

**Frequently Asked Questions
Hiring Restrictions
January 14, 2016**

1. Is acting status limited to vacant positions or can an employee be delegated the authority to act in a higher range when the incumbent is on leave or a long-term project?

For this purpose, “vacant” includes positions for which the incumbent is on leave or assigned to a long-term project.

2. When an employee is in the reassignment process under the Americans with Disabilities Act must a waiver be approved prior to placing the individual in a position outside the employing department?

If a vacancy is identified for which the individual is qualified and can perform the essential functions with or without a reasonable accommodation the employee may be reassigned without the approval of a waiver, regardless of the department in which the vacancy exists.

3. Are appointments within the same department, for which a waiver is not required, limited only to transfers and promotions?

No, appointments to positions at the same and a lower range are also allowable.

4. Can a nonpermanent employee be appointed to another position within the same employing department without a waiver?

No, appointments within the employing department without a waiver are limited to permanent/probationary employees and positions.

5. Is the establishment and extension of on-call and short-term nonpermanent positions to provide patient and resident services and food service within 24-hour institutions exempt from the hiring restrictions?

Yes, a waiver is not required for positions that provide patient and resident services and food service within 24-hour institutions.

6. May the Commissioner of a department delegate the authority to certify that a position is 100% federally funded?

Yes, the Commissioner may delegate this authority to a Deputy Commissioner or Administrative Services Director. Delegations of this nature must be in writing with a copy provided to the department’s Human Resources Manager.

7. How will requests for reclassification to a job class outside the job class family be handled?

Further consideration has been given to position reclassification and reclassifications are exempt from the hiring restriction. However, the reclassification of a position to perform the work of a vacant position subject to the hiring restriction is prohibited.

Vacant positions exempt from the hiring restriction and those with waivers approved will be given priority processing by the Division of Personnel and Labor Relations. All others will be processed as time allows.

8. If a hiring manager submits a job request for a departmental recruitment and there is a layoff candidate eligible for recall must the department obtain a hiring restriction waiver to appoint the laid-off employee?

Yes, the laid-off employee may not be appointed without a waiver.