

Michigan Civil Service Commission

Regulation 4.08

Subject: Working Out of Class		
SPDOC No.: 19-11	Effective Date: October 1, 2019	Replaces: Reg. 4.08 (SPDOC 16-06, October 1, 2017)

1. Purpose

This regulation establishes standards to make working-out-of-class (WOC) determinations for all classified employees, including pay rates, eligibility, time periods, and qualification credit.

2. CSC Rule Reference

4-5 Working out of Class

- (a) **Working-out-of-class assignment.** An appointing authority may temporarily assign an employee to work out of class only if (1) the employee is performing the duties and responsibilities of an existing position or (2) civil service staff has approved in advance a request for the employee to work out of class. A working-out-of-class assignment cannot exceed one year.
- (b) **Working-out-of-class pay.** If an employee is assigned to work out of class for more than 10 consecutive work days, the employee is entitled to supplemental pay and benefits for the temporary assignment in accordance with the civil service rules and regulations.
- (1) **Claims for working-out-of-class pay.** If an employee is assigned to work out of class and does not receive authorized supplemental working-out-of-class pay and benefits, the employee may request a technical working-out-of-class determination.
- (A) **Time limit.** A request for a technical working-out-of-class determination must be filed during the working-out-of-class assignment or, after the end of the assignment, within the time specified in the regulations.
- (B) **Back pay.** In a technical working-out-of-class determination, the civil service review officer may award back pay and benefits for working out of class for a maximum of one year before the end of the working-out-of-class assignment. No supplemental working-out-of-class pay or benefits are payable for any period longer than one year even if the employee worked out of class for more than one year.
- (2) **Relation to collective bargaining.** Working out of class is a prohibited subject of bargaining. The exclusive procedure for any employee, including an exclusively represented employee, to bring a claim for working-out-of-class pay or benefits is to file a request for a technical working-out-of-class determination.

(c) **Exclusions.** *An employee in any of the following circumstances is not considered to be working out of class:*

- (1) *The employee is working in a preauthorized position.*
- (2) *The employee is occupying a position downgraded for training.*
- (3) *The employee is occupying a position that is reclassifiable.*
- (4) *The employee is an overall assistant who normally substitutes for the employee's supervisor.*

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3. Definition

A. CSC Rule Definition.

1. *Working out of class means being temporarily assigned to and performing the duties and responsibilities of another classification, in accordance with the standards in rule 4-5.*

4. Standards

A. Authorized.

1. An appointing authority may assign an employee duties and responsibilities of a different classification temporarily for up to 26 pay periods.
2. A working-out-of-class assignment can be made if:
 - a. Time constraints make it impractical or infeasible to establish, recruit, or fill a position on a limited-term basis.
 - b. There is an urgent or critical need to perform duties and responsibilities during another employee's absence.
 - c. The appointing authority is in the process of recruiting to fill the position.
 - d. Pending organizational or agency-leadership changes require temporary work assignments.
 - e. It is impractical to use an alternative listed in § 4.E.

B. Not Authorized.

1. The following situations do not constitute working out of class:
 - a. An employee working in a position downgraded for training or pattern position.
 - b. An employee performing permanently assigned entry-or-trainee-through-experienced-level duties and responsibilities that may result in reclassification.
 - c. An employee performing higher-level duties that may result in reclassification.

2. An appointing authority cannot enter any settlement agreement for a WOC assignment.

C. Eligibility Criteria.

1. All the following criteria must be met for an employee to be working out of class:
 - a. The appointing authority must submit a Position Action Request and any other necessary documentation for a classification review before processing the WOC payment if any of the following conditions exist:
 - (1) An employee is temporarily assigned duties and responsibilities that Civil Service has not classified.
 - (2) A question exists with the employee, the appointing authority, or Civil Service on whether the employee has worked out of class.
 - (3) A question exists with the employee, the appointing authority, or Civil Service on the proper classification of the temporary duties and responsibilities.
 - b. The appointing authority or designee must direct the employee to perform a properly classified assignment's duties and responsibilities.
 - c. The employee must perform all or substantially all of the duties and responsibilities that are different from the employee's classification.
 - d. The employee must perform a single temporary assignment's duties and responsibilities for a qualifying period of more than 10 consecutive full workdays (80 hours), interrupted only by leave use or a holiday, unless this regulation designates a different qualifying period.
 - e. The employee should have the education and experience requirements or be in a classification level that would ultimately satisfy the experience requirement for the WOC assignment. If the employee does not have the required education or experience, the appointing authority must document the reason for using the employee for later Civil Service audit.
 - f. The employee must meet any state or federal licensure, registration, and certification requirements, as stated on the classification's job specification.
2. Leave use or a holiday during a qualifying period does not constitute a break or count as part of the 10-day or other qualifying period under this regulation. Time lost for leave use or a holiday must be made up by an equal number of consecutive workdays to satisfy the qualifying period. Once the full qualifying period is satisfied, the employee is paid at the WOC rate for all subsequent leave use and holidays for the rest of the WOC assignment.
3. An employee cannot be worked out of class for initial and subsequent periods in the same assignment for over 26 pay periods. After 26 pay periods, the employee is

- ineligible for the same WOC assignment for 13 pay periods. After 13 pay periods, the employee must complete a new qualifying period to work out of class again.
4. If the appointing authority intends or believes that a WOC assignment may last over 26 pay periods, the appointing authority should make an appointment to the position.
 5. **Overall assistants.** An overall assistant with direct-line authority and responsibility over the organizational entity must act as chief supervisor during a supervisor's absence for over six consecutive pay periods. Any WOC designation begins after the first six pay periods, but WOC pay does not include the qualifying period.
 6. **Branch Supervisors.** A Department of State Branch Supervisor 10 must serve in a relief assignment as a Relief Branch Support Supervisor for over 30 consecutive full workdays. Any WOC designation begins after 30 consecutive full workdays, but WOC pay includes the qualifying period.

D. Pay and Qualification-Credit Criteria.

1. An employee is eligible for WOC pay only for work that has been properly classified as required in § 4.C.1.
2. Once the qualifying period is met, the employee is entitled to pay through a gross-pay adjustment (GPA) for working out of class from the assignment's first day. The classification and position code of the position that necessitated the WOC assignment must be identified in a comment line on the employee's record. This information is subject to audit by Civil Service.
3. If an employee is worked out of class for ten consecutive days and is subsequently worked out of class in the same assignment for 26 pay periods, the employee is entitled to working-out-of-class pay for the full extent of the subsequent assignments without another qualifying period. This pay is limited to a maximum of 26 pay periods for any one assignment. The 26 pay periods for a WOC assignment must be completed within 24 months from the qualifying period's start.
4. An employee may request a technical WOC determination from Civil Service under regulation 4.03. The request must be made within 28 days after the assignment ends and include a position description describing the temporary duties and documentation that a request for WOC pay was submitted to the appointing authority. Late requests are not accepted.
5. An appointing authority must process WOC pay adjustments or submit a WOC determination request to Civil Service within three months from any WOC assignment's end. The appointing authority must obtain Civil Service approval for any pay adjustments or determination requests beyond three months.
6. Determining the WOC pay rate is in accordance with regulations 4.08, 5.01 and 5.07.

7. An employee eligible for WOC compensation worked out of class in a preauthorized series is paid at the appropriate step for the classification level for which the employee meets the required education and experience, which is typically the entry level. If this does not result in a pay increase of at least the amount provided under the promotional formula at § 3.F.2(a) of regulation 5.01, the employee is paid at the appropriate step for the next higher level in the series that would result in a pay increase under that formula.
8. An employee working out of class at an equal or lower pay range than the employee’s permanent classification is ineligible for WOC pay.
9. Qualification credit, as determined by Civil Service, is granted for experience in documented WOC assignments if the employee meets the minimum education, licensure, registration, and certification requirements for the temporary assignment’s classification.
10. Qualification credit does not substitute for the classification’s aggregate qualification requirements. Qualification credit is granted at the highest level for which the employee meets the experience requirements, up to the WOC level.
11. Qualification credit may only be applied once for an appointment, reclassification, or job change.
12. Qualification credit cannot exceed 26 pay periods for any WOC assignment.

E. Alternatives to Working out of Class. The following alternatives should be considered instead of working an employee out of class:

1. Assigning supervisory or managerial assignments to other supervisors or managers.
2. Making a limited-term appointment.
3. Making an emergency appointment of 28 days or less, under rule 3-3.3.
4. Rotating the potential WOC assignment among several employees in the work area.
5. Dividing the work function among other employees in the work area.

F. Compliance. Civil Service audits all WOC payments. The appointing authority shall retain adequate documentation to substantiate compliance with this regulation. Failure to supply adequate documentation, upon request, may result in revoking the appointing authority’s delegated authority to process future WOC payments.

5. Procedures

Responsibility	Action
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| Management or Employee | 1. Submits request for WOC pay and documentation to appointing authority. |
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Responsibility	Action
Appointing Authority	2. Reviews request. 3. Determines appropriate classification and processes WOC payment, in accordance with regulations 5.01 and 5.07. If request is denied, documents reason. 4. If request involves set of duties that has not been reviewed and classified or there is dispute between employee and appointing authority on temporary assignment's proper classification, submits Position Action Request and any other necessary documentation to Civil Service for classification review.
Civil Service	5. Reviews WOC requests involving duties that have not been previously classified to determine proper classification and approvable timeframe, documents on Position Action Request, and releases as "No Action." 6. If request is denied, informs employee of WOC decision and appeal rights.
Appointing Authority	7. Receives Position Action Request for position review. 8. Processes approval for payment, if appropriate.

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.