

Michigan Civil Service Commission

Regulation 3.06

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| Subject: | | |
| Employment Sanctions | | |
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1. Purpose

This regulation implements rules authorizing employment sanctions and establishes procedures for applying and challenging 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 practices. 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 process.*

(6) *Violate rule 2-7 [Drug and Alcohol Testing].*

(b) Sanctions. *If civil service staff finds that 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 state employment.*

(2) *Require the separation of the applicant from state employment.*

(3) *Impose any other or additional sanction that is appropriate.*

3-2 Applicant Pools and Recall Lists

* * *

3-2.2 Removal from Applicant Pool

Civil service staff may remove a person from an applicant pool for any of the following reasons:

(a) *Appointment.*

(b) *Separation or retirement from state service.*

(c) *Evidence that the person is unable to perform satisfactorily, with or without reasonable accommodations, the essential duties of the job.*

(d) *Evidence of conduct that indicates that the person is unfit or unsuitable for appointment.*

(e) *Conduct that violates rule 3-1.5 [Integrity of Process].*

(f) *Expiration of an applicant pool or eligibility.*

* * *

3. Definitions

A. CSC Rule Definitions.

1. **Applicant** *means a person who requests to participate in an appraisal process.*

2. **Applicant pool** *means a group of applicants whom civil service staff has determined to be qualified.*

3. **Appointment** *means an authorized act of an appointing authority employing a properly qualified person in a specific position in the classified service.*

4. ***Appraisal method** means a technique used to evaluate job-related knowledge, skills, abilities, competencies, and other qualifications to determine eligibility for a position in the classified service.*
5. ***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 any of the following:

1. An employee dismissed by an appointing authority.
2. An employee who engaged in conduct that could have resulted in dismissal who resigned or retired before disciplinary proceedings could be begun or completed by an appointing authority.
3. A person who engaged in any act prohibited by rule 3-1.5.
4. A person who consented in writing with an agent of the State of Michigan or an appointing authority to an employment sanction or other limitation on employment in the classified service.
5. A person for whom there is adequate evidence of conduct indicating that the person is ineligible, unfit, or unsuitable for appointment in the classified service.
6. A person convicted of a felony or misdemeanor crime, as disclosed by a criminal history check, court documents, or other trustworthy evidence.

B. Limitation 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 pools and applicant referral mechanisms.
 - b. Prohibition from participating in appraisal processes.
 - c. Designation as ineligible for appointment to specified classified positions.
 - d. Designation as ineligible for appointment in specified agencies.
 - e. Revocation of an appointment.
 - f. Other appropriate limitations on the status of the person.
2. **Complete.** A complete employment sanction prohibits the person from being examined for any classified position, placed or continued in applicant or 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 State Personnel Director's designee modifies the sanction after a 3-year review authorized under § 4.F. If the duration is limited, the sanction automatically expires at the end of the sanction period, 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; removed from all applicant pools for test-designated positions; 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 State Personnel Director's designee may issue a technical qualification decision imposing an employment 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 under § 4.A under which the sanction is requested.
 - b. **Review.** Civil Service shall review the request and the State Personnel Director's designee shall issue a technical qualification decision granting or denying the request, in whole or in part.
3. **Service of Decision.** A technical qualification decision imposing an employment sanction must give the sanctioned person written notice of the employment 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 last known address of the sanctioned person.
 - b. Electronic delivery to the last known email address of the sanctioned person.
 - c. Interoffice mail to a sanctioned classified employee.

E. Appeal of Employment Sanction.

1. **General.** Except as provided in §§ 4.E.2 and 4.E.3, a requesting appointing authority or sanctioned person may appeal a technical qualification decision by filing a technical qualification complaint on a CS-212b form as provided in rule 3-3.10 and regulation 8.02. The complaint must be received within 14 calendar days after Civil Service issued the technical qualification decision. A final decision of a technical review officer in a technical qualification complaint is the final decision of the commission and cannot be further administratively appealed.
2. **Drug Testing of New Hire.** A person receiving a mandatory sanction for new-hire drug testing violations of rule 2-7.4(b)(1) cannot challenge the sanction through a technical qualification complaint. Instead, the underlying basis for 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 3 Years and Less.** If an employment sanction is for 3 years or less and no timely appeal of the technical qualification decision was filed as authorized in § 4.E.1, the sanction cannot be reduced or modified, except under § 4.F.3.

2. **Sanctions over 3 Years.** An employment sanction of longer than 3 years, including a sanction of unlimited duration, may be reviewed once by Civil Service after 3 years have passed, as follows:
 - 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 calendar 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, the State Personnel Director's designee shall issue a technical qualification decision denying the request.
 - (2) If sufficient grounds to modify the sanction are found, the director's designee 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 ended. 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) 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 ended. Civil Service must receive the request no later than 28 calendar days after the change in circumstances.
 - b. **Civil Service Review.** Civil Service shall review the request and obtain any additional information necessary or useful for evaluating it.
 - (1) If sufficient grounds to rescind the sanction are not found, the State Personnel Director's designee shall issue a technical qualification decision denying the request.
 - (2) If sufficient grounds to modify the sanction are found, the director's designee shall issue a technical qualification decision ending 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 calendar days after Civil Service issued the technical qualification decision on the request. The final decision of the technical review officer is the final decision of the commission and cannot be further administratively appealed.

5. Procedures

| Responsibility | Action |
|--------------------------------------|--|
| Appointing Authority (if originator) | 1. Files request for sanction with Civil Service. |
| Civil Service | 2. Investigates suspected violations and requests. 3. Reviews documentation provided by appointing authority or complainant and investigates further, if necessary. 4. Determines if the person is ineligible, unfit, or unsuitable for future employment, appointment, etc. 5. Determines any appropriate sanction. 6. Creates sanction record in HRMN identifying the sanctioned person on the ZP22.1. Removes sanctioned person from all appropriate applicant pools and employment lists. 7. Issues sanction decision to give notice to the sanctioned person and appointing authority, if applicable. Maintains documentation of the sanction. |
| Appointing Authority | 8. Before hiring a person or moving an employee to a test-designated position, checks HRMN ZP22.1 for sanction. For state employees, appointing authorities can also check HRMN Self Service: HR Statewide, Employee History (STWDE), Sanction Field. 9. Contacts Civil Service with questions regarding sanctions. NOTE: Applicants with a sanction code of S1 (complete sanction) cannot be considered for any vacancy. |

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.