

# Michigan Civil Service Commission

## Regulation 4.08

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| <b>Subject:</b>             |   |   |
| <b>Working Out of Class</b> |   |   |
| <b>SPDOC No.:</b>           | <b>Effective Date:</b>                                    | <b>Replaces:</b>  |
| <del>16-06</del>            | <del>January</del> <u>October</u> 1,<br>2019 <del>7</del> | Reg. 4.08 (SPDOC <del>16-063</del> , <del>May</del> <u>October</u> 1, 201 <del>7</del> <u>1</u> ) |

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## 1. Purpose

This regulation establishes ~~the standards and procedures to~~ make ~~determine what constitutes~~ working-out-of-class (WOC) determinations for all classified employees, ~~including. The standards in this regulation determine the compensation-~~ pay rates, eligibility, time periods, and qualification credit ~~that may be warranted.~~

## 2. CSC Rule References

### 4-5 Working out of Class

*(a) Working-out-of-class assignment. An appointing authority may temporarily assign an employee to work out of class only if (1) the employee is performing the duties and responsibilities of an existing position or (2) civil service staff has approved in advance a request for the employee to work out of class. A working-out-of-class assignment cannot exceed one year.*

**(b) Working-out-of-class pay.** *If an employee is assigned to work out of class for more than 10 consecutive work days, the employee is entitled to supplemental pay and benefits for the temporary assignment in accordance with the civil service rules and regulations.*

**(1) Claims for working-out-of-class pay.** *If an employee is assigned to work out of class and does not receive authorized supplemental working-out-of-class pay and benefits, the employee may request a technical working-out-of-class determination.*

**(A) Time limit.** *A request for a technical working-out-of-class determination must be filed during the working-out-of-class assignment or, after the end of the assignment, within the time specified in the regulations.*

**(B) Back pay.** *In a technical working-out-of-class determination, the civil service review officer may award back pay and benefits for working out of class for a maximum of one year before the end of the working-out-of-class assignment. No supplemental working-out-of-class pay or benefits are payable for any period longer than one year even if the employee worked out of class for more than one year.*

**(2) Relation to collective bargaining.** *Working out of class is a prohibited subject of bargaining. The exclusive procedure for any employee, including an exclusively represented employee, to bring a claim for working-out-of-class pay or benefits is to file a request for a technical working-out-of-class determination.*

**(c) Exclusions.** *An employee in any of the following circumstances is not considered to be working out of class:*

**(1)** *The employee is working in a preauthorized position.*

**(2)** *The employee is occupying a position downgraded for training.*

**(3)** *The employee is occupying a position that is reclassifiable.*

**(4)** *The employee is an overall assistant who normally substitutes for the employee's supervisor.*

\* \* \*

### 3. **Definitions**

#### A. **CSC Rule Definition.**

1. *Working out of class means being temporarily assigned to and performing the duties and responsibilities of another classification, in accordance with the standards in rule 4-5.*

### 4. **Standards**

#### A. **Authorized.**

1. ~~The An~~ appointing authority ~~or agency management~~ may assign an employee duties and responsibilities of a different classification ~~on a temporarily basis~~ for up to 26 pay periods, ~~ensuring equal opportunity in such assignments.~~

2. A working-out-of-class assignment can be made ~~when any of the following situations exist:~~
  - a. ~~Time constraints make it~~It is ~~not~~ impractical or infeasible, ~~due to time constraints,~~ to establish, recruit ~~for,~~ or fill a position on a limited-term basis.
  - b. There is an urgent or critical need to ~~have~~ perform duties and responsibilities ~~performed~~ during ~~the absence of~~ another employee's absence.
  - c. The appointing authority is in the process of recruiting to fill the position.
  - d. Pending organizational ~~changes within the agency or changes in its agency-~~ leadership changes necessitate require temporary work assignments.
  - e. ~~An overall assistant having direct line authority and responsibility over the organizational entity is required to act as the chief supervisor in the absence of the supervisor for more than 6 consecutive pay periods. The working out of class designation begins after the first 6 pay periods, and the working out of class compensation will not include this qualifying period.~~
  - f. ~~A Department of State Branch Supervisor 10 serves as a Relief Branch Support Supervisor in a relief assignment for more than 30 consecutive full work days. The working out of class designation begins after 30 consecutive full work days, and the working out of class compensation includes the qualifying period.~~
  - g. ~~It is~~ not impractical to use ~~one of the~~ an alternatives listed in § 4.E.

#### B. Not Authorized.

1. The following situations do not constitute working out of class:
  - a. An employee working in a ~~pattern position or in a~~ position downgraded for training or pattern position.
  - b. An employee performing ~~the~~ permanently assigned entry ~~for~~ trainee ~~through~~ experienced-level duties and responsibilities ~~of their position~~ that may result in reclassification.
  - c. An employee performing higher ~~level~~ duties that may ~~warrant~~ result in reclassification.
  - d. ~~A Department of State Branch Supervisor 10 serving as a Relief Branch Support Supervisor for 30 or less consecutive full work days. The classification concept takes into consideration the fact that the Relief Branch Support Supervisor may be required to supervise 10, 11, or 12 level offices.~~
2. An appointing authority ~~is prohibited from~~ cannot entering into any settlement agreement for a ~~working out of class~~ WOC assignment ~~in accordance with rule 4-5(b)(2).~~

**C. Eligibility Criteria.**

1. All ~~of~~ the following criteria must be met for an employee to be ~~recognized as~~ working out of class:
  - a. The appointing authority must submit a Position Action Request ~~(CS-129), a Position Description (CS-214),~~ and any other necessary documentation for a classification review before processing the ~~working out of class~~ WOC payment ~~when if~~ any of the following conditions exist:
    - (1) An employee is temporarily assigned duties and responsibilities that Civil Service ~~has~~ ~~ve~~ not ~~been~~ classified ~~by Civil Service~~.
    - (2) A question exists with the employee, the appointing authority, or Civil Service ~~staff as to~~ on whether the employee has worked out of class.
    - (3) A question exists with the employee, the appointing authority, or Civil Service ~~staff as to~~ on the proper classification of the temporary duties and responsibilities.
  - b. The appointing authority or designee must direct the employee to perform ~~the duties and the responsibilities of~~ a properly classified assignment's duties and responsibilities.
  - c. The employee must perform all, or substantially all, of the duties and responsibilities that are different from the employee's classification.
  - d. The employee must perform ~~the duties and responsibilities of~~ a single temporary assignment's duties and responsibilities for ~~the a~~ a qualifying period of more than 10 consecutive, full workdays (80 hours), interrupted only by leave usage or a holiday, unless this regulation designates a different qualifying period.
  - e. The employee should ~~possess~~ have the education and experience requirements or be in a classification level that would ultimately satisfy the experience requirement for the ~~working out of class~~ WOC assignment. If the employee does not ~~possess~~ have the required education or experience, the appointing authority must ~~have~~ documentation on file as to the reason for ~~utilizing the~~ is employee ~~in a working out of class situation. This will be subject to~~ for later Civil Service audit.
  - f. The employee must ~~possess~~ meet any state or federal licensure, registration, and certification requirements, as stated on the classification's job specification ~~for positions in the classification~~.
2. Leave usage or ~~the occurrence of~~ a holiday during ~~the a~~ a qualifying period does not constitute a break or count as part of the 10-day or other qualifying period ~~or other time designated in the~~ under this regulation. ~~The t~~ Time lost ~~because of~~ for leave usage or a holiday must be made up by an equal number of consecutive workdays to satisfy

- ~~before~~ the qualifying period ~~is complete~~. Once the ~~10 consecutive day full~~ qualifying period ~~has been is~~ satisfied, the employee ~~will be is compensated paid~~ at the ~~working out of class WOC pay~~ rate for all subsequent leave usage and holidays for the ~~duration rest~~ of the ~~working out of class WOC period~~ assignment.
3. An employee cannot be ~~assigned to worked~~ out of class for initial and subsequent periods in the same assignment for ~~over 26 pay more than a 12 month~~ periods. ~~After the end of that 126 month pay~~ periods, the employee is ~~not ineligible~~ for the same ~~working out of class WOC~~ assignment ~~until for~~ 13 pay periods ~~have elapsed~~. After ~~the 13~~ pay periods, the employee must complete a new qualifying period ~~to work out of class again of more than 10 consecutive, full workdays (80 hours), unless this regulation designates a different qualifying period~~.
  4. ~~When If~~ the appointing authority intends or ~~has reason to believes~~ that ~~the a working out of class WOC~~ assignment may last ~~more than over~~ 26 pay periods, the appointing authority should make an appointment to the position.
  5. Overall assistants. An overall assistant with direct-line authority and responsibility over the organizational entity must act as chief supervisor during a supervisor's absence for over six consecutive pay periods. Any WOC designation begins after the first six pay periods, but WOC pay does not include the qualifying period.
  6. Branch Supervisors. A Department of State Branch Supervisor 10 must serve in a relief assignment as a Relief Branch Support Supervisor for over 30 consecutive full workdays. Any WOC designation begins after 30 consecutive full workdays, but WOC pay includes the qualifying period.

**D. ~~Compensation Pay~~ and Qualification-~~Credit~~ Criteria.**

1. An employee is eligible for ~~working out of class WOC compensation pay~~ only for work that has been properly classified as required in § 4.C.1.
2. Once the qualifying period ~~has been is~~ met, the employee is entitled to ~~compensation pay~~ through a ~~gross-pay~~ adjustment (GPA) for working out of class ~~commencing with from~~ the ~~assignment's~~ first day ~~of the assignment~~. The ~~appointing authority must enter a comment line identifying the~~ classification and position code of the position that necessitated the ~~working out of class WOC~~ assignment ~~must be identified in a comment line on the employee's record~~. This information is subject to audit by Civil Service.
3. If an employee is ~~assigned to worked~~ out of class for ~~a 10 ten consecutive days period~~ and is subsequently ~~assigned to worked~~ out of class in the same assignment ~~for 26 pay periods in a 12 month period~~, the employee is entitled to ~~working out of class compensation pay~~ for the full extent of ~~any the~~ subsequent assignments ~~without another qualifying period unless this regulation designates a different qualifying period. A new 10 day qualifying period is not required~~. This ~~compensation pay~~ is

- limited to ~~the~~ a maximum of 26 pay periods for any one assignment. The 26 pay periods for a WOC assignment must be completed within 24 months from the qualifying period's start.
4. An employee may ~~submit a request to Civil Service for a technical working-out-of-class-WOC determination from Civil Service, pursuant to under rules 4-5(b)(1) and 4-2(a), and regulation 4.03 to determine if a working-out-of-class assignment has been made.~~ The ~~employee's~~ request must be made within 28 ~~calendar~~ days after the assignment ends and ~~must~~ include a position description, describing the temporary duties, and documentation that a request for ~~working-out-of-class-WOC compensation pay~~ was submitted to the appointing authority. ~~Late requests~~ Claims submitted after that time period are not accepted ~~for compensation and qualification credit purposes.~~
  5. An appointing authority must process ~~working-out-of-class-WOC compensation pay~~ adjustments or submit a ~~working-out-of-class-WOC~~ determination request to Civil Service within three months from ~~the end of any working-out-of-class-WOC assignment's end.~~ The appointing authority must obtain Civil Service approval ~~from the State Personnel Director~~ for any pay adjustments or determination requests ~~that are~~ beyond three months.
  6. ~~Determination of the working-out-of-class-WOC compensation pay rate must be is~~ in accordance with regulations 4.08, 5.01 and 5.07.
  7. An employee eligible for WOC compensation worked out of class in a preauthorized series is paid at the appropriate step for the classification level for which the employee meets the required education and experience, which is typically the entry level. If this does not result in a pay increase, the employee is paid at the appropriate step for the next higher level in the series that would result in a pay increase under § F.2 of regulation 5.01.
  78. An employee working out of class at an equal or lower pay range than the employee's permanent classification is ~~not~~ ineligible for ~~working-out-of-class-WOC compensation pay.~~
  89. Qualification credit, as determined by Civil Service, is granted for experience gained in documented ~~working-out-of-class-WOC~~ assignments if the employee meets the minimum education, licensure, registration, and certification requirements for ~~the classification of~~ the temporary assignment's classification.
  10. Qualification credit does not substitute for the classification's aggregate qualification requirements. Qualification credit is granted at the highest level for which the employee meets the experience requirements, up to the WOC level.

~~911.~~ Qualification credit may only be applied once for an appointment, reclassification, or job change ~~and does not substitute for the aggregate qualification requirements of that classification.~~

~~120.~~ Qualification credit cannot exceed ~~a maximum of 26~~ pay periods for any ~~one working out of class~~ WOC assignment.

**E. Alternatives to Working out of Class.**

The following alternatives should be considered instead of working an employee out of class:

1. Assigning supervisory ~~/ or~~ managerial assignments to other supervisors ~~/ or~~ managerial ~~personnel, eliminating the potential for working out of class.~~
2. Making a limited-term appointment ~~to a position.~~
3. Making an emergency appointment of 28 days or less, ~~pursuant to~~ under rule 3-3.3 ~~and Civil Service regulations. Questions regarding the use of the emergency appointment process should be directed to Civil Service.~~
4. Rotating the potential ~~working out of class~~ WOC assignment among several employees in the work area, ~~being mindful of the limitations set forth in this regulation on working an employee out of class.~~
5. Dividing the work function among ~~the~~ other employees in the work area, ~~eliminating the potential for a working out of class assignment.~~

**F. Compliance.**

Civil Service ~~staff~~ audits all ~~working out of class~~ WOC payments. The appointing authority shall retain adequate documentation to substantiate compliance with this ~~working out of class~~ regulation. Failure to supply adequate documentation, upon request, may result in ~~revoking~~ reduction of the appointing authority's delegated authority to process future WOC payments ~~for working out of class.~~

**5. Procedures**

| Responsibility                | Action   |
|-------------------------------|--|
| Agency Management or Employee | 1. Submits <del>a</del> request for <del>working out of class</del> <u>WOC compensation pay</u> and documentation to <del>the</del> appointing authority.  |
| Appointing Authority          | 2. Reviews <del>the</del> request <del>in accordance with the standards set forth in this regulation and other regulations.</del><br>3. Determines <del>the</del> appropriate classification and processes <del>a working out of class</del> <u>WOC</u> payment, in accordance with regulations 5.01 and 5.07. If <del>the</del> request is denied, documents <del>the</del> reason. |

| Responsibility       | Action   |
|----------------------|--|
| Appointing Authority | 4. If <del>the</del> request involves <del>a</del> set of duties that has not been reviewed and classified or there is <del>a</del> dispute between <del>the</del> employee and <del>the</del> appointing authority <del>as to on the proper classification of the</del> temporary assignment's <u>proper classification</u> , submits <del>a</del> Position Action Request ( <del>CS-129</del> ), <u>Position Description</u> ( <del>CS-214</del> ), and any other necessary documentation to Civil Service for <del>a</del> classification review.           |
| Civil Service        | 5. Reviews <del>the working out of class</del> <u>WOC</u> requests <del>that</del> involves <u>ing</u> <del>a set of</del> duties that has <u>ve</u> not been previously classified to determine <del>the</del> proper classification and approvable timeframe, documents <del>it</del> on <del>the CS-129</del> <u>Position Action Request</u> , and releases as <del>a</del> "No Action."<br><br>6. If <del>the working out of class</del> request is denied, informs employee of <del>the working out of class</del> <u>WOC</u> decision and appeal rights. |
| Appointing Authority | 7. Receives <del>the CS-129</del> <u>Position Action Request</u> for <del>the</del> position review.<br>8. Processes <del>the</del> approval for payment, if appropriate.  |

## **CONTACT**

Questions on this regulation may be directed to Classifications and Selections, Civil Service Commission, P.O. Box 30002, 400 South Pine Street, Lansing, Michigan 48909; ~~by telephone at~~ 517-284-0103; ~~373-6695~~, or ~~to~~ MCSC-OCSC@mi.gov.