

Michigan Civil Service Commission

Regulation 3.06

Subject: Employment Sanctions		
SPDOC No.: 19-11	Effective Date: October 1, 2019	Replaces: Reg. 3.06 (SPDOC 16-06, January 1, 2017)

1. Purpose

This regulation establishes standards for applying and challenging employment sanctions.

2. CSC Rule Reference

3-1 Examinations

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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. Definitions

A. CSC Rule Definitions.

1. ***Applicant** means a person who requests to participate in an appraisal process.*
2. ***Appointment** means an authorized act of an appointing authority employing a properly qualified person in a specific position in the classified 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 Civil Service on a person's eligibility for appointment in the classified service.
3. **Expunged conviction** means a conviction that has been legally and finally set aside.

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:

1. Who was dismissed by an appointing authority or engaged in conduct that could have resulted in dismissal but resigned or retired before disciplinary proceedings could be begun or completed.
2. Who engaged in an act prohibited by rule 3-1.5.
3. Who committed an act that the rules or regulations authorize a sanction for.
4. Who consented in writing with an agent of the state or an appointing authority to an employment sanction or other limit on classified employment.
5. For whom adequate evidence of conduct indicates ineligibility, unfitness, or unsuitableness for classified employment.
6. Convicted of a felony or misdemeanor, 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 referral mechanisms.
 - b. Prohibition from participating in appraisal processes.

- c. Designation as ineligible for appointment in specified agencies.
 - d. Revocation of an appointment.
 - e. Other appropriate limitations on the status of the person.
2. **Complete.** A complete employment sanction prohibits being examined for any classified position, kept in 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 Civil Service modifies the sanction after a three-year review authorized under § 4.F.2. If the duration is limited, the sanction automatically expires at the sanction period's end, unless modified.
 4. **Mandatory 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 for three years.
 - b. **New Hires.** An applicant whose conditional offer of employment is rescinded for violating rule 2-7.4(b)(1) is prohibited from appointment to the classified service for three years.

D. Procedures for Imposing Sanctions.

1. **Initiated by Civil Service.** If Civil Service determines that an employment sanction should be imposed, the director's designee may issue a technical qualification decision imposing a 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 in § 4.A under which the sanction is requested.
 - b. **Review.** Civil Service shall review the request and issue a technical qualification decision granting or denying the request, in whole or part.
3. **Service of Decision.** A technical qualification decision imposing an employment sanction must provide written notice of the sanction and its basis in a decision delivered by one of the following methods:
 - a. First-class U.S. mail to the sanctioned person's last known address.
 - b. Electronic delivery to the sanctioned person's last known email address.
 - c. Interoffice mail to a sanctioned classified employee.

E. Appeal of Sanctions.

1. **General.** Except as provided in §§ 4.E.2 and 3, a requesting appointing authority or sanctioned person may appeal a technical qualification decision by filing a technical qualification complaint on a CS-212 form as provided in regulation 8.02. The complaint must be received within 14 days after Civil Service issued the technical qualification decision. A technical review officer's final decision in a technical qualification complaint is the commission's final decision and cannot be further administratively appealed.
2. **Drug Testing of New Hire.** A new hire receiving a mandatory sanction for drug testing under rule 2-7.4(b)(1) cannot challenge the sanction through a technical qualification complaint. Instead, the sanction must be challenged under the process in regulation 2.10.
3. **Release or Agreement.** A person who has consented 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 Sanctions.

1. **Three Years or Less.** If an employment sanction is for three years or less and no timely appeal of the technical qualification decision was filed under § 4.E.1, the sanction cannot be reduced or modified, except under § 4.F.3.
2. **Over Three Years.** An employment sanction of over three years, including a sanction of unlimited duration, may be reviewed once by Civil Service after three years have passed.
 - 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 a request no later than 28 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, Civil Service shall issue a technical qualification decision denying the request.
 - (2) If sufficient grounds to modify the sanction are found, Civil Service shall issue a technical qualification decision removing or modifying the sanction.

3. **Request Based on Changed Circumstances.** If an employment sanction's basis is subsequently vacated, a sanctioned person may request 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 removed. Civil Service must receive the request no later than 28 days after the change in circumstances.
- b. **Civil Service Review.** Civil Service shall review the request and obtain any additional information necessary or useful to evaluate it.
- (1) If sufficient grounds to modify the sanction are not found, Civil Service shall issue a technical qualification decision denying the request.
- (2) If sufficient grounds to modify the sanction are found, Civil Service shall issue a technical qualification decision 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 regulation 8.02. The complaint must be received within 14 days after Civil Service issued the technical qualification decision. The technical review officer's final decision is the commission's final decision and cannot be further administratively appealed.

5. Procedures

Responsibility	Action
Appointing Authority	1. Files request for sanction with Civil Service.
Civil Service	2. Reviews documentation from appointing authority or other source and investigates further, if necessary. 3. Determines if any sanction is appropriate. 4. Creates sanction record in HRMN identifying sanctioned person on ZP22.1 and removes passing code for any exam certification. 5. Issues sanction decision to sanctioned person and appointing authority, if applicable. Maintains sanction documentation.

Responsibility	Action
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Appointing Authority	6. Before hiring or moving person to test-designated position, checks HRMN ZP22.1 for sanctions. For state employees, can also check HRMN Self Service: HR Statewide, Employee History (STWDE), Sanction Field. Applicants with sanction code of S1 (complete sanction) cannot be considered for any vacancy.
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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; 517-284-0103; or MCSC-OCSC@mi.gov.