

Michigan Civil Service Commission

Regulation 3.06

Subject:		
Employment Sanctions		
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1. Purpose

This regulation ~~implements rules authorizing employment sanctions and~~ establishes ~~procedures~~ standards for applying and challenging employment 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~~

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~~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.~~

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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.~~

~~32. **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 ~~Ce~~Civil ~~Ss~~Service on a person's eligibility for ~~employment consideration or~~ appointment in the classified service.
3. **Expunged conviction** means a conviction that has been legally and finally 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 a person ~~any of the following~~:

1. ~~An employee~~ Who was dismissed by an appointing authority.
2. ~~An employee or who~~ engaged in conduct that could have resulted in dismissal ~~who~~ but resigned or retired before disciplinary proceedings could be begun or completed ~~by an appointing authority.~~
32. ~~A person w~~ Who engaged in ~~any~~ act prohibited by rule 3-1.5.
3. Who committed an act that the rules or regulations authorize a sanction for.
4. ~~A person w~~ Who consented in writing with an agent of the ~~Ss~~state ~~of Michigan~~ or an appointing authority to an employment sanction or other limitation on classified employment ~~in the classified service.~~
5. ~~A person f~~ For whom ~~there is~~ adequate evidence of conduct indicating ~~that the person is~~ ineligibility, unfitness, or unsuitableness for appointment in the classified employment service.
6. ~~A person e~~ Convicted of a felony or misdemeanor ~~crime~~, as disclosed by a criminal-history check, court documents, or other trustworthy evidence.

B. Limitations on Appointing Authorities.

An appointing authority cannot take an action prohibited by an employment sanction. An appointing authority must reverse any action taken 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.~~ d. Designation as ineligible for appointment in specified agencies.
 - ~~e.~~ e. Revocation of an appointment.
 - ~~f.~~ 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 kept~~ 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~~ Civil Service modifies the sanction after a ~~3~~three-year review authorized under § 4.F. If the duration is limited, the sanction automatically expires at the ~~end of the~~ sanction period's end, 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 from employment in test-designated positions ~~is prohibited for 3~~three 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 for three years.

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 in~~ § 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~~ provide written notice of the ~~employment~~ sanction and ~~its basis in a~~ the reasons for the sanction by delivering a copy of the decision delivered by one of the following methods:
 - a. First-class U.S. mail to the sanctioned person's last known address ~~of the sanctioned person~~.
 - b. Electronic delivery to the sanctioned person's last known email address ~~of the sanctioned person~~.
 - c. Interoffice mail to a sanctioned classified employee.

E. Appeal of ~~Employment~~ Sanctions.

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's final decision in a technical qualification complaint is the commission's final decision ~~of the commission~~ and cannot be further administratively appealed.
2. **Drug Testing of New Hire.** A ~~person new hire~~ receiving a mandatory sanction for ~~new hire drug testing~~ violations of under 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 to not seek classified employment 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 Sanctions~~.

1. ~~Sanctions of 3~~**Three Years and or Less.** If an employment sanction is for ~~3~~**three** years or less and no timely appeal of the technical qualification decision was filed ~~as authorized in under~~ § 4.E.1, the sanction cannot be reduced or modified, except under § 4.F.3.
2. ~~Sanctions over 3~~**Over Three Years.** An employment sanction of ~~over longer than 3~~**over longer than three** years, including a sanction of unlimited duration, may be reviewed once by Civil Service after ~~3~~**three** 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 a~~ 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 Civil Service designee~~ shall issue a technical qualification decision denying the request.
 - (2) If sufficient grounds to modify the sanction are found, ~~Civil Service 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's ~~basis~~ is subsequently vacated, a sanctioned person may request ~~that a sanction be ended its removal~~. 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) ~~removal based on 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 removed~~. 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 to~~ evaluate ~~ing~~ it.
- (1) If sufficient grounds to ~~revoke~~ modify the sanction are not found, ~~the State Personnel Director's designee~~ Civil Service shall issue a technical qualification decision denying the request.
 - (2) If sufficient grounds to modify the sanction are found, Civil Service ~~the director's designee~~ shall issue a technical qualification decision ~~ending~~ removing 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's final decision is the commission's 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 <u>from</u> appointing authority or <u>other source complainant</u> and investigates further, if necessary. 4. Determines if the person is ineligible, unfit, or unsuitable for future employment, appointment, etc. 5. Determines any <u>sanction is</u> appropriate sanction . 6. Creates sanction record in HRMN identifying the sanctioned person on <u>the ZP22.1 and removes passing code for any exam certification</u> . 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 <u>sanction</u> documentation of the sanction .

Responsibility	Action
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Appointing Authority	<p>86. Before hiring a person or moving an employee <u>person</u> to a test-designated position, checks HRMN ZP22.1 for sanctions. For state employees, appointing authorities can also check HRMN Self Service: HR Statewide, Employee History (STWDE), Sanction Field.</p> <p>9. — Contacts Civil Service with questions regarding sanctions.</p> <p>NOTE: Applicants with a sanction code of S1 (complete sanction) cannot be considered for any vacancy.</p>
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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-~~284-0103~~~~373-6695~~; or ~~to~~ MCSC-OCSC@mi.gov.