

Michigan Civil Service Commission

Regulation 5.12

Subject:		
Severance Pay		
SPDOC No.: 18-03	Effective Date: January 1, 2019	Replaces: Reg. 5.12 (SPDOC 16-06, January 1, 2017)

1. Purpose

This regulation establishes standards for severance pay for eligible employees.

2. CSC Rule References

5-6 *Additional Compensation: Miscellaneous*

5-6.10 *Severance Pay*

(a) Eligibility.

- (1) Employees.** *The following employees are eligible for severance pay if they meet the criteria in subsection (a)(2) and are not disqualified by the criteria in subsection (a)(3):*
- (A)** *An "agency based" employee of the department of health and human services laid off because of deinstitutionalization of the department of health and human services resident population after October 1, 1996.*
 - (B)** *A nonexclusively represented employee who is indefinitely laid off on or after October 1, 1995.*
- (2) Criteria.** *An employee is eligible if the employee was (1) laid off for at least 6 months, (2) was laid off in satisfactory employment status, and (3) was not separated from a temporary or limited-term appointment.*
- (3) Disqualification.** *An otherwise eligible employee is disqualified from receiving severance pay for any of the following reasons:*
- (A)** *The employee dies before accepting payment.*
 - (B)** *The employee is hired in any position in the classified service.*
 - (C)** *The employee refuses recall to state employment located within a 75-mile radius of the agency from which the employee was laid off.*
 - (D)** *The employee is recalled to an indefinite appointment in a position covered by a collective bargaining agreement, in which case the agreement controls.*

(E) *The employee is hired for any position outside of the classified service and the initial base hourly rate for the position is 75 percent or more of the employee's final base hourly rate in the position from which the employee was laid off.*

(b) **Time limits.** *The appointing authority shall notify an employee of the employee's severance pay option 6 months and 12 months after the layoff.*

(1) *The employee may accept in writing the lump sum severance payment at any time after the first notice until 14 calendar days after the second notice. The employee is deemed to have rejected severance pay if the employee does not timely accept the severance pay in writing.*

(2) *If the employee accepts severance pay, the appointing authority shall pay the employee within 60 calendar days and remove the employee's name from all recall and layoff lists.*

(3) *Acceptance of severance pay constitutes a break in service and terminates any rights to continuous service credits for any purpose, including annual leave accrual and longevity.*

(c) **Severance pay rates.** *The severance payment for an eligible employee who accepts severance pay is determined by the regulations and the following table:*

Years of Service	Weeks of Severance Pay	Years of Service	Weeks of Severance Pay
1	1	13	24
2	2	14	27
3	3	15	30
4	4	16	33
5	5	17	36
6	7	18	39
7	9	19	42
8	11	20	45
9	13	21	48
10	15	22	51
11	18	23 or more	52
12	21		

(d) *If an employee receives a severance payment, the employee may be rehired in the classified service only under the conditions provided in the regulations.*

3. Definitions

A. Definitions in This Regulation.

1. **Layoff** means termination of active state employment solely as a direct result of a reduction in force.

2. **Severance payment** means a lump-sum payment in accordance with the approved pay schedule granted to eligible employees in return for forfeiting all recall rights.
3. **Week's pay** means an employee's gross pay for 40 hours of work at straight-time rates excluding premiums.
4. **Year of service** means one year of seniority (2,080 hours) as defined in the HRMN continuous-service-hours counter.

4. Standards

A. Eligibility.

1. Department of Health and Human Services "agency-based" employees who meet the eligibility criteria in § 4.A.3 are eligible for severance pay if laid off because of deinstitutionalization of the DHHS resident population.
2. Nonexclusively represented employees who meet the eligibility criteria in § 4.A.3 and are indefinitely laid off are eligible for severance pay only if monies remain in a special severance fund approved by the commission.
3. To be eligible for severance pay, an employee must (1) have one year of state service when laid off; (2) have been laid off for six or more months; (3) be in satisfactory employment status; and (4) not be in a temporary or limited-term appointment.
4. An otherwise eligible employee is disqualified from receiving severance pay if the employee meets any of the following conditions:
 - a. Dies before accepting payment.
 - b. Is hired for any classified position.
 - c. Refuses recall to state employment within a 75-mile radius of the work location from which laid off.
 - d. Is permanently recalled to another classified position covered by a collective bargaining agreement, in which case the agreement controls.
 - e. Is hired for any non-classified position with an initial base hourly rate of 75% or more of the employee's final base hourly rate when laid off.

B. Time Limits. The agency must notify eligible employees of the option of severance pay after 6 and 12 months of layoff.

1. An employee who does not accept a severance payment in writing between receiving the first notice and 14 days after receiving the second notice permanently rejects the payment.

2. If payment is accepted under rule 5-6.10(b) or a collective bargaining agreement, the agency must, within 60 days, pay the employee and remove the employee's name from all recall lists.
3. Accepting severance pay under rule 5-6.10(b) or a collective bargaining agreement constitutes a break in service.

C. Amount of Severance Pay. Eligible employees who accept severance payment are paid in accordance with the table in rule 5-6.10(c).

1. Any required withholding under law or regulation for federal, state, or local taxes is deducted from the severance payment.
2. Eligible employees who work less than 80 hours per pay period receive a prorated severance payment based on the average number of hours worked for the calendar year preceding layoff. For example, the gross amount paid to an employee who worked 1,980 hours during the previous calendar year would be 94.8% (1980/2088) of the severance pay listed in the table.

D. Effect on Retirement. Accepting or rejecting severance pay does not affect vested statutory pension rights, which are received as provided by law.

E. Payment. Upon receiving a laid-off employee's written acceptance of severance pay, the agency shall do the following:

1. Pay the employee by having a gross-pay adjustment processed.
2. Immediately remove the employee's name from all recall lists. A laid-off worker currently included in a candidate pool for consideration when notice is given remains eligible for appointment.

F. Recall Before Exercising Severance-Pay Option.

1. An employee recalled for less than 60 days has this time bridged for counting the time in accordance with § 4.A.
2. An employee recalled for over 60 days to a position qualifying for severance pay, and subsequently laid off, is eligible for severance pay, if the employee meets all the requirements of this procedure. The time limits are applied from the date of the most recent layoff.

G. Return to State Service after Receiving Severance Pay.

1. If two years pass after receiving severance payment, an employee who returns to state service by new hire or reinstatement is treated like any other employee who separates and returns to classified employment.
2. If an employee returns to state service within two years of receiving severance pay, the employee:

- a. Must agree in writing to the method and schedule to repay within 12 months of returning to the agency of layoff the net amount of any severance pay.
 - b. Is returned to state service by reinstatement with continuous service hours at layoff transferred to the prior-service counter.
 - c. Receives an initial annual-leave grant of 16 hours only if returning in a calendar year different from that when the payment was made.
3. After full repayment, the employee's current agency shall change the reinstatement to a return from layoff and do the following:
- a. Restore hours from the prior-service counter as continuous service hours.
 - b. Restore all sick-leave hours the employee had when paid severance, unless sick leave was paid off based on continuous employment since October 1, 1980.
 - c. Make any longevity payment to the employee that was not received but would have been received if the employee had been credited with the prior-service hours immediately upon return to state service.
 - d. Allow the employee to buy back paid off sick or annual leave under all regular procedures. The eligibility and time limits to purchase start after full repayment.
4. The appointing authority cannot:
- a. Retroactively adjust the annual-leave counter for any difference between the accrual rates before and after repayment.
 - b. Allow the employee to use any credited leave hours for any lost time due to illness during the period of repayment.
 - c. Place the employees on any recall list.

CONTACT

Questions on this regulation may be directed to Compensation, Civil Service Commission, P.O. Box 30002, 400 South Pine Street, Lansing, Michigan 48909; 517-241-0837 or 517-284-0102; or MCSC-Compensation@mi.gov.