

**EMPLOYEE CLASSIFICATIONS,
INDEPENDENT CONTRACTORS, & VOLUNTEERS**

Revised July 2013

SECTION: 4

A. PURPOSE

The proper classification of City employees, independent contractor, and volunteers is important in administering City personnel policies & procedures including, but not limited to, benefit and compensation plans, eligibility for grievance and appeal rights, and employment law compliance. This Section provides guidelines for such classification.

B. EMPLOYEE EMPLOYMENT STATUS

1. Regular – Regular status employees are considered the City’s core workforce. Work assignment is expected, but not guaranteed, to exist for a period of more than 1 year and, after completing the applicable orientation period, regular status employees are provided additional rights pertaining to benefits, discipline, or grievances, as outlined in this Manual. Regular status employees are subcategorized as follows:

- a. Newly Hired Orientation Period Employee – A newly hired regular status employee who has not yet successfully completed 12 months of service from their date of hire. The newly hired employee orientation period may be extended for up to 6 calendar months at the supervisor’s discretion. The supervisor should document reasons for any extension and discuss them with the employee. The employee may be dismissed at any time during the orientation period or extension except for reasons prohibited by law.
- b. Police Officers – Employees that are assigned to positions requiring Police Officer certification from Utah Peace Officer Standards and Training (POST) or police cadet training positions while preparing to attend or attending POST.
- c. Police Officer Orientation Period Employee – An officer who has not yet successfully completed 12 months of service after completion of their departmental field officer training program as a certified officer by the State of Utah. The employee orientation period may be extended for up to 6 months at the supervisor’s discretion. The supervisor should document reasons for any extension and discuss them with the employee. The employee may be dismissed at any time during the orientation period or extension except for reasons prohibited by law.
- d. Sergeant Promotional Orientation Period Employee – The Tooele City Police Department includes a 12 month orientation period as the final step in the promotional process to the position of sergeant as a safeguard against the advancement of officers beyond their capability. This promotional orientation period may be extended for up to 6 months at the supervisor’s discretion. The supervisor should document reasons for any extension and discuss them with the employee. The employee may be returned to his/her former rank and grade (example: police officer III - not necessarily same specialty assignment) within the

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second half of the 12 month orientation period, when in the judgment of the supervisor, the employee's performance is not such as to merit continuation in the sergeant position. Such action is not considered disciplinary and does not eliminate the employee from consideration for later advancement. No new orientation period is required when moved to the former rank and grade position. The employee retains all of his/her seniority in his/her former rank and grade position.

2. Contingent – Contingent status employees serve at-will and have no expectation of continued employment or employment rights under merit protection principles, except as required by law or as provided for in this Manual. Tooele City maintains the at-will status of contingent employees and any discrepancies or conflicting interpretations will be regarded under the Utah at-will doctrine. For various administrative purposes, contingent employees are subcategorized as:
 - a. Cyclical Employee – Work assignment is typically ongoing throughout the year but generally includes periods of substantial reduction in work hours and/or includes periods with zero work hours due to cyclical patterns of the work area. Examples of cyclical assignments include lifeguards or some golf course operations staff.
 - b. Temporary Employee – Work assignment is typically short-term, is generally expected to be less than 120 work days per year (approximately 6 months), and includes an anticipated termination date.
 - c. Seasonal Employee – Work assignment is typically consistent with a recognized seasonal work period that is generally expected to be less than 150 work days per year (approximately 7 months) and incurs an “off season” with prolonged periods of layoff due to complete lack of work or very limited, incidental work. Examples of seasonal assignments include spring/summer landscape maintenance, winter snow removal, limited operation museums, and most golf course staff.
 - d. On-call Employee – Work assignment is established to have intermittent work hours with periods of prolonged lack of work, except that if the period exceeds 18 months, the on-call employee is generally removed from active status on payroll. Examples of on-call employees include those placed on substitute rosters or those placed on rosters that can be called upon to assist the City in meeting limited staffing needs associated with special events or a special program.
3. Elected Official – Elected by the citizens of Tooele City through a formal public vote pursuant to Utah election law and the Tooele City Charter.

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4. Appointed –

- a. Department Head/Special Appointment - A department head or other employee in a position which is filled through appointment by the Mayor with consent from the City Council. Appointed employees have no expectation of continued employment and serve at the pleasure of the current Mayor unless specified otherwise in the Tooele City Code, Tooele City Charter, or Utah law.
- b. City Council Appointment – An employee in a position which is filled through appointment by the City Council majority. Council appointed employees have no expectation of continued employment and serve at the pleasure of the City Council unless otherwise specified in the City Charter.
- c. Assistant Chief (Captain) or Lieutenant (Division Commander) – Sworn police officers who are appointed by the Chief of Police to the position of Assistant Chief (Captain) or Lieutenant (Division Commander) are classified as Regular status employees on the official City personnel record and are not considered as appointed employees for purposes of this Manual. They are, however, subject to the Police Department Policies & Procedures, as amended, regarding appointment to and revocation from these positions.

C. EMPLOYEE SCHEDULE STATUS

1. Full-time – At the time of assignment to position, schedule is contemplated to be at least 30 hours per week.
2. Part-time – At the time of assignment to position, Schedule is contemplated to be fewer than 30 hours per week. Part-time employees are subcategorized as:
 - a. 20 to 29.75 hours per week; or,
 - b. Less than 20 hours per week.
3. Variable Hour – Schedule will vary but may not exceed a total of 1,508 hours between April 1 and March 31. The total will include actual hours worked, over-time, and compensatory-time hours used/cashed out, and is a combined total for Tooele City not per department or job.

D. INDEPENDENT CONTRACTORS

1. Independent contractors are not City employees.
2. In general, this Manual does not apply to independent contractors.

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3. Independent contractors should have general liability insurance appropriate for their business, a business license appropriate for the services rendered, and worker's compensation coverage or a worker's compensation Statutory Exclusion (waiver) policy, whichever is applicable. The Fair Labor Standards Act (FLSA) and the Internal Revenue Service (IRS) specify that independent contractors should in general also:
 - a. Offer their services to the general consumer base rather than exclusively to Tooele City;
 - b. Have an opportunity for profit/loss;
 - c. Cover their own overhead and related operational expenses; and,
 - d. Have a written agreement for results rather than specifying how the work is to be done and while doing so the independent contractor should be independent of Tooele City in all that pertains to the execution of the work.

E. VOLUNTEERS

1. Volunteers are not City employees.
2. In general, this Manual does not apply to volunteers.
3. Volunteers perform service for civic, charitable, or humanitarian reasons and without promise, expectation, or receipt of compensation for services rendered. Members of advisory, review, and appeal boards, or similar bodies, volunteers in police services, and firefighters are examples of volunteers.
4. At the City's discretion, volunteers may be reimbursed for expenses, provided reasonable benefits, a nominal fee (as defined by FLSA guidelines, nominal fee may not exceed 20% of what would be paid to a City employee providing the same or similar service), and/or a stipend to perform the services for which the individual volunteered.
5. Utah State Code, Chapter 67-20, the Utah Volunteer Government Workers Act, provides regulation for the authorized use of volunteer government workers and applicable insurance including worker's compensation, and general liability and indemnification.
6. Additional guidelines for use of volunteers are available from the Human Resource Department.