

REGULATION

Appointing Authority Letter Reference: CS-6983	Effective Date: August 18, 2002	Index Reference: Job Changes Promotion Hiring Restrictions	Regulation Number: 3.10
Issuing Bureau: Human Resource Services	Rule Reference: Rule 3-3 (Appointments and Job Changes)		Replaces: Reg. 3.10 (CS-6940, March 18, 2001)
Subject: PROMOTION OR LATERAL JOB CHANGE WITHIN A DEPARTMENT OF CURRENT EMPLOYEES UNDER HIRING RESTRICTION CONDITIONS			

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1. PURPOSE

This regulation provides information and standards for the establishment and use of hiring restriction conditions and the guidelines for the promotion or lateral job change within a department of a current employee when hiring restriction or hiring freeze declarations are in force and recall names would normally prevent such an appointment.

2. CIVIL SERVICE COMMISSION RULE REFERENCE

Rule 3-3 Appointments and Job Changes

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3-3.1 Process

All appointments, promotions, and job changes in the classified service must be made in accordance with the civil service rules and regulations. Any person appointed or promoted must be certified as qualified in accordance with and subject to the civil service rules and regulations. The state personnel director shall administer the certification of all appointments and promotions.

3-3.2 Demotion

(a) Notice. *If an appointing authority intends to demote an employee, the appointing authority shall give prior written notice of the specific reasons for the demotion to the employee.*

(b) Conditions. *An appointing authority may demote an employee under any of the following circumstances:*

- (1)** *The employee is not performing satisfactorily.*
- (2)** *The employee's position is reclassified downward.*
- (3)** *The demotion is requested by the employee and approved by the appointing authority.*
- (4)** *The position occupied by the employee is abolished.*
- (5)** *The employee is displaced by the return to duty of another employee entitled to the position.*
- (6)** *The employee is displaced by another employee with more seniority during a reduction in force.*
- (7)** *The employee does not receive a satisfactory probationary service rating, as authorized in rule 3-6.3(b) [Unsatisfactory Service: Employee with status].*

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3-3.6 Lateral Job Change within a Department

An appointing authority may authorize a lateral job change for an employee within the employee's current department or autonomous entity. The employee may be moved to a different classification only if (1) the employee previously attained status in the classification, (2) the job change is based on the civil service preauthorized lateral job change list, or (3) the employee meets the civil service qualification requirements. A lateral job change within a department or

autonomous entity does not require the agreement of the employee. However, an employee may request a lateral job change.

3-3.7 Promotion

An appointing authority may appoint a qualified employee candidate to another position at a higher classification level as authorized by and in accordance with the civil service rules and regulations. A candidate may be qualified for appointment in one or more of the following ways:

- (a) The candidate is listed in an appropriate civil service applicant pool.*
- (b) The candidate meets the civil service qualifications for appointment to a designated classification.*
- (c) The candidate is qualified after review by the department of civil service.*

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3. DEFINITIONS

A. Civil Service Commission Rule Definitions

1. ***Applicant pool** means a group of applicants whom the department of civil service has determined to be qualified.*
2. ***Appointment** means an authorized act of an appointing authority employing a properly qualified person in a specific position in the classified service.*
3. ***Recall list** means a list of persons who have been laid off, demoted, or otherwise displaced for reasons of administrative efficiency, including, for example, lack of work, lack of adequate funding, change in mission, or reorganization of the work force.*

4. STANDARDS

A. Establishment of an Authorized Hiring Restriction or Freeze.

1. The appointing authority must have a current, approved, and acknowledged hiring restriction declaration on file with the Department of Civil Service in accord with this regulation. [See Attachment A for an example of a Declaration of State-wide or Department-Wide Hiring Freeze. See also Attachment B for an example of a Declaration of Organizational Area Hiring Freeze.]
2. A bona fide hiring restriction or hiring freeze is established when a declaration is forwarded to the State Personnel Director by the governor, a department director, or an autonomous entity director that describes

the nature and scope of the hiring restriction or hiring freeze and includes a date and anticipated expiration date.

3. A hiring restriction declaration or hiring freeze declaration must identify the total staffing level (current filled positions) of each of the areas affected by the declaration.
4. A hiring restriction may be department-wide or agency-wide, or it may be specific to the organizational area(s).
5. The organizational area(s) designated for hiring restrictions must be identified by major budgetary units or by definable and distinct programs (i.e., bureau, division, office, or district). The restriction conditions must be applicable to all classifications and classification levels used in the designated organizational area. Any exceptions must be approved by the State Personnel Director.

NOTE: Unit levels or section levels are considered organizationally too narrow for the application of this regulation.

6. The hiring restriction declaration or hiring freeze declaration will be considered null and void for any one of the following reasons:
 - a. The expiration date is reached, and it is not re-issued.
 - b. An individual from outside the department is hired into a declared hiring restricted organizational area (as defined in the declaration).
 - c. The hiring freeze or hiring restriction declaration is rescinded.

B. Lateral Job Change within a Department and Promotional Appointment under Hiring Restriction Conditions.

1. Appointments cannot be approved under this regulation before the appointing authority receives written approval of its hiring restriction condition declaration from the Department of Civil Service.
2. All departmental recall names must be cleared prior to a promotional appointment.
3. The selected candidate must possess the qualifications for the classification to which the appointment is being made.
4. Recall names do not normally prevent the lateral job change or demotion of an employee to a different position within the department or autonomous entity. However, recall names prevent a lateral job change from a limited-term appointment type to an indefinite appointment type.

5. Contractual obligations must be fulfilled when filling a position covered by a collective bargaining agreement.

5. PROCEDURE

A. Establishment of Hiring Restriction Conditions

Responsibility	Action
Appointing Authority	<ol style="list-style-type: none"> 1. Sends a copy of a bona fide Hiring Restriction or Hiring Freeze declaration to the State Personnel Director attached to a letter of intention to apply for a promotion or lateral job change within a department of current employees under hiring restriction conditions. 2. The declaration must contain all of the following: <ol style="list-style-type: none"> a. The identity of the authority issuing the declaration. b. A description of the hiring restriction conditions. c. An explanation of the need and rationale for the restriction conditions. d. An identification of the organizational areas that come under hiring restrictions. e. The effective date the declaration commences. f. The expiration date of the declaration. g. The current staffing level of the affected organizational areas.

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Responsibility	Action
Department of Civil Service	3. Reviews the declaration for compliance with the standards of this regulation. <ul style="list-style-type: none"> a. An explanation of the need and rationale for the restriction conditions. b. If the declaration is incomplete, or not in compliance, sends a letter to the appointing authority requesting additional information or denies request.

B. Making Appointments under Hiring Restriction Conditions

Responsibility	Action
Appointing Authority	1. Submits the documentation identified in the standards of this regulation to the Department of Civil Service.
Department of Civil Service	2. Reviews the documentation for compliance with the standards of this regulation and approves or disapproves.

See Attachments A & B

CONTACT

Questions regarding this regulation should be directed to the Department of Civil Service, P.O. Box 30002, 400 South Pine Street, Lansing, Michigan 48909, (517) 373-3048 or 1-800-788-1766, or by e-mail to MDCS-BHRS@michigan.gov.

NOTE: Regulations are issued by the State Personnel Director under authority granted in the State of Michigan *Constitution* and the *Michigan Civil Service Commission Rules*. Regulations that implement Commission Rules are subordinate to those Rules.

Attachment A

EXAMPLE OF

DECLARATION OF HIRING RESTRICTION (OR FREEZE)

DATE: January 13, 2000

TO: State Personnel Director

FROM: Governor, Department Director, or Autonomous Entity Director

SUBJECT: Declaration of Statewide or Department-wide Hiring Freeze

Effective January 13, 2000, a hiring freeze has been declared for the Department of Administration, pursuant to Executive Order XXXX. This freeze will be in effect until April 30, 2000.

The current staffing level for the department is 1,630, and the projected level for the end of the fiscal year has been determined to be 1,600. It is our intent to achieve the required staffing reduction through normal attrition and the application of this freeze.

Effective immediately, all requests to fill positions must be approved by my office before any appointments can be made.

Attachment B

EXAMPLE OF

DECLARATION OF HIRING FREEZE

DATE: February 8, 2000

TO: State Personnel Director

FROM: Department Director or Autonomous Entity Director

SUBJECT: Declaration of Organizational Area Hiring Freeze

Effective February 8, 2000, a hiring freeze has been declared for the following organizational areas of the Department of Administration:

<u>Organizational Area</u>	<u>Current Staff Level</u>
Office of Personnel Services	55
Office of Management Services	62
Information Technology Division	79
Building Management	99
Accounting Division	23
Purchasing Division	35

It is our intent not to increase current staffing levels within these areas for the remainder of this fiscal year. As a result, all requests to fill positions in these organizational areas must be approved by my office before any appointment may be made. This freeze will be in effect until May 30, 2000.