

AFSCME Counter  
September 17, 2024

City TA:

AMM a/r/r/24

Union TA:

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### Article 11. Working Out of Classification

- 11.1 For the purposes of this Article, working out of classification shall mean the temporary assignment of a willing, available, and qualified employee to perform substantially the duties and responsibilities of a higher classification.
- 11.2 In the event that there is not a willing employee, the City may require the least senior qualified employees or a qualified temporary employee to work out of classification. In the event that there is not a least senior qualified employee in the work unit, the City may require the least senior qualified employees or a qualified temporary employee in the bureau to work out of classification.
- 11.3 Employees may be worked out of classification when:
- 11.3.1 Temporary vacancies occur in any classification.
  - 11.3.2 Emergency conditions exist and enough personnel are not available in a classification to take care of such emergency.
  - 11.3.3 For legitimate training purposes.
  - 11.3.4 Any reason approved through a Memorandum of Understanding between the Union(s) and the City.
- 11.4 This provision shall be inapplicable to the selection of employees to perform non bargaining unit work. Subject to agreement with the Union, the City may reserve upgrade opportunities for legitimate training purposes. Otherwise, when selecting employees to work in higher classifications, as provided in 11.3.1 through 11.3.4:
- 11.4.1 The City and the Union have agreed that when filling short-term vacancies in a higher class, the offer of such work shall be made first to employees who are on the appropriate eligible list. The City further agrees that it will make every effort to distribute such assignments as equally as possible among those on the eligible lists.
    - (A) ~~The City and the Union have agreed that when filling short-term vacancies in a higher class, the offer of such work shall be made first to employees who are on the appropriate eligible list. The City further agrees that it will make every effort to distribute such assignments as equally as possible among those on the eligible lists.~~
  - 11.4.2 When no employee is available from the appropriate eligible lists, the City shall select from among the three available senior qualified employees in the division or bureau, who are willing to accept the appointment, until a list of qualified candidates is certified.
    - (A) New City employees shall not be eligible for temporary upgrades under sections 11.2.1 and 11.2.2 until they have completed their probationary period. This shall not preclude the City from using new employees for temporary upgrade if no other employees are available under 11.2.1 and 11.2.2.
  - 11.4.3 Employees appointed temporarily to work out of classification will be expected, for the term of such appointment, to substantially perform the duties normally performed by the

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employees they are replacing in that classification. However, employees temporarily appointed to non-represented positions will not administer discipline or have access to personnel files.

(A) The City will notify the Union when a bargaining unit member is upgraded to a non-represented position. When an employee is assigned to work out of class in a non-represented classification, the employees' pay rate shall be percent (5%) above their current rate of pay or the entry rate of the higher classification, whichever is greater. Employees temporarily appointed to non-represented positions who are also Union Shop Stewards shall be required to cease operating in the capacity of a Shop Steward for the duration of said appointment.

(B) Employees appointed temporarily to a non-bargaining unit position shall not be subject to this agreement for the duration of such appointment.

11.5 When employees are assigned to a higher classification, the employees' pay rate shall be the step within the higher classification range which represents at least a three percent (3%) increase over the employees' regular rate in their former classification, provided that in no event shall the rate of pay exceed the maximum rate for the higher classification as provided in Schedule A. When a permanent employee is temporarily assigned to a higher paid classification, credit shall be allowed for all prior temporary service in that classification for determining the appropriate service step of the pay range for that classification.

11.5.1 If upgraded in a workday to a higher classification, an employee will receive the rate applicable to the higher classification for a minimum of one (1) hour. If upgraded longer than one (1) hour, the employee will receive four (4) hours; eight (8) hours if assigned to such higher classification over four (4) hours in the workday. If the employee works an alternate schedule and performs the upgraded work all hours of the day, they will receive the higher rate of pay for all hours worked.

11.5.2 When it is necessary to work employees as provided in 11.3.1 and 11.3.2 in a lower classification, the City shall pay the employee their regular rate for their permanent classification.

11.5.3 When a classification within a department or bureau has been filled by temporary assignment for a period of thirty (30) days, the City and the Unions shall meet to determine if there is a vacancy for a full-time position. "Full time" as used in this Article means a position which has been budgeted on an annual basis, or to the end of the fiscal year.

11.6 The City agrees that it will conduct timely examinations to provide the necessary eligible registers to fill the vacancies which occur in the classifications covered by this agreement. No vacancy in a full-time position covered by this agreement shall be filled on a temporary basis for longer than ~~twelve (12) six (6)~~ months, unless the Bureau of Human Resources is unable to provide the necessary eligible register. This provision does not require the City to fill budgeted vacant positions.