

# Michigan Civil Service Commission

## Regulation 3.06

<b>Subject:</b> <b>Employment Sanctions</b>		
<b>SPDOC No.:</b> 21-04	<b>Effective Date:</b> September 5, 2021	<b>Replaces:</b> Reg. 3.06 (SPDOC 16-06, January 1, 2017)

### 1. Purpose

This regulation establishes procedures for applying and challenging employment sanctions.

### 2. CSC Rule References

#### 3-1 Examinations

\* \* \*

#### 3-1.5 Integrity of Process

*To be considered for appraisal or appointment, an applicant shall comply with the established procedures and processes.*

**(a) Prohibited Acts.** *During the application, appraisal, or appointment process, a person shall not do any of the following:*

- (1)** *Make any false statement or omission of a material fact.*
- (2)** *Misrepresent education or experience.*
- (3)** *Engage in deception or fraud.*
- (4)** *Cheat.*
- (5)** *Compromise the integrity of the appraisal method.*
- (6)** *Violate rule 2-7 [Drug and Alcohol Testing].*

**(b) Sanctions.** *If an applicant has engaged in any prohibited act, the state personnel director may do any of the following:*

- (1)** *Cancel or limit the applicant's eligibility for appointment in the classified service.*
- (2)** *Revoke the applicant's appointment.*
- (3)** *Impose any other appropriate sanctions.*

### 3. Definitions

#### A. CSC Rule Definitions.

1. **Applicant** means a person who applies for consideration for appointment to a classified position.
2. **Appointment** means an authorized act of an appointing authority employing a properly qualified person in a specific position in the classified service.
3. **Classified service** means the Michigan state classified civil service.

#### **B. Definitions in This Regulation.**

1. **Conviction** means any misdemeanor or felony charge to which a person pleaded guilty, pleaded nolo contendere, or was found guilty by a court of law, regardless of the sentence imposed.
2. **Employment sanction** means a limitation imposed by civil service on a person's eligibility for employment consideration or appointment in the classified service.
3. **Expunged conviction** means a conviction that has been set aside by the operation of law. An expunged conviction may still provide a legal basis for sanction from appointment to some appointing authorities, if authorized by law.

### **4. Standards**

**A. Authorized.** If Civil Service determines that an employee or other person is ineligible, unfit, or unsuitable for employment in or appointment to the classified service, Civil Service may impose an appropriate employment sanction on a person who:

1. Was dismissed by an appointing authority or engaged in conduct that could have resulted in dismissal but resigned or retired before disciplinary proceedings could be begun or completed by an appointing authority.
2. Engaged in any act prohibited by rule 3-1.5.
3. Committed an act that the rules or regulations authorize a sanction for.
4. Consented in writing with an agent of the state or an appointing authority to an employment sanction or other limit on classified employment.
5. Has adequate evidence of conduct indicating that the person is ineligible, unfit, or unsuitable for appointment in the classified service.
6. Was convicted of a felony or misdemeanor crime, as disclosed by a criminal history check, court documents, or other trustworthy evidence.

**B. Limitations on Appointing Authorities.** An appointing authority cannot take an action prohibited by an employment sanction. An appointing authority must reverse any action prohibited by sanction. If an appointing authority fails to reverse an action prohibited by sanction, Civil Service may reverse the action.

**C. Types and Duration.** Civil Service may impose any sanctions authorized in the rules or regulations.

1. **Specific.** A specific employment sanction may include one or more of the following:
  - a. Removal from applicant referral mechanisms.
  - b. Prohibition from participating in appraisal processes or appointment to specified classification positions or in specified agencies.
  - c. Revocation of an appointment.
  - d. Other appropriate limitations on the status of the person.
2. **Complete.** A complete employment sanction prohibits being examined for any classified position, placed or continued in candidate pools, or appointed to any classified position. A complete sanction may be of limited or unlimited duration.
3. **Duration.** If an employment sanction is not expressly limited in duration, it does not expire unless the director's designee modifies the sanction after a three-year review authorized under § 4.F. If the duration is limited, the sanction automatically expires at the sanction period's end, unless modified.
4. **Mandatory minimum sanctions.**
  - a. **Test-designated positions.** A classified employee selected for a test-designated position who violates rule 2-7.4(a)(2) is prohibited for 3 years from being appointed, promoted, assigned, recalled, or otherwise placed in a test-designated position and disqualified from test-designated positions.
  - b. **New hires.** An applicant whose conditional offer of employment is rescinded for violating rule 2-7.4(b)(1) is prohibited for 3 years from being appointed to the classified service.

**D. Procedures for Imposing Employment Sanctions.**

1. **Initiated by Civil Service.** If Civil Service determines that an employment sanction should be imposed, the director's designee may issue a technical qualification decision imposing a sanction.
2. **Initiated by appointing authority.**
  - a. **Request.** An appointing authority may request in writing that Civil Service impose an employment sanction for any reason authorized in the rules or regulations. The request must identify the basis in § 4.A under which the sanction is requested.
  - b. **Review.** Civil Service shall review the request and issue a technical qualification decision granting or denying the request, in whole or part.

3. **Service of decision.** A technical qualification decision imposing an employment sanction must provide written notice of the sanction and the reasons for the sanction by delivering a copy of the decision by one of the following methods:
  - a. First-class U.S. mail to the sanctioned person's last known address.
  - b. Electronic delivery to the sanctioned person's last known email address.
  - c. Interoffice mail to a sanctioned classified employee.

#### **E. Appeal of Employment Sanction.**

1. **General.** Except as provided in §§ 4.E.2 and 3, a requesting appointing authority or sanctioned person may appeal a technical qualification decision by filing a technical qualification complaint on a CS-212 form as provided in rule 3-3.10 and regulation 8.02. The complaint must be received within 14 days after Civil Service issued the technical qualification decision. A final decision of a technical review officer in a technical qualification complaint is the commission's final decision and cannot be further administratively appealed.
2. **Drug testing of new hire.** A new hire receiving a mandatory sanction for drug testing under rule 2-7.4(b)(1) cannot challenge the sanction through a technical qualification complaint. Instead, the sanction must be challenged under the complaint process in regulation 2.10.
3. **Release or agreement.** A person who has consented to an employment sanction from classified employment in a written release or agreement cannot appeal the sanction.
4. **No collateral challenge.** In the technical qualification complaint process, a person cannot collaterally challenge the factual basis for discipline or the discipline imposed by an appointing authority. Challenges to discipline must be raised in the appropriate grievance process.

#### **F. Later Modification of Employment Sanction.**

1. **Sanctions of three years or less.** If an employment sanction is for three years or less and no timely appeal of the technical qualification decision was filed under § 4.E.1, the sanction cannot be reduced or modified, except under § 4.F.3.
2. **Sanctions over three years.** An employment sanction of over three years, including a sanction of unlimited duration, may be reviewed once by Civil Service after three years have passed.
  - a. **Request.** The sanctioned person must submit a written request to modify the sanction to Civil Service setting forth in detail why the sanction should be modified. Civil Service must receive the request no later than 28 days after the third anniversary of the sanction's issuance.

- b. **Civil Service review.** Civil Service shall review the request and obtain any additional information necessary to evaluate it.
  - (1) If sufficient grounds to modify the sanction are not found, Civil Service shall issue a technical qualification decision denying the request.
  - (2) If sufficient grounds to modify the sanction are found, Civil Service shall issue a technical qualification decision removing or modifying the sanction.
  
- 3. **Request based on changed circumstances.** If the basis for an employment sanction is subsequently vacated, a sanctioned person may request that a sanction be removed. This provision is intended for sanctions based on discharges from employment or criminal convictions that are subsequently overturned. This section cannot be used to seek (1) reconsideration based on failure to disclose a then-valid discipline or conviction during an application process, (2) removal based on a subsequently expunged conviction, or (3) general reconsideration of a previous sanction.
  - a. **Request.** The sanctioned person must submit a written request to modify the sanction to Civil Service setting forth in detail why the sanction should be removed. Civil Service must receive the request no later than 28 days after the change in circumstances.
  - b. **Civil Service review.** Civil Service shall review the request and obtain any additional information necessary or useful to evaluate it.
    - (1) If sufficient grounds to modify the sanction are not found, Civil Service shall issue a technical qualification decision denying the request.
    - (2) If sufficient grounds to modify the sanction are found, Civil Service shall issue a technical qualification decision removing the sanction.
  
- 4. **Notice of decision.** Civil Service shall send a copy of the technical qualification decision to the requesting party and any other interested party.
  
- 5. **Final.** If an interested party disagrees with a technical qualification decision under § 4.F, the party may file a technical qualification complaint as provided in rule 3-3.10 and regulation 8.02. The complaint must be received within 14 days after Civil Service issued the technical qualification decision. The technical review officer’s final decision is the commission’s final decision and cannot be further administratively appealed.

## 5. Procedure

Responsibility	Action
Civil Service	1. Investigates suspected violations and requests. 2. Reviews provided documentation and investigates further, if necessary.

<b>Responsibility</b>	<b>Action</b>
Appointing Authority	<ol style="list-style-type: none"> <li>3. Determines if person is ineligible, unfit, or unsuitable for future employment, appointment, etc.</li> <li>4. Determines any appropriate sanction.</li> <li>5. Creates sanction record in HRMN identifying sanctioned person on ZP22.1.</li> <li>6. Issues sanction decision to sanctioned person and appointing authority, if applicable. Maintains documentation of sanction.</li> <li>7. Before hiring person or moving employee to test-designated position, checks HRMN ZP22.1 for sanctions. For state employees, appointing authorities can also check HRMN Self Service: HR Statewide, Employee History (STWDE), Sanction Field. Applicants with sanction code of S1 (complete sanction) cannot be considered for any vacancy.</li> </ol>

**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 517-373-6695, or to [MCSC-OCSC@mi.gov](mailto:MCSC-OCSC@mi.gov).