

Chapter 3 Filling Vacant Positions

3.03 Classified LTE Appointments and Staff Selection

Campus Policy on Utilization of LTE Appointments

- **Definition of Limited Term Employment**

Section 230.26(1), *Wis. Stats.* states that: "The administrator may provide by rule for selection and appointment for limited term appointments which are provisional appointments or appointments for less than 1044 hours per year."

"Limited Term Appointment means the appointment of a person to perform a grouping of duties and responsibilities on a non-project basis under conditions of employment which do not provide for attainment of permanent status under s. 230.26 (1), *Stats.*" ER-Pers. 1.02(13).

"Limited Term Employment means employment in which the nature and conditions do not permit attainment of permanent status in class and for which the use of normal procedures for recruitment and examination are not practicable." ER 1.02 (17); ER-Pers. 1.02(14).

Therefore, limited term employment is a non-project appointment for less than 1,044 hours within 26 consecutive biweekly payroll periods, which does not lead to permanent status.

- **Procedures**

The supervisor creates an HR Transaction by electronically submitting an LTE Request via the Classified Human Resources Information System (CHRIS) to the employing unit Human Resources representative. The HR representative reviews, approves and submits the LTE Request via CHRIS-HR to the Classified Human Resources.

Classifications that are not delegated to the UW Madison require pre-approval. A non-delegated classification is one that requires DER approval before proceeding to fill a vacancy. After the LTE request is submitted via the Classified Human Resources Information System (CHRIS) to Classified Human Resources it is forwarded on to the Department of Employment Relations for approval prior to the selection of the employee. Requests for special salary rates, such as hiring above the minimum (HAM) or professional consultant rate, must be submitted prior to the LTE's first day of employment.

For all LTE Transactions, a signed copy of the LTE Request/Report form must be kept on file with the employing unit.

- **Limited Term Employment: When Used, What Type**

Limited term employment should be used when the duties and responsibilities are assigned under conditions that do not provide for attainment of permanent status. As a guide, typical examples of when limited term employment may be most appropriate are illustrated below:

- Employment of a recurring nature for less than 600 hours per year.
- Employment of a recurring nature for 600 or more hours per year for which the work hours cannot be scheduled in advance with a reasonable degree of certainty (such as emergency snow removal).
- Employment of a recurring nature for 600 or more hours per year which is so irregularly needed that a permanent, seasonal or project appointment is not feasible (such as during registration).
- Employment of a non-recurring nature for less than 1044 hours per year.

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When determining whether a group of duties and responsibilities should be performed by a limited term position, the needs of the employer must first be established. This review should provide insight as to which type of appointment (LTE, permanent, project, seasonal) will best fit the position.

Chapter 230.26, **Wis. Stats.** recognizes two categories of LTEs:

- Short Term: Appointments of less than 1044 hours (the most commonly used type)
 - Provisional Appointments: Individuals may be appointed provisionally in accordance with 230.26(2), **Wis. Stats.**, to fill a vacancy when a certification request has been submitted and the Administrator is unable to certify a list of eligibles. These appointments may be made for an indefinite period of time and are not subject to the 1,044 hour maximum. However, no provisional appointment may be continued for more than 45 working days after the date of certification from a register. This type of LTE appointment is used rarely and requires approval by .
- **Hourly Employment Limitations**

Duration of Limited Term Employment. "The total time worked in any one position by an individual limited term employee shall not exceed 1043 hours of employment during a block of time which consists of 26 consecutive bi-weekly payroll periods and which ends on the anniversary date of the appointment. The maximum time durations for provisional appointments are provided under s.230.26(2), **Stats.**" ER 10.01.

The hourly limitation applies to the specific employee performing the LTE duties not the LTE position. The length of any one position (set of duties and responsibilities) may exceed 1,044 hours. However, an individual is limited in the number of hours they may perform in that position. During one year, starting from the date of employment, a person is limited to less than 1,044 hours. If the individual reaches the hourly maximum before the anniversary of their appointment, but the position is to continue, the individual must be terminated and a new LTE appointed.

Limited term employment is temporary; therefore, employing units are limited in the rehiring of LTEs. The following guidelines may be helpful to insure that people are not hired back into the same job.

- At least 50% of the duties of the proposed LTE position must be different than the duties of the previously held LTE position.
- A different classification title helps justify that the position is different.
- The supervisor or geographical location is different from that of a previously held LTE position.

There are three instances in which an individual may be employed for 1,044 or more hours within 26 consecutive bi-weekly payroll periods. They are as follows:

- The individual holds a provisional appointment. See 230.26(2), **Wis. Stats.**, for the conditions surrounding the use of the provisional category.
- The individual holds two or more concurrent appointments in different positions which in total exceed the limit.
- The individual holds back-to-back appointments in different positions where the total hours worked within 26 bi-weekly pay periods exceeds the limit.

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NOTE: The key in both case "2" and "3" is that the individual must be working in different positions. In situation "2" the test would be to ask, "Can the duties be logically combined into one position?" If, for example, the positions are physically located in different work locations (Typist in the Physical Plant and Typist in the Registrar's Office), or have very dissimilar duties (Typist versus Financial Specialist duties), it may not be logical to combine the positions and having two separate appointments would be appropriate.

In the case of situation "3" the requirement is that the individual must be performing in a bona fide different position (set of duties and responsibilities).

In either of the above cases, the LTE may not exceed the hourly limit in any one position. However, the individual is not limited to only one position. Therefore, in totaling the number of hours worked for all positions, the hourly limit may be exceeded.

The statutes limit the number of hours an individual may work in a position, and do not provide for extensions. As stated earlier, an LTE is limited to an appointment of less than 1,044 hours in any one position. After reaching the limit, the individual must be terminated. At this time, each employing unit has the primary responsibility for monitoring LTE hours on a continuous basis.

- **Classification Actions**

The Wisconsin Administrative Code spells out how classifications should be applied to LTEs. According to ER 10.02(1), Wis. Adm. Code, class titles for LTE appointments "shall be determined in accordance with the provisions of the limited term classification and pay schedule, or be consistent with other classifications identified in the classification plan."

Those permanent classifications which include a separate "confidential," "supervisory," or "management" designation (e.g., Program Assistant 1-Confidential) may not be used for LTE positions if there is a directly parallel classification that does not include such designation (e.g. Program Assistant 1). LTEs are excluded from union representation by State law. However, if the confidential, supervisory, or management exclusion is incorporated into the classification (e.g. Human Resources Assistant - all are confidential) and that classification is the most appropriate given the position's duties and responsibilities, it may be requested. The use of supervisory classifications for LTE positions is prohibited.

- **Compensation: Classified Civil Service LTE Policies and Procedures**

Pay rates for LTEs "shall be in accordance with the provisions of the Limited Term pay schedule." ER 10.02(2). Given the following restrictions, each employing unit should develop an LTE compensation approach that represents reasonable personnel management practices, where similar LTE appointments are treated consistently in terms of pay administration.

The pay of an LTE may be at any rate up to the minimum hourly rate for the classification's counterpart in the permanent service. For those employees classified in one of the limited term classes, the salary shall not exceed the limits stated in Pay Schedule 18. All LTEs must be paid at least the Student Wage Plan minimum, unless a lower wage is authorized pursuant to Section 14 of the Fair Labor Standards Act.

The following exceptions exist which allow an LTE to be hired above the minimum:

- When a broad band pay schedule is in place for permanent positions in the title – employing unit can use broad banding flexibility to set starting pay (minimum to appointment maximum)

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- When a hiring above the minimum (HAM) has been established for the position.
- When a raised minimum rate (RMR) has been established for the classification.
- A former state employee eligible for reinstatement or restoration to the permanent service may be paid in accordance with the controlling section of ER 29, Wis. Adm. Code. To be eligible for a rate above the minimum rate, the LTE must be performing work similar to that performed in his/her permanent position (see ER 29.03(6) and 29.03(7), Wis. Adm. Code, pay on reinstatement and restoration).
- Permanent state employees working on an additional employment basis may be paid at their current rate of pay if they are performing similar work in the same or equivalent classification. The duties and responsibilities of the LTE position must be related to those of the permanent position, and the LTE base pay rate cannot be higher than the employee's permanent rate of pay. The base pay rate may not exceed the maximum of the pay range for the counterpart permanent class of the LTE position.

LTEs are eligible for the same type of supplemental compensation (e.g. overtime, weekend differential, night differential, etc.) as permanent employees in the same classification and/or pay range. However, limited term employees cannot be granted compensatory time off and must be paid for all assigned extra hours worked. In addition, the amount of the supplemental pay is specified in the compensation plan, and not by contract.

LTEs **must** be paid overtime if eligible. The overtime rate is governed, and determined, by the compensation plan in effect at the time.

During their employment, LTEs are eligible for the following pay adjustments:

- LTEs paid below the maximum rates indicated in Schedule 18 may have their rates adjusted by the appointment authority during the fiscal year to a rate not to exceed the maximum.
- LTEs paid at the minimum of the classification's counterpart in the permanent service may have their salary adjusted to the new minimum if that minimum is adjusted in accordance with the annual compensation plan.
- LTEs shall have their pay adjusted if required by the annual compensation plan.

NOTE: LTEs are not eligible to receive those salary adjustments to which permanent classified employees may be eligible, such as regrade resulting from reclassification, within range pay progression, equity, or other discretionary awards.

- **Benefits: Classified Civil Service LTE Policies and Procedures**

In accordance with s. 230.26 (4), **Stats.**, fringe benefits specifically authorized by statutes (with the exception of worker's compensation, unemployment compensation, group insurance, retirement and social security coverage) shall be denied to LTEs. LTEs do not qualify for tenure, vacation, paid holidays, sick leave, performance awards or the right to compete in promotional examinations. In accordance with ER 10.045, the eligibility of LTEs for worker's compensation, unemployment compensation, group insurance, retirement benefits and social security shall be subject to controlling conditions relating to these benefits. Under certain circumstances, LTEs may be eligible for benefits under the provisions of s. 103.10, **Stats.**, regarding Family/Medical Leaves of Absence.

LTEs are entitled to retirement benefits under the following circumstances:

- If an LTE was previously employed within the University System at some time during the past 12 months in a position covered under the Wisconsin Retirement System (WRS) and has not since taken a WRS separation benefit; or

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- If it is anticipated that an LTE will work at least 600 hours for a 12 month period (includes if the anticipation changes at any time during the LTE appointment that the incumbent will work at least 600 hours for a 12 month period); or
- If an LTE has worked at least 600 hours within the University System during the past 12 month period.
- When an LTE holds more than one appointment (perhaps even a combination of permanent classified or academic staff and LTE) and at least one appointment meets the specific retirement participation criteria, retirement deductions will be made on the total salary paid.

For those LTEs eligible to participate in retirements benefits, the State's share goes into effect immediately. If the employee is eligible, participation is mandatory and deductions must be made.

LTEs making retirement deductions are eligible to participate in state health and life insurance programs, income continuation, accidental death and dismemberment, and major medical insurances. LTEs eligible to participate, like all state employees, must serve a six month waiting period from the point retirement deductions begin before the State's share goes into effect.

For questions about specific benefit programs, benefit eligibility, or requirements for participation, contact your employing unit's Payroll and Benefits office.

- **Dual Employment of State Employees**

Permanent employees who work in an LTE position do not earn additional fringe benefits (e.g. vacation, sick leave, paid holiday accrual) based on their LTE appointment (see FAP - Limited Term Employment (G26), section 6.1).

Please be aware of these restrictions when considering limited term employment of a permanent civil service employee. Key points covered by s. 16.417(2) **Stats.** include:

- A person who is employed or retained in a full-time position with a state agency or authority may not earn more than \$12,000 in an additional position with any state agency or authority
- No agency or authority may employ any person in violation of this limitation. The Department of Administration shall annually check to ensure that no individual violates the \$12,000 additional earnings limit. The Department of Administration shall order any person in violation to repay the portion of economic gain in excess of \$12,000.

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- **Status of Limited Term Employees**

The following information is part of the LTE Transaction in the Classified Human Resources Information System (**CHRIS**) and is available as a printable form.

Employing units have the responsibility of informing limited term employees of their status at the time the appointment is made. LTEs must be given an appointment letter and a signed copy of the LTE Request/Report form that provides the following:

- An explanation of the nature of limited term employment, especially the fact that it does not lead to permanent status.
- An explanation of the potential benefits available to them.
- A brief summary of the statute and administrative rules governing limited term employment.
- An explanation of the Administrator's authority to terminate an LTEs employment under s. 230.26 (5), **Stats.**, if the agency does not comply with the statute and administrative rules.
- A place for the appointee and the appointing authority to sign the acknowledgement.