

# Michigan Civil Service Commission

## Regulation 2.01

<b>Subject:</b>		
<b>Bumping</b>		
<b>SPDOC No.:</b> XX-XX	<b>Effective Date:</b> January 1, 2019	<b>Replaces:</b> Reg. 2.01 (SPDOC 09-10, November 29, 2009)

### 1. Purpose

This regulation establishes standards to implement staff reductions.

### 2. CSC Rule References

#### 2-5 *Employment Preference*

##### 2-5.1 *Application and Protection*

- (a) **Application.** *Unless otherwise provided in an approved agency layoff plan, an employee can apply employment preference only within the employee's current (1) principal department or autonomous entity, (2) county of employment, and (3) employee status code. However, an employee cannot apply preference against a position or classification that is protected from the application of employment preference.*
- (b) **Limited-term appointments.** *An employee is not eligible to exercise employment preference or to be placed on a recall list at the end of a limited-term appointment, unless the employee meets one of the following criteria:*
- (1) *An employee with status gained from an indefinite appointment who accepts or receives a job change to a limited-term appointment may exercise employment preference at the end of the limited-term appointment. Employment preference begins at the last classification level at which the employee achieved status in an indefinite appointment before accepting the limited-term appointment. Employment preference may be exercised only within the principal department or autonomous agency that appointed the employee to the limited-term appointment.*
  - (2) *A person who is recalled on a limited-term basis is not eligible to exercise employment preference at the end of the limited-term appointment but shall be returned to all recall lists for which the employee is eligible.*
- (c) **Protected positions.** *An employee occupying a protected position cannot be displaced from the employee's current position by another employee exercising employment preference. An employee in a protected position does not lose the right to apply employment preference to an unprotected position if the employee's protected position is abolished. The following positions are protected positions:*

- (1) *All positions in senior executive service (SES) classifications, including positions in SES-eligible classifications.*
  - (2) *All positions in ECP Group 4 classifications.*
  - (3) *All positions in senior executive management assistant service (SEMAS) classifications.*
  - (4) *Any other position designated as protected in any other civil service rule or regulation.*
- (d) Agency layoff plans.** *The state personnel director may approve an agency layoff plan that varies the application of employment preference within an agency. An approved agency layoff plan may vary the application of employment preference in the following areas only:*
- (1) *The application of county preference based on organizational or geographic limits.*
  - (2) *The application of employment preference between recognized autonomous entities of a principal department, if agreed by each appointing authority.*
  - (3) *The application of employment preference into additional positions in class clusters approved by the appointing authority and the state personnel director.*
  - (4) *The application of employment preference between eligible employee status codes.*

#### **2-5.2 Determination**

*Employment preference is determined by an employee's total continuous service.*

- (a) Ranking employees with identical service.** *If two or more employees have equal total continuous service, the appointing authority shall rank each employee by evaluating factors such as fitness for the position, education, experience, behavior, and performance. An employee receiving a higher ranking is considered to have greater employment preference. An employee cannot appeal a ranking to the civil service commission unless the ranking violates rule 1-8 [Prohibited Discrimination].*
- (b) Loss of employment preference.** *An employee who separates from the state classified service by methods other than a leave of absence, suspension, or layoff, loses any total continuous service accumulated before that separation.*
- (c) Effect of status.** *An employee with status from current employment, regardless of the classification at which status was attained, has greater employment preference than an employee without status*

#### **2-5.3 Qualification**

*An employee may apply preference against a least senior position if all of the following eligibility criteria are met:*

- (a) Position and eligibility.** *An employee may apply preference (1) to a least senior position in a classification or class series in which the employee is serving or (2) to a least senior position in a classification or class series at or below the classification in which the employee previously attained status.*

- (b) **Subclasses.** *If subclass codes have been assigned to the least-senior position, the employee may apply preference only if the employee has been assigned one or more of the same subclass codes in the same classification or class series at or above the classification of the least senior position.*
- (c) **Selective position requirements.** *If selective position requirements have been established for the least senior position, the employee is eligible to apply preference only if the employee meets the selective position requirements.*

#### **2-5.4 Employee Rights to Apply Preference**

*An employee may apply preference only against another position within the employee's current (1) principal department or autonomous entity, (2) county of employment, and (3) employee status code, unless otherwise permitted in an approved agency layoff plan. An employee can apply preference to the least senior position for which eligible in the following order:*

- (a) *The least senior position in the employee's current classification.*
- (b) *The least senior position at a lower classification in the current class series or, alternatively, to the same or lower classification in a former class series in which the employee attained status, at the level that will minimize loss of pay.*

#### **2-5.5 Bumping Between Bargaining Units**

*Application of Employment Preference between bargaining units is subject to the following additional conditions:*

- (a) **Qualification.** *An employee may only displace a less senior employee in a position for which qualified in a classification in which the employee has previously attained status.*
- (b) **Application; exhaustion.** *An employee not covered by a collective bargaining agreement must first exhaust all bumping rights to other positions held by employees not covered by a collective bargaining agreement. After exhausting all such rights, the employee may then bump into the position covered by a collective bargaining agreement that minimizes loss of pay. An employee covered by a collective bargaining agreement must first exhaust all bumping rights to other positions covered by the agreement. After exhausting all such rights, the employee may then bump into the position not covered by the collective bargaining agreement that minimizes loss of pay in accordance with this rule. When more than one employee is eligible to bump into a position, the most senior employee receives bumping rights.*
- (c) **Total continuous service.** *Employment preference is determined by an employee's total continuous service.*
- (d) **Grievances.** *An employee aggrieved by this rule's application may grieve as provided in rule 8-1 and applicable regulations.*

#### **2-5.6 Effective Date**

*The employment preference rights of an employee laid off or displaced before the effective date of any amendment to the rules or regulations are determined by the civil service rules and regulations in effect at the time of layoff or displacement.*

### **2-5.7 No Application to Temporary Layoffs**

*This rule does not apply to temporary layoffs authorized in rule 2-4.4.*

### **2-5.8 Application to Civil Service Commission Staff**

*Notwithstanding any other rule, regulation, or agency layoff plan, (1) civil service staff may apply employment preference only within the civil service commission and (2) employees of any other agency, including the principal department in which the civil service commission is placed for organizational purposes, cannot apply employment preference within the civil service commission.*

## **3. Definitions**

### **A. CSC Rule Definitions**

1. **Class series** means a series of classifications with similar but progressively more responsible job duties.
2. **Current employment period** means the period of state employment that began with service that is creditable for employment preference purposes and that has not been interrupted by a separation or break in service.
3. **Employment preference** means a process for determining an employee's rights when a reduction in force occurs.
4. **Frozen** means a classification or a position to which an appointing authority is prohibited from making an appointment without prior review and approval of civil service staff.
5. **Least senior position** means (1) a vacancy that the appointing authority intends to fill or, (2) lacking a vacancy, the position occupied by the person with the least total continuous service.
6. **Selective position requirements** means specific qualifications that are narrower or more limited than those generally associated with a position and that are determined to be essential for performance of the duties of a specific position.
7. **Subclass** means additional specialized experience, specialized training, licensure, or other specialized qualification that is required for appointment to a specific subgroup of positions.
8. **Total continuous service** means the number of paid hours of creditable time compiled during a current employment period. Total continuous service includes creditable time but does not include noncreditable time.

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

1. **Bumping** means the process through applying employment preference by which an employee displaces another employee or is placed in a vacant position.
2. **Agency layoff plan** means a layoff plan that varies application of employment preference based on organizational or geographic limits; between recognized agencies; into additional positions in class clusters approved by the state personnel director; or between employee status codes.

3. **Minimizing loss of pay** means allowing bumping to the least-senior position in a classification that provides the least loss of base pay. Other compensation factors (e.g., overtime, shift differential, premiums, etc.) are not considered.
4. **Proper classification** means the classification and classification level that either (a) a frozen position is actually functioning at or (b) a trainee or transitional position will presumably be ultimately classified after the trainee or transitional period.
5. **Protected position** means a position protected from bumping, including positions in SES classifications; in ECP Group-4 classifications; in SEMAS classifications; and otherwise designated as protected in any civil service rule or regulation.
6. **Reduction in force (RIF)** means an appointing authority's action to lay off, demote, or otherwise displace an employee for reasons of administrative efficiency, including lack of work, lack of adequate funding, change in mission, or workforce reorganization.
7. **Seniority** means total continuous service, as recorded in the Human Resources Management Network (HRMN), adjusted by deducting any hours in counters for unclassified, prior military, county, and college/university service hours and setting hours to zero for probationary employees without status.

## 4. Standards

### A. Management Responsibilities.

1. Appointing authorities may determine when to eliminate positions for reasons of administrative efficiency. The following time frames must be followed for a RIF:
  - a. The state personnel director must approve changes to agency layoff plans at least 28 days before the RIF.
  - b. Selective position requirements and subclass code assignments must be in effect 28 days before the RIF.
  - c. The appointing authority must establish the freeze date for seniority, classification actions (reclassifications, establishments, frozen positions, etc.), and selection actions (appointments, job changes, etc.). This date is uniformly applied and must be within 28 days of the written notice to employees of the RIF.
  - d. At least 28 days before the RIF, the appointing authority must give affected labor organizations written notice and a copy of the seniority list and any agency layoff plan to be used to implement the RIF.
  - e. Affected employees must be given written notice at least 14 days before the RIF. Further notice is not required.
2. Agencies may offer voluntary layoffs to satisfy reduction needs. Employees who volunteer are entitled to recall rights under the rules and regulations.

3. Once bumping rights are determined and RIF notices are provided to affected employees, the agency need not revise its bump chain based on employees' decisions to exercise preference.

#### **B. Applying Employment Preference.**

1. Except as modified in an approved agency layoff plan, bumping only occurs in the current agency, county of employment, and employee status code. An employee cannot bump into a protected position or into a position with a selective position requirement or subclass code that is not satisfied.
2. Except as modified by rule or regulation, an employee may bump a least-senior position at the same or lower classification level in (1) the class series where the employee is serving or (2) a former class series where the employee attained status during the current employment period. Employees can only bump to positions at the current or a lower classification level.
3. A NERE must first exhaust all bumping rights to NERE positions before bumping a position in a bargaining unit covered by a collective bargaining agreement where status was obtained. An exclusively represented employee must first exhaust all bumping rights to positions in the current bargaining unit before bumping a position outside the bargaining unit where status was obtained.
4. An employee with status in an indefinite appointment who accepts a limited-term appointment may bump beginning at the former indefinite status code, classification, and classification level in the county of the limited-term appointment if it expires or if the limited-term position is abolished.
5. A probationary employee without status cannot bump.

#### **C. Determining Application of Bumping**

1. Preference is based on seniority. An appointing authority shall rank employees with equal seniority by evaluating factors such as fitness for the position, education, experience, behavior, and performance. A higher-ranked employee has greater seniority. An employee cannot grieve a ranking, unless it violates rule 1-8 or 2-10.
2. An employee with status from current employment, regardless of the classification level where obtained, has greater seniority than an employee without status.

#### **D. Special Considerations.**

1. Entry through experienced levels in a class series are grouped as one for bumping. Regardless of the classification level of the employee being bumped, the least-senior employee in the class series is bumped first and the bumping employee is immediately classified at the classification level for which eligible.
2. **Trainee and transitional positions.** Trainee and transitional positions are evaluated based on their presumed future classification level after the training or transitional period.

- a. If a trainee or transitional position would be subject to bumping as the least-senior position based on the presumed future classification level, the position is reclassified to the presumed level before bumping into the position occurs.
  - b. An employee laid off or bumped from a trainee or transitional position first bumps based on the classification and classification level where status was obtained before the trainee or transitional appointment. The provisions of § 4.B.3 apply for any bumping, with either NERE or exclusively represented bargaining-unit bumping exhausted first based on the bargaining unit of the immediately prior position.
3. **Frozen positions.** Frozen positions are evaluated based on their proper classification when implementing bumping. If a frozen position would be subject to bumping as the least-senior position, (1) the position is vacated and reclassified before any bumping into the position and (2) the previous occupant bumps beginning at the classification level of the position when frozen, if any non-frozen positions exist in the agency, or at other classifications where status was obtained, if they do not.
  4. **Pay protection.** Any pay protection related to a trainee, transitional, or frozen position or its former occupant ends if affected by bumping. Pay protection under rule 4-8.2(f) is not affected by bumping.
  5. **Pay.** Bumping to a classification level other than the current level must minimize loss of pay. The maximum pay rate for each classification is used to determine this classification. The closest rate in the new pay schedule that is not a decrease is used. An employee bumping into a different classification cannot earn more upon entry than previously earned, unless the new classification's minimum rate exceeds the previous classification's.
- E. **Bump Chains.** An appointing authority shall implement bumping as follows:
1. **Step 1:** Determine if an approved agency layoff plan requires altering these standards.
  2. **Step 2:** Identify the positions to be abolished and create an initial bump chain with the names of their occupants listed in seniority order.
  3. **Step 3:** Obtain a seniority listing of potentially affected employees (i.e., a list of agency employees separated by current classification ranked by seniority) in remaining positions in affected counties with name, employee ID, classification and classification level, position code, employee status code, bargaining unit, and seniority on the freeze date adjusted as required under § 4.C.1. Any entry- through experienced-level positions are considered as one classification for bumping. Any frozen, trainee, or transitional positions are considered at the position's proper classification for bumping.
  4. **Step 4:** Determine the bumping rights of employees until the initial bump chain is empty as follows:

- a. Remove all probationary employees without status occupying abolished positions from the bump chain and place them on the final bump chain.
  - b. Determine if the most-senior employee remaining on the initial bump chain has an available least-senior position from the seniority listing to which the employee is eligible to bump.
    - (1) If yes, the employee is removed from the initial bump chain and placed on the final bump chain in the least-senior position. The occupant of that least-senior position is added to the initial bump chain based on seniority.
    - (2) If no, the employee is removed from the initial bump chain and placed on the final bump chain.
  - c. Repeat the process in § 4.E.4.b until no names remain on the initial bump chain.
5. **Step 5:** Implement RIF as follows:
- a. Provide notice to affected employees of specific bump option at least 14 days before effective date and provide 7 days to elect to exercise or not. Failure to timely respond may be treated as refusal.
  - b. Provide notice of layoff to employees with no bumping rights or who decline to exercise bumping rights.
  - c. Provide final notice of any bumping placements to employees after processing employees' elections to bump.
  - d. Process personnel transactions in HRMN for layoff or job changes based on employees' elections.
  - e. Add laid off or bumped employees to appropriate recall lists.

## **CONTACT**

Questions on this regulation may be directed to the Office of the General Counsel, Civil Service Commission, P.O. Box 30002, 400 South Pine Street, Lansing, Michigan 48909; by telephone at 517-373-3024 or [MCSC-OGC@mi.gov](mailto:MCSC-OGC@mi.gov).