

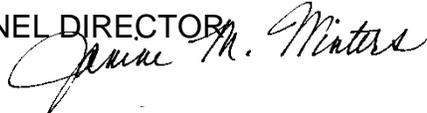


STATE OF MICHIGAN
CIVIL SERVICE COMMISSION

STATE PERSONNEL DIRECTOR OFFICIAL COMMUNICATION

SPDOC No. 18-02

TO: ALL APPOINTING AUTHORITIES, HUMAN RESOURCES OFFICERS,
AND RECOGNIZED EMPLOYEE ORGANIZATIONS

FROM: JANINE M. WINTERS, STATE PERSONNEL DIRECTOR 

DATE: MAY 24, 2018

SUBJECT: **DRAFT AMENDMENTS TO REGULATIONS 2.01, 2.02, 3.01, 3.02, 3.04, 3.07, 3.09, 3.10, 3.12, 3.14, 4.02, 4.03, 5.02, 5.12, 6.03, 6.07, 8.01, AND 8.04; PROPOSED RESCISSION OF REGULATIONS 1.02 AND 3.08; AND PROPOSED NEW REGULATION 6.09, UNION LEAVE**

THIS DOCUMENT IS AVAILABLE UPON REQUEST IN ALTERNATIVE FORMATS. FOR FURTHER INFORMATION CALL (517) 284-0115.

Last September, the Michigan Civil Service Commission adopted reforms to its system of collective bargaining that will take effect on January 1, 2019. These amendments required many updates to regulations to correct rule references that will become inaccurate and to remove references to permissible contractual provisions and statewide recall lists that will become prohibited subjects of bargaining next year (Regulations 3.02, 3.07, 3.10, 3.14, 4.02, 6.07, and 8.04). Staff has also identified several regulations that have become fully or partially obsolete. While these regulation amendments are being circulated, staff has proposed several non-substantive changes to edit and reorganize to make them more concise and more consistent with other regulations in style and tone. Substantive revisions in the circulated drafts are summarized below.

Proposed changes addressing issues related to last September's rule reforms include:

- Requiring provision of notice or availability of information to labor organizations related to staff-assignment issues. This will replace current contractual provisions providing similar information and includes new language in Regulation 2.01 on seniority lists and agency layoff plans, in Regulation 2.02 on agency layoff plans, and in Regulation 3.09 on recall lists.
- Memorializing longstanding practice in Regulation 3.04 that a recall list is valid for 90 days after it is pulled.
- Addressing scheduling, overtime equalization, and status for overtime qualification when released or reimbursed for union activities in Regulation 5.02. These topics are currently bargained over but will become prohibited in 2019. The draft regulation would clarify that scheduling is at the discretion of the agency, subject to conditions in the rules and regulations. It would also create a default overtime-

equalization period of the calendar year, unless an agency establishes a different one, and limit relief in grievances over overtime equalization to subsequent opportunities for overtime. The draft would also clarify that hours on paid or reimbursed union leave do not count as hours worked when calculating eligibility for overtime.

- Clarifying in Regulation 5.12 that accepting any severance payment—either contractual or under the rules—results in removal from recall lists. Currently, contractual provisions on recall lead to removal after acceptance. With the prohibition of provisions on recall next year, the language is added to continue this removal.
- Modifying Regulation 6.03 to reflect the new exclusive procedure for dues authorization and deauthorization to be established by the state personnel director. The proposed process would allow changes by employees using MI HR Self Service that would take effect the following pay period. Biweekly reports to labor organizations of changes would also be required. This would replace various systems currently created in collective bargaining agreements that will become prohibited subjects next year.
- Reflecting in Regulation 8.01 the grievance types that exclusively represented employees must use the Civil Service grievance process for. The draft proposal also clarifies the availability of administrative leave in the grievance process and that unions may, but do not have a duty to, serve as an employee's designated representative in the process.

Substantial revisions of Regulations 2.01 and 3.09 on bumping and recall are proposed. Due to the complete reorganization and large number of copy-editing changes, the draft amendments for these two regulations are not circulated in legislative format. Regulation 2.01 simplifies the operation of bumping and clarifies the application of bumping into other bargaining units. The current regulation on bumping has been criticized as poorly organized and repetitive. The proposed revisions reorganize the procedural standards more straightforwardly and succinctly and add a section that more directly describes the process to implement a bump chain and determine the option to offer employees affected by a reduction in force. Regulation 3.09 is revised to reflect the end of inter-departmental (i.e., statewide) and medical recall lists and proposes creating a single form for indicating recall preferences. Transitional provisions to address the continuation of rights for employees on recall lists on December 31, 2018, are also proposed.

A new Regulation 6.09 is proposed to address the availability of paid leave for union activities as allowed by last year's rule reforms. The rule changes limit state-subsidized leave for union activities to (1) a single full-time officer leave per union designated as exclusive representative for a bargaining unit and (2) specified labor-relations activities as provided in the regulations. This latter provision was adopted to allow the director to authorize limited administrative leave similar to absences available for NERE labor-relations activities. Previously authorization for such leaves was contained in union contracts, but under revised Rule 6-3.9(c)(5) contracts can no longer contain provisions

authorizing paid leave. In addition to addressing the full-time paid officer leave for a single union representative, Regulation 6.09 would establish provisions for administrative leave for some discipline representation, bargaining, and labor-management meetings. These provisions attempt to track equivalent longstanding leave available for NEREs.

Regulation 6.09 would also describe how unions may reimburse the state for all associated payroll costs to allow additional absences for union activities without loss of pay to employees. New provisions would specify the need for appropriate timekeeping entries for absences for union activities. Technical staff is still addressing new provisions on payroll coding of various union leaves. An updated version of this regulation will be circulated for comment after these design changes are addressed, but the rest of the draft regulation is being published for comment while this work continues.

Staff is also proposing to rescind Regulations 1.02 and 3.08 and modify Regulations 3.04, 3.07, and 3.12 to address obsolete language on applicant pools. The shift to vacancy-driven selection processes was implemented in the 1990s. While Civil Service did offer agencies the ability to hire from Civil Service applicant pools for several years thereafter, these pools have not been maintained for a decade. The continuing references in the regulations to non-existent Civil Service applicant pools cause confusion and would be removed by the drafts. Proposed changes are also offered for Regulation 3.01 to reflect the Administrative Support Exam's discontinuation in 2015. Finally, revisions to Regulation 4.03 are being circulated to update URL references in the document.

Comments on the proposed amendments may be emailed to MCSC-OGC@mi.gov or sent to Office of the General Counsel, Michigan Civil Service Commission, P.O. Box 30002, Lansing, Michigan, 48909. Comments must be received by July 5, 2018.

Attachments