

# REGULATION

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<b>Issued By:</b> Technical Complaints	<b>Rule Reference:</b> Rules: 7-6 (Prior Written Approval by Civil Service Staff) 7-7 (Preauthorized Approval) 8-3 (Technical Complaints) 8-4 (Summary Dismissal of Grievance Appeal or Technical Complaint)		<b>Replaces:</b> Reg. 8.03 (SPDOC 07-14, October 7, 2007)
<b>Authority:</b> Regulations are issued by the State Personnel Director under authority granted in the Michigan Constitution and the Michigan Civil Service Commission Rules. Regulations are subordinate to the Commission Rules.			
<b>Subject:</b> <b>TECHNICAL DISBURSEMENT COMPLAINTS</b>			

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### 1. PURPOSE

This regulation establishes standards and procedures to file and process technical disbursement complaints, as authorized in Civil Service rules and regulations.

## 2. CIVIL SERVICE COMMISSION RULE REFERENCE

**Note:** This section reprints only selected Civil Service Commission Rules for quick reference by the reader. Additional rules may apply. The complete, current version of the rules can be found at [www.mi.gov/mdcs](http://www.mi.gov/mdcs).

### ***Rule 7-6 Prior Written Approval by Civil Service Staff***

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#### ***7-6.4 Complaint Regarding Technical Decision***

*An interested party who participated at the civil service staff review may file a technical disbursement complaint as provided in rule 8-3 [Technical Complaints]. The technical complaint must be received by the civil service technical review staff and all other interested parties within 14 calendar days after the date the technical disbursement decision is issued.*

### ***Rule 7-7 Preauthorized Approval***

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#### ***7-7.5 Complaints or Appeals***

*Any complaint regarding the use of the preauthorized approval process or any disbursements for personal services made or authorized under the preauthorized approval process must be brought under the procedures authorized in rule 7-9. Any complaint regarding a technical decision to add personal services to the preauthorized list must be brought by an interested party under the technical appeal procedures in rule 8-3 [Technical Complaints].*

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### ***Rule 8-3 Technical Complaints***

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

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

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

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#### ***8-3.2 Time Limits***

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

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

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

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

- (1) **Hearing not authorized.** *A technical review officer is not authorized to conduct a hearing.*
- (2) \*\*\*
- (3) **Technical review decision.** *At the conclusion of the technical review, the technical review officer shall issue a final technical review decision setting forth the review officer's material findings of fact, conclusions of law, and remedial orders, if any. The final technical review decision shall be based on (1) the technical expertise of the review officer, (2) the civil service rules and regulations, (3) agency records, and (4) the documents and written submissions of the parties. In a review of a technical appointment complaint, the technical review officer shall also consider the written recommendation of the hearing officer on any certified question of fact.*

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

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

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

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

- (1) **Request approved.**

- (A) *If an initial civil service staff decision approving a request became effective under rule 7-6.3 [Effective Date of Staff Decision], a decision of a technical review officer also approving the request is effective immediately and the appointing authority may continue to make disbursements for the personal services until the civil service commission or a court of competent jurisdiction rules otherwise.*
- (B) *If civil service staff initially denied a request, a technical review decision approving a request is effective 15 calendar days after the date the decision is issued, unless a later date is specified in the decision. An interested party intending to appeal the technical review decision to the civil service commission may file a request that the state personnel director order the effective date of the decision stayed pending appeal. The request for a stay must be filed within 14 calendar days after the date the technical review decision is issued. The director may stay the effective date of the technical review decision pending appeal to the commission if the director determines that (1) it is unlikely that the request meets any of the standards for approval and (2) a stay is in the best interests of the classified service.*

- (2) **Request denied.** *If civil service staff initially approved a request, a technical review decision disapproving the request is final and binding on the parties 29 calendar days after the date the decision is issued, unless either (1) the decision provides for a later effective date or (2) an interested party files a timely application for leave to appeal to the civil service commission within 28 calendar days after the date the decision was issued. If an interested party files a timely application for leave to appeal, the effective date of the technical review decision is automatically stayed and the*

*appointing authority may continue to make disbursements for the personal services until the civil service commission or a court of competent jurisdiction rules otherwise.*

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### **Rule 8-4 Summary Dismissal of Grievance Appeal or Technical Complaint**

*A civil service adjudicating officer may summarily dismiss a grievance appeal or technical complaint for any of the following reasons:*

- (a) **Not Authorized.** *The adjudicating officer lacks the authority to consider the grievance appeal or technical complaint under the civil service rules and regulations for either of the following reasons:*
- (1) *The grievant or technical complainant is not authorized to file the grievance, grievance appeal, or technical complaint.*
  - (2) *The subject matter of the grievance, grievance appeal, or technical complaint is not reviewable in the forum selected.*
- (b) **Lack of jurisdiction.** *Civil service staff or the civil service commission lacks jurisdiction over a necessary party or over the subject matter of the grievance appeal or technical complaint.*
- (c) **Untimeliness.** *The grievance, grievance appeal, or technical complaint was not filed timely.*
- (d) **Another action pending.** *Another civil service action has been initiated between the same parties involving substantially the same grievance or technical complaint.*
- (e) **Barred by prior claim.** *Substantially the same grievance or technical complaint was adjudicated to finality in another action between the same parties.*
- (f) **Failure to respond.** *A grievant or technical complainant fails to respond to a deficiency notice issued by civil service staff, as provided in the civil service rules and regulations.*

## **3. DEFINITIONS**

### **A. Civil Service Commission Rule Definitions**

1. **Adjudicating officer** *means the state personnel director or other civil service administrative officer, technical review officer, hearing officer, arbitrator, or other officer authorized to make a decision reviewable by the civil service commission.*
2. **Good cause** *means an acceptable excuse for failing to file or take other required action timely. Good cause does not include a person's own carelessness, negligence, or inattention to the filing or other requirements.*
3. **Interested party**, *in a review of a technical disbursement decision, means a party that filed a request or a written appearance in the initial civil service staff review of the request.*
4. **Party** *means any of the following persons or organizations:*

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

- (1) *The appointing authority that files a request under rule 7-6 [Prior Written Approval by Civil Service Staff] or rule 7-7 [Preauthorized Approval] regarding disbursements for personal services.*
  - (2) *An exclusive representative of a classified employee with a direct interest in the technical disbursement decision.*
  - (3) *A nonexclusively represented classified employee with a direct interest in the technical disbursement decision.*
  - (4) *A limited recognition organization appearing on behalf of a classified employee with a direct interest in the technical disbursement decision.*
  - (5) *The office of the state employer.*
  - (6) *Any other person or organization with a demonstrable special interest in the technical disbursement decision who (1) petitions to participate in the civil service staff review and (2) is authorized by the civil service staff to participate in the review.*
5. **Technical complainant** means any of the following persons when directly affected and aggrieved by a technical decision:
- (a) *An applicant for employment.*
  - (b) *A classified employee.*
  - (c) *An appointing authority.*
  - (d) *The office of the state employer.*
  - (e) *Any other person or organization specifically authorized by civil service rule or regulation to file a technical complaint.*
6. **Technical complaint** means a written complaint that a technical decision (1) violated article 11, section 5, of the Michigan constitution, (2) violated a civil service rule or regulation, or (3) was arbitrary and capricious.
7. **Technical decision** includes each of the following individual decisions:
- \*\*\*
- (b) **Technical disbursement decision** means a civil service staff decision authorized under rule 7-6 [Prior Written Approval by Civil Service Staff] or rule 7-7 [Preauthorized Approval] regarding disbursements for personal services.
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## 4. **STANDARDS**

### A. **Filing Complaints on Preauthorized Services.**

1. Any complaint regarding the use of the preauthorized approval process or any disbursements for personal services made or authorized under the preauthorized approval process may be brought only under the procedure authorized in rule 7-9.

2. Any complaint regarding a technical decision to add personal services to the preauthorized list may be brought only by an interested party under the technical complaint procedures in rule 8-3 and this regulation.

## **B. Filing Complaints on Nonpreauthorized Services.**

### **1. Authorized to Complain.**

Only an interested party who participated in the timely submission of all relevant data and information at the initial staff review may file a technical disbursement complaint with the Office of Technical Complaints. The technical disbursement complaint must be submitted using the Technical Complaint form (CS-212) to [MCSC-OTC@mi.gov](mailto:MCSC-OTC@mi.gov).

### **2. Complaint.**

The technical complaint is the final opportunity for the complainant to offer new evidence into the administrative record without needing to demonstrate a legal basis to add the evidence. The complaint must include the following:

- a. All information required in part A of the CS-212 for each complainant.
- b. A clear and concise description of the technical decision being complained of in Part B of the CS-212, including any additional information required in the instructions for the form.
- c. A complete statement of why the technical decision (1) violated article 11, section 5 of the Michigan Constitution; (2) violated a Civil Service rule or regulation; or (3) was arbitrary and capricious.
- d. All documentary evidence that the complainant believes supports the technical complaint.
- e. A clear statement of the desired outcome of the complaint. The outcome must be within the authority of Civil Service staff to grant.
- f. The signature of each complainant. A signature can be a scanned document of an actual signature or the complainant's typed name followed by "/s/" (e.g., "John Doe /s/").
- g. The name, mailing address, and email address of the complainant's representative, if any.

## **C. Time Limits.**

To be timely, the complaint must be **received** by the Civil Service Office of Technical Complaints within 14 calendar days after the date the technical disbursement decision was **issued**.

## **D. Extension.**

The technical review officer may grant an extension to file if, before the filing deadline passes, the technical complainant shows sufficient justification for the extension.

## **E. Administrative Denial of Complaint.**

1. **Reasons for Administrative Denial.** In addition to the grounds in rule 8-4, a technical disbursement complaint may be administratively dismissed without prior notice for the following reasons:

- a. The complaint fails to set forth allegations with sufficient particularity to permit review.
- b. The complaint involves one or more of the following actions, decisions, and matters that are not subject to review:
  - (1) Michigan Civil Service Commission rules.
  - (2) Civil Service regulations, standards, and procedures.
- c. The complaint fails for other good and sufficient reason to warrant further review.

#### **F. Technical Review Decisions.**

1. **Technical Review Process.** A technical review officer is not authorized to conduct a hearing, but may meet with the complainant or other interested parties to discuss the complaint. Decisions of the technical review officer shall be based on the technical expertise of the technical review officer and a *de novo* review of all submissions of interested parties, agency records, and Civil Service rules and regulations.
2. **Decision of the Technical Review Officer.** The decision of a technical review officer shall contain notice of the right of interested parties to file an application for leave to appeal to the Civil Service Commission, as provided in regulation 8.05.

#### **G. Implementing Technical Review Decisions.**

1. **Technical disbursement review.** A final technical decision on a technical disbursement complaint is effective as follows:
  - a. **Request approved.**
    - (1) If an initial Civil Service staff decision approving a request became effective under rule 7-6.3, a decision of a technical review officer also approving the request is effective immediately. The appointing authority may continue to make disbursements for the personal services until the Civil Service Commission or a court of competent jurisdiction rules otherwise.
    - (2) If Civil Service staff initially denied a request, a technical review decision approving a request is effective 15 calendar days after the date the decision is issued, unless a later date is specified in the decision. An interested party intending to appeal the technical review decision to the Civil Service Commission may file a request that the State Personnel Director order the effective date of the decision stayed pending appeal. The request for a stay must be filed within 14 calendar days after the date the technical review decision is issued. The director may stay the effective date of the technical review decision pending appeal to the Commission if the director determines that (1) it is unlikely that the request meets any of the standards for approval and (2) a stay is in the best interests of the classified service.

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

## 5. **PROCEDURE**

Responsibility	Action
Civil Service	1. Mails technical decision to interested parties.
Complainant	2. Prepares technical complaint and submits to the Office of Technical Complaints at <a href="mailto:MCSC-OTC@mi.gov">MCSC-OTC@mi.gov</a> .
Office of Technical Complaints	3. Upon receipt of the technical complaint, conducts preliminary review to determine timeliness and sufficiency of the complaint. 4. If the complaint is untimely or fails to meet the requirements of this regulation, dismisses the technical complaint. 5. If the complaint is properly submitted, obtains additional information from the appointing authority and other interested parties, if required. 6. If necessary, meets with the technical complainant and any other interested parties to review and discuss the complaint. 7. Prepares and issues technical complaint decision.
Complainant or Interested Party	8. May apply for leave to appeal to the Civil Service Commission.

### **CONTACT**

Questions regarding this regulation should be directed to the Office of Technical Complaints, Civil Service Commission, P.O. Box 30002, 400 South Pine Street, Lansing, Michigan 48909, by telephone at (517) 241-9093, or by email to [MCSC-OTC@mi.gov](mailto:MCSC-OTC@mi.gov).