
A MANAGER'S GUIDE TO THE

Employee Definitions

IN MONTANA STATE GOVERNMENT

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State Human Resources Division,
Department of Administration

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Introduction

This guide helps agency human resource staff and managers in understanding the various employment status relationships under Montana law affecting Montana state government. We will discuss employment status definitions, recruitment, hiring options, benefit eligibility, collective bargaining issues, and other employment considerations that relate to employee status. Following the discussion, you will find a quick reference chart that contains hyperlinks to relevant Montana Operations Manual (MOM) Policies, Administrative Rules of Montana (ARM) and Montana law.

This guide does not apply to personal appointed staff of elected officials. For guidance on these positions, please see the Personal Appointed Staff of Elected Officials fact sheet.

Permanent Employees

Definition:

A permanent employee is an employee designated by an agency as permanent who has attained or is eligible to attain permanent status (MCA 2-18-101). Employees attain permanent status by successfully completing an initial probationary period. You must hire permanent employees through a competitive recruitment process.

Once permanent employment status is attained, employees cannot lose permanent status unless they terminate employment with the state. For example, a permanent employee who moves to a new job within the same agency or takes a new job with a different state agency will maintain permanent employment status. You may not require permanent employees to complete a new probationary period to “regain” or “maintain” permanent employment status.

Benefits:

Permanent employees are eligible for all state benefits including sick leave, annual leave, holiday pay, group health benefits, retirement and longevity allowance.

Layoffs and Reductions in Force:

If you eliminate a permanent employee's position because of privatization, reorganization, closure or a reduction in force, the employee is entitled to benefits under the State Employee Protection Act (2-18-1201 et seq.) and the Implementing Reduction In Force Policy (MOM 3-0155) provided they have achieved permanent status.

Grievances:

Employees may only file a grievance under the MOM Grievance Policy, (ARM 2.21.8010 et seq.) after they have attained permanent status (MOM 3-0125). If your agency has developed an alternative grievance policy, eligible employees must file under the agency's policy instead. Additionally, if employees are members of a bargaining unit, they may be required to file grievances according to the procedures set forth in the collective bargaining agreement.

Performance Management:

You are required to manage and evaluate the performance of permanent employees on a regular basis. Your agency must develop a performance management system that meets the specific needs of your agency.

Seasonal Employees

Definition:

A "seasonal employee" is a permanent employee designated by an agency as seasonal, who performs duties interrupted by the seasons, and who may be recalled without the loss of rights or benefits accrued during the preceding season (MCA 2-18-101).

You must initially hire seasonal employees through a competitive recruitment process. Seasonal employees attain permanent status in the same manner as all permanent employees. Given the nature of the job, a seasonal employee's probationary period may span several seasons.

As with all permanent employees, seasonal employees cannot lose permanent employment status unless they terminate employment with the state. The seasonal break is not a termination; it is treated

like an approved leave of absence. Therefore, you should recall these employees each season without a loss of rights or benefits.

Benefits:

Seasonal employees are eligible for all state benefits including sick leave, annual leave, holiday pay, group health benefits program and retirement.

A seasonal employee must be regularly scheduled to work or actually work 40 or more hours per two-week pay period for six continuous months in any 12-month period to be eligible for health insurance benefits (MCA 2-18-701 and MOM 3-0560).

For the purposes of sick and annual leave eligibility, actual time worked will count toward the qualifying period and accrual balances. In some cases, the qualifying period may span several seasons. Seasonal employees do not accrue leave benefits when in a leave-without-pay status during the off-season.

Seasonal employees are also eligible for any statutory, across-the-board or longevity raises. For longevity purposes, you must calculate the length of employment as if the seasonal employee was continuously employed during the off-season (MCA 2-18-304).

Layoffs and Reductions in Force:

If you eliminate a seasonal employee position as a result of privatization, reorganization, closure or a reduction in force, the employee is entitled to benefits under the State Employee Protection Act (2-18-1201 et seq.) and the Implementing Reduction In Force Policy (MOM 3-0155) provided they have achieved permanent status.

Grievances:

Seasonal employees may only file a grievance under the Grievance Policy, (ARM 2.21.8010 et seq.) after they have attained permanent status. If your agency has developed an alternative grievance policy, eligible employees must file under the agency's policy instead. Additionally, if employees are members of a collective bargaining unit, they may be required to file all grievances according to the procedures set forth in the collective bargaining agreement.

Performance Management:

You are required to manage and evaluate the performance of permanent seasonal employees on a regular basis. Your agency must develop a performance management system that meets the specific needs of your agency.

Temporary Employees

Definition:

A temporary employee is an employee who:

- is designated as temporary by an agency for a definite period of time not to exceed 12 months;
- performs temporary duties or permanent duties on a temporary basis;
- is not eligible for permanent status;
- is terminated at the end of the employment period; and
- is not eligible to become a permanent employee without a competitive selection process (MCA 2-18-101).

You may hire temporary employees through a competitive recruitment process, although this is not required. If you would like to move the temporary employee into a permanent position within your agency, you must conduct a new competitive selection process for the temporary employee to be eligible for permanent employment status. This applies even if the temporary employee was initially hired through a competitive process for the temporary position.

The practice of terminating a temporary employee, allowing a five-day break in service, and reinstating the same employee to the same temporary position to maintain temporary employment status is strongly discouraged.

Benefits:

Temporary employees are eligible for some state benefits including sick leave, annual leave, holiday pay, and group health benefits. Temporary employees are eligible for group insurance benefits, if they meet one of the following criteria:

- are regularly scheduled to work 40 hours or more per two-week pay period for more than six months within a year; or

- work 40 hours or more per two-week pay period for a continuous period of more than six months, although not regularly scheduled to do so; or
- are covered under a collective bargaining agreement which provides for eligibility.

Temporary employees may participate in the Montana Public Employee Retirement System. The option is available to temporary employees who do not exceed 960 hours of employment in a fiscal year. Once they exceed the 960-hour threshold, participation becomes mandatory (MCA 19-3-411 & 19-3-412).

Temporary employees may receive credit toward years of service for longevity allowance purposes only if the temporary employee moves immediately to a permanent position and remains in a pay status or is on an authorized leave of absence as defined in MCA 2-18-304.

Layoffs and Reductions in Force:

Typically, temporary employees are not entitled to benefits under the State Employee Protection Act during privatization, reorganization, closure or a reduction in force. However, if the temporary employees are teachers under the authority of the Department of Corrections or Department of Public Health and Human Services and have been employed for at least six continuous months, they may be entitled to protections (2-18-1201 et seq. and MOM 3-0155).

Grievances:

Temporary employees are not eligible to file a grievance under the Grievance Policy, (ARM 2.21.8010 et seq). They may be eligible to file a grievance under an alternative agency policy or the collective bargaining agreement if they are a member of a bargaining unit.

Performance Management:

You are not required to provide formal performance evaluations for temporary employees. Although, as a best practice, we do recommend that you provide regular and on-going feedback to these employees.

Short-Term Workers

Definition:

Short-term employees are paid an hourly wage and may not work for your agency for more than 90 days in a continuous 12-month period (MCA 2-18-101).

Short-term employees need not compete in a competitive selection process. You may not move a short-term employee into a permanent position within your agency without first completing a competitive selection process.

Benefits:

Short-term employees are not eligible for sick leave, annual leave, holiday pay or group insurance benefits. Short-term employment does not apply toward years of service for longevity allowance purposes.

Short-term employees may participate in the Montana Public Employee Retirement System. The option is available to temporary employees who do not exceed 960 hours of employment in a fiscal year. Once they exceed the 960-hour threshold, participation becomes mandatory (MCA 19-3-411 & 19-3-412).

Layoffs and Reductions in Force:

Short-term employees are not entitled to benefits under the State Employee Protection Act during privatization, reorganization, closure or a reduction in force.

Grievances:

Short-term employees are not eligible to file a grievance under the Grievance Policy, (ARM 2.21.8010 et seq.). They may be eligible to file a grievance under the collective bargaining agreement if they are a member of a collective bargaining unit. However, very few collective bargaining agreements cover short-term employees. If your agency has developed an alternative grievance policy, you will need to determine grievance rights for short-term employees.

Performance Management:

You are not required to provide formal performance evaluations for short-term employees. We do recommend regular and on-going feedback with all employees, regardless of employment status.

Student Interns

Definition:

A student intern is a person who has been accepted in or is currently enrolled in an accredited school, college, or university and is hired directly by an agency in a student intern position (MCA 2-18-101).

Student interns do not usually compete in a competitive selection process and are not eligible for permanent employment status without successfully completing one.

Benefits:

Student interns are not eligible for any paid leave or group insurance benefits. Student intern employment does not apply toward years of service for longevity purposes.

Student interns may, however, choose to participate in the Montana Public Employee Retirement System. The option to participate or decline is available to interns who do not exceed 960 hours of employment in a fiscal year. Should they exceed the 960-hour threshold, participation becomes mandatory (MCA 19-3-411 & 19-3-412).

Layoffs and Reductions in Force:

Student interns are not entitled to benefits under the State Employee Protection Act during privatization, reorganization, closure or a reduction in force.

Grievances:

Student interns do not typically have grievance rights. They are not eligible to file a grievance under the Grievance Policy, (ARM 2.21.8010 et seq.) and are not typically members of a collective bargaining unit. If your agency has developed an alternative grievance policy, you will need to determine grievance rights for student interns.

Performance Management:

You are not required to provide formal performance evaluations for student interns. However, you will most likely be required to provide some type of feedback to the college or university as part of the internship agreement.

Quick Reference Chart

	References	Permanent Employee	Seasonal Employee	Temporary Employee	Short-Term Worker	Student Intern
Definition	Definitions 2-18-101 MCA					
Permanent Status	Recruitment and Selection Policy ARM 2.21.3701 et seq. Probation Policy 3-0170	Yes	Yes	No	No	No
Competitive Process	Recruitment and Selection Policy ARM 2.21.3701 et seq.	Yes	Yes	Typically, unless agency decides on a case-by- case basis.	No	No
Sick and Annual Leave	Sick Leave Policy 3-0310 Annual Leave Policy 3-0305	Yes	Yes	Yes	No	No
Holiday Pay	Holiday Policy 3-0325	Yes	Yes	Yes	No	No
Performance Management	Performance Management and Evaluation Policy ARM 2.21.6401 et seq.	Yes	Yes	Not Required	Not Required	Not Required
Group Benefits	State Employee Group Benefits Program policy MOM 3-0560	Yes	Yes	Yes	No	No
Retirement System	Public Retirement Systems MCA 19-3-411 & 19-3-412	<p>If scheduled > 960 hours/fiscal yr membership is mandatory; If scheduled < 961 hours/fiscal yr membership is optional until the 961 hour limit is met.</p> <p>Once the employee meets 961 hours/fiscal year, membership is mandatory. Note: If an employee is already a member of the retirement system then membership is mandatory regardless of hours worked in the current fiscal year.</p>				
Longevity Allowance	Longevity Allowance MCA 2-18-304	Yes	Yes	May	No	No

Collective Bargaining	Collective Bargaining Agreements 39-31-306 MCA	Yes	May	May	May	May
Grievance	Grievance Policy ARM 2.21.8010 et seq. Also see agency's CBA	Yes	Yes	May Not eligible under Policy, but may be eligible under CBA	May Not eligible under Policy, but may be eligible under CBA	May Not eligible under Policy, and not usually eligible under CBA

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We designed this guide to assist executive branch human resource professionals, supervisors, and managers in understanding the different employee definitions. It is a companion to information contained in statute and policy.

We will provide alternative accessible formats of this Guide on request. If you need an alternative format, please contact the State Human Resources Division, Department of Administration, 125 N. Roberts St., PO BOX 200127, Helena, MT 59620-0127. Telephone 406-444-3871. Those using a TTY may call through the Montana Relay Service at 711.

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