

Chapter 4: Classified and Unclassified Positions

Overview

The state constitution defines the “state civil service” as everyone employed by a state agency or by a joint state/federal or state/local agency, “regardless of the source of funds used to pay for such employment.” The only exception is commissioned State Police officers, who are in a separate civil service system.

The constitution divides the state civil service into “classified” and “unclassified” employees and states that “Persons not included in the unclassified service are in the classified service.” The constitution designates certain specific categories of employees as unclassified and gives the State Civil Service Commission the authority to designate other positions as unclassified as it deems appropriate.

In Chapter 4, the Commission reiterates the provisions of the constitution, listing those groups of employees who are constitutionally unclassified, and also delegates to the Director the authority to place temporary positions in the unclassified service.

HR Impact – The differences between classified and unclassified positions

Classified positions and the employees who serve in them are subject to the provisions of the Civil Service Rules. This means that classified employees:

- Must be hired in an open, competitive manner prescribed by SCS;
- Must meet statewide minimum qualification standards set by SCS;
- Must be paid in accordance with the rules;
- May only be disciplined (for cause) or removed after being provided due process; and
- May NOT participate in political activities related to the support of any political candidate, party or faction at any level of government, including federal or local, as well as state.

Whereas unclassified employees:

- May participate in political activities;
- May be separated without cause or due process; and
- Serves at the pleasure of the appointing authority, i.e. they are “at will” employees.

Positions that are designated as unclassified by the state constitution are not subject to the hiring and compensation standards set by State Civil Service, although they may have qualification requirements and pay limits set by state statutes. When the Commission or the Director designates a position as unclassified, they may choose to set parameters regarding qualifications or compensation as a condition of their approval of the position. However, anyone appointed to a management level position that has been designated by the Commission as unclassified must at least meet the minimum qualification standards defined in [La. R.S. 42:67.1](#), which are: a bachelor's degree (or four years related experience) plus three years responsible managerial experience. (The Commission may add additional requirements.)

Rule-By-Rule Review

Rule 4.1(a) Agencies subject to the Rules

The Civil Service Rules govern all departments and individuals who are subject to Article X of the state constitution. This includes all state departments, agencies, offices and facilities. Some examples of these are:

- The major executive branch departments, such as DOTD, DHH, Revenue and Corrections;
- Universities, community colleges, technical colleges, special state schools, the Board of Regents and the Board of Elementary & Secondary Education;
- State hospitals and veterans' homes;
- Highway Safety Commission, Barber Examiners Board and the State Board of Medical Examiners; and
- Teachers' Retirement System and Louisiana State Employees' Retirement System.

Anyone employed by or holding an office or position of trust with such an agency must comply with Civil Service Rules.

Rule 4.1(b) Legal authority for unclassified positions

This rule restates the constitutional provision that any employee or position not specifically placed in the unclassified service, either by the state constitution or by the authority of the Commission or the Director, is in the classified service. This means that whenever an agency chooses to fill a position not designated as unclassified by the state constitution or previous Commission/Director action, that position must be classified unless special permission is granted for it to be unclassified.

[Article X Section 2](#) of the 1974 state Constitution specifically provides that positions are in the classified service unless the position is one of the numerated positions listed in the Constitution. Since the State Civil Service Commission's (and the Director as to temporary positions) authority to add to the unclassified service is exclusive, the Louisiana Legislature cannot do so. However, the Legislature can add to the classified service. For example,

housing authorities are in the classified service in accordance with [La. R.S. 40:539\(C\)\(8\)\(a\)](#). Since a housing authority is an entity of local government, they would not otherwise be in the classified service under the state constitution.

NOTE: There is always the potential for legislation to be passed each fiscal year creating new entities by statute or referring to positions being in the unclassified service. Since only the State Civil Service Commission can add to the unclassified service, agencies must request Commission approval authority for those positions that may result from new legislation, although the Director can approve the inclusion of temporary positions in the unclassified service.

Rule 4.1(c) Constitutionally-unclassified positions

This rule lists in numbered subsections, the positions that are placed in the unclassified service by the state constitution.

1. **Elected officials.** These include the Governor, Lieutenant Governor, Secretary of State, Attorney General, Commissioner of Agriculture, Commissioner of Insurance, Treasurer and Public Service Commissioners.
2. **The head of each principal executive department** appointed by the Governor. These are the:
 - Secretary of the Department of Children & Family Services
 - Secretary of the Department of Economic Development
 - Superintendent of the Department of Education
 - Secretary of the Department of Environmental Quality
 - Secretary of the Department of Health and Hospitals
 - Executive Director of the Louisiana Workforce Commission
 - Secretary of the Department of Natural Resources
 - Secretaries of the Department of Public Safety and Corrections
 - Secretary of the Department of Revenue
 - Secretary of the Department of Transportation and Development
 - Secretary of the Department of Veterans' Affairs
 - Secretary of the Department of Wildlife and Fisheries
3. **Registrars of Voters.** The Registrar of Voters in each parish is unclassified. However, their employees are classified, unless specifically designated as unclassified.
4. **Members of state boards, authorities and commissions.** While the members of a board or commission are unclassified, employees of a board or commission are classified, unless specifically designated as unclassified.
5. **One private secretary to the president of each state college or university.**
6. **One confidential assistant AND one principal assistant to any officer, board, commission or authority listed in provisions 1 through 4 above** (except the Department of State Civil Service). This means that the elected Secretary of State and the appointed Secretary of the Department of Revenue may each have both an unclassified confidential assistant and an unclassified principal assistant, as may

each Public Service Commissioner and each Registrar of Voters. Similarly, the Board of Cosmetology, the Jefferson Parish Human Services Authority and the Real Estate Commission may each have an unclassified confidential assistant as well as an unclassified principal assistant.

7. **Members and employees of the Military Department**, i.e. the Louisiana National Guard. In 1991, the Civil Service Commission adopted a change to this rule. When the 1974 state constitution was adopted, several phrases in the old constitution were omitted in order to shorten the new constitution. It didn't appear that the new constitution intended to change the nature of the unclassified service in the Military Department; therefore, to clearly distinguish the unclassified and classified service in the Military Department, the Commission adopted this rule change.
8. **Teaching and professional staff and administrators of state schools, colleges and universities and bona fide students of those institutions employed by any state agency.**

NOTE: A "bona fide student" is someone enrolled full-time at an accredited state high school, technical or community college, or university, or enrolled in an official work-study program. Additionally, Type 5 Charter Schools are not defined as state schools, so their employees do not receive benefits of state service (leave earning, etc.) like regular state employees. The Recovery School District (RSD) is an entity of the state and not a "charter school." SCS has determined that certain staff of the RSD are unclassified in accordance with Civil Service Rule 4.1(c)8 while all other staff are in the classified service.

9. **All employees of the legislative and judicial branches, police juries, school boards, assessor's offices, and of offices of the Governor, Lieutenant Governor and Attorney General.**
10. **Elections commissioners and watchers, and voting machine custodians.**
11. **Railroad employees** whose employment conditions are federally regulated. This refers to employees of the New Orleans Public Belt railroad.
12. Notaries Public.
13. All employees of the Governor's Homeland Security and Emergency Preparedness (GOHSEP).

Rule 4.1(d) Positions unclassified by Commission or Director

This rule describes the authority the Commission has delegated to the Director to grant or revoke unclassified status to certain positions and the authority retained by the Commission to grant or revoke unclassified status to positions.

1. **Rule 4.1(d)1** authorizes the Director to designate temporary positions that have duties outside of the scope of a classified position as unclassified in response to an agency's written request. The agency's written request must justify the reasons why the position should not be a classified position. If the Director finds these reasons to be adequate, he may authorize unclassified status for the position. This

authorization may be limited or subject to conditions imposed by the Director. For example, the Director may authorize unclassified status for a position for only a limited time.

2. **Rule 4.1(d)2** states the Commission’s authority to grant or revoke unclassified status for any position. The Rule specifies that the agency requesting unclassified status for the position must submit “adequate justification” for the request, i.e. explain why the position should not be a classified position. The Rule also specifies that the Commission will make its decision after “considering the recommendations of the Director.”

Unlike the Director, whose authority is limited to unclassifying “temporary positions,” the Commission may unclassify any position for which it deems classified status inappropriate. As a practical matter, the specific requirement for a “recommendation of the Director” means that any request for unclassified status for a position must be fully reviewed by the Director before the Commission will take it under consideration.

Although not specifically cited in the Rule, the state legislature has established minimum qualification requirements that an individual must meet in order to be appointed to a management level position that the Commission has designated as unclassified. [La. R.S. 42:67](#) defines a “management position” as one that:

- Exercises important policy-making or other executive functions,
- Directs the work of an organizational unit,
- Is held accountable for the success of one or more specific programs or projects,
- Monitors progress toward organizational goals and periodically evaluates and makes appropriate adjustments to those goals.

[La. R.S. 42:67.1](#) requires appointees to such unclassified management positions to possess:

- A bachelor’s degree or four years of appropriate experience related to the position, and
- Three years of responsible managerial experience.

The Commission may add to these statutory requirements for managerial level positions, and may set qualification requirements, compensation parameters or any other requirements it deems appropriate for any position that its designates as unclassified.

3. **Rule 4.1(d)3** states that the Director may revoke unclassified status that he has granted to a position but may not revoke unclassified status granted by the Commission. Only the Commission may revoke unclassified authority that it has granted for a position.

NOTE: Since unclassified status for a position is authorized by the Commission/Director based on the justification submitted by the requesting agency, any related changes, such as altered duties, may invalidate that authorization. If such changes occur, the agency should notify the Director so valid authorization may be maintained.

4. Repealed.

Rule 4.1(e) Commission Additions to the Unclassified Service

This rule was revised June 5, 2013, to remove the following specific language from the rule, “is determined to him to provide for personal services which cannot or should not be performed by a classified employee.” The removal of this language is to align with changes in Civil Service Rule 3.1(o) bringing the Civil Service Rules into compliance with the Louisiana Supreme Court decision of [*CIVIL SERVICE COMMISSION OF the CITY OF NEW ORLEANS v. THE CITY OF NEW ORLEANS*](#): 854 So.2d 322,2002-1812 (La. 9/9/03).

Procedures

- [Policy Standards for Unclassified Authority](#)

Job Aids and Resources

- [Exemption from the Classified Service Request to Exceed 1245 Hours](#)
- [Exemption from the Classified Service Request Form](#)
- [FAQs – Exemptions from the Classified Service](#)
- [Unclassified Job Codes](#)