order also suspended the notice and comment requirement to enable implementation of necessary deviations from Administrative Procedures.

This Emergency Administrative Procedure (“Emergency AP”) is adopted under the authority of Executive Order 20-07, and facilitates the directive to assign, reassign and redeploy state agency employees to address the peacetime emergency.

Scope

This Emergency AP applies to all employees of agencies in the executive branch, as defined in Minnesota Statutes 2019, section 43A.02, subdivision 22, and includes all employees of the Minnesota State Retirement System, the Public Employees Retirement Association, the Teacher’s Retirement Association, and the Minnesota State Colleges and Universities system. Executive Branch employees can be redeployed to Minnesota State, and vice versa.

This Emergency AP does not include employees of constitutional offices.

Objective

The objective of this Emergency AP is to assist Minnesota Management and Budget (“MMB”) and state agencies to comply with Executive Order 20-07’s directive to assign, reassign and redeploy state agency employees to protect health and safety, perform or facilitate emergency response and recovery efforts, and minimize the impact of the peacetime emergency on government operations. State agency employees capable of performing alternative duties or assignments may be reassigned or redeployed, irrespective of job classification.

To this end, certain provisions of Administrative Procedures 1.1 (Mobility), 6 (Bargaining Unit Changes), 6.5 (Labor Agreement Grievance Handling), 7 (Maintenance of Classification Plan), 9 (Recruitment), 10A (Requisition, Referral and Selection), 14 (Appointments) and 17.1 (Work out of Class) are suspended for the duration of the peacetime emergency.

Duration

This Administrative Procedure is effective beginning on March 17, 2020, and expires no later than the termination of the peacetime emergency under Minnesota Statutes, section 12.31. This Administrative Procedure is subject to change as needed at the discretion of Minnesota Management and Budget.

Definitions and Key Terms

Key Term	Definition
<i>Enterprise Redeployment Center (RDC)</i>	An ad hoc workgroup established in Minnesota Management and Budget which has the responsibility during the peacetime emergency to coordinate the redeployment of state agency employees.
<i>Reassignment</i>	The temporary assignment or detail of an employee during the peacetime emergency within the employee’s agency to perform work in a job classification other than their regular job classification. During a reassignment as described in this policy, the employee retains rights, to the extent they exist, in their regular job classification.
<i>Receiving Agency</i>	A state agency which receives and accepts the services of an employee of another agency for a redeployment assignment.
<i>Redeployment</i>	The temporary assignment or detail of an employee during the peacetime emergency from a sending agency to a receiving agency. During a redeployment

	as described in this policy, the employee does not become an employee of the receiving agency but instead remains an employee of the sending agency and retains rights, to the extent they exist, in their regular job classification.
<i>Regular Job Classification</i>	The classification of the job duties normally assigned to the employee.
<i>Regular Position</i>	The position to which the employee is normally assigned.
<i>Sending Agency</i>	A state agency which sends its employee to another agency for a redeployment assignment.

GENERAL STANDARDS AND EXPECTATIONS

I. Application of minimum qualifications when performing work in a reassignment or redeployment

During the peacetime emergency, employees performing work in a reassignment or redeployment are not required to satisfy the minimum qualifications of the job classification or position to which they have been reassigned or redeployed, with the exception of any minimum qualifications required by law. For example, if a position would normally require a 4-year college degree, an employee without those qualifications may nonetheless be reassigned or redeployed to perform some of the functions of the position or assignment. However, if the job classification or position requires a currently active specific state or industry licensure, the reassigned or redeployed employee must have that licensure in order to be reassigned or redeployed to perform the work. This suspends contrary provisions of AP 7 – Classification Plan and AP 10A – Requisition, Referral and Selection, and 14 (Appointments).

During the peacetime emergency, reassigned or redeployed employees may not request a job evaluation of the position to which the employee is reassigned or redeployed. There are no appeals permitted of position / assignment allocation in a reassignment or redeployment. These provisions suspend contrary provisions of AP 7 – Classification Plan.

Reassignments or redeployments should not be treated as Work out of Class assignments unless the reassigned or redeployed employee will be performing substantially all of the duties of a job classification other than their regular job classification. Work out of Class appointments that occur during the peacetime emergency should continue to be processed as Work out of Class transactions. Please note: certain provisions of A.P. 17.1 – Work out of Class have been waived during the peacetime emergency: no vacancy is required for a WOOC assignment, and during the peacetime emergency, unclassified employees are eligible for a WOOC assignment. These provisions suspend contrary provisions of AP 17.1.

II. Concurrent Appointments and Bargaining Unit Membership on Redeployment or Reassignment

Any reassignment anticipated to last at least 10 days, and all redeployments, will be entered as a concurrent job appointment record in SEMA4 for the purpose of aiding MMB and the RDC to track and monitor reassignments and

redeployments during the peacetime emergency. As stated above, Work out of Class assignments should continue to be processed under the standard Work out of Class process (as modified in Section I, above).

Creating a concurrent appointment and placing an employee into that appointment as part of a reassignment or redeployment creates no employment rights or membership rights in the bargaining unit or under the compensation plan that corresponds with the job duties to be conducted during the reassignment or redeployment. There is no requirement to notify MMB Agency Applicant Services (AAS), MMB Labor Relations (LR), or the Bureau of Mediation Services when employees are temporarily performing work as part of a redeployment or reassignment. These provisions suspend contrary provisions of AP 6 – Bargaining Unit Changes.

Employees performing work in a reassignment or redeployment continue to accrue class seniority in their regular job classification while performing duties or assignments outside of their regular job. Employees earn no classification seniority in the redeployed or reassigned classification.

If, during the reassignment or redeployment, the sending agency must process a layoff for the reassigned or redeployed employee, the concurrent appointment must be terminated prior to any layoff action.

III. Compensation When Performing Work in a Reassignment or Redeployment

Managers (Unit 220) who are reassigned or redeployed pursuant to this policy are ineligible for any change in compensation by virtue of the reassignment or redeployment. Creating a concurrent appointment in SEMA4 does not confer upon a manager any rights associated with bargaining unit membership.

Any other employees who are reassigned or redeployed during the peacetime emergency will continue to be paid their normal rate of pay, unless the reassigned or redeployed employee qualifies for a Work out of Class (WOOC) assignment, as defined in Administrative Procedure 17 (and as modified by this policy). If a reassigned or redeployed employee is performing substantially all of the job duties of a job classification other than their regular job classification, that employee is eligible to receive a WOOC differential to base pay, and the WOOC assignment will follow all provisions of Administrative Procedure 17.1 and any provisions of the appropriate bargaining unit agreement or compensation plan, other than those specifically waived in this policy.

For reassigned or redeployed employees who are not performing substantially all of the job duties of a job classification other than their own, they are ineligible for an adjustment to base pay as a WOOC differential. However, such employees will be eligible to be paid overtime and shift differentials in accordance with the applicable collective bargaining agreement or compensation plan governing the position to which the employee is reassigned or redeployed.

During the reassignment or redeployment, employees will continue to receive any step or performance increases for which they are eligible pursuant to the collective bargaining agreement or compensation plan that governs their regular position.

If an employee is redeployed to another agency during the peacetime emergency, the receiving agency is responsible for paying for the redeployed employee's salary and benefits. Overtime payments to a redeployed employee should be paid in cash.

IV. Performance Management and Discipline while on Reassignment or Redeployment

Employees must accept a reassignment or redeployment unless they request and are granted an exception by their Appointing Authority. Refusal to perform the duties of a reassignment or redeployment without an approved exception may be subject to discipline, up to and including discharge.

The supervision and work direction of the employee's duties and job performance during the reassignment or redeployment is the responsibility of the management of the work unit to which the employee is reassigned or redeployed, and the employee is subject to the policies and procedures governing the operation of that work unit as they pertain to the work assigned during the reassignment or redeployment.

The receiving agency may end an employee's redeployment at any time.

Reassigned or redeployed employees will be subject to the discipline provisions of the collective bargaining agreement or compensation plan governing the employee's regular position. Grievances or disputes regarding work performed during a reassignment or redeployment are the jurisdiction of the bargaining unit or compensation plan governing their regular job classification.

RESPONSIBILITIES

Sending Agency

- Whenever possible, upon request from the RDC, permit employees to be redeployed to receiving agencies to fulfill agency staffing needs during the COVID-19 peacetime emergency.
- As appropriate, process a leave of absence for redeployed employees.
- Continue to process any step or performance increases or other salary adjustments for which redeployed employees are eligible pursuant to the collective bargaining agreement or compensation plan that governs their regular position.

Receiving Agency

- Because redeployments are not "hires," the MMB background check policy does not apply. A receiving agency does NOT need to perform a background check on a redeployed employee unless that background check is otherwise required by law or agency-specific policy.
- Similarly, because redeployments are not "hires," the receiving agency does not need to complete a separate I-9 form.
- Wage Theft notice requirements still apply. Change notices may be e-mailed to reassigned or redeployed employees if any of the information required by the Wage Theft law is changing due to the reassignment or redeployment.
- Agencies seeking staffing assistance from other agencies during the COVID-19 peacetime emergency should submit a request form to the RDC. Typical requirements to supply signed position descriptions, organizational charts, a robust description of the need for new or changed positions, and mobility agreements, are waived during the pendency of the COVID-19 emergency. These provisions suspend contrary provisions of Administrative Procedure 1.1 – Employee Mobility and AP 7 – Maintenance of the Classification Plan.
- When appropriate, complete transactions to place reassigned or redeployed employees into a Work out of Class assignment and process a WOOC differential.
- For reassigned or redeployed employees who will not be placed in a WOOC assignment, ensure they are paid overtime and shift differentials in accordance with the applicable collective bargaining agreement or compensation plan that governs the position to which the employee is reassigned or redeployed.
- Either through direct payment to the employee or by reimbursement to the sending agency, as agreed to between the receiving agency and sending agency, make payment for the compensation and benefits, supplies and equipment (including IT), travel expenses, and parking of employees redeployed to the receiving agency. A formal mobility agreement is not required, but the arrangement must be documented in some

fashion between the receiving agency and sending agency. This provision suspends any contrary provisions of Administrative Procedure 1.1.

- Provide supervision and work direction and conduct performance management of employees reassigned or redeployed to perform work for the agency. Adhere to discipline provisions of the collective bargaining agreement or compensation plan governing the employee's regular position.

