

The Four Cornerstones of Reform

Third Cornerstone of Reform: State Government - Personnel Reform

Questions and Answers

The following information has been updated to respond to questions that may arise from the recent passage of HB2571 that reforms the State's personnel system.

1. What is the purpose of personnel reform?

To promote public confidence in government, governmental integrity, increased accountability and the efficient delivery of services to its citizens, the State is reforming its outdated personnel system. The current system consists of rules and regulations adopted many years ago that served a valuable purpose at the time, but now actually make it difficult to manage the workforce effectively. The current emphasis on job security rewards longevity over performance and can result in the retention of lower performers and the separation of our best talent. The new personnel system supports the State's ability to attract, hire and retain high-performing employees.

2. Why do we need personnel reform?

While state government has many outstanding employees, there are some common frustrations with Arizona's current system including:

- It takes too long to hire people
- There is no ability to reward top performers
- Disciplining and terminating employees can be difficult and time-consuming; it often discourages supervisors from appropriately managing and correcting inadequate performance

These frustrations create opportunities for mediocrity to become acceptable, and for high performers to be discouraged – neither result is good for the development of the kind of public sector workforce Arizona needs, particularly during times when budgets are being reduced.

3. What is included in personnel reform?

There are five major areas of personnel reform including:

- Consolidating Personnel Systems
- Transitioning to an At-Will Workforce
- Improving the Management of the Workforce
- Restructuring the Grievance and Appeal System
- Updating Human Resources Practices

4. Why is the effective date September 29, 2012?

September 29, 2012 is the beginning of a pay period. Choosing this date simplifies the programming modifications that will be required in the State's payroll and personnel system (HRIS). In addition, it also provides time for the Arizona Department of Administration (ADOA) and state agencies to implement the provisions of personnel reform.

PERSONNEL SYSTEMS

5. What personnel systems will be consolidated?

UPDATED!

The personnel systems within the Executive Branch listed below will be consolidated into one system, the State Personnel System, and will include:

- ADOA Personnel System, which includes approximately 91 state agencies, boards and commissions
- Arizona State Retirement System
- Department of Gaming
- Department of Tourism
- Governor's Office
- Public Safety Retirement System
- Secretary of State

6. Why are these personnel systems being consolidated?

These personnel systems are all within the Executive Branch, each operating under independent rules and policies. Consolidating the multiple systems into one personnel system will ensure consistency in managing the workforce and generate efficiencies.

7. Who will be responsible for administering the State Personnel System?

The Arizona Department of Administration, Human Resources Division (HRD) will be responsible for administering the system.

8. How many State employees are there in the Executive Branch agencies listed above?

UPDATED!

There are approximately 34,000 State employees in the Executive Branch agencies listed above.

9. Will the Department of Public Safety be consolidated under the State Personnel System?

NEW

No. The Department of Public Safety will maintain a separate personnel system for its employees pursuant to the rules adopted by the Law Enforcement Merit System Council.

TRANSITION TO AT-WILL WORKFORCE

10. Will State employees be required to go uncovered?

The following employees will be required to become uncovered beginning September 29, 2012:

- New hires
- Supervisors
- Employees employed as attorneys
- Employees employed in information technology positions
- Employees in grade 19 and higher positions
- A covered employee who voluntarily elects to become uncovered
- A covered employee who voluntarily accepts a new assignment (e.g. promotion, transfer)

11. Will an employee have the option to go uncovered?

 Yes. A covered employee can voluntarily elect to become uncovered with an effective date of September 29, 2012 or later. In addition, a covered employee becomes uncovered when they voluntarily accept a new assignment (e.g. promotion, transfer).

12. Is there a salary increase provided for employees that become uncovered?

 Uncovered employees will receive retention payments during Fiscal Year 2013. Please refer to a separate Question and Answer document for additional information regarding the one-time retention payments authorized in Fiscal Year 2013.

13. Will an employee have the option to remain covered?

Yes. A current covered employee who does not meet the criteria listed in Question 10 shall remain covered as long as the employee continues in covered status without a break in service.

14. Are there any covered employees not impacted by this reform?

 Yes. Current and new employees in positions requiring full authority peace officer certification and current and new employees employed as a Correctional Officer I, II or III or an adult Community Corrections Officer shall remain covered unless they elect, with concurrence of management, to become an at-will uncovered employee.

15. Why do employees in positions requiring full authority peace officer certification and employees employed as Correctional Officer I, II and III or adult Community Corrections Officers remain covered by this reform?

The personnel reform legislation allows full authority peace officers and Correctional Officers I, II and III or an adult Community Corrections Officer, to retain their covered status due to the special nature of their work and the distinctions between both full authority peace officers and correctional officers and all other classifications of employees in state government.

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The first distinction for full authority peace officers and correctional officers is their dangerous working environment. These brave men and women risk their lives every day on the streets and in the state's prisons protecting the citizens of Arizona from the worst of our society. Another distinction is the special trust and power we place in full authority peace officers and correctional officers, including the power to arrest for peace officers and the custodial responsibility of correctional officers.

Other special features of full authority peace officers and correctional officers are the background clearance and training requirements necessary to fulfill these responsibilities. Only a select few qualify as a full authority peace officer or a correctional officer. Both full authority peace officers and correctional officers must complete extensive training academies before being eligible for their positions. Full authority peace officers must, in addition, be certified by the Arizona Peace Officer Standards and Training Board.

While there are many other positions in state government placing great trust in employees and requiring training, they do not rise to the same level as peace officers and correctional officers. Moreover, the distinction between peace officers and correctional officers and other groups of employees has been recognized for some time in state government whether through participation in a different retirement plan or other unique rights granted under state law.

For these and many other reasons, the personnel reform legislation allows full authority peace officers, Correctional Officers I, II and III, and adult Community Corrections Officers to retain their covered status.

16. If the State transitions to an at-will uncovered workforce, what prevents a new administration from replacing all existing employees with their political allies?

The concept of at-will employment is not new to public sector employment. Georgia and Florida state governments implemented similar reforms several years ago. Most recently, Indiana state government became an at-will workforce. Texas state government has already implemented a system where virtually every state employee is hired at-will.

There are also examples of state entities operating without a merit system right here in Arizona. The Arizona Legislature, the Arizona Department of Gaming and the Arizona Department of Tourism have all operated since their inception with at-will employees who were not covered by the state merit system.

Multiple discussions with key personnel that were instrumental in the implementation of reform in Georgia and analysis of the Arizona Department of Gaming and the Arizona Department of Tourism confirm that there has been no evidence of wholesale replacement of employees with political allies when a new administration takes office.

17. What rights will a covered employee lose by becoming uncovered?

A permanent status covered employee who becomes uncovered will lose their ability to file a work-related grievance and the ability to appeal certain disciplinary actions to a personnel board.

18. How will the composition of the workforce change as a result of personnel reform?

UPDATED! The workforce is currently 26% at-will uncovered¹. Due to anticipated turnover (internal movement and separations), the hiring of new employees, the transition of specified groups of employees to at-will uncovered status, it is estimated that nearly 83% of the workforce will be uncovered after four years.

MANAGEMENT OF THE WORKFORCE

19. What are some of the provisions that would improve the management of the workforce?

One of the key improvements will include implementing a performance management system for all employees, both covered and uncovered. Currently, only covered employees are required to receive a performance evaluation. The Department of Administration will be replacing the current manual, labor intensive performance management system (PASE) with a streamlined, meaningful, on-line evaluation tool and process. The performance management system will be the foundation for recognizing top performers and providing performance-based raises and awards.

Another significant provision addresses the administration of a reduction in force (RIF) for covered employees. Currently, equal consideration is given to an employee's performance and seniority when determining who would be retained and who may be separated during a RIF. This may result in separating the best employees and retaining lower performers. This legislation eliminates seniority as a retention factor and relies solely on the employee's performance record.

¹ Excludes employees in positions requiring full authority peace officers certification and employees classified as Correctional Officer I, II or III or an adult Community Corrections Officer in the calculation since they will not be impacted by the transition to at-will uncovered status.

GRIEVANCES, COMPLAINTS, AND APPEALS

20. Will there still be a grievance process?

Yes. A grievance process will remain in place for employees who remain covered.

21. Will there be a complaint process for addressing allegations of discrimination or harassment?

UPDATED! Yes. Regardless of an employee's covered/uncovered status, an employee will have the ability to file a complaint regarding unlawful discrimination or harassment. ADOA will be establishing procedures for reviewing harassment and discrimination complaints filed by employees.

22. Will there be a review of agency disciplinary actions?

UPDATED! Yes. The legislation established the requirement, with the exception of certain positions, that all suspensions over 80 hours, demotions, and dismissals be reviewed by ADOA prior to the agency implementing the adverse action.

23. Will covered State employees retain appeal rights?

UPDATED! Yes. Covered employees will retain appeal rights, and have the ability to appeal certain personnel actions to either the State Personnel Board or the Law Enforcement Merit System Council (LEMSC).

24. What personnel actions are appealable to the State Personnel Board?

UPDATED! Covered employees (with the exception of full authority peace officers – see question 26 below) may appeal suspensions of greater than 80 hours (previously 40 hours), demotions, and dismissals.

25. Is the State Personnel Board changing?

UPDATED! Yes. The Board's authority is modified. The Board shall affirm the agency's decision unless the decision was arbitrary and capricious. If the Board finds the decision arbitrary and capricious or the agency has not proven by a preponderance of the evidence the facts, the Board may recommend the agency modify the disciplinary action; if cause did not exist, the Board must reverse the agency decision; however, the agency head shall make the final decision.

26. What personnel actions are appealable to the Law Enforcement Merit System Council?

UPDATED! Covered employees within the State Personnel System that are full authority peace officers certified by the Arizona Peace Officer Standards and Training Board (AZPOST) that are appointed to a position that requires such certification may appeal suspensions of greater than 40 hours, demotions and dismissals to LEMSC

27. Is the Law Enforcement Merit System Council changing?

UPDATED! Yes. The Council will increase from three members to five members with staggered terms, each serving a term of three years. In addition, the Council's authority has been modified. The Council shall affirm the agency's decision unless the decision was arbitrary and capricious or the agency has not proven by a preponderance of the evidence the facts; in such cases the Council may recommend the agency modify the discipline; if cause did not exist, the Council must reverse the agency decision; the agency head shall make the final decision. If the agency head does not accept the Council's recommendation, the agency head shall state the reason(s) for rejecting the recommendation.

HUMAN RESOURCES PRACTICES

28. What types of human resources practices will be updated?

UPDATED! There are a number of practices that will change under the legislation including:

- Requires agencies to treat employees in accordance with guiding principles except those specifically exempted.
- New reporting requirements will improve oversight of employees placed on administrative leave with pay for more than 80 hours. Agencies will be required to report to the Arizona Department of Administration (ADOA), and the ADOA Director must approve any administrative leave in excess of 30 working days.
- The requirement to provide certain Fair Labor Standards Act (FLSA) exempt employees hour for hour compensatory leave for each hour worked over 40 hours in a work week will be eliminated, except for state employees engaged in law enforcement, probation officer, or fire fighting activities. It is estimated that this will save the State over \$1 million per year and allow for a more effective use of resources.

29. Are there changes to the whistleblower complaint statutes?

NEW Yes. The State's current whistleblower protections will be strengthened. Penalties for an employee who is found by the Personnel Board to have knowingly committed a prohibited personnel practice against an employee who disclosed information evidencing a violation of a law include paying a civil penalty of \$10,000, immediate dismissal, and removal from future consideration for state employment.