

# Amendments to Civil Service Rules

## Technical Qualification Appeals

(Approved December 8, 2010, effective immediately)

---

### 1 Rule 3-3 Appointments and Job Changes

2 \* \* \*

#### 3 3-3.10 Qualification

4 An employee or appointing authority that does not agree with a staff qualification decision may  
5 file a written request for reconsideration with the state personnel director as provided in the  
6 regulations. The state personnel director or the director's designee shall reconsider the staff  
7 qualification decision in writing. If an employee's appointment is revoked as provide in rule 3-7  
8 due to a staff qualification decision, the employee or appointing authority may file a technical  
9 appointment complaint as provided in the rules and regulations in lieu of requesting  
10 reconsideration.

---

### 14 Rule 8-3 Technical Complaints

#### 15 8-3.1 Complaint Regarding Technical Decision Authorized

16 An authorized individual, appointing authority, or organization may file a technical complaint  
17 with civil service technical review staff, as provided in this rule and the regulations.

18 **(a) Technical classification complaint.** An employee directly affected by a technical  
19 classification decision, or the employee's appointing authority, may file a technical  
20 classification complaint.

21 **(b) Technical disbursement complaint.** An interested party authorized in rule 7-6.4 [Complaint  
22 Regarding Technical Decision] may file a technical disbursement complaint.

1 **(c) Technical appointment complaint.**

2 **(1) After revocation of appointment.** If, as the result of a civil service audit, a person's  
3 appointment is revoked, the person or the person's appointing authority may file a  
4 technical appointment complaint.

5 **(2) After denial of appointment.** An unsuccessful candidate who alleges that the  
6 selection, appointment, or certification process for the position violated a civil service  
7 rule or regulation may file a technical appointment complaint.

8 **8-3.2 Time Limits**

9 **(a) Technical appointment complaint.** An unsuccessful candidate who alleges that the  
10 selection, appointment, or certification process for a position violated a civil service rule or  
11 regulation must file a technical appointment complaint with civil service technical review  
12 staff within the following time limits:

13 **(1) Notice mailed.** If the appointing authority mailed or delivered notice to the candidate  
14 that the candidate was removed from the selection process or that another person was  
15 appointed to the position, the candidate must file the technical appointment complaint  
16 no later than 14 calendar days after the later of (1) the effective date of the challenged  
17 appointment or (2) the date of the notice.

18 **(2) No notice mailed.** If the appointing authority does not mail or deliver notice to the  
19 candidate, the candidate must file the technical appointment complaint within 6 months  
20 after the effective date of the challenged appointment.

21 **(b) Other technical complaints.** A technical classification complaint or technical  
22 disbursement complaint must be filed within 14 calendar days after the date the civil service  
23 staff issued the original technical decision.

24 **8-3.3 Civil Service Technical Review**

25 **(a) Referral to technical review officer.** If the technical complaint is not administratively  
26 dismissed under rule 8-4 [Summary Dismissal], a technical review officer shall conduct an  
27 expeditious review in accordance with the civil service rules and regulations.

28 **(b) Technical review procedures.**

29 **(1) Hearing not authorized.** A technical review officer is not authorized to conduct a  
30 hearing.

31 **(2) Technical appointment complaint; certified question.** If the technical review officer  
32 determines that a technical appointment complaint raises a genuine issue as to any  
33 material fact that cannot be adequately determined under the technical complaint  
34 procedures, the technical review officer may certify one or more questions of fact to a

1 hearing officer to conduct a hearing and issue a recommended decision to the technical  
2 review officer, as provided in the civil service regulations.

3 **(3) Technical review decision.** At the conclusion of the technical review, the technical  
4 review officer shall issue a final technical review decision setting forth the review  
5 officer's material findings of fact, conclusions of law, and remedial orders, if any. The  
6 final technical review decision shall be based on (1) the technical expertise of the  
7 review officer, (2) the civil service rules and regulations, (3) agency records, and (4) the  
8 documents and written submissions of the parties. In a review of a technical  
9 appointment complaint, the technical review officer shall also consider the written  
10 recommendation of the hearing officer on any certified question of fact.

#### 11 8-3.4 Further Appeal to Commission Authorized

12 An interested party in a technical review proceeding may file an appeal of a final technical  
13 review decision, including a summary dismissal of the technical complaint, to the civil service  
14 commission, as provided in the civil service rules and regulations.

#### 15 8-3.5 Effective Date of Decision of Technical Review Officer

16 **(a) Technical classification review.** A final technical review decision on a technical  
17 classification complaint is effective immediately upon issuance, unless a different effective  
18 date is specified in the decision.

19 **(b) Technical disbursement review.** A final technical review decision on a technical  
20 disbursement complaint is effective as follows:

##### 21 **(1) Request approved.**

22 **(A)** If an initial civil service staff decision approving a request became effective under  
23 rule 7-6.3 [Effective Date of Staff Decision], a decision of a technical review officer also  
24 approving the request is effective immediately and the appointing authority may  
25 continue to make disbursements for the personal services until the civil service  
26 commission or a court of competent jurisdiction rules otherwise.

27 **(B)** If civil service staff initially denied a request, a technical review decision  
28 approving a request is effective 15 calendar days after the date the decision is  
29 issued, unless a later date is specified in the decision. An interested party  
30 intending to appeal the technical review decision to the civil service commission  
31 may file a request that the state personnel director order the effective date of the  
32 decision stayed pending appeal. The request for a stay must be filed within 14  
33 calendar days after the date the technical review decision is issued. The director  
34 may stay the effective date of the technical review decision pending appeal to the  
35 commission if the director determines that (1) it is unlikely that the request meets  
36 any of the standards for approval and (2) a stay is in the best interests of the  
37 classified service.

1       **(2) Request denied.** If civil service staff initially approved a request, a technical review  
2       decision disapproving the request is final and binding on the parties 29 calendar days  
3       after the date the decision is issued, unless either (1) the decision provides for a later  
4       effective date or (2) an interested party files a timely application for leave to appeal to  
5       the civil service commission within 28 calendar days after the date the decision was  
6       issued. If an interested party files a timely application for leave to appeal, the effective  
7       date of the technical review decision is automatically stayed and the appointing  
8       authority may continue to make disbursements for the personal services until the civil  
9       service commission or a court of competent jurisdiction rules otherwise.

10      **(c) Technical appointment complaint.** A technical review decision on a technical  
11      appointment complaint is final and binding on the parties 29 calendar days after the date the  
12      decision was issued unless either (1) the decision provides for a later effective date or (2) an  
13      interested party files a further appeal to the civil service commission within 28 calendar  
14      days after the date of the decision. If a party files a timely application for leave to appeal,  
15      the effective date of the decision is automatically stayed pending further order of the  
16      employment relations board or civil service commission.

### 17      8-3.6        Exclusive Technical Appointment Reviews

18      **(a) Exclusive proceeding.** The technical appointment review is the exclusive proceeding for  
19      any candidate or employee, including an exclusively represented employee, to bring a  
20      complaint that arises out of (1) the selection, appointment, or certification of a candidate for  
21      a position in the classified service or (2) the revocation of an appointment after a civil  
22      service audit. A candidate, employee, and appointing authority are prohibited from using  
23      either the civil service grievance process provided in rule 8-1 [Grievances] or a negotiated  
24      grievance process permitted by rule 6-9.6 [Negotiated Grievance Procedures]. This exclusive  
25      procedure is not applicable when a collective bargaining agreement permitted in rule 3-5  
26      [Relation to Collective Bargaining] authorizes a different procedure regarding a reassignment,  
27      transfer, layoff, or recall.

28      **(b) Incumbent employee.** If a technical appointment complaint is filed, the technical  
29      appointment review is the exclusive proceeding in which an incumbent employee whose  
30      appointment is challenged may appear and defend the employee's own selection,  
31      appointment, or certification. An incumbent employee whose appointment is challenged  
32      and who is given notice of the technical appointment complaint and the opportunity to  
33      appear and defend the appointment in the technical appointment review is bound by the final  
34      technical appointment decision. The incumbent employee cannot later file a separate  
35      technical complaint or grievance regarding either (1) the incumbent employee's original  
36      selection, appointment, or certification or (2) the result of the technical appointment  
37      decision, including revocation of the incumbent employee's appointment.

## 1 Rule 9-1 Definitions

2 Unless the context clearly provides otherwise, the following terms in the civil service rules and  
3 regulations are defined as follows:

4  
5 \* \* \*

### 6 Party

7 **Party** means any of the following persons or organizations:

8 (a) **Party**, in a grievance appeal, means any of the following:

- 9 (1) The employee who filed the grievance.  
10 (2) The appointing authority that issued the final grievance decision being appealed.

11 (b) **Party**, in a technical classification review, means any of the following:

- 12 (1) An employee whose classification is directly affected by a technical classification  
13 decision.  
14 (2) The appointing authority of an employee in subdivision (b)(1).  
15 (3) Any other interested person with a demonstrable special interest in the technical  
16 classification decision that is granted permission to participate in the review.

17 (c) **Party**, in a review of a technical disbursement decision, means any of the following:

- 18 (1) The appointing authority that files a request under rule 7-6 [Prior Written Approval by Civil  
19 Service Staff] or rule 7-7 [Preauthorized Approval] regarding disbursements for personal  
20 services.  
21 (2) An exclusive representative of a classified employee with a direct interest in the  
22 technical disbursement decision.  
23 (3) A nonexclusively represented classified employee with a direct interest in the technical  
24 disbursement decision.  
25 (4) A limited recognition organization appearing on behalf of a classified employee with a  
26 direct interest in the technical disbursement decision.  
27 (5) The office of the state employer.  
28 (6) Any other person or organization with a demonstrable special interest in the technical  
29 disbursement decision who (1) petitions to participate in the civil service staff review  
30 and (2) is authorized by civil service staff to participate in the review.

1 (d) **Party**, in a review of a technical appointment decision, means any of the following:

2 (1) An unsuccessful candidate who files a technical appointment complaint.

3 (2) An employee whose appointment is revoked by civil service staff in an audit review.

4 (3) An employee whose appointment is challenged in a technical appointment complaint.

5 (4) The appointing authority of an employee whose appointment is revoked in an audit  
6 review or challenged in a technical appointment complaint.

7 (e) **Party**, in an inquiry about a complaint filed with the state personnel director under rule 7-9  
8 [Complaints and Investigations], means any of the following:

9 (1) The person filing the complaint.

10 (2) The appointing authority that made or authorized the questioned disbursements.

11 (3) The office of the state employer.

12 (4) Any other person or organization with a demonstrable special interest in the complaint  
13 who (1) petitions the state personnel director to participate in the inquiry and (2) is  
14 authorized by the director to participate in the inquiry.

15  
16 \* \* \*

## 18 Technical Decision

19 **Technical decision** includes each of the following individual decisions:

20 (a) **Technical classification decision** means a civil service staff decision (1) classifying a  
21 position in the classified service or (2) making a working-out-of-class determination.

22 (b) **Technical disbursement decision** means a civil service staff decision authorized under rule  
23 7-6 [Prior Written Approval by Civil Service Staff] or rule 7-7 [Preauthorized Approval] regarding  
24 disbursements for personal services.

25 (c) **Technical appointment decision** means (1) a decision of an appointing authority appointing  
26 a candidate to a position in the classified service or (2) a decision of civil service staff  
27 certifying or revoking an appointment to a position in the classified service.  
28