

REGULATION

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Issued By: Executive	Rule Reference: Rules: 6-6 (Determination of Representation)		Replaces: Reg. 6.08 (CS-6974, May 10, 2002)
Authority: Regulations are issued by the State Personnel Director under authority granted in the Michigan Constitution and the Michigan Civil Service Commission Rules. Regulations are subordinate to the Commission Rules.			
Subject: DESIGNATION OF EXCLUDED POSITIONS			

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1. PURPOSE

This regulation provides procedures for the review and designation of positions excluded from participation in collective bargaining and exclusive representation.

2. CIVIL SERVICE COMMISSION RULE REFERENCE

Note: This Section 2 reprints only selected Commission Rules for quick reference by the reader. Additional Rules (that are not reprinted below) may apply. The complete, current version of the Rules can be found at www.michigan.gov/mdcs.

Rule 6-6 Determination of Representation

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6-6.4 Excluded Positions

- (a) **Designation.** *The state employer, in consultation with the appointing authorities, shall designate the confidential, managerial, and supervisory excluded positions. If the state employer intends to change the designation of an eligible position to an excluded position, the state employer shall give written notice to any affected exclusive representative at least 29 calendar days before the designation becomes effective.*
- (b) **Review of Designation.** *If an exclusive representative disagrees with an intended designation of the state employer, the exclusive representative may petition the state personnel director to review the designation. The exclusive representative must file its petition with the director no later than 28 calendar days after the date of the notice of intent.*
- (c) **Procedure.** *If a petition is filed, the director may solicit additional information from interested persons and may hold an informal conference to discuss the intended designation. The director shall administratively determine whether a position is an excluded position.*
- (d) **Appeal to Commission.** *The decision of the director is final unless the state employer, the attorney general, the secretary of state, or an exclusive representative aggrieved by the decision files an application for leave to appeal with the civil service commission within 28 calendar days after the decision.*
- (e) **Exclusive Procedure.** *The procedure authorized in this rule is the exclusive procedure for resolving disputes concerning the designation of an eligible position as an excluded position.*

3. STANDARDS

A. Consultation and Notice.

The State Employer, in consultation with the appointing authorities, shall designate positions outside Civil Service as excluded or eligible. If the State Employer designates a position as excluded, the State Employer shall give written notice of the designation to the appointing authority, any incumbent, and any exclusive representative.

B. Effective Date and Petition for Review.

A designation cannot be effective until 29 calendar days after the date of the written notice of the designation. If an exclusive representative disagrees with a designation of the State Employer, the exclusive representative may file a petition for review with the State Personnel Director within 28 calendar days after the date of the written notice. If the director receives a timely petition for review, the designation is stayed pending the director's decision.

C. State Personnel Director Review of Petition.

If an exclusive representative files a timely petition for review, the State Personnel Director may solicit additional information from the appointing authority, State Employer, and exclusive representative. The director may hold an informal conference to discuss the designation with interested persons.

D. State Personnel Director Decision.

The State Personnel Director shall issue a written decision deciding whether the position is or is not excluded to the appointing authority, the State Employer, and any exclusive representative.

E. Effective Date and Appeal.

The decision of the State Personnel Director is effective when issued or at such other date provided in the decision. The director's decision is final, unless a proper application for leave to appeal is filed with the Civil Service Commission within 14 calendar days after the date of the decision. The director's decision is not stayed during an appeal unless otherwise provided in the decision or ordered by the Employment Relations Board or Civil Service Commission.

F. Delegation.

The State Personnel Director may delegate, in whole or in part, any of the director's authority under rule 6-6.4 or this regulation.

CONTACT

Questions regarding this regulation should be directed to the Executive Office, Civil Service Commission, P.O. Box 30002, 400 South Pine Street, Lansing, MI 48909; or by telephone, at 517-373-3020.