

INFORMATION SHEET

For new employees with public servant status

Overview of the regulations applying to public servants

Special aspects of employment and loyalty

Public servants stand in a special relationship to their employer with regard to their employment status and requirements with regard to loyalty (= public servant status). The status of a public servant at JGU is defined by legislation (in contrast with the private legal status of public servants, a possible alternative which is defined by means of contractual agreement). This means that public servants have a special bond with the state and thus with the free and democratic constitution of the Federal Republic of Germany.

Article 33 of German Constitutional Law specifies that there is to be equal access to public offices for all and that persons are to be selected on the basis of suitability, skill and expertise. In general, permanent duties relating to the exercise of public authority are to be assigned to those with public servant status.

Employer

Public servants employed at Johannes Gutenberg University Mainz are direct employees of the State of Rhineland Palatinate (employer). The employer of professors, academic staff with public servant status and higher grade public servants is the ministry responsible for their specific area, i.e., the *Ministerium für Wissenschaft, Weiterbildung und Kultur* (Ministry of Science, Continuing Education and Culture). The university president is the employer of all other public servants employed at the university. The legal basis at the state level is the University Act and the State Public Servant Act for Rhineland Palatinate.

Conferral of public servant status

Public servant status is conferred with the issue of an appointment certificate (certificate principle). Retroactive appointments may not be made.

Official designation

A public servant shall use the official designation appropriate to the post to which they have been appointed. In the case of professors, their official designation is also an academic title, which professors may continue to employ after leaving the university without the use of the suffix "emeritus".

Rights and obligations

On conferral of the status of a public servant, certain rights are obtained, which in turn entail the assumption of certain obligations; these rights and obligations are defined in the corresponding laws.

Public servants have, for instance, the right to appropriate remuneration, protection and benefits and essentially (if appointed a public servant in perpetuity) cannot be fired. The life-long security of employment of public servants means that they continue to receive their employment remuneration in the event of illness up to the time of their retirement due to incapacity.

The essential obligations of public servants require these to carry out their duties impartially, to show full dedication to their profession and respect for laws of the land, and to comply with official secrecy requirements. Public servants also do not have the right to strike. Public servants shall be made aware that they are assuming these obligations during the official swearing-in as part of the appointment process.

The status of various public servants

There are differences between the various occupations (disciplines) and professional groups (lower, median, higher intermediate and higher grades).

Public servants in each particular occupation generally also have different statuses. During their traineeship (e.g. as candidate or intern) a public servant is granted a revocable public servant status. On completion of training, a probationary public service status is generally assigned and on successful completion of the probationary period, a public servant can be granted public servant status for life (but only on reaching the age of 28 years at the earliest).

In the case of public servants with special expertise (e.g. *'Akademische Räte'* working as research associates or appointed to teaching posts with special duties) the training and the professional examination requirements are replaced by other special requirements (e.g. a doctorate and adequate professional experience extending to a specific period).

University professors (this shall include junior professors in future), university lecturers and research assistants are public servants not restricted to a particular occupation (*'laufbahnfreie Beamten'*). They are granted temporary or life-long public servant status without having to complete a probationary period. The hiring requirements for such public servants are specified in the University Act.

The laws governing public servants also define other forms of public servant status, e.g. elective and honorary public servant status.

Remuneration

The right to remuneration is defined in either the Federal Remuneration Act or the State Remuneration Act. The monthly payments consist of the basic salary (perhaps including perquisites or bonuses) and a family bonus where applicable.

There are various ordinances applying to remuneration; those applicable here are Remuneration Ordinance A (lower, median, higher intermediate and higher grade public servants) and Remuneration Ordinance C - to be called 'W' in future (public servants in academic posts at universities and research facilities).

The factors used for calculating the basic salary in remuneration ordinances A and C and salary increases include classification grade, whereby the initial classification grade is determined on the basis of seniority.

Special bonus payments are made twice a year on the basis of special legal requirements. A vacation bonus is paid in July and a further bonus is paid in December (Christmas bonus).

Health insurance

Public servants are not required to take out statutory health insurance cover. They receive illness, birth and death benefits under the terms of the assistance regulations (Assistance Ordinance of the State of Rhineland Palatinate). Since only part of related costs will be covered under this scheme, it is advisable for public servants to take out private health insurance cover. Public servants who voluntarily take out statutory health insurance cover shall, in view of their right to benefits under the assistance regulations, have no claim to payment of the employer contribution portion of their insurance premiums.

Nursing care insurance

Public servants are legally required to take out nursing care insurance for themselves and their immediate relatives.

Accident insurance

Public servants are not covered by statutory accident insurance policies (see 'Benefits' section).

Pension Insurance

Public servants are not covered by statutory pension insurance; their retirement pension is defined by special legal regulations (see 'Benefits' section).

Should public servant status be terminated before the person in question has obtained sufficient pension rights, the employer, at own cost, shall provide retroactive cover under the statutory pension insurance scheme. Should there be the possibility that the person may reassume public servant status within two years after termination, retroactive coverage will be postponed.

Unemployment insurance

Public servants are not required to take out statutory unemployment insurance coverage. On termination of their public servant status, they have no claim to unemployment benefits.

Termination of public servant status

A trainee with revocable public servant status who twice fails the professional examination shall be dismissed as they cannot be appointed to the next higher grade.

Public servants may also be dismissed during the probationary period if it is apparent they are not suitable for the post in question. Compulsory retirement is only possible in exceptional circumstances (e.g. due to incapacity as the result of an accident).

Those with public servant status in perpetuity shall generally retire on reaching the retirement age (65 years) and will thus have a claim to payment of an appropriate retirement pension (see 'Benefits' section). In the event of incapacity after the age of 63 years (or 60 years in the case of those with severe handicaps), a public servant may apply for early retirement.

Those with temporary public servant status shall be dismissed, per legislation, on completion of their term of office. Their claims to payment of a retirement pension are based on special legal regulations.

All public servants have the right to request that their public servant status should be removed at any time. For administrative reasons, the termination date may be delayed by up to three months (or up to the end of the current semester in the case of academic staff and artistic staff). In addition to termination on request, there is also legally required termination (e.g. on assumption of different public servant status), termination for administrative reasons (e.g. on refusal to take the oath) while public servant status may also be terminated following criminal conviction.

Benefits

The benefits due to retired public servants and their heirs are regulated by the Public Servants Pensions Act (a federal law). Retired public servants shall receive a (taxable) pension calculated on the basis of their pensionable service period and pensionable remuneration. Early retirement may mean that pension benefits will be reduced.

In view of the reduction of pension benefits (in parallel to that specified in statutory pension laws), public servants still in employment shall be entitled to tax concessions to enable them to join a voluntary private pension scheme ('Riester Pension').

Public servants who are dismissed but not at their own request (e.g. temporary public servants at the end of their term of office) shall receive a transitional allowance in accordance with the specifications of the Public Servants Pensions Act.

Public servants who suffer accidents while in performance or as a result of their duties that are recognized as workplace accidents shall be entitled to accident insurance benefits in accordance with the specifications of the Public Servants Pensions Act.