

Memo

To: Jennie Stapp, State Librarian **To:** Montana State Library Commission

From: Kris Schmitz
Central Services Manager **From:** Jennie Stapp, State Librarian

Date: May 12, 2016

Re: Policy Reviews

At each upcoming meeting, you will review a number of Commission policies. The Commission may take action based on staff recommendations at each meeting at which the policies are discussed or defer a decision to the next meeting. The following are the policies for review at the June meeting and my recommendations.

You will find seven policies attached. I am requesting that you repeal these policies. They are now incorporated into the state policies or will become procedures and thus no longer require internal stand along policies. In the case of the Job Share Policy, the program is no longer supported by the state.

Seven policies recommended for deletion:

- Employee Record Keeping
- Family and Medical Leave Act
- Position Classification Procedures
- Reduction in Force
- Job Share
- Incentive Award Program
- Leave of Absence Without Pay Policy

Please let me know if you have any questions.

Montana State Library Commission Policy

Employee Record Keeping Policy to Supplement State Policy 3-0110

This policy is adopted in compliance with the Record keeping rules, found at ARM 2.21.6605 (also found in the State Personnel Policy 3-0110, and pursuant to records management procedures found in the Montana Operations Manual, Volume I, Chapter 800).

It is the policy of the Montana State Library Commission to collect and maintain employee personnel records while protecting an employee's right of privacy pursuant to Article II, Section 10 of the Constitution of the State of Montana.

Employee personnel records are confidential and access is restricted to those with a job-related purpose of viewing or using the records.

DEFINITIONS

- 1) "Access" means permission to view and use records.
- 2) "Confidential records" means records concerning an employee to which there is restricted access.
- 3) "Document" means an object upon which information is written, transcribed or recorded.
- 4) "Employee personnel record" means information relating to an individual's employment with the State of Montana or a department of the state and is appropriate for preservation as evidence of employment policies, practices and decisions. An employee record may be a paper document and/or it may be information maintained in the state's electronic Human Resource system. Other programs including Public Employees Retirement System and worker's compensation or unemployment insurance develop records relating to an employee which are not an employee personnel record as defined in this policy.
- 5) "Records" means a body of recorded information. This information may be manually or electronically recorded and maintained.

EMPLOYEE PERSONNEL RECORDS

The Montana State Library maintains the following employee personnel records:

Payroll and Benefits - copies of payroll status forms affecting employee's pay and/or status; W-4 forms; employee leave record; sick leave fund vouchers; time and attendance reports; authorization to deduct money from paycheck, such as health insurance premiums, credit union, savings bond and/or deferred compensation deductions, charitable contributions; copies of automatic bank deposit authorizations; copy of designation of person authorized to receive decedent's warrants; enrollment forms in health insurance plans, longevity computation, certification form and documentation of previous employment which affects employee benefits.

Personal Employee Records – Performance evaluations and employee rebuttals; disciplinary documents; documents relating to personal problems requiring employer intervention or affecting an employee's ability to perform job-related duties; state application and/or resume of employee, including any requests for preference; copies of professional licenses and certifications; individual training records; hiring documents such as offer letter, acceptance letters, EEO status, and I-9 form; transfer, reassignment, promotion, demotion, and employee exchange or loan records; documents pertaining to selection for training assignment or apprenticeship; records pertaining to awards, commendations, or other methods of recognizing achievement, performance or longevity; documents of separation such as letter of resignation or copy of any agency termination form.

INVESTIGATIONS

Employee personnel records, as defined in this policy and the state employee record keeping policy, do not include documents developed during the course of an investigation. Access to such documents shall be

determined on a case-by-case basis. Balancing the constitutional guarantees of the Right to Privacy, Art. II, Sec. 10, and The Public's Right to Know, Art. II, Sec. 9.

MEDICAL RECORDS

The Americans with Disabilities Act of 1990 (ADA) requires that information collected with respect to medical examinations or inquiries must be collected and maintained on separate forms in separate files. These records must be treated as confidential medical records and access is limited to:

- 1) supervisors and managers for purposes of identifying necessary restrictions on the employee's work or duties or identifying necessary accommodations;
- 2) agency personnel/EEO officer;
- 3) legal counsel contracted by the agency;
- 4) first aid and safety personnel, when appropriate, if the disability might require emergency treatment; or
- 5) government officials when investigating compliance with ADA.

ACCESS TO EMPLOYEE PERSONNEL RECORDS

All employee personnel records are confidential and access is restricted, except an employee's position title, date and duration of employment and salary, which are public information and must be released on request. It will be determined on a case-by-case basis whether or not the request must be in writing.

The Montana State Library permits access to employee personnel records for job-related purposes to the following agency employees or representatives:

- 1) the employee
- 2) the employee's immediate supervisor
- 3) other persons in direct line of supervision
- 4) State Librarian
- 5) the personnel/EEO officer
- 6) legal counsel contracted by the agency
- 7) accounting/payroll staff (for payroll and benefits records only)

Others with access to employee personnel records as provided in the state Employee Record Keeping policy are:

- 1) the office of the Legislative Auditor for purposes of auditing state agencies;
- 2) the Human Rights Division, Department of Labor and Industry, for purposes directly related to complaints of discrimination;
- 3) the professional staff of the State Personnel Division, Department of Administration, for purposes of gathering summary data on personnel programs or systems or to provide technical assistance at the request of an agency.

The Montana State Library may authorize others to have access to employee personnel records for purposes of conducting an investigation into areas including, but not limited to, grievance investigations, discrimination charges, review of department personnel practices, violation of department rules, policies and procedures, or matters which may result in civil or criminal prosecution.

Any other person or employee who is not listed in this section may obtain access to employee personnel records only with the employee's informed and written permission or with a valid legal order. The employee will be informed when a valid legal order has been received allowing access to his/her personnel records.

LOCATION AND SECURITY

Employee personnel records are maintained in the following locations:

- 1) State Library accounting office
- 2) State Library archives
- 3) The State's electronic Human Resources System

File cabinets or storage systems containing both active and inactive records will be kept locked during regular business hours at all possible times and will be kept locked after regular business hours. Security of automated records will comply with the security and privacy policy. An employee may view his or her personnel records during regular business hours by contacting:

- 1) the agency personnel/EEO officer
- 2) his/her supervisor
- 3) the State Librarian

A viewing area will be arranged where the employee may examine his/her file. No materials are to be removed from the files. The employee may request copies of specific records, which will be provided at no cost. An employee may request to have documents added to his/her file by contacting his/her immediate supervisor or the State Librarian. By mutual agreement between the employee and the supervisor, materials may be excised from the employee's file.

Other persons with authorized access to agency personnel records may view records by contacting:

- 1) the agency personnel/EEO officer
- 2) the immediate supervisor of the employee whose records are being viewed
- 3) the State Librarian

Those persons may check out or otherwise remove employee personnel records and/or may make copies of those records only with the express approval of:

- 1) the agency personnel officer;
- 2) the State Librarian; or
- 3) agency legal counsel;

and by signing for the records with the personnel/EEO officer or the State Librarian. Authorized employees/representatives who make copies of the employee personnel records may do so at no charge and must arrange for the security of those copies.

Employee Records Management Policy

Resource: Administrative Rules of the State of Montana (ARM)

Human Resources/ Employee Benefits

State Human Resources includes policies in administrative rules (ARM) when the policy may affect the public or be used by persons who are not currently employees. The policies that only affect state employees are not included in ARM. This policy is in ARM. This is a reproduction created for your convenience, but it is not the official version. Links to the ARM and Montana Code Annotated (MCA) are embedded throughout the document. You may also find the official ARM website at <http://www.mtrules.org>.

2.21.6605 SHORT TITLE

(1) This subchapter may be cited as the Employee Records Management Policy.

History: 2-18-102, MCA; IMP, 2-18-102, MCA; NEW, 1981 MAR p. 1776, Eff. 12/18/81; AMD, 2007 MAR p. 612, Eff. 5/11/07.

2.21.6606 POLICY AND OBJECTIVES

(1) This policy:

(a) defines which records constitute employee records and establishes procedures for collecting and maintaining employee personnel records while protecting an employee's right of privacy under Article II, section 10 of Montana's constitution;

(b) ensures employee awareness of records held, provides employees access to their personnel records, and describes how employee personnel records may be corrected;

(c) provides minimum standards for employee records management and allows agencies to adopt supplemental employee records management procedures; and

(d) covers all positions in Montana's executive branch except elected officials, the personal staff of elected officials, those employed by the Montana University System and the Montana State Fund, and any other position specifically excluded under 2-18-103 and 2-18-104, MCA.

History: 2-18-102, MCA; IMP, 2-18-102, MCA; NEW, 1981 MAR p. 1776, Eff. 12/18/81; AMD, 1992 MAR p. 1232, Eff. 6/12/92; AMD, 2007 MAR p. 612, Eff. 5/11/07; AMD, 2010 MAR p. 1070, Eff. 4/30/10.

2.21.6608 DEFINITIONS

As used in this subchapter the following definitions apply:

(1) "Access" means viewing or using records.

(2) "Confidential records" means records which, by law, are not public records.

(3) "Employee personnel record" means information relating to an employee's employment with the state of Montana that is appropriate for preservation as an official record of employment policies, practices, and decisions. An employee personnel record may be a paper document or it may be information maintained in an information system such as the Statewide Accounting Budgeting and Human Resource System (SABHRS). Employee personnel records include the documents listed in ARM [2.21.6612](#).

(4) "Genetic information" means information about applicants' or employees' genetic tests, the genetic tests of their family members, and the manifestation of a disease or disorder in their family members, including information obtained orally or inadvertently (refer to [MAR Notice No. 2-21-448, New Rule I published in this issue]). Records containing genetic information are listed in ARM [2.21.6613](#).

(5) "Genetic test" means an analysis of human DNA, RNA, chromosomes, proteins, or metabolites that detect genotypes, mutations, or chromosomal changes.

(6) "Records" means a body of recorded information. This information may be manually or electronically recorded and maintained.

History: [2-18-102](#), MCA; [IMP](#), [2-18-102](#), MCA; [NEW](#), 1981 MAR p. 1776, Eff. 12/18/81; [REP](#), 1992 MAR p. 1232, Eff. 6/12/92; [AMD](#), 2007 MAR p. 612, Eff. 5/11/07; [AMD](#), 2010 MAR p. 1070, Eff. 4/30/10; [AMD](#), 2011 MAR p. 1677, Eff. 8/26/2011.

[2.21.6612](#) RECORDS THAT CONSTITUTE EMPLOYEE PERSONNEL RECORDS

(1) Employee personnel records, both electronic and paper, include:

(a) preemployment information (resumes, references, interview questions, etc.);

(b) compensation, job history, and timekeeping records;

(c) employee accident reports and worker's compensation claims;

(d) I-9 forms;

(e) W-4 forms;

(f) benefit plans and employee medical records (including disability accommodation requests and supporting documents, and any record that contains genetic information);

(g) performance appraisals;

(h) disciplinary action records;

(i) background check information;

(j) office policies/documents signed by employee; and

(k) awards and acknowledgements.

(2) Employee personnel records do not include documents, information, or other evidence developed as part of an investigation. If an investigation results in disciplinary action, the disciplinary action record is an employee personnel record. Investigations include, but are not limited to, grievances, violations of agency rules, policies, and procedures, or matters that may result in civil or criminal liability.

History: [2-18-102](#), MCA; [IMP](#), [2-18-102](#), MCA; [NEW](#), 2010 MAR p. 1070, Eff. 4/30/10.

2.21.6613 RECORDS THAT CONTAIN GENETIC INFORMATION

(1) The federal Genetic Information Nondiscrimination Act (GINA) provides that the following records contain genetic information:

(a) an individual's genetic tests, including genetic tests done as part of a research study;

(b) genetic tests of an individual's family members;

(c) genetic tests of any fetus of an individual or family member who is a pregnant woman, and genetic tests of any embryo legally held by an individual or family member utilizing assisted reproductive technology;

(d) an individual's family medical history; and

(e) any request for, or receipt of, genetic services or participation in clinical research that includes genetic services (genetic testing, counseling, or education).

(2) Examples of frequently used employee personnel records that may contain genetic information include Family and Medical Leave Act (FMLA) request forms, reasonable accommodation requests, medical certifications, medically fit for duty forms, and records relating to worker's compensation claims and employee participation in wellness programs.

(3) Genetic records do not include:

(a) information about the sex or age of an individual or family members;

(b) information about the race or ethnicity of an individual or family member that is not obtained from a genetic test;

(c) information about an employee's disease that is already manifested or diagnosed;

(d) routine tests such as blood count, cholesterol, or liver-function tests; and

(e) analysis of infectious agents such as bacteria, viruses, and fungi.

(4) GINA prohibits the collection of genetic information, except in specific instances. Refer to the FMLA (MOM #03-0309), Sick Leave (MOM #03-0310), Equal Employment Opportunity, Nondiscrimination, and Harassment Prevention ([ARM Title 2, chapter 21, subchapter 40](#)), and Reasonable Accommodation and Equal Access ([ARM Title 2, chapter 21, subchapter 41](#)) policies for exceptions to obtaining genetic information.

History: [2-18-102](#), MCA; [IMP](#), [2-18-102](#), MCA; [NEW](#), 2010 MAR p. 1070, Eff. 4/30/10; [AMD](#), 2011 MAR p. 2020, Eff. 8/26/11.

2.21.6614 EMPLOYEE PERSONNEL RECORDS STORAGE

(1) Agencies shall store employee personnel records as follows:

(a) I-9 forms for all employees may be stored together, but must be kept separate from other records in a secured area such as a locked cabinet or drawer;

(b) employee background check information must also be maintained separate from other records in a secure location such as a locked cabinet or drawer;

(c) an employee's medical and genetic information may be kept in the same folder, but these folders must be stored and secured in separate locked cabinets or

drawers from other personnel records as required by the Americans with Disabilities Act (ADA) and GINA;

(d) all other employee personnel records, such as performance appraisals and preemployment information, must be stored in the employee's personnel file. These files must be stored in a secure location, such as a locked cabinet or drawer separate from other records; and

(e) electronic employee personnel records must be stored in secure electronic folders and must be separated in electronic folders as outlined in this rule.

History: [2-18-102](#), MCA; [IMP](#), [2-18-102](#), MCA; [NEW](#), 2010 MAR p. 1070, Eff. 4/30/10.

2.21.6615 ACCESS TO EMPLOYEE PERSONNEL RECORDS

(1) All employee personnel records are confidential and access is restricted to protect individual employee privacy, except the following employee information which is considered public and must be released upon request:

(a) an employee's name;

(b) position title;

(c) dates and duration of employment;

(d) salary; and

(e) claims for vacation, holiday, or sick leave pay, except that the reason for taking leave is confidential and may not be disclosed.

(2) Agencies may require that a request for information be in writing. Agencies may not require justification for a request.

(3) An employee has access to all of his or her employee personnel records. An employee may file a written response to information contained in the employee's personnel records. The employee's response must be filed within ten working days of the date on which the employee is made aware of the information by the agency. The written response becomes a permanent part of the employee's personnel record.

(4) As provided in the ADA and FMLA, access to medical information may not be disclosed except to:

(a) the employee about whom the information pertains;

(b) supervisors and managers when identifying restrictions on the employee's work or duties or identifying necessary accommodations;

(c) first aid and safety personnel, when appropriate, if the disability might require emergency treatment;

(d) government officials investigating compliance with the ADA or FMLA; and

(e) support an employee's compliance with the certification provisions of the FMLA.

(5) As provided in GINA, genetic information may not be disclosed except:

(a) to an occupational or other health researcher if the research is conducted in compliance with the federal regulations and protections provided for under the Protection of Human Subjects, 45 CFR, Part 46;

(b) in response to a court order, but only the genetic information expressly authorized by the court order may be disclosed and the employee must be informed before the disclosure;

(c) to government officials investigating compliance with GINA;

(d) to support an employee's compliance with the certification provisions of the FMLA; and

(e) to a federal, state, or local public health agency only regarding information about the manifestation of a contagious disease that presents an imminent hazard of death or life-threatening illness, and the employee must be notified before the disclosure.

(6) The Legislative Auditor's Division has access to employee personnel records under [5-13-309](#), MCA, for the purposes of auditing state agencies.

(7) The Human Rights Bureau, Department of Labor and Industry, has access to employee personnel records directly related to discrimination complaints.

(8) The professional staff of the State Human Resources Division has access to confidential records when gathering summary data on personnel programs or systems or when providing technical assistance to an agency.

(9) Certain governmental entities have authority under state or federal law to access an employee's personnel record.

(10) Other persons may access an employee's personnel record only if there is a job-related purpose, the employee has granted written permission, or if a valid court order grants access. An agency shall inform the employee when a valid court order has been received directing access to an employee's personnel record.

History: [2-18-102](#), MCA; [IMP](#), [2-18-102](#), MCA; [TRANS](#) & [AMD](#), from ARM [2.21.6611](#), 2010 MAR p. 1070, Eff. 4/30/10; [AMD](#), 2011 MAR p. 1667, Eff. 8/26/11.

2.21.6616 EMPLOYEE PERSONNEL RECORDS USE

(1) Nothing in this subchapter prohibits authorized users from relying on the content of employee personnel records or in agency procedures when responding to requests for employment information from employers to which employees have applied for employment.

(2) Agencies may set and charge fees for copies of employee personnel records.

History: [2-18-102](#), MCA; [IMP](#), [2-18-102](#), MCA; [NEW](#), 2010 MAR p. 1070, Eff. 4/30/10; [AMD](#), 2011 MAR p. 1677, Eff. 8/26/11.

2.21.6617 EMPLOYEE PERSONNEL RECORDS RETENTION

(1) The Montana Secretary of State's Records and Information Management Division maintains a records retention schedule for payroll and personnel records. Most employee personnel records must be kept in the employer's office for three years after an employee terminates employment. The records must then be transferred to the state records center or retained within the agency for seven additional years. Some personnel records have different retention requirements, which are listed in the schedule.

(2) The GS5 payroll and personnel records schedule may be accessed via the Secretary of State's web site.

History: [2-18-102](#), MCA; [IMP](#), [2-18-102](#), MCA; [NEW](#), 2010 MAR p. 1070, Eff. 4/30/10.

2.21.6622 CLOSING

(1) This subchapter shall be followed unless it conflicts with negotiated labor agreements or specific statutes, which shall govern to the extent applicable.

History: [2-18-102](#), MCA; [IMP](#), [2-18-102](#), MCA; [NEW](#), 1981 MAR p. 1776, Eff. 12/18/81; [AMD](#), 2010 MAR p. 1070, Eff. 4/30/10.

Montana State Library Commission Policy

Family and Medical Leave Act to Supplement State Policy 3-0309 (10/08/04)

This Montana State Library Commission Policy to Supplement State Policy 3-0309 (10/08/04). The intent is to clarify and expand those areas that are left to agency responsibility in the state policy.


The federal Family and Medical Leave Act (FMLA) became effective in August 1993. FMLA "entitles qualified employees to up to 12 weeks of unpaid leave per year for the birth or adoption of a child, to care for a spouse or an immediate family member with a serious health condition, or when unable to work because of a serious health condition." "Serious health condition" is defined as one which requires either inpatient care, or "continuing treatment by a health care provider."

Employers covered by the law are required to maintain any pre-existing health coverage (the state share for employee only) during the leave period and, once the leave period is concluded, to reinstate the employee to the same or an equivalent job."

To be eligible for FMLA coverage, an employee must have worked for the state of Montana for a total of 12 months, and for 1,040 hours during the previous 12 months.

It is the policy of the State Library Commission to begin documenting FMLA when a qualifying condition is determined. Written notice must be provided to the employee when designation of leave has been determined. The notice will detail the rights, specific expectations and obligations of the employee and explain any consequences of a failure to meet these obligations. When FMLA becomes effective, it will be documented on an hourly basis as FMLA leave, and it may run concurrently with paid sick leave or exempt compensatory time, at the discretion of the agency. An absence due to an illness will not be charged against unused vacation leave or nonexempt compensatory time unless approved by the employee.

The provision of medical certification by an employee shall be dependent upon the type of FMLA leave requested. Normally medical certification will be requested after six weeks of the onset of a qualifying condition. An employee will be allowed fifteen calendar days to provide the requested medical certification.

	Montana Operations Manual Policy	Category	Human Resources/ Employee Benefits
		Effective Date	05/07/2012
		Last Revised	01/30/2014
Issuing Authority	Department of Administration State Human Resources Division		
Family and Medical Leave Policy			

I. Purpose

This policy provides the framework under which the Family and Medical Leave Act (FMLA) will be administered in Montana state government. This policy also provides employees information about FMLA entitlements and outlines any obligations employers and employees may have during such leaves. Employees and managers should direct questions regarding FMLA leave to their agency human resources office.

II. Scope

This policy covers all agencies in Montana's executive branch except the Montana university system, the Montana State Fund, elected officials, personal staff of elected officials, and any other position specifically excluded under Sections 2-18-103 and -104, Montana Code Annotated (MCA).

Any state law or collective bargaining agreement that provides greater family or medical leave rights supersedes this policy.

III. Procedures

The FMLA allows employees to balance their work and family life by taking reasonable leave for qualifying family and medical reasons. The FMLA provides eligible employees with job-protected leave and requires group health benefits to be maintained during the leave.

A. Eligibility

1. To be eligible for FMLA leave, the employee must have:
 - a. worked for Montana state government a minimum of 12 months, which need not be consecutive or served just prior to taking leave; and

- b. been in a pay status for at least 1,040 hours during the 12-month period immediately preceding the commencement of leave.
2. Hours spent in service to the National Guard, Reserves, or Uniformed Services Employment and Reemployment Rights Act (USERRA)-covered service will count toward FMLA eligibility.
3. In most cases, all time worked for the state counts towards the 12-month period, including seasonal employment. Breaks in service of seven years or longer do not count toward this entitlement unless the break in service was related to military service covered under the Uniformed Services Employment and Reemployment Rights Act or otherwise specified in a written agreement.

B. Loss of Eligibility

The employee's eligibility and protection under the FMLA ends when:

- a. an employee gives an agency unequivocal notice of the employee's intent not to return to work;
- b. the employee exhausts all FMLA leave benefits for the covered periods;
or
- c. the employee exhausts all FMLA leave and is unable to return to work.

C. Types and Duration of Leave

1. An agency will not deny employees the benefits of FMLA because they are "key employees," as that term is defined in the FMLA regulations.
2. **Basic FMLA Year: The executive branch uses** the 12-month period measured forward from the first date of leave designated as an eligible employee's FMLA leave. Under this method, an eligible employee is entitled to 12 weeks of leave during the 12-month period beginning on the first date FMLA leave is taken; the next 12-month period would begin the first time FMLA leave is taken after the completion of any previous 12-month period.
3. **Basic Leave:**
 - a. Eligible employees may take up to 12 workweeks of FMLA leave within a 12-month period for certain types of family and medical leave. The 12-month period begins on the first day an employee takes FMLA leave. Eligible employees may use leave for one or more of the following FMLA-qualifying reasons within the 12-month period:

- i. the birth of an employee's child and to care for a newborn child within one year of birth;
 - ii. the placement of a child for adoption or foster care with the employee (including counseling, consultation, court appearances, etc., prior to placement) and to care for the newly placed child within one year of placement;
 - iii. to care for the employee's spouse, son, daughter, or parent with a serious health condition;
 - iv. for the employee's own serious health condition that makes the employee unable to perform one or more of the essential functions of his or her job; or
 - v. any qualifying exigency arising when the employee's spouse, son, daughter, or parent is a military member, including members of the National Guard and Reserves and the Regular Armed Forces, on covered active duty or notified of an impending call or order to covered active duty.
- b. Eligible employees may take FMLA leave for the birth or placement of a child within 12 months of the birth or placement. Maternity leave provided by the *Maternity and Parental Leave Policy* will run concurrently with FMLA leave.
 - c. When both parents are employed by the State of Montana, both may take up to 12 weeks of FMLA leave for the birth, adoption, or placement of a foster child.
 - d. Eligible part-time employees will receive pro-rated leave based on the average weekly hours in a pay status. For example, a part-time employee who works 20 hours per week is entitled to 20 hours of FMLA leave per week for 12 weeks. An employer may convert the weeks to hours as long as the conversion equitably reflects the employee's normally scheduled hours.

4. **Serious Health Conditions:**

A serious health condition is an illness, injury, impairment, or physical or mental condition either involving an overnight stay in a hospital, hospice, or residential medical care facility or continuing treatment by a health care provider.

5. **Continuing Treatment:**

- a. The continuing treatment requirement may be met by:
 - i. a period of incapacity of more than three consecutive calendar days combined with at least two visits to a health care provider, or
 - ii. one visit and a regimen of continuing treatment, or
 - iii. incapacity resulting from pregnancy, or
 - iv. incapacity due to a chronic condition, or
 - v. permanent or long-term conditions; or

- vi. conditions requiring multiple treatments.
- b. Other conditions may meet the definition of continuing treatment. Agency staff should direct questions to their agency HR office.

6. Exigency Leave:

- a. Examples of qualifying exigencies are:
 - i. short-notice deployments (when notice is given seven or less days before deployment);
 - ii. military events and related activities;
 - iii. child care and school-related activities;
 - iv. arrangements for the care of a military member's parent who is incapable of self-care;
 - v. financial and legal arrangements;
 - vi. counseling (provided by someone other than a health care provider);
 - vii. rest and recuperation (up to fifteen days while the military member is on rest and recuperation leave);
 - viii. post deployment activities (within 90 days of the end of the military member's covered active duty); and
 - ix. any other event an employee and their supervisor agree is a qualifying exigency.
- b. Exigency activities are further described in *A Manager's Guide to the FMLA* located at: <http://www.hr.mt.gov/newresources/default.mcp> and in 29 CFR 825.126.

7. Military Caregiver Leave:

- a. In addition to the basic FMLA leave entitlement above, an eligible employee who is the spouse, son, daughter, parent, or next of kin of a covered servicemember is entitled to take up to 26 weeks of leave in a single 12-month period to care for the service member with a serious injury or illness.
- b. Leave to care for a covered servicemember will only be available during a single 12-month period and, when combined with other FMLA-qualifying leave, may not exceed 26 weeks during the single 12-month period.
- c. The 12-month period begins on the first day the employee takes leave to care for a covered servicemember, even if basic FMLA leave was taken within the 12 months prior. *A Manager's Guide to the FMLA* contains examples on determining the 12-month period.
- d. Eligible part-time employees will receive pro-rated leave based on the average weekly hours in a pay status. For example, a part-time employee who works 20 hours per week is entitled to 20 hours of military caregiver FMLA leave per week for 26 weeks. An employer may convert the weeks to hours as long as the conversion equitably reflects the employee's normally scheduled hours.

8. Covered Servicemember:

- a. A covered servicemember is:
 - i. a current member of the Armed Forces, including a member of the National Guard or Reserves, undergoing medical treatment, recuperation, or therapy, or who is in outpatient status, or is on the temporary disability retired list for a serious injury or illness; or
 - ii. a covered veteran who is a former member of the Armed forces, including the National Guard or Reserves, undergoing medical treatment recuperation or therapy for a serious injury or illness and 1) was discharged or released under conditions other than dishonorable and 2) was discharged within the five-year period prior to the first date the eligible employee takes military care leave to care for the covered veteran. (The period between enactment of the FY2010 NDAA on October 28, 2009 and the effective date of the 2013 Final Rule is excluded in the determination of the five-year period for covered veteran status.)
- b. A servicemember is considered to have a serious injury or illness if he or she incurred the injury or illness in the line of duty on active duty, and the injury or illness renders the servicemember medically unfit to perform duties of his or her office, grade, rank, or rating. A serious injury or illness also includes conditions that existed before the servicemember's active duty and were aggravated by service in the line of duty on active duty in the Armed Forces.
- c. A veteran of the Armed Forces is considered to have a serious injury or illness if the injury or illness incurred or was aggravated in the line of duty on active duty and manifested itself before or after the member became a veteran. The covered veteran's serious injury or illness must be one of the following:
 - i. a continuation of a serious injury or illness that was incurred or aggravated when the covered veteran was a member of the Armed Forces and rendered the service member unable to perform the duties of their office, grade, rank, or rating;
 - ii. a physical or mental condition for which the veteran has received a Veterans Affairs (VA) Service Related Disability Rating (VASRD) of 50 percent or greater as long as the VASRD rating is based on the condition precipitating the need for military caregiver leave;
 - iii. a physical or mental condition resulting from disability related to military service which substantially impairs the veteran's ability to secure or maintain a substantially gainful occupation or would do so absent treatment; or
 - iv. an injury, including a psychological injury, resulting in the veteran's enrollment in the Department of Veterans Affairs Program of Comprehensive Assistance for Family Caregivers.

9. Intermittent Leave or Reduced Leave Schedule:

- a. FMLA leave will usually be taken for a period of consecutive days, weeks, or months. However, eligible employees may take FMLA leave intermittently or on a reduced leave schedule, in one-half hour increments or greater, when medically necessary because of:
 - i. his or her own serious health condition;
 - ii. to care for a spouse, parent, or son or daughter with a serious health condition; or
 - iii. to care for a covered servicemember with a serious injury or illness.
- b. When requested by an agency representative, the employee must provide certification confirming the medical necessity for intermittent leave.
- c. If an employee needs leave intermittently for planned medical treatment, the employee must make a reasonable effort to schedule the treatment so it does not unduly disrupt agency operations.
- d. Eligible employees may take intermittent leave or leave on a reduced leave schedule for a qualifying exigency or following birth or adoption, subject to supervisor approval. In this case, the employee will notify his or her supervisor as soon as the need for leave is known and request a schedule that minimizes disruption of the workplace.
- e. In all cases of intermittent and reduced-schedule leaves, the agency reserves the right to transfer an employee to another position that better accommodates the employee's need for leave and the agency's operations. This decision is at the discretion of the employee's supervisor. The alternative position must have equivalent pay and benefits.

D. Agency FMLA Leave Obligations

1. General Notice Requirements:

- a. State agencies must provide employees with information about the FMLA, including information about the provisions and procedures for filing complaints for violations of the FMLA. Agencies must:
 - i. post and keep posted an FMLA notice in a conspicuous place that explains the rights and responsibilities of employees under the FMLA; and
 - ii. provide information about employee rights and obligations under this policy and the FMLA in employee handbooks or other written materials. Written materials should include the agency's requirements for requesting FMLA leave.
- b. Agencies should also provide ongoing FMLA training that includes information about any changes to the policy or the FMLA.

2. Agency Notice Requirements:

Agency representatives determine whether leave qualifies as FMLA-covered leave. Agency representatives must designate all leave meeting FMLA requirements as FMLA leave regardless of an employee's desire regarding

the designation. When an employee requests FMLA leave, or when an agency representative acquires knowledge an employee's leave may be for an FMLA-qualifying reason, three notice requirements are triggered.

- a. **Eligibility Notice:** The agency representative must notify employees about their eligibility to take FMLA leave within five business days. Employees requesting FMLA leave are entitled to receive written notice from the agency notifying them whether they are eligible for FMLA leave and, if not eligible, the reasons why they are not eligible.
- b. **Rights and Responsibility Notice:** The rights and responsibility notice may be included with the eligibility notice and must:
 - i. state the leave may be designated as FMLA leave;
 - ii. include the state's 12-month period;
 - iii. describe any certification requirements;
 - iv. state the employee's right to substitute paid leave;
 - v. state the requirement to use accrued sick and other leave concurrently with FMLA leave, according to Paragraph F, below.
 - vi. notify the employee of his or her responsibility to continue paying the employee's portion of insurance premiums; and
 - vii. reaffirm the employee's right to return to their position with the same benefits they received prior to using FMLA-qualifying leave;
 - viii. notify of the employee's potential liability for payment of health insurance premiums paid by the employer if the employee fails to return to work after taking FMLA leave.
- c. **Designation Notice:** Agency representatives must provide a written designation notice for each FMLA-qualifying reason within an applicable 12-month period. When an agency representative has enough information to determine whether an employee's leave is FMLA-qualifying, they must notify the employee within five days. The designation notice must include:
 - i. the agency's designation determination;
 - ii. any fitness-for-duty requirements; and
 - iii. the amount of leave, if known, that will be counted against the employee's FMLA leave entitlement.

3. Recordkeeping Requirements:

Agency representatives must make, keep, and preserve records under the FMLA for no less than three years. These records are usually maintained in the agency's payroll or human resource offices or in the central payroll system. The following must be kept in accordance with the requirements of the FMLA, Fair Labor Standards Act (FLSA), Genetic Information Non-Discrimination Act (GINA), and Americans with Disabilities Act (ADA):

- a. basic payroll and identifying employee data and compensation details;
- b. dates FMLA leave is taken by eligible employees;
- c. if leave is taken in less than full days, then the hours taken;

- d. copies of notices given by employees and the agency (these copies may be maintained in the employee's personnel file);
- e. policies describing employee benefits and the practice of taking paid and unpaid leave;
- f. premium payments of employee benefits;
- g. disputes between the agency and employee regarding the designation of leave as FMLA leave;
- h. GINA notice requirements: Agency managers must include the safe-harbor language required by the GINA regulations on all certification requests. This language should also be included in any documents addressed to a medical professional or the employee when any type of medical information is requested or may be disclosed;
- i. agency representatives should not ask employees probing questions about the FMLA-qualifying event that may elicit genetic information about an employee or an employee's family members. See the Non-Discrimination EEO Policy (2.21.4001 et seq., ARM) for further guidance; and
- j. records or documents relating to the employee or the employee's family's certifications.***These records will be maintained as confidential medical records in separate files from the usual personnel files and maintained according to ADA and GINA confidentiality requirements. See the Employee Records Management Policy (2.21.6601 through -.6622, ARM) for further guidance.

E. Employee FMLA Leave Obligations

1. Employee Notice of Leave Requirements:

- a. An employee requesting FMLA leave must provide:
 - i. at least a 30-day advance oral or written notice of the need to take FMLA leave when the need is foreseeable; or
 - ii. timely notice, as soon as possible and practical, when the need for FMLA leave is not foreseeable; and
 - iii. sufficient information for the employer to understand the leave is for an FMLA-qualifying reason.
- b. The following sections provide direction as to the content and timing of employee notices.

2. Content of Employee Notice:

- a. To trigger protections under the FMLA, employees must inform their agency representative of the need for FMLA-qualifying leave. Employees must also notify the agency of the anticipated timing and duration of leave, if known.
- b. Employees can do this by specifically requesting FMLA leave or explaining the reason for the leave so the agency representative can

make a determination if the leave is FMLA-qualifying. For example, employees might explain that:

- i. a medical condition renders them unable to perform the functions of their job;
 - ii. they are pregnant;
 - iii. they have been hospitalized overnight;
 - iv. they or a covered family member are under continuing care of a healthcare provider;
 - v. the leave is because of a qualifying exigency caused by a military member being on covered active duty or notified of an impending call or order to covered active duty; or
 - vi. the leave is for a family member unable to perform daily activities or the family member is a covered servicemember with a serious injury or illness.
- c. Calling in “sick” without providing the reasons for the needed leave will not be considered sufficient notice for FMLA leave under this policy.
 - d. Employees are expected to respond to the agency’s questions to determine if absences are potentially FMLA-qualifying.
 - e. When the agency representative receives enough information to determine the leave qualifies as FMLA, the agency representative must retroactively designate the leave as FMLA, provided the agency notifies the employee about the designation.
 - f. If an employee fails to provide enough information to make a determination, the agency may deny the leave.
 - g. Employees who are seeking additional leave because of a previously-qualified FMLA reason and who have not exhausted their FMLA leave benefits must continue to provide sufficient information to agency representatives so the agency may properly record, account for, and track the use of FMLA leave.
 - h. Employees should never provide genetic information when responding to a request for FMLA medical certification. GINA prohibits employers from requesting or requiring genetic information of an individual or family member of the individual, except as specifically allowed by this law.

3. Timing of Employee Notice:

- a. Employees must provide 30 days’ advance notice of the need to take FMLA leave when the need is foreseeable.
- b. If 30-days’ notice is not possible, or the approximate timing of the need for leave is not foreseeable, employees must provide the agency notice of the need for leave as soon as practicable under the facts and circumstances of the particular case.
- c. Employees must comply with their agency’s customary notice requirements for requesting leave, absent unusual circumstances.

- d. An agency may delay or deny FMLA coverage if the employee fails to provide notice, without a reasonable reason for the delay, or otherwise fails to satisfy FMLA-notice obligations.
- e. An employee who requests intermittent leave or a reduced leave schedule will notify his or her supervisor as soon as the need for the leave is known.

4. Scheduling of Planned Medical Treatment and Intermittent Leave or Reduced Leave Schedules:

- a. Employees must consult with their agency representative and make a reasonable effort to schedule medical treatment so it does not unduly disrupt the agency's operations. The employee's health care provider must approve treatment schedules.
- b. An agency representative may temporarily transfer an employee during the period of the intermittent or reduced-leave schedule to an alternative position for which the employee is qualified. The alternative position must have equivalent pay and benefits and better accommodate the recurring periods of leave.
- c. Employees seeking intermittent or reduced-schedule leave for reasons unrelated to planned medical treatment must advise their agency representative of the reason for the leave. In such cases, the agency representative and employee will develop a leave schedule meeting the employee's needs without unduly disrupting the agency's operations.
- d. Intermittent or reduced schedule FMLA leave for childbirth or placement of a child for adoption or foster care is subject to supervisor approval.
- e. Employees must provide reasonable and practicable notice to an agency representative when requesting intermittent leave or a reduced leave schedule because of a qualifying exigency.

5. Medical Certifications Supporting Need for FMLA Leave:

- a. Depending on the type of leave requested, employees may be required to submit medical certifications supporting their need for FMLA-qualifying leave. Employees may be required to provide medical certification for their own serious health condition, to care for a family member with a serious health condition, because of a qualify exigency, or to care for a covered service member with a serious injury or illness.
- b. Three types of FMLA medical certifications exist: an initial certification, a recertification, and a return-to-work or fitness-for-duty certification (refer to FMLA guide for more information on recertification and fitness-for-duty certification).
- c. The employee is responsible for providing an agency representative with timely, complete, and sufficient medical certifications. When the agency representative requests employees provide FMLA certifications, employees must provide the requested certification within 15-working days after the agency's request unless it is not practicable to do so

despite an employee's diligent, good-faith efforts. Employees must keep an agency representative informed of any delays in providing the appropriate FMLA certification and when they can reasonably expect to receive the certification.

6. Incomplete or Insufficient Medical Certifications:

- a. An agency representative will inform an employee in writing if his or her medical certification is incomplete or insufficient. The written notice must identify the specific information required.
- b. Employees will have seven working days to correct incomplete or insufficient certifications. Agency representatives may deny FMLA leave for employees who fail to correct deficiencies in a timely manner or otherwise fail to timely submit requested medical certifications or furnish the healthcare provider providing the certification with authorization to release a sufficient and complete certification.

7. Authenticating or Clarifying Information on a Medical Certification:

- a. Agency representatives may not request additional information from an employee's health care provider once the employee has provided a complete and sufficient certification. However, an agency representative (not the employee's direct supervisor) may contact an employee's health care provider to authenticate or clarify a completed and sufficient medical certification. The agency representative may verify the health care provider completed or authorized information on the certification, clarify handwriting on the form, or clarify the meaning of a response to a question on the form.
- b. An agency representative may deny FMLA leave if certifications are unclear and the employee chooses not to provide the agency representative with sufficient and complete certification.
- c. An agency representative may waive its right to receive timely, complete, and sufficient FMLA medical certifications, as it deems appropriate.

8. Second and Third Medical Opinions:

- a. Agency representatives may request a second opinion if they doubt the validity of the medical certification for a serious health condition. Agency representatives will select the health care provider for the second opinion.
- b. If the first and second opinions agree, agency representatives must accept the second opinion. If they disagree, the agency representatives and the employee must jointly select the health care provider for the third opinion. The third opinion is final and binding.
- c. The agency must pay for the second and third opinion as well as reasonable out-of-pocket travel expenses incurred by the employee.

- d. An employee may request copies of the second and third medical opinions. Agency representatives must provide the opinions within five business days of the request.

9. Certifications Supporting the Need for Exigency FMLA Leave:

- a. Upon request, employees seeking qualifying exigency leave may be required to provide:
 - i. a copy of the military member's covered active-duty orders or call to covered active-duty status, and
 - ii. a certification from the employee setting forth information concerning the nature of the qualifying exigency for which the leave is requested.
- b. An agency representative may request the covered active-duty orders only once. Subsequent separate calls to covered active duty may constitute a new request for exigency FMLA leave.
- c. An employee who provides optional Form WH-384 may not be required to provide additional certification.

10. Certifications Supporting Need for Military Caregiver FMLA Leave:

- a. Agency representatives may require employees to obtain certifications completed by authorized health care providers when military caregiver leave is taken. Authorized health care providers may include Department of Defense, VA, TRICARE network and non-network health care providers, or non-military-affiliated health care providers. The agency representative may request the certification include additional information confirming an eligible employee's entitlement to military caregiver leave. Agency representatives may request second or third opinions if the healthcare provider completing the certification is not affiliated with DOD, VA, or TRICARE.
- b. The employee may use WH-385 or WH-285-V to ensure certification meets FMLA requirements.
- c. An employee who provides an international travel order or authorization (ITO or ITA) may not be required to provide additional certification.

F. Substituting Paid Leave for Unpaid FMLA Leave

- 1. Employees may elect to use any accrued paid time while taking unpaid FMLA leave. Use of some paid leave may be required as described below.
- 2. The substitution of paid time for unpaid FMLA leave time does not extend the length of FMLA leave. Paid time off will run concurrently with an employee's FMLA leave entitlement.

3. **Annual Leave:** As provided in 2-18-615, MCA, agencies may not require employees to take accrued annual leave concurrently with FMLA leave if the reason for absence is illness. However, the employee may do so voluntarily.
4. **Required Use of Sick Leave:**
 - a. Employees taking FMLA leave for purposes that also qualify for use of sick leave will be required to take a minimum of 20 hours of accrued sick leave each week, concurrently with FMLA leave, except as provided below. The 20-hour requirement will be prorated for part-time employees based on either:
 - i. The part-time employee's regular schedule at the time the employee is on a FMLA-qualified absence; or
 - ii. The average amount of time the employee is in a pay status when agency management cannot determine or has not assigned a regular schedule.
 - b. The employee may also be eligible to use sick leave fund benefits concurrently with FMLA leave.

5. **Workers Compensation**

Leaves of absence taken in connection with a workers' compensation injury or illness will run concurrently with any FMLA leave entitlement. Once FMLA leave expires, employees will be responsible for self-paying the state share in order to maintain health benefit eligibility."

6. **Required Use of Banked Holidays**

Agency representatives may require employees to use banked holidays. Banked holidays will run concurrently with FMLA leave.

7. **Required Use of Compensatory Time**

Agency representatives may require employees to use accrued exempt and nonexempt compensatory time (as defined under the FLSA) concurrently with all types of FMLA-approved leave.

G. Benefits During Leave

1. **Employee's Share of Insurance Benefits:**

- a. Employees on approved FMLA leave are entitled to continue insurance benefits under the same conditions as if they had continued to work.
- b. The agency will continue to pay the state contribution towards the cost of the employee's insurance while the employee is on approved FMLA leave.
- c. If the employee is receiving pay from the agency during the FMLA leave, the agency will continue to deduct the employee portion of the insurance

premiums from the employee's paycheck in the same manner as if the employee was actively working.

- d. If the leave is unpaid, the employee is required to continue to pay the employee portion of any insurance premiums normally deducted from the employee's paycheck. The employee will pay such amount on or before the due date determined by the Health Care and Benefits Division. A check payable to the State of Montana should be sent to:

Health Care and Benefits Division
100 N Park Avenue, Suite 320
P.O. Box 200130
Helena, MT 59620-0130

- e. If coverage lapses because an employee has not made his or her share of the required payments, upon the employee's return to work, the agency will restore the employee and their dependents to coverage/benefits equivalent to those the employee would have had if leave had not been taken and payments had not been missed. The employee may elect to remove dependent coverage/benefits by completing and returning an enrollment/change form, either before or within 30 days of the date that he or she returned to work.
- f. If an employee fails to return to work for 30 calendar days after the leave entitlement has been exhausted, the agency may recover the cost of any insurance benefits provided during FMLA leave.
- g. The employee will not be required to reimburse the agency if there is a recurrence or onset of a serious health condition or, in the opinion of agency management, there is a change of circumstances beyond the employee's control.

H. FMLA Leave on Holidays

1. Employees may be paid holiday pay while on FMLA leave if they meet the requirement of the Holiday Policy.
2. If an employee takes intermittent leave during a week a holiday occurs, the holiday is not counted towards the employee's FMLA entitlement unless the employee was scheduled to work the holiday and takes the day off for an FMLA-qualifying reason.
3. If an employee is using leave for the entire week, agency representatives will count the entire week including the holiday as FMLA leave.

I. Return to Work or Reinstatement

1. An employee taking leave under this policy will be returned to the employee's same position or to an equivalent position, unless the employee would have been terminated for reasons unrelated to the FMLA leave of absence.
2. FMLA leave will not result in any loss of benefits or conditions of employment accrued prior to the beginning of the leave period unless the benefit or condition of employment has been discontinued for other agency employees during the FMLA leave. For example, an agency may discontinue employee benefits during a reduction in force lasting more than six months.

J. Employees Who Are Unable to Return to Work

If an employee is unable to return to work because of his or her own serious health condition, agency representatives must consider the implications of ADA.

K. Transfers

If an employee transfers between agencies, the record of any FMLA leave taken will transfer with the employee and will count toward an employee's FMLA leave entitlement in the new agency.

L. Abuse of FMLA

FMLA leave abuse occurs when an employee uses leave for unauthorized purposes or misrepresents the actual reason for charging an absence to FMLA leave. Abuse is cause for discipline, up to and including discharge.

M. Enforcement Mechanisms

1. An employee who determines that an agency has violated the FMLA may either:
 - a. file a complaint with the U.S Secretary of Labor, or
 - b. file a lawsuit.
2. Complaints should be filed within a reasonable time and may not be filed more than two years after the last action the employee contends was in violation of the FMLA or more than three years if the violation was willful.
3. A complaint to the Secretary of Labor may be made in person, by telephone, or by mail with the Wage and Hour Division, Employment Standards Administration, U.S. Department of Labor. No particular format is required. The complaint must be in writing and include a full statement of acts and omissions which are believed to constitute a violation. The complaint must include all pertinent dates.

4. An employee may recover wages, benefits, or other compensation denied, or actual monetary loss sustained by the employee as a direct result of being denied leave. When appropriate, the employee may be reinstated and promoted. If the employer is found in violation, the employee may recover reasonable attorney fees and other costs of the action.
5. An employee may have additional enforcement rights under a collective bargaining agreement.

IV. Definitions

All definitions contained in the FMLA and 2-18-101, MCA, apply to this policy. The following definitions also apply:

Agency Representative: The employee's immediate supervisor, agency upper management or agency HR personnel, or as defined in an agency policy.

Child: A biological, adopted, or foster child, stepchild, legal ward, or a child of a person standing in loco parentis who is either under age 18 or age 18 or older and "incapable of self-care because of a mental or physical disability" at the time the FMLA leave is to commence. The term "child" who is a "covered service member" for purposes of exigency leave or military caregiver leave includes sons and daughters of any age.

Continuing treatment: A serious health condition by a health care provider includes any one or more of the following: incapacity and treatment, pregnancy or prenatal care, chronic conditions, permanent or long-term conditions, or conditions requiring multiple treatments.

Covered Active Duty: In the case of a member of a regular component of the Armed Forces, it means duty during the deployment of the member with the Armed Forces to a foreign country. In the case of a member of a reserve component of the Armed Forces, it means duty during the deployment of the member with the Armed Forces to a foreign country under a call or order to active duty under section 101(a)(13)(B) of title 10, United States Code.

Genetic information: As defined by GINA, includes an individual's family medical history, the results of an individual's or family member's genetic tests, the fact that an individual or an individual's family member sought or received genetic services, and genetic information of a fetus carried by an individual or an individual's family member or an embryo lawfully held by an individual or family member receiving assistive reproductive services.

Inpatient care: An overnight stay in a hospital, hospice, or residential medical care facility, including any period of incapacity as defined in (29 CFR) 825.113(b), or any subsequent treatment in connection with such inpatient care.

Incomplete certification means one or more of the applicable entries on the certification form have not been completed.

Insufficient certification means the information provided on the certification form is vague, unclear, or non-responsive.

Intermittent leave: FMLA leave taken in separate blocks of time because of a single qualifying reason.

Next of kin of a covered service member: Nearest blood relative other than the covered service member's spouse, parent, son, or daughter, in the following order of priority: Blood relatives who have been granted legal custody of the covered service member by court decree or statutory provisions, brothers and sisters, grandparents, aunts and uncles, and first cousins, unless the covered service member has specifically designated in writing another blood relative as his or her nearest blood relative for purposes of military caregiver leave under the FMLA. When no such designation is made, and multiple family members have the same level of relationship to the covered service member, all such family members will be considered the covered service member's next of kin and may take FMLA leave to provide care to the covered service member, either consecutively or simultaneously. When such designation has been made, the designated individual will be deemed to be the covered service member's only next of kin.

Parent and parent of a covered service member: A biological parent or any other individual who stood *in loco parentis* to an employee, when the employee was a son or daughter as defined in law. The terms do not include parents "in law."

Parent of a military member: A biological parent or any other individual who stood *in loco parentis* to a military member, who is an employee's spouse, son, daughter or parent.

Pay status: The employee is being paid for hours worked or for annual leave, sick leave, or other paid leave, sick leave fund grants, holidays, or compensatory time.

A reduced leave schedule: A leave schedule that reduces an employee's usual number of working hours per workweek or per workday.

Serious injury or illness: An injury or illness incurred by the covered service member in the line of duty on covered active duty that may render the service member medically unfit to perform the duties of his or her office, grade, rank, or rating.

Serious health condition: An illness, injury, impairment, or physical or mental condition that involves inpatient care or continuing treatment by a health care provider.

Spouse: A husband or wife, as defined or recognized under state law for purposes of marriage in the state where the employee resides, including common law marriage.

V. References

The State Human Resources Division publishes a guide designed to assist human resource professionals and managers in Montana state government in administering the FMLA. The guide is available at <http://hr.mt.gov/newresources/default.mcp>.

The US Department of Labor provides several resources and forms which are helpful in complying with the FMLA. They can be found at <http://www.dol.gov/whd/forms/index.htm>.

Montana State Library Commission Policy

Position Classification

Under a Delegation of Classification Authority Letter of Agreement signed by the Director, Department of Administration, and the State Librarian, the responsibility for classification of State Library positions has been delegated to the State Librarian.

It is the policy of the State Library Commission that position classification by the State Librarian will be accomplished with assistance from the State Personnel Division, the division manager in direct line of supervision over the position being classified, and the agency personnel officer. The State Library will ensure proper training for division managers. The agency may initiate a classification review of any position or class. An employee may also request a classification review as follows.

An employee's request for a classification review must be approved by his or her supervisor and division manager, who will consider the following criteria in granting a review:


- 1) Length of time since last review;
- 2) Changes in position duties, Knowledge, Skills and Abilities (KSA requirements, or supervision received or exercised;
- 3) Changes or revision in implementation of the classification system.

If the supervisor and division manager agree that the position warrants a review based on any or all of the criteria, they will convey the request, the reason for the request, and a signed current position description to the State Librarian. The State Librarian will approve or disapprove the request and convey this decision to the personnel officer, division manager, and supervisor.

If approved, the personnel officer will send the position description and all other necessary documentation to the State Personnel Division or to an independent qualified contractor for an analysis and a recommendation, based on the Benchmark Factoring Methodology. The State Library shall forward the contractor's analysis and recommendation to the Personnel Division for their review. The Personnel Division will return the results of the review to the State Library. The division manager and the personnel officer will review the results and make a recommendation to the State Librarian, who will decide and certify that the action will not cause the State Library to exceed its appropriation, within thirty calendar days of receiving the review from the Personnel Division.

Any employee who disagrees with a decision made during the classification process can appeal informally in writing directly to the State Librarian, within ten working days of the decision. The appeal shall include the exact reasons for the disagreement. The State Librarian will have the option of responding directly to the appeal or referring it to the division manager and the personnel officer for reconsideration. The State Librarian will respond to the appellant within ten working days of receipt of the appeal. That response will complete the informal appeals process.

Any employee who is unsatisfied with the results of the informal appeal may obtain a state employee classification and appeal form and follow the formal grievance procedure outlined in ARM 24.26.501 through 24.26.530.

	Montana Operations Manual Policy	Category	Human Resources/ Employee Benefits
		Effective Date	01/29/2010
		Last Revised	06/04/2013
Issuing Authority	Department of Administration State Human Resources Division		
Broadband Classification Policy			

I. Purpose

This policy provides guidelines and requirements for the broadband classification plan according to Sections 2-18-201 through 2-18-209, MCA.

II. Scope

This policy covers all employees in Montana's executive branch except the Montana University System, the Montana State Fund, elected officials, personal staff of elected officials, and any other position specifically excluded under [2-18-103](#) and [-104](#), MCA.

Agencies must follow the provisions of this policy unless they conflict with collective bargaining agreements, which will take precedence to the extent applicable.

III. Procedures

The Department of Administration ("department") creates, reviews, and maintains the procedures and standards for classifying positions under the broadband classification plan. The classification method for the broadband classification plan is known as the benchmark factoring methodology.

A. Classification Standards

1. The department shall adopt an effective date for the use of each new or revised classification standard. The effective date of the standard may be retroactive provided the department notifies agencies in writing. Agency managers and human resources personnel may provide input and comment on all new or revised classification standards.
2. Positions under the broadband classification plan must be classified using three standards established by the department. Standards for the

broadband classification plan are factor levels, occupational descriptions, and benchmarks.

3. Factor level determines the pay band under the broadband classification policy. Methods for determining the factor level are detailed in the Broadband Classification Manual.
4. Occupational descriptions are established based on criteria from the U.S. Department of Labor's Standard Occupational Classification (SOC) system. Current occupational descriptions are available from the department.
5. Procedures for determining a position's occupation are detailed in the Broadband Classification Manual.
6. The department establishes and maintains written benchmark standards. All classifications must be verified and supported by comparisons to published benchmarks. The department may suspend or retire a benchmark. Suspended or retired benchmarks may not be used for classification purposes.
7. The department shall consult with bargaining representatives before making adjustments to classification standards affecting positions covered by collective bargaining agreements.

B. Classifying Positions

Each position in the broadband classification plan must be classified using procedures and standards outlined in this policy. Positions under the broadband classification plan must be:

- a. properly classified before they are filled;
- b. reviewed regularly to comply with job description standards;
- c. documented and filed with the department.

C. Delegating Classification Authority

The department shall delegate classification authority to agencies demonstrating acceptable performance with the provisions of the plan. Agencies with more than 100 employees must obtain delegation authority. A written agreement between the department and agency shall detail the extent of authority, provide

guidelines, and outline procedures. Agencies with delegation authority shall be responsible for:

- a. remaining in compliance with the terms of the delegation agreement, policies, procedures, timetables, and standards established by the department; and
- b. basing classification actions on the recommendations of a trained classifier.

D. Classification Reviews

The department has the responsibility of maintaining the classification system's integrity. Therefore, the department may correct a position's classification upon request by agencies, or upon the department's review. The department may correct a position's classification when it identifies:

- a. incomplete or erroneous information about essential job duties; or
- b. inconsistent application of the classification procedures or standards within an agency

If the department identifies a pattern of improper classifications or application of the classification procedures, the department may remove classifiers from the list of trained classifiers. The department may also withhold, suspend, or revoke delegated classification authority from an agency until the underlying classification problems are resolved.

E. Contracting with Consultants

1. Agencies may seek the assistance of a consultant to perform job analyses, write job descriptions, and recommend classifications. Consultants providing classification recommendations shall use the department's current classification methodology.
2. Each classification recommendation submitted by a consultant must include the job description, job evaluation, organizational chart, and all supporting information.
3. A trained classifier employed by either a delegated agency or the department shall review and approve all classification recommendations made by consultants before those recommendations can be implemented.

F. Trained Classifiers

The department provides training for the methods used to classify positions. Individuals who meet all training requirements may achieve classifier status. To maintain classifier status, classifiers shall:

- a. review new standards issues by the department;
- b. participate in training updates; and
- c. remain in compliance with methods and procedures set by the department.

G. Job Descriptions

1. Agency management shall assign the position work and write accurate job descriptions. Managers and supervisors shall update and review job descriptions. Agency classifiers may either assist managers in writing job descriptions or write the job description for management approval.
2. Agency classifiers who assist managers in writing job descriptions may also classify those job descriptions. Assistance includes:
 - a. reviewing the job description for compliance;
 - b. clarifying wording; and
 - c. grouping tasks.
3. Agency classifiers who write the job description independently may not also independently classify the position. For these job descriptions, the agency classifier shall:
 - a. request that another agency classifier classify the position;
 - b. request a different classifier; or
 - c. request the department to approve the agency classifier's evaluation.

H. Reclassifications

1. Reclassification requests must be based on the methods and procedures in effect at the time of the request. Two types of reclassification requests may occur.
 - a. **Change in method** – If a change in method occurs, agency classifiers shall review all affected position classifications. If the change in method results in a change in classification, the effective date of the new classification is the date the new method is applied to the position.
 - b. **Change in position duties** – A manager may request a reclassification due to a change in the duties of the position. When a position is reclassified to a different job code because of a change in the duties and

responsibilities, the effective date of the new classification is the date the agency designee signed the reclassification request.

2. Any resulting change in pay is governed by the Broadband Pay Policy.

I. Classification Appeals

1. Under [2-18-203](#) (2), MCA, employees and/or their exclusive bargaining representatives may appeal the classification assigned to their position. Employees and/or their exclusive bargaining representatives may not appeal the pay band assigned to occupations or to published benchmarks. The Board of Personnel Appeals, Montana Department of Labor and Industry, sets appeal rules under ARM [24.26.508](#).
2. Issues that do not directly affect the position's classification are not appropriate for a classification appeal. These issues may be subject to internal complaint procedures.
3. Awards for retroactive pay as a result of an appeal decision may not exceed the date the agency designee signed the reclassification request. If the agency designee did not sign a reclassification request before the employee files an appeal, awards of retroactive pay may not exceed 30 days prior to the date the employee signed the Employee Classification and Wage Appeal Form issued by the Board of Personnel Appeals, Department of Labor and Industry.
4. The department shall apply the classification method in effect at the time the appeal is filed unless a review of the classification standard is in progress. The department must complete the review of the classification standard before addressing the appeal.

IV. Resources

- A. State Employee Classification, Compensation, and Benefits, [2-18-201](#), MCA, et al.
- B. Classification Appeals, [ARM 24.26.501](#) et seq.
- C. The Broadband Classification Manual, <http://hr.mt.gov/Portals/78/guidesandforms/Classification%20Manual%20Final.pdf>.
- D. Benchmarks, <http://mine.mt.gov/personnel/officers/default.mcp>

E. Market Analysis and Montana-Specific Occupational Descriptions – contact Bonnie Shoemaker at bshoemaker@mt.gov

F. Job Code Inventory – contact Bonnie Shoemaker at bshoemaker@mt.gov

V. Definitions

All definitions under [2-18-101](#), MCA, apply to this policy. The following definitions also apply:

Benchmark Factoring Methodology: A method of classifying work using comparisons to benchmark descriptions, occupational descriptions, and job evaluation factors.

Classification: A process of evaluating the work performed in a given position to determine the appropriate occupation and pay band.

Classification Standards: The classification manual, including the factor levels, benchmarks, and the occupational descriptions, that form the basis for the evaluation of the work performed in a given position.

Factor Level: A measure of the predominant-duty complexities for the position.

Job Code: The unique identifier of an occupation and pay band used by the department and based on the U.S. Department of Labor’s Standard Occupational Classification (SOC) system, maintained by the Bureau of Labor Statistics.

Job Evaluation: A written decision justifying the classification determination.

Occupational Description: A written standard identifying the type of work performed in a typical position of an occupation. Occupational descriptions provide typical work assignments, common working titles, and other information used to describe an occupation.

Standard Occupational Classification (SOC): The SOC is a national job classification system developed by the federal government that lists occupations in which work is performed for pay or profit and excludes occupations that are unique to volunteers. Occupations are classified based upon the work performed with consideration given to required skills, education, training, or credentials.

Trained Classifier: A person who effectively applies the benchmark factoring methodology after successfully completing department-provided training, who demonstrates the ability to make accurate classification decisions, and who is included on the list of approved classifiers maintained by the department.

Montana State Library Commission Policy

Reduction in Force

To supplement Policy 3-0155 This policy of the Montana State Library Commission is to supplement those established by Montana State government to provide for "Reduction in Work Force" as defined in Policy 3-0155.

It is the intent of the Montana State Library Commission that reductions in force be based on mandated programs as defined by Montana statutes and Administrative Rules and by agency priorities as determined by the Commission.


The State Librarian shall prepare a reduction in force plan for presentation to the Commission whenever:

1. Legislative or Executive Action requires a reduction in force or personnel reassignment; or
2. there is reduction or elimination of funds received from the federal government; or
3. there is reduction or elimination of funds received from state government; or
4. the Commission takes action to establish new priorities, objectives, or programs which affect levels and assignments of personnel; or
5. there is a need to eliminate or consolidate positions or a need to reorganize the State Library; or
6. there is any other reason that the Commission requests the State Librarian to do so.

Criteria to be used by the State Librarian in the preparation of a reduction in force plan:

1. Language and intent of Legislative or Executive actions requiring a reduction in force or personnel reassignment.
2. Statutory charges to the Montana State Library Commission as given in Montana Code Annotated and accompanying Administrative Rules.
3. Statements of priorities, goals and objectives, motions in force, planning documents, or other records of or actions by the Montana State Library Commission that could reasonably be interpreted as affecting reduction in force.
4. Program evaluations documents and statistical data.

Upon approval of the plan by the Montana State Library Commission, the State Librarian shall implement the plan as specified by the Department of Administration Policy 3-0155.

	Montana Operations Manual <i>Policy</i>	Category	Human Resources/ Employee Benefits
		Effective Date	11/15/2010
		Last Revised	05/02/2013
Issuing Authority	Department of Administration State Human Resources Division		
Implementing a Reduction in Force Policy			

I. Purpose

This policy establishes uniform agency procedures for conducting a reduction in work force in Montana state government.

II. Scope

This policy covers all employees in Montana's executive branch except the Montana University System, the Montana State Fund, elected officials, personal staff of elected officials, and any other position specifically excluded under [2-18-103](#) and [-104](#), MCA.

Agencies must follow the provisions of this policy unless they conflict with collective bargaining agreements, which will take precedence to the extent applicable.

III. Procedures

When reducing the workforce, agency managers shall consider the programs they administer and the staff structure that most efficiently accomplishes the agency's program objectives. Agency managers shall consider employees' skills, qualifications (including performance), and length of continuous service, among other factors, when making reduction-in-workforce decisions.

Agency managers must provide laid-off employees with the required notice, benefits, and reinstatement rights as provided in this policy and by law.

A. Skill Assessment

Agency managers shall first assess the skills and qualifications (including past performance) of employees when making reduction decisions. When making reduction-in-force decisions, managers should consider the following in relation to the remaining positions:

- a. employees' qualifications and experience in performing the duties of the remaining positions;
- b. employees' qualifications and experience that benefit the agency's future goals and objectives;
- c. employees' skills to perform the specific tasks assigned to the retained positions; and
- d. employees' performance history.

B. Length of Service

If the skills assessment does not adequately distinguish between employees, agency managers shall then consider the employees' continuous length of service to make the decision.

C. Veterans' Preference

During a reduction in force, agency managers shall apply veterans' employment preference according to the provisions of [39-29-111](#), MCA, and ARM [2.21.3623](#). Veterans' preference does not apply to a position covered by a collective bargaining agreement.

D. Employee Notice

1. Agency managers shall provide notice to the employee and/or the employee's collective bargaining agent as soon as possible and with written notice as follows:
 - a. at least 60 days in advance when 25 or more employees are affected; or
 - b. at least 14 days in advance when fewer than 25 employees are affected ([2-18-1206](#), MCA).
2. Collective bargaining agreements may contain greater notice requirements and will supersede the above notice requirements.

E. Layoff or Leave Without Pay

When agency managers anticipate the reduction will be more than 15 working days, they shall layoff the affected employees through a reduction in force. If they anticipate the reduction will last 15 working days or less, they shall place the employees in a leave-without-pay status.

F. Prohibitions

Agency managers may not use a reduction in force as an alternative to discharging an employee for cause or for other disciplinary purposes. Agency managers shall refer to the Disciplinary Handling Policy when disciplining or terminating employees for cause ([ARM 2.21.6505](#) et seq.).

G. Employee Benefits

1. An employee who is laid off because of a reduction in force may choose either:
 - a. retirement benefits provided in statute at [19-2-706](#), MCA, if eligible; or
 - b. State Employee Protection Act benefits provided in statute at [2-18-1201](#) et seq., MCA.

2. Retirement Benefits
 - a. A laid-off employee who chooses the retirement benefits must be eligible for normal or early retirement as a member of the public employees', game wardens' and peace officers', sheriffs', firefighters' unified, or highway patrol officers' retirement systems.
 - b. The agency is required to contribute a portion of the total cost of up to three years of additional service that the laid-off employee is qualified to purchase ([19-3-513](#), MCA). A laid-off employee may elect to pay the difference, if any, between the total actuarial cost and the agency contribution. If the employee does not pay the difference, the agency's contribution may not cover the total years of service the employee is eligible to purchase.

3. State Employee Protection Act Benefits
 - a. A laid-off employee who chooses State Employee Protection Act benefits is entitled to the following:
 - i. access to any job training and career-development programs offered by the state, provided the employee begins participation within one year after the employee's effective layoff date;
 - ii. inclusion in a special job registry for two years from the employee's effective layoff date or two years from the employee's completion of job training, whichever is later; and
 - iii. continuation of coverage by the state's group health insurance plan including the agency's contribution to the employee's insurance premium for six months from the employee's effective layoff date or until the employee becomes employed, whichever occurs first.

- b. Additionally, a laid-off employee who chooses State Employee Protection Act benefits and who is subsequently transferred to or applies for and accepts a different position in any state agency is also entitled to:
 - i. the same hourly pay rate as previously received if the new position is in the same occupation and pay band or a higher pay band than the position the employee previously held;
 - ii. retain all accrued sick-leave credits. Sick-leave credits are not transferred when an employee accepts temporary or short-term employment in another state agency;
 - iii. retain annual-leave credits, cash-out annual-leave credits, or use accrued-leave credits to extend the employee's layoff date. Annual-leave credits are not transferred when an employee accepts temporary or short-term employment in another state agency; relocation expenses as provided in the hiring agency's policy;
 - iv. longevity restoration for years of continuous employment back to the effective layoff date;
 - v. permanent status; and
 - vi. a waiver of the qualifying period for use of annual and sick leave. Any leave the employee elected to retain transfers to the hiring agency
4. A laid-off employee who elects to retain sick leave, annual leave, or both may subsequently submit a written request to cash out the leave at any time during the one-year reinstatement period or the State Employee Protection Act benefit period. At the end of the State Employee Protection Act benefit period, provided the employee elected these benefits, agency managers must cash out all leave balances and effectively terminate the employment relationship.
5. An employee affected by a reduction in force may compete for a position as an internal applicant in the original employing agency for one year from the employee's effective layoff date. The agency is not required to offer the position internally if the agency's policy or usual practice would not require it.
6. Montana state government may elect to provide severance pay and a retraining allowance to laid-off employees ([2-18-622](#), MCA). Severance pay and retraining allowances are mandatory subjects of bargaining in work units covered by collective bargaining agreements.

H. Job Registry

1. The State Human Resources Division administers the job registry. A laid-off employee who chooses to participate in the job registry must complete the Job Registry Participant Information Form and a State of Montana

Employment Application and email to the Job Registry Coordinator. Agency managers are encouraged to consider laid-off employees included in the job registry before recruiting from the public.

2. A laid-off employee who is hired from the job registry and accepts permanent or seasonal employment with any agency is entitled to all the protections outlined in section G(3) of this policy.
3. A laid-off employee who accepts permanent employment at a lower hourly salary or who accepts seasonal, temporary, or short-term employment may continue participation in the job registry. An employee's eligibility to participate in the job registry ends when:
 - a. the employee secures employment with an hourly salary equal to or higher than the position from which the employee was laid off;
 - b. an employee notifies the State Human Resources Division in writing that he or she no longer wishes to participate; or
 - c. two years have elapsed, either since the employee's effective date of layoff or since the date of the employee's completion of job training whichever is later ([2-18-1203](#), MCA).
4. The public employment hiring preferences for veterans, persons with disabilities, and American Indians do not apply when agencies consider participants from the job registry because it is not an initial hiring ([39-30-103](#), MCA).
5. When an agency hires a job-registry participant, the agency shall notify the State Human Resources Division.

I. Reinstatement

1. Agency managers shall offer reinstatement to the laid-off employee if the same position or a position in the same occupation in the employing agency becomes available within one year of the employee's layoff date. Agency managers shall offer reinstatement on a "last-out, first-in" basis within an occupation.
2. A reinstatement offer must be made in writing and contain the response requirements and the consequences of failure to respond. The laid-off employee has five working days to accept or reject the reinstatement offer. The employee shall respond in writing.

3. If the employee is not reemployed with the state in a different position and rejects or fails to respond to a reinstatement offer, the employee terminates employment and loses all rights to:
 - a. the reemployment offer;
 - b. compete in internal recruitment efforts;
 - c. future reinstatement;
 - d. protections under the State Employee Protection Act; and
 - e. longevity restoration.
4. A laid-off employee, who accepts a permanent, seasonal, or temporary position in another state agency does not forfeit his or her right to reinstatement with the agency that laid off the employee.
5. If the employee has accepted another position with any agency and rejects or fails to respond to a reinstatement offer, the employee loses all rights to:
 - a. the reemployment offer;
 - b. future reinstatement; and
 - c. further protections under the Employee Protection Act.
6. If a laid-off employee is reinstated within one year, the employee's years of continuous employment up to the effective layoff date must be restored. The employee is reinstated with permanent status if the employee had attained permanent status prior to the layoff date.

IV. Resources

1. The State Human Resources Division publishes a Reduction in Workforce Guide. The guide is available at <http://hr.mt.gov/newresources/default.mcpX>.
2. The job registry is on the MINE page under Personnel/HR Officer Resources: <http://mine.mt.gov/personnel/officers/default.mcpX> (for state employees) or you may contact State Human Resources Division at 444-3871.
3. Job Registry Coordinator email is jobregistry@mt.gov
4. Job Registry forms and documents are located at <http://hr.mt.gov/newresources/default.mcpX> under the Reduction in Workforce Guide.

V. Definitions

All definitions under [2-18-101](#) and [1202](#), MCA, apply to this policy. The following definitions also apply:

Effective layoff date: The date agency managers determine will be the last day of work for an employee.

Job Registry: A special job registry from which all agencies may attempt to hire laid-off employees prior to seeking applications from the general public.

Reduction in workforce: A management action taken for non-disciplinary reasons in which an employee is laid off from employment. The reduction may take place for reasons including, but not limited to: elimination of programs, reduction in FTE, lack of work, lack of funds, expiration of grants, reorganization of an agency, or privatization of a service traditionally provided by an employee of a department.

Reinstatement Period: One year from the effective date of layoff.

Termination Date: The date the laid-off employee is no longer eligible for reinstatement or to benefits provided under the State Employee Protection Act. The termination is considered a break in continuous employment as defined in [2-18-601](#)(4), MCA, for purposes of longevity, sick leave, and annual leave, and therefore ends permanent status.

Work Days: The days during which the position is regularly scheduled to work.

STATE OF MONTANA

***JOB
SHARING
GUIDE***



**PERSONNEL DIVISION
DEPARTMENT OF ADMINISTRATION**

April 16, 1984

JOB SHARING GUIDE

APRIL 16, 1984

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THIS IMPLEMENTATION GUIDE IS DESIGNED TO PROVIDE ASSISTANCE TO STATE SUPERVISORS, MANAGERS AND EMPLOYEES IN ADMINISTERING JOB SHARING ARRANGEMENTS. THIS GUIDE IS NOT STATE POLICY OR ADMINISTRATIVE RULE. IT IS NOT BINDING ON ANY AGENCY AND IT IN NO WAY ESTABLISHES PRACTICE OR SETS PRECEDENT.

AUTHORITY IMPLEMENTED

This guide provides assistance in implementing 2-18-107, MCA, which provides for job sharing. Citations of specific policies and rules to be used to administer salary and benefits are found in the sections covering these areas.

INTRODUCTION

In 1983, the Montana Legislature approved a bill formally establishing job sharing as an employment option for state agencies and employees.

Job sharing means the sharing by two or more persons of a position that is considered a permanent or aggregate position. The Legislature intends that job sharing be used by agencies as a means to promote increased productivity and employment opportunities.

The source of increased productivity in job sharing is principally the reduced labor cost that comes from the superior job performance of part-time employees. Compared with full-time employees, their productivity is often higher, their absenteeism and tardiness lower, and their turnover is also lower.

Early results of studies of job sharing show that:

- (1) job-sharing partners usually combine diverse skills that are complementary; and
- (2) the main problems with job sharing are ensuring that job sharers have compatible personalities, that the two partners' salaries are equitable, and that there is accountability for work quality between the two job sharers.

This guide is intended to provide agencies and employees with tools to evaluate whether specific positions and employees are appropriate for job sharing. Methods are suggested for handling day-to-day work assignments, for administering performance appraisal and for work planning. Each agency is responsible for establishing job sharing arrangements and administering and evaluating their success. The relationship of current law and rules on salary and benefits to job sharing arrangements also is explained in this guide.

EVALUATING POSITIONS FOR JOB SHARING

A proposal for job sharing commonly is developed in two ways. Where a supervisor believes a position may be appropriate to job share, the supervisor may develop the proposal. The supervisor should evaluate the position to determine if it is appropriate for a job share. Sometimes, current employees want to share a position. In this case, it would be appropriate to have the interested employees evaluate their personal situation, determine if job sharing is appropriate for them, and develop the proposal, subject to revision and approval by management.

An accurate position description is the foundation for the evaluation of a specific position for job sharing. While some studies indicate that any position has the potential to be shared, some types of jobs lend themselves more easily to this type of arrangement.

Some questions you may consider when looking at a specific position include:

- Does it require a broad range of skills?
- Can duties and responsibilities be clearly defined and divided?
- Does this position entail unusual amounts of stress?
- Does this position encompass regular peaks of activity and periods of non-activity?
- Are the job responsibilities reasonably autonomous?
- Are the job responsibilities unusually tedious or monotonous?
- Would the position benefit from coverage during unusual working hours?

Where you can answer yes to some or all of these questions, the position may be a good candidate for job sharing. The employee who currently is in the position or a comparable position also is a good source of information on whether it appears job sharing may be successful.

A position description for a position which currently is being successfully shared follows. The working title of this position is Policy Development Coordinator.

STATE OF MONTANA
DEPARTMENT OF ADMINISTRATION
PERSONNEL DIVISION

POSITION
DESCRIPTION

Personnel
Use Only

(PIQ and PD combined 7/79)

The Position Description should provide a detailed statement of the duties and responsibilities assigned to an employee. As the building block of an effective personnel administration program, the Position Description must be completed to assist in classification, pay, recruitment, selection, performance evaluation, training, staffing analysis and other management functions. Thus, in order for this form to be effective, adequate time and effort must be expended in following its instructions, in understanding its intent and in completing it.

Each agency may decide who should complete the form. Considerations that affect this choice are the circumstances for completing the form, the desire to stimulate employee participation and interest, and the authority and responsibility of management to determine the duties and responsibilities of positions. The form does require that management complete the sections concerning physical demands, supervision received and requirements. Signature blocks have been provided to allow larger agencies several levels of review and approval. Each agency should establish its policy and procedure regarding the review and approval of the form.

Before proceeding, PLEASE READ THE ENTIRE FORM to understand how sections relate to each other and to avoid repeating information. If there are any questions about completing this form, contact your agency personnel officer or the State Personnel Division at 449-5000.

PLEASE TYPE OR PRINT CLEARLY

PART 1: TO BE COMPLETED BY EMPLOYEE OR SUPERVISOR / MANAGEMENT	1	Classification	Current: Title Personnel Specialist	Class Code 166058	Grade 13	Position No. 6202	
			Proposed: Personnel Specialist III	166055	14		
	2	Agency	Department, Agency or University Unit Administration		Division or equivalent Personnel		
			Bureau or equivalent Employee Relations		Section or equivalent Policy Development		
	3	Address	City Helena	Building & Street Mitchell Bldg.	Room Number 130	Business Telephone	
	4	Prepared by:	<input type="checkbox"/> Employee <input type="checkbox"/> Supervisor/Management		Name of Employee: _____		
5	Describe the activity, function, product or service of the office or work unit in which the position is situated: Responsible for state personnel rule development and revision, including research, drafting, revising policies, analyzing and incorporating comments received and preparing policies for adoption as administrative rules; develops and presents workshops; prepares monthly personnel newsletter; sets agenda and serves as chairman for Personnel Policy Network; supervises 1 staff position; provides technical assistance to agencies.						
6	DUTIES AND RESPONSIBILITIES OF POSITION: Describe the duties, tasks and responsibilities of the position. Begin with a general statement of what the position does and then organize the description into duties and tasks beginning with the most important duties. A duty is a large segment or category of work performed and can be used to group related tasks. Task statements are effectively written by using the following format: an action verb, an object, an output and how accomplished. Use language that will enable a person not familiar with the work of the position to understand what is taking place in the work activities described. Avoid words that are not graphic, such as "assists", "develops", "manages", "processes" and "works with". Complete this section by estimating the percent of time spent on each duty. Development and revision of state personnel rules. 1. Researches the literature, law, and regulations covering proposed rule development or revision to assemble an overview of possible options for rule content using knowledge of library services, other available sources of technical literature, state and federal law, rules and regulations. 2. Drafts content of new personnel rules and revises content of existing rules to initiate review and comment using knowledge research material, technical writing style, rule format requirements of Secretary of State and related rules and laws. 3. Requests comments and recommendations for revision on proposed rule activities from internal policy staff, task forces, personnel network, agency heads and legal staff to receive ideas from those affected by rules using correspondence and meetings. 4. Revises initial rule drafts to write a draft ready to submit to Secretary of State for notice of rule action, using appropriate comments from interested persons and continuing internal review of earlier drafts.						

Monthly Personnel Newsletter.

1. Assembles list of story ideas by maintaining list of stories from previous issues which require follow-up and by contacting division administrator for ideas.
2. Writes memo to staff member who will write story giving him or her topic, content recommendations, other pertinent information and the deadline using story list and newsletter style and time line guidelines.
3. Edits stories to make style consistent throughout draft which is submitted to bureau chief and division administrator for review and approval to publish using newsletter style guidelines.

Technical Assistance.

1. Answers questions from agencies to provide policy interpretations using MOM, Administrative Rules, law, policy interpretation manual, and other guides and resources by using telephone or composing memos.
2. Compares agency policies to state rules to comply with requirements of adoption of Personnel Policy Rules by using specific state policy, interpretations and by writing a memo to the agency either finding the agency policy is acceptable or pointing out conflict with state rule and suggesting specific alternatives.

Personnel Network.

1. Assembles an agenda for Personnel Policy Network meetings using suggestions from division staff and agency representatives.
 2. Serves as chairman for the Personnel Network meeting by making presentations, summarizing discussion and stating a consensus where one is reached, using meetings and platform skills, knowledge of specific topics to be discussed
- Supervision. Supervises one professional staff position to assign and review work using daily contact, performance appraisal and work plans.

(Attach additional sheets if necessary)

PART I: continued

7 SUPERVISION EXERCISED: List the position number and title of positions directly supervised.

Position No.	Title	Position No.	Title
	Personnel Specialist II-Directly		
	Administrative Aide I-Indirectly		

Describe the nature of supervision exercised in the following areas: setting policies, objectives, work plans, work methods and priorities, assign review, evaluate, train, hire, discipline.

8 EQUIPMENT OR MACHINERY USED: Indicate the percent of total work time.

Type	%	Type	%
Typewriter			
Calculator			
Dictaphone			

PART I: continued	9	PERSONAL CONTACTS		
	Describe the types, reasons for and frequency of personal contacts necessary to perform the work of this position by using the following as a guide:			
		<u>WHO</u>	<u>WHY</u>	<u>FREQUENCY</u>
	clerical professional management	clientele general public private business etc.	to provide information to make arrangements to negotiate to persuade	to gather information to elicit cooperation to advise etc.
	Indicate whether contacts are within work unit, within agency or external.			
	<p>Clerical Staff - once or twice a day - assignments. Professional Staff - once or twice a day - instructions, review. Management Staff - several times a week - instructions, review. Legislators - several times a year - explanations of policy. Private Sector Professional Staff - several times a year - explanations of policy. Private Sector Managers - several times a year - explanations of policy. General Public - several times a year - explanations of policy. Federal Grant - several times a month - review, explanations of policy.</p>			
	10	DECISIONS AND COMMITMENTS: SCOPE AND EFFECT		
	Describe areas, kinds and impact of decisions and commitments; the effects, influence and significance of the work of the position; the consequence of error and subsequent accountability, and limitations on the extent and finality of actions and decisions.			
	<p>Error in policy communication could create a legal liability for the State. Depending on the issue, could range from inconsequential to a significant monetary award to the affected party that was informed. Incumbent has program responsibility and makes policy decisions, subject to approval of supervisor; sets own priorities and schedules with broad parameters set by supervisor; independently provides advice and interpretations; seeks supervisor's approval on major or controversial questions; supervises positions following bureau work plans to establish work priorities.</p>			
	11	To the best of my knowledge, the duties & responsibilities described herein are accurate & complete.	Employee Signature: _____	Date: _____
PART II: TO BE COMP. BY SUPERVISOR/MGMT.	12	IMMEDIATE SUPERVISOR.	Name: _____	Title: _____
	13	ADDITIONAL COMMENTS OR INCORRECT ITEMS:		
	14	SUPERVISION RECEIVED		
	Describe how this position is supervised by using the following as a guide:			
	<p>1. How is work assigned, i.e., in what format, by whom, etc.? 2. How are work methods, procedures and priorities determined? 3. What guidelines, manuals, procedures & references are available & how are they used? 4. What assistance is available from others (i.e., supervisor, coworkers, outside specialists, etc.)? 5. How is work reviewed, i.e., by whom, how often, by task, by objective, work methods, etc.?</p> <p>1. Incumbent sets own priorities and schedules within broad parameters set by supervisor; 2. Establishes own work methods and procedures; 3. Uses broad variety of references, other policies in research; 4. Solicits opinions and comments from a variety of sources; 5. Work is reviewed by bureau chief, administrator, director, and agency personnel. Major policy provisions are subject to their approval.</p>			

15 KNOWLEDGES, SKILLS AND ABILITIES

Describe the knowledges, skills and abilities (KSA's) that are specifically job related, essential to perform the work of this position and are essential for appointment to this position. Do not include those things typically learned on the job.

Considerable knowledge of personnel management, ability to communicate effectively orally or in writing. Ability to deal effectively with the public.

Which of the above can be used to distinguish superior performance?

Excellent communication skills would be an asset.

16 EDUCATION AND EXPERIENCE

Describe specific kind, amount and level of education (curriculum, courses, specialization) and experience that indicate the source of KSA's and that can be used in selecting a person for this position.

College degree in Personnel Management, Public Administration, or related field. Two years of professional experience in personnel administration or related field.

17 PHYSICAL DEMANDS AND WORKING CONDITIONS

Describe any physical demands, working conditions or job hazards that affect how the incumbent performs the job or that impose additional requirements in selecting a person for the position or that affect the complexity and nature of work.

N/A

18

To the best of my knowledge, the statements in Parts I and II are accurate and complete.

Supervisor's Signature: _____

Date: _____

ADMINISTRATIVE REVIEW AND APPROVAL: Agency option except number 3

Comment: _____

Additional comments attached

1. Signature: _____

Title: _____

Date: _____

Comment: _____

Additional comments attached

2. Signature: _____

Title: _____

Date: _____

Comment: _____

Additional comments attached

3. Agency Director or Designee: _____

Date: _____

PART II: continued

PART III: APPROVAL

Analyzing the Position

This analysis of the position for job sharing potential uses the preceding position description to evaluate positive aspects of sharing the work and potential problem areas.

(Note: The numbers indicate the numbers used in specific sections of the position description.)

6. Duties and Responsibilities of position: Duties require a wide range of knowledges, skills and abilities, including writing, researching, analyzing, interpreting, running effective meetings, public speaking, supervising, working with other technical staff, knowledge of rules, formats, publishing.

7. Supervision exercised: This may be a duty which cannot be divided between job partners, but should be assigned to one partner in trade-off for other duties. Sharing supervision could prove to be ineffective and confusing for the job share partners and especially for the employee being supervised. However, having a part-time supervisor over a full-time employee also can create problems.

8. Machinery used: Use of machinery listed is helpful, but not critical to effective work in the position. No special training would be needed.

9. Personal contacts: Position requires a fairly high degree of accessibility, because it handles numerous requests for technical assistance, both from other agencies and jurisdictions and from division staff. Scheduling needs to maximize accessibility of both partners, probably with time at work daily.

10. Decisions and commitments: scope and effect: Partners need to provide consistent and accurate advice and document that advice. On-going communication on project development critical to avoid unnecessary duplication of effort. Partners need not follow exactly the same work routine, but need compatible working habits.

14. Supervision received: Partners are responsible for establishing work methods and procedures and setting schedules, with approval of supervisor. Methods and procedures should minimize duplication of contact with supervisor on problems. Work methods also must be flexible enough to handle special requirements of management, such as special legislative session, unanticipated research or reports, etc.

Conclusion

An analysis of this position shows it would be appropriate to job share, because two persons would bring strength in a wider range of knowledges, skills, and abilities needed to perform the job. Possible problem areas include supervision exercised and supervision received. Assignment of supervision exercised to one partner should resolve that problem. Establishment of sound work methods and procedures and close, on-going communication between partners should reduce supervisory conflicts.

WORK PLANNING

A comprehensive work plan is an important element in the success of a job sharing arrangement. Without clearly defined goals, specific projects, and time frames, the partners in a job share may duplicate effort in some areas and overlook needed work in others.

This sample work plan for a policy development section concentrates on specific projects in the major program areas covered by the section and includes time frames for the projects. A discussion follows on the ways in which the work is divided or shared.

POLICY SECTION Work Plan FY-84

I. Policy Development

(Goal: To have a complete revision of the MOM, Volume III by October 1, 1984, and begin enhancements to increase its usefulness as a supervisory tool.)

- A. Review and research all priority 1 and 2 policy areas with second drafts for distribution to network by June 1, 1984.
- B. Use task force approach (3 to 5 network members) in drafting policy changes.
- C. Develop comprehensive model policies in two major policy areas by December 31, 1983. Sexual Harassment, Alternative Work Schedules, Job Sharing.)
- D. Complete planning form by first week of month every other month.
- E. Begin development of guide material for inclusion in MOM, (model policies, checklists, forms, implementation guides). Complete guides on discipline and grievances by October 31, 1984.

II. Technical Assistance

- A. include complete records of policy interpretation so staff can provide prompt consistent assistance to agencies.
- B. Keep network informed of policy revisions or interpretations.
- C. Encourage agencies to provide input on problem areas and needed policy revisions.
- D. Take steps to promote use of agency personnel officers.

III. Personnel Network

(Goal: improve the use of the Personnel Network as a general communication process between personnel practitioners.)

- A. Schedule and conduct network meetings.
- B. Inform members of topic for concerns of members portion of agenda at least one week prior to meeting date.

IV. Publications

- A. Prepare monthly newsletter for distribution by 20th of each month.

V. Training

- A. Provide training as scheduled on selected topics (discipline, personnel practices, personnel policies, etc.).
- B. Provide assistance with coordination and promotion of personnel training.

Sharing the Work

It is important to remember that the partners share responsibility for completion of the duties assigned to a position. However, the work itself frequently is divided in ways that best use the strengths of the individuals who share the job. In reviewing specific requirements of the policy section work plan, ways of dividing the work become clear.

- I. In the section on policy development, one duty is to review and research all top priority policies and have drafts prepared for review by June 1. To implement this duty, specific policies are divided between the partners, according to interest or expertise in specific policy areas. The individuals are leaders of specific policy task forces. Researching the specific policy areas is the responsibility of one partner. Actual drafting of policy is done by one person. The other partner reviews the drafts and comments and provides research material pertinent to the policy area which may be discovered while researching other policies.
- II. In the technical assistance area, the partners have prepared and continually update an interpretation guide on specific policy questions. Developed as a desk reference, the partners can turn to the guide for assistance in responding to policy questions in a consistent and accurate manner.
- III. In the area of the Personnel Network, the partners are prepared to report on specific areas of work. They trade off serving as chairperson for the meeting.
- IV. In the area of publications; the partners alternate serving as editor for the monthly newsletter.
- V. In the area of training, the partners specialize in training for specific policy areas.

As special projects evolve which are not anticipated in the work plan, management may assign the project to one of the partners or may assign the work to the team and allow them to divide specific tasks.

PERFORMANCE APPRAISAL

Thinking of job sharing as completion of the duties of one full-time position by more than one person helps differentiate job sharing from part-time work. In part-time work, there are not enough duties to fill a full day. In developing the position description and the work plan, the "one position-two person" approach is important.

But what is *difficult* to evaluating actual performance on duties, you cannot realistically hold one partner responsible for the work of the other.

A single performance appraisal should be developed for the position which applies to each of the partners. The duties and the standards should be the same in most cases. Each partner should receive his or her own copy of the appraisal forms. If there are duties which are to be performed by one partner and not the other, that should be clear in the performance appraisal. For example, the duty of supervision exercised in the policy development coordinator position is assigned to only one of the partners. The other partner is not evaluated on this duty.

Development of the appraisal should involve the supervisor and both partners. It is always useful to involve the employee in development of performance duties and standards, but with job sharing, this joint effort paves the way for clear understanding on the part of all involved.

The supervisor should plan to meet individually with the partners when the actual performance rating is done, although it would be useful to also conduct a joint meeting to examine strategies for strengthening the overall work done in the position.

A performance appraisal for this position follows.



EMPLOYEE PERFORMANCE APPRAISAL FORM

Page 1 of 7

First Name: _____ Middle: _____ Last Name: _____ Class Title: Policy Coordinator

APPRaisal TYPE: Periodic Probationary Other

PERFORMANCE APPRAISAL PERIOD: Dates from 6/83 to 6/84

Performance Standards/Objectives

A. Develop and revise State Personnel policies.	<ol style="list-style-type: none"> 1. Planning form is completed at least quarterly including approved deadlines and completion dates. 2. Procedures are clearly outlined in manual within one month of establishing new procedures. 3. Policies are completed in accordance with planning form. 2nd draft 90% final rule 75% 4. Maintains complete documentation and files on policy development. 5. Initial drafts provide a good basis for revision and review, including research and outline of all major policy issues. 6. Policies draft are consistent with other policies, rules, and laws, accepted practice, criteria, adoption of policy rule. 	Outstanding					
		Above Standard					
		Standard					
		Needs Improvement					
		Unacceptable					

EMPLOYEE: _____ DATE: _____

SUPERVISOR: _____ DATE: _____

REVIEWER: _____ DATE: _____

Comments: _____

ACCOMPLISHMENTS: _____



STATE OF MONTANA

EMPLOYEE PERFORMANCE APPRAISAL FORM

Page 2 of 7

Last Name

First Name

Middle

Class Title

Policy Coordinator

APPRaisal TYPE:

Other

Periodic

Probationary

PERFORMANCE APPRAISAL PLAN

Dates from 6/83 to 6/84

Duties/Responsibilities/Goals

Performance Standards/Objectives

B. Provide technical assistance on policy interpretation and administration.

7. Policies are adopted in accordance with established procedures for public review and comment, including ARM.
8. Complete all major revisions to existing policies and adopt unissued policies by October 1, 1984.
9. Begin development of guide material (model policies, check-lists, forms, implementation guides). Complete at least two major guides (discipline, job sharing) by October 31, 1984.
1. Provides clear interpretation of policy provisions as needed - consistent with other policies, rules, legal rulings and precedent.
2. Informs supervisor of issues requiring significant policy decisions.

ACCOMPLISHMENTS

Comments

Outstanding
Above Standard
Standard
Needs Improvement
Unacceptable

EMPLOYEE

EMPLOYEE

DATE

DATE

SUPERVISOR

SUPERVISOR

DATE

DATE

SIGNATURE

REVIEWER



STATE OF MONTANA

EMPLOYEE PERFORMANCE APPRAISAL FORM

Page 3 of 7

Last Name

First Name

Middle

Class Title

Policy Coordinator

APPRaisal TYPE: Other Periodic Probationary

PERFORMANCE APPRAISAL PLAN

Dates from 6/83 to 6/84

Duties/Responsibilities/Goals

Performance Standards/Objectives

3. Responds to routine inquiries by next day.

4. Requests requiring policy decision; research issued within 3 days of request.

5. Set up an interpretation guide and begin documenting significant policy interpretations by June 30, 1984.

C. Provides assistance in development of agency policies and reviews same for compliance with minimums. (Reviews policies when asked to.)

D. Conduct network/task force meetings and public hearings.

1. Assistance is practical, tactful, and consistent with agency needs, state law and rules. Criticism includes recommended alternatives. (Responses do not cause valid complaints or require major redrafting in 9 out of 10 cases.)

1. Meetings are scheduled as needed in order to provide adequate input on policy issues.

2. Conduct of meetings allows adequate discussion and input.

Outstanding
Above Standard
Standard
Needs Improvement
Unacceptable

ACCOMPLISHMENTS

Comments

EMPLOYEE

SUPERVISOR

DATE

DATE

EMPLOYEE

SUPERVISOR

comments attached

DATE

comments attached

DATE

RECEIVED

Signature of employee and supervisor with dates

STATE OF MONTANA

EMPLOYEE PERFORMANCE APPRAISAL FORM

Page 4 of 7

LAST NAME: _____

MIDDLE: _____

Class Title: Policy Coordinator

APPRaisal TYPE: Periodic Probationary Other

PERFORMANCE APPRAISAL YEAR: _____

Covers from 6/83 to 6/84

Duties/Responsibilities/Goals

Performance Standards/Objectives

- 3. Comments are incorporated into policies where appropriate.
- 4. Important issues and comments are communicated to participants with adequate time for review prior to meetings or deadlines.
- 1. Newsletter is distributed by the 20th of each month. (10 out of 12 months.)
- 2. Includes major items - each Bureau has chance for input - content is verified.
- 3. Major technical editing is completed before the review stage.
- 4. Articles are clear and concise - only 1 or 2 minor errors in content, grammar, or spelling per issue.
- 5. Provides news articles and news releases which meet accepted newsletter practices.

E. Prepare Newsletter monthly.

ACCOMPLISHMENTS

Comments

Outstanding
Above Standard
Standard
Needs Improvement
Unacceptable

EMPLOYEE

DATE

DATE

comments attached

SUPERVISOR

DATE

DATE

comments attached

PROPERTY

Other
 Periodic
 Probationary
 APPRAISAL TYPE

Last Name: _____ First Name: _____ Middle: _____ Class Title: Policy Coordinator
 Date: 6/83 to 6/84
 PERFORMANCE APPRAISAL FOR: _____

PERFORMANCE APPRAISAL FOR	Performance Standards/Objectives	Outstanding	Above Standard	Standard	Needs Improvement	Unacceptable
F. General personnel assistance	<ol style="list-style-type: none"> 1. Prepare research plan for study of performance appraisal implementation by July 1, 1983. 2. Conduct interviews of supervisors on PAS implementation and provide specific recommendations for System improvement by April 1, 1984. 3. Establish task force to study Employee Assistance Program by July 1, 1983. 4. Identify steps which can be taken to assist managers with EAP by September 1, 1983. 5. Research EAP's in business and government and develop a legislature proposal by April 1. 6. Coordinates initial employee open forum meetings in accordance with plan. 7. Revise employee handbook by July 1, 1983. 					

EMPLOYEE: _____ DATE: _____ COMMENTS attached:

SUPERVISOR: _____ DATE: _____ COMMENTS attached:

REVIEWER: _____ DATE: _____



STATE OF MONTANA

EMPLOYEE PERFORMANCE APPRAISAL FORM

Page 6 of 7

APPRAISAL TYPE Periodic Probationary Other

Last Name: _____ Middle: _____ Class Title: Policy Coordinator

PERFORMANCE APPRAISAL PLAN Dates From 6/83 to 6/84

Duties/Responsibilities/Goals	Performance Standards/Objectives
G. Program administration.	<ol style="list-style-type: none"> 1. Recommends modifications or enhancements to procedures, objectives, or standards as needed. 2. Establishes long-term program goals for next biennium.
H. Provides staff support to Bureau Chief.	<ol style="list-style-type: none"> 1. Is responsive to special assignments from Bureau Chief within assigned objectives and time frames. 2. Bureau Chief is kept informed/informed in important or sensitive issues affecting Bureau operations, image, or morale.
I. Supervises Personnel Specialist II and indirectly supervises Administrative Aide I.	<ol style="list-style-type: none"> 1. Provides work plans and schedules to Personnel Specialist II and generally directs work plans of Administrative Aide I. 2. Reviews work plans and performance appraisal at least monthly with employee; updates and revises as needed.

Outstanding	Above Standard	Standard	Needs Improvement	Unacceptable

ACCOMPLISHMENTS

Comments

EMPLOYEE: _____ DATE: _____ comments attached

SUPERVISOR: _____ DATE: _____ comments attached



STATE OF MONTANA

EMPLOYEE PERFORMANCE APPRAISAL FORM

Page 7 of 7

Last Name

Middle

Class Title

Policy Coordinator

APPRaisal TYPE: Other

Periodic

Probationary

PERFORMANCE APPRAISAL PLAN

Dates: from 6/83 to 6/84

Duties/Responsibilities/Goals

Performance Standards/Objectives

- 3. Communicates new rules, procedures and other appropriate information to employees on a timely basis.
- 4. Monitors general conduct, i.e., absenteeism, tardiness, and takes prompt and appropriate disciplinary action when necessary. Consults on disciplinary actions for administrative aide, if needed.

Outstanding
Above Standard
Standard
Needs Improvement
Unacceptable

ACCOMPLISHMENTS

Comments

EMPLOYEE

DATE

DATE

comments attached

SUPERVISOR

DATE

DATE

comments attached

SIGNATURES

REVIEWER

EVALUATING EMPLOYEES FOR JOB SHARING

When two individuals share one full-time position, it does not mean an equal division of labor. Instead, it relies on using the specific talents of two individuals to accomplish the duties usually performed by a single employee.

The partners must develop compatible, consistent and cooperative work methods and procedures. They must develop effective ways to communicate with each other and with their supervisor, in order to maximize productivity and reduce duplication of effort.

The following worksheet addresses issues related to sharing work which employees, or potential employees, interested in job sharing should consider. Completing this worksheet should assist interested current or potential employees in deciding if job sharing is for them.

If the answer is yes, current employees should prepare a proposal for sharing a position as outlined in this guide. Supervisors should make copies of the worksheet available to current employees, before an actual proposal is prepared. It is designed to be for the employee's personal use and is not intended to become part of the proposal or the employee's personnel file. The checklist should also be made available to outside applicants for job share positions as part of the recruitment process.

WORK SHEET A

This work sheet is a guide to assessing how sharing a job will affect your life-style. It is for your personal use and will not become part of your personnel file.

I. CAN I AFFORD IT FINANCIALLY?

	<u>Your monthly figures</u>	<u>Example A (monthly)</u>
1. My current monthly budget.	1. \$ _____	1. \$ 600
2. The amount of money I need to spend to live.	2. \$ _____	2. \$ 500
3. Additional identified income.	3. \$ _____	3. \$ 100
4. What my take-home pay must be (#2 minus #3).	4. \$ _____	4. \$ 400
5. The amount of time I want to work (1/2 time, 3/4 time).	5. \$ _____	5. 1/2 time
6. What the net full time salary would have to be for the job I want to share.	6. \$ _____ +	6. \$ 800
7. Plus taxes (FICA, Federal & State withholding, etc.).	7. \$ _____	7. \$ 200
8. What the advertised salary would have to be of the job I want to share.	8. \$ _____	8. \$1,000
9. Are the positions you are qualified to apply for in this salary range?	9. _____	

II. CAN I AFFORD IT PROFESSIONALLY?

1. What do I want to be doing three years from now? _____

2. Do I need to obtain additional knowledges, skills and abilities in order to perform the duties of the position I want to share?

3. Will sharing a job allow me to reach my career goal?

III. CAN I ADJUST TO A SHARED ARRANGEMENT?

Make a list of all the jobs you have had and answer the following questions for each job.

1. Rate the job on a scale of 1 to 10, 1 signifying that the job required you to be very competitive and 10 that the job required you to be very cooperative.

2. Apply this same rating system for the general work environment of the job. In other words, was the atmosphere and/or the people around you primarily competitive or cooperative?

3. How would you have changed each job to make it more satisfying? Would you have made it more competitive?

4. How did you feel about the competitive aspects of the job and the environment?

5. In retrospect, do you feel any differently about any of the jobs?

After you have made your list and answered the questions, think seriously about the following questions:

What do you expect to get from sharing a job-both generally and specifically?

What do you expect to give to a sharing arrangement?

Do you believe you are temperamentally suited to job sharing?

What impact will job sharing have on your personal life?

MAKING THE JOB SHARE PROPOSAL

There is no required way in which a job share arrangement must be proposed. It may be done in a letter or memorandum, it may be done verbally, or the following form may be used. Whichever method is used, some written approval, with the effective date of the arrangement should be included in the files of job share partners. This is important because the effective date of the arrangement triggers the pro-ration of benefits, which is discussed in a later section.

The form provides space to indicate the information on the partners, the positions involved, effective date, the proposed work schedule, the proposed division of duties and responsibilities and management's response. The position description, work plan and performance appraisal all should be used to complete the proposal.

PROPOSED JOB SHARING PLAN

SECTION I. GENERAL INFORMATION

Name _____
Current position title _____
Current grade/step _____

Bureau _____
Division _____
Telephone _____

Name _____
Current position title _____
Current grade/step _____

Bureau _____
Division _____
Telephone _____

SECTION II. POSITION TO BE SHARED

Position title _____
Grade _____
Bureau/Division _____
Immediate supervisor _____

Effective date of arrangement _____

SECTION III. OUTLINE OF YOUR PROPOSED JOB SHARING SCHEDULE FOR THIS POSITION (Please complete both A & B)

A Name _____

Time	Monday	Tuesday	Wednesday	Thursday	Friday
_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____

B Name _____

Time	Monday	Tuesday	Wednesday	Thursday	Friday
_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____

SECTION IV. DESCRIPTION OF PROPOSED HANDLING OF DUTIES AND RESPONSIBILITIES

Briefly describe how the following items will be handled in your job sharing plan. (attach additional pages, if needed)

1. Division or sharing of duties and responsibilities listed in position description or work plan.
 2. Exercise of supervision
 3. Use of machinery or equipment
 4. Personal contacts
 5. Reduction of duplication of effort and error
 6. Communication between partners
 7. Communication with supervisor
 8. Development of work methods and procedures (work plan)
 9. Development of performance appraisal
 10. Other considerations pertinent to this position
-

SECTION V. APPROVAL OF PROPOSED JOB SHARING PLAN

Approved _____

Approved with revisions _____

Not approved _____

Comments

Signature

Date

MANAGING A JOB SHARE ARRANGEMENT

Selecting the Partners

Selection procedures for a job share arrangement should be designed to determine whether and to what degree applicants possess the knowledges, skills and abilities to perform the duties of a position. In addition, a hiring authority will have to evaluate individual applicants for compatible and complementary knowledges, skills and abilities to determine if a potentially successful team can be created.

Sometimes applicants apply as a team for a job share arrangement. This often happens when current employees request job sharing, but can happen with external applicants. Where the applicants possess compatible knowledges, skills and abilities, at approximately the same level of skill and/or experience, the hiring authority can measure these qualifications against the selection criteria and decide whether or not the creation of the team is appropriate.

Sometimes there can be a significant difference in the qualifications of the persons applying as a team or one individual applying may be very well qualified, while another only minimally qualified. If the hiring authority believes the discrepancy between qualifications is too large or it would take too much time to train the less qualified applicant, job sharing may not be an appropriate arrangement. It is up to the person making the selection to decide.

As an alternative, a training assignment may be created for the person who is minimally qualified. This should be done where it appears that within six months to one year, the skill levels of the partners will be more comparable.

A training assignment may be established with the assistance of your agency personnel officer and should be done in compliance with the Pay Plan Rules on training assignments found in Policy 3-0505, Montana Operations Manual, Volume III.

Employment Preference

When the applicants for a job share arrangement come from the ranks of current agency employees, employment preference required by the Veteran's and Handicapped Person's Employment Preference Act is not applied.

Where applicants from outside the ranks of current agency employees apply for a job sharing position, the preference must be applied where applicants are eligible for the preference. For details on how to administer employment preference, see Policy 3-0171, Montana Operations Manual, Volume III.

Managing FTE

It is important for the supervisor of a job share arrangement to remember that it is budgeted as one FTE. If the partners regularly exceed the number of hours they are scheduled to work, budget problems can result.

Where a job share partner exceeds scheduled hours in a week, the partner should be paid at the regular rate of pay up to 40 hours per week. The employee becomes eligible for overtime or compensatory time only after exceeding 40 hours in a pay status in a week.

If a job share partner or the partners are required to work additional hours in a week, the supervisor may want to reduce the employee's hours at a later time in order to avoid exceeding the budget allocated to the position.

If it becomes necessary for one of the partners to consistently exceed the number of hours regularly scheduled, the supervisor may need to pursue additional training for the other partner to shift some of the workload, may need to reevaluate the way duties are assigned to the partners, may need to review work plans to determine if some duties can be shifted to a different position or may need to reevaluate whether the duties can effectively be shared or would be better performed by one employee.

ENDING A JOB SHARE ARRANGEMENT OR REPLACING A PARTNER

A job sharing arrangement may be ended for a number of reasons. It is important for both the agency and employees to agree at the start of a job share arrangement what will happen when it ends.

Ending the Arrangement

Job sharing will be a new working situation for most employees and for a variety of reasons it may not work out. The job may not lend itself to effective sharing in actual practice or the employees may not be comfortable sharing the work.

A variety of options are available to the agency to consider when a job sharing arrangement does not work out. Three of them follow.

1. Where both partners would like to continue to work part-time, the agency can split the position into two part-time positions. The partners would no longer share the work, but would only be responsible for the duties of a part-time position. Currently, the agency would be required to begin paying the full share of the group insurance benefit to both employees, instead of pro-rating the benefits, if they both work 20 hours per week. This is explained more fully in the section on group benefits.
2. Where FTE is available, one partner could be moved to a different FTE. The remaining partner could either assume the full-time duties of the position or another job share partner could be recruited.
3. The third major option is to lay-off one of the partners and have the remaining partner assume full-time responsibility for the duties of the position. This means ending sharing of the position and returning it to a full-time position for a single employee.

The Reduction In Force Policy (3-0155, Montana Operations Manual, Volume III), is used to determine which employee to retain. The policy requires consideration of skill and length of continuous service in the agency in making the lay-off decision. Skill is considered first and the primary factor used to determine skill level is "qualifications and experience to perform duties of a specific position which will be retained." Managers should read the full policy and consult with the agency personnel officer regarding implementation of the policy.

If the partner you want to retain does not agree to accept full-time employment, that partner should be laid off. Full-time employment could then be offered to the partner originally selected for lay-off. If that partner has most, but not all, the qualifications to perform the major duties of the position, the agency may want to consider a training assignment for the employee.

A training assignment also is an option where the partner originally selected for lay-off is minimally qualified. However, in this situation, the agency may want to lay off both partners and consider all persons in a reduction-in-force pool, which would include the remaining partner, for the full-time position. The agency may want to open recruitment for the position internally or externally.

Replacing a Partner

Where one of the partners leaves the job share arrangement, again, the remaining partner could assume full-time responsibility for the position or a new partner could be recruited. During the recruitment and selection period, the agency may want to require the remaining partner to assume full-time duties until a replacement partner is chosen. The remaining job share partner should be an active participant in the selection of a new partner. Without the remaining partner's involvement in the design of the selection procedure and the interview and evaluation process, a compatible partner may not be selected.

Coverage During an Extended Leave of Absence

The agency and job share partners should also discuss coverage of the position if one of the partners takes an extended leave of absence. The remaining partner may not need to assume full-time responsibility while the other partner takes a brief vacation, but this may be necessary if the absence is extended. The remaining partner should expect to assume full-time duties or at least increase hours to cover the absent partner's duties.

BENEFITS

Section 2-18-107, MCA, provides that all benefits, including the state's contribution to group insurance, be pro-rated between job share partners.

Leave and Holidays

Annual leave, sick leave and holiday pay all should be administered according to provisions for employees working less than 40 hours per week found in the specific policies on these benefits. Sick and annual leave are accrued on the basis of the number of hours actually worked. Holidays are paid based on an average of the hours an employee is regularly scheduled to work. See Montana Operations Manual, Volume III policies 3-0305, Annual Vacation Leave; 3-0310, Sick Leave, and 3-0325, Holidays and Holiday Pay for details or contact your agency personnel officer.

Effective in March, 1985, job share employees became eligible to receive the state's group insurance share on the same basis as employees who work permanent part-time. Job share employees who are regularly scheduled to work 20 hours or more per week are eligible to receive the full state share. Job share employees who are regularly scheduled to work less than 20 hours are not eligible to participate in the state insurance program. With this change in the law, all benefits for job share employees are now administered consistently with benefits for permanent, part-time employees.

CONCLUSION

The success of a job sharing arrangement both for an agency and for the employees involved depends on whether the job itself is appropriate to share and whether two compatible employees with complementary skills fill the position.

By using the tools in this job sharing guide, agencies and employees should have a better idea about whether job sharing is for them.

For additional information on job sharing or assistance in completing a proposal, contact your agency personnel officer or the Personnel Division, Department of Administration.

Montana State Library Commission Policy

Incentive Award Program

The MSL Commission believes that individual employees or groups or teams of employees may be recognized by the agency and the state for suggestions or ideas that improve the effectiveness of state government or improves services to the public by permitting more work to be accomplished within an agency without increasing the cost of operations. The Commission complies with the state requirement to offer such an award program at the State Library and directs the State Librarian to follow state policy in its implementation.

Incentive Award Program

Resource: Administrative Rules of the State of Montana (ARM)

Human Resources/ Employee Benefits

State Human Resources includes policies in administrative rules (ARM) when the policy may affect the public or be used by persons who are not currently employees. The policies that only affect state employees are not included in ARM. This policy is in ARM. This is a reproduction created for your convenience, but it is not the official version. Links to the ARM and Montana Code Annotated (MCA) are embedded throughout the document. You may also find the official ARM website at <http://www.mtrules.org>.

2.21.6701 SHORT TITLE

(1) This sub-chapter may be cited as the incentive award program.

History: Sec. [2-18-1103](#) MCA; [IMP](#), [2-18-1103](#) MCA; [NEW](#), 1982 MAR p. 470, Eff. 3/12/82; [AMD](#), 1994 MAR p. 2511, Eff. 9/9/94.

2.21.6702 DEFINITIONS

(1) The definitions provided in [2-18-1101](#), MCA, apply to this subchapter.

History: [2-18-1103](#), MCA; [IMP](#), [2-18-1101](#), [2-18-1102](#), [2-18-1103](#), [2-18-1105](#), [2-18-1106](#), MCA; [NEW](#), 1982 MAR p. 470, Eff. 3/12/82; [AMD](#), 1986 MAR p. 31, Eff. 1/17/86; [AMD](#), 1994 MAR p. 2511, Eff. 9/9/94; [AMD](#), 2010 MAR p. 1072, Eff. 4/30/10.

2.21.6703 POLICY AND OBJECTIVES

(1) The policy of the state of Montana is:

(a) an incentive award program exists recognizing and monetarily rewarding individual employees, groups or teams of employees, and nonemployees for:

(i) ideas, innovations, or prototypes that significantly contribute to documented achievements or outcomes eliminating or reducing an agency's expenditures; or

(ii) improving the effectiveness or services of state government by permitting more work to be accomplished within an agency without increasing the cost of governmental operations.

(b) agency managers shall administer the incentive program in a fair and equitable manner and make reasonable accommodation for persons with disabilities who wish to participate in the incentive award program; and

(c) all documents and meetings related to this program's administration are public.

(2) The policy's objective is to:

(a) establish minimum standards for the administration of the incentive award program; and

(b) delegate to agency heads the authority to adopt an internal agency policy for the implementation of the program, if the agency head chooses to adopt a policy.

History: [2-18-1103](#), MCA; [IMP](#), [2-18-1101](#), [2-18-1102](#), [2-18-1103](#), [2-18-1105](#), [2-18-1106](#), MCA; [NEW](#), 1982 MAR p. 470, Eff. 3/12/82; [AMD](#), 1986 MAR p. 31, Eff.

1/17/86; AMD, 1994 MAR p. 2511, Eff. 9/9/94; AMD, 2010 MAR p. 1072, Eff. 4/30/10.

2.21.6708 PROGRAM ADMINISTRATION

(1) An agency head makes the final decision to grant an incentive award. Any and all disputes concerning an incentive award will be resolved by the agency head.

(2) An agency head may adopt an internal agency policy consistent with this subchapter to implement and administer the incentive award program. The policy may include, but is not limited to:

(a) criteria and methods used to evaluate and prioritize the usefulness or monetary value of documented outcomes or achievements;

(b) a contact point for employees and nonemployees to submit nominations for awards and a means to track nominations, ideas or suggestions; and

(c) any other matters the agency head believes are necessary to administer the program.

(3) To assist agencies in making incentive awards, as provided in [2-18-1103](#), MCA, the Department of Administration shall develop the following materials, including, but not limited to:

(a) a model agency policy, forms, and notification letters, which an agency head may implement or modify; and

(b) a guide to assist an agency head in evaluating the impact of outcomes and achievements or nominations and in determining a monetary value.

History: [2-18-1103](#), MCA; IMP, [2-18-1103](#), MCA; NEW, 1986 MAR p. 31, Eff. 1/17/86; AMD, 1994 MAR p. 2511, Eff. 9/9/94; AMD, 2010 MAR p. 1072, Eff. 4/30/10.

2.21.6709 REPORTING REQUIREMENTS

(1) Each agency shall submit to the Department of Administration a list including:

(a) the number of incentive awards granted;

(b) to whom each award was granted;

(c) the estimated value of each achievement or outcome; and

(d) the amount of each award.

(2) The information must be submitted in a format prescribed by the department by August 1 of each year.

History: [2-18-1103](#), MCA; IMP, [2-18-1106](#), MCA; NEW, 1994 MAR p. 2511, Eff. 9/9/94; AMD, 2010 MAR p. 1072, Eff. 4/30/10.

Montana State Library Commission Policy

Leave of Absence Without Pay Policy to Supplement State Policy 3-0330 (3/18/05)


This Montana State Library Commission policy is to supplement State Policy 3-0330, effective 3/18/05. The intent is to clarify and expand those areas that are left to agency discretion in the state policy.

All requests for leave of absence without pay shall be submitted to an employee's division manager with an explanation for the request. The division manager will then submit the request, with a recommendation to approve or disapprove, to the State Librarian (or designee). Final approval on any request for leave of absence without pay is made by the State Librarian or designee.

A new employee who has not served the respective qualifying periods for use of annual leave and sick leave will be in a leave without pay status when absent due to illness or emergency. Use of leave without pay during this period for absences other than sick leave or emergencies is discouraged, but will be considered by the State Librarian on a case-by-case basis.

Any employee who has served the qualifying periods for use of annual leave and sick leave should use accrued hours for annual leave, sick leave, or compensatory time before a request is approved for leave of absence without pay. The use of leave without pay for any period of less than one week is discouraged, but will be considered by the State Librarian on a case-by-case basis.

Any long-term requests for leave of absence without pay shall be discussed and documented with the division manager and the State Librarian (or designee). Reinstatement rights, date of the employee's return to work, and method of employee-payment of insurance premiums shall be established. If the employee does not return to work on the agreed date, or notify the agency and receive the State Librarian's advance approval of an alternative date, the employee may be terminated.

	Montana Operations Manual Policy	Category	Human Resources/ Employee Benefits
		Effective Date	07/09/2010
		Last Revised	09/25/2012
Issuing Authority	Department of Administration State Human Resources Division		
Leave of Absence Without Pay Policy			

I. Purpose

This policy establishes uniform procedures for managing employee leaves of absence without pay in Montana state government.

II. Scope

This policy covers Montana's executive branch employees, except those employed by the Montana State Fund, the Montana university system, elected officials, the personally appointed staff of elected officials, and other employees exempt from policy under [2-18-103](#) and [-104](#), MCA.

Any collective bargaining agreement providing greater leave-without-pay benefits supersedes this policy.

III. Procedures

Agency management may approve leaves of absence without pay for employees on a case-by-case basis. A leave of absence without pay is a period of unpaid absence from employment provided by agency management and does not result in a break in service. The leave must be approved in advance whenever possible or practical.

Eligible employees taking a leave of absence without pay concurrently with Family and Medical Leave (FMLA) must comply with the FMLA Policy and regulations. The FMLA Policy requirements take precedence over this policy to the extent any differences exist.

A. Requests for Leave

1. A leave of absence without pay is usually requested when an employee has exhausted all applicable leave balances and requests to be absent from work

for personal reasons. Employees must request a leave of absence without pay in compliance with procedures established by their employing agency.

2. Agency management may require an employee to use all appropriate accrued leave or compensatory time before approving a leave of absence without pay. However, agency management may not require an employee to exhaust annual vacation leave balances for reasons of illness unless the employee agrees ([2-18-615](#), MCA).
3. In most cases, agency management may approve or deny the request for leave of absence without pay at its discretion. However, agency management must approve the request if the reason for leave is to serve in a public office, for qualifying military service, or for qualifying reasons under the FMLA or ADA as required by applicable policies and statutes.
4. Agency management must approve leave for purposes of serving in an elected or appointed public office up to a maximum of 180 days annually ([39-2-104](#), MCA).
5. Employees ordered to state-active duty are entitled to a leave of absence from employment during the period of state-active duty. A leave of absence for state-active duty may not be deducted from sick leave, vacation leave, military leave, or other paid-leave balances unless requested by the employee ([10-1-1006](#), MCA).
6. Agency managers must provide reasonable accommodations for qualified employees with disabilities. Leave without pay may be a reasonable accommodation in some circumstances. An employee who requests leave because of a disability may be required to provide medical certification indicating the disabling condition requires a leave of absence. See the Reasonable Accommodation Policy (ARM [2.21.4101](#) et. Seq.) for further guidance.
7. Agency management must grant eligible employees FMLA leave for qualifying reasons outlined in the FMLA Policy. Employees taking FMLA who have available sick leave must use at least 20 hours of sick leave each week until exhausted before a leave of absence without pay may be approved.
8. Agency managers should not ask employees probing questions about an FMLA-qualifying event or ADA-reasonable accommodation request that may elicit genetic information about an employee or an employee's family members. See the Non-Discrimination EEO Policy (ARM [2.21.4001](#) et seq.)

for further guidance.

9. GINA-notice requirements: Agency managers must include the safe-harbor language required by the GINA regulations on all certification requests. This language should also be included in any documentation addressed to a medical professional or the employee when any type of medical information is requested or may be disclosed.
10. Records or documents relating to the employee's or the employee's family's certifications shall be maintained as confidential medical records in separate files from the usual personnel files and maintained according to ADA and GINA confidentiality requirements. See the Employee Records Management Policy (ARM [2.21.6601 through -6622](#)) for further guidance.

B. Approving Requests for Leave

1. Agency management must establish procedures for considering employee requests for leaves of absence without pay.
2. When approving a leave of absence without pay, agency managers must consider the Americans with Disabilities Act and Family and Medical Leave Act requirements as well as previous precedence set by the agency for similarly situated employees and circumstances.
3. Management may also consider requests using a cost-benefit analysis, weighing both direct and indirect costs against benefits to the agency. Costs to the agency include loss of productivity, increase in overtime or compensatory time for other employees, hiring and training a temporary replacement, and the impact on the agency budget and customers. Benefits might include long-term retention, improved job performance, and improved morale following leave.

C. Pay and Benefits

1. An approved leave of absence without pay is not a break in service. Employees maintain their rate of pay and accrued-leave and compensatory-time balances upon return to work.
2. Employees on leave of absence without pay do not accrue sick leave or annual vacation leave ([2-18-611](#) and [2-18-618](#), MCA).
3. Employees who return to a pay status from a leave of absence without pay the day after an observed holiday are not eligible to receive holiday benefits.

4. During approved leaves of absence without pay, employees may self-pay the state's share of insurance premiums for the employee group benefits plan for a total of 12 consecutive months. After that, employees are eligible to continue to self-pay insurance premiums under the [Consolidated Omnibus Budget Reconciliation Act \(COBRA\)](#).
5. Agencies must continue to pay the state contribution for the group benefit plan for employees on an approved leaves of absence without pay for FMLA-qualifying reasons.

D. Reinstatement

1. Agency management may establish a schedule of reinstatement rights for all employees on leaves of absence without pay based on the length of absence, or management may determine reinstatement rights on a case-by-case basis.
2. Agency management should inform employees in writing of their reinstatement rights and obligations at the time the leave is approved. A return-to-work date should be determined prior to leave commencing. Employees who fail to comply with the return-to-work requirement and do not arrange for an approved extension of leave may lose all reinstatement rights, and employment may be terminated.
3. Employees who take an approved leave of absence and have not completed their initial probationary period will not be required to begin a new probationary period. However, the agency may extend the probationary period by the length of the leave of absence.

E. Seasonal Employees

Seasonal employees are considered to be on an approved leave of absence without pay between seasons.

F. Payroll Records

1. Agency management must maintain leave documentation for requests and use of leaves of absence without pay.
2. The Department of Administration central payroll office maintains employees' leave accrual and usage records.

IV. Resources

A. Montana Code Annotated:

1. Annual Leave – [2-18-611](#), MCA
2. Sick Leave – [2-18-618](#), MCA
3. Entitlement to Leave of Absence – [10-1-1006](#), MCA
4. Mandatory Leave of Absence for Employees Holding Public Office – [39-2-104](#), MCA
5. Absence Because of Illness not Chargeable Against Vacation Unless Employee Approves – [2-18-615](#), MCA

B. State Policy

1. Family and Medical Leave Act Policy
2. Sick Leave Policy
3. Annual Leave Policy
4. Overtime and Non-Exempt Compensatory Time Policy
5. Exempt Compensatory Time

V. Definitions

All definitions under [2-18-101](#), MCA, apply to this policy. The following definitions also apply.

Initial probationary period: The initial six to twelve months when an employee is newly hired to state government into permanent or seasonal employment. The length of the probationary period is established by the hiring agency and used to assess the employee's abilities to perform job duties, to assess the employee's conduct on the job, and to determine if the employee should be retained beyond the probationary period and attain permanent status.

State-active duty: Service performed by a member of the National Guard and the Montana Home Guard when a disaster or an emergency has been declared by the proper authority of the state and to include the time period, if any, required to recover from an illness or injury incurred while performing the active duty. The term

does not include federally funded military duty as provided in [10-1-1003](#) and [10-1-103](#), MCA.

A pay status: An employee is being paid for time worked or for annual leave, sick leave, sick leave fund grants, holidays, compensatory time, or other paid leave.

Termination: The employment relationship is severed either voluntarily by the employee or involuntarily by the agency. A termination is considered a break in service, as defined in [2-18-601](#)(4), MCA, for purposes of longevity, sick leave, and annual leave, and therefore ends permanent status.