

PROPOSED ORDER OF THE STATE OF WISCONSIN
Division of Merit Recruitment and Selection
Office of State Employment Relations
ADOPTING RULES

The Division of Merit Recruitment and Selection of the Office of State Employment Relations proposes an order to amend ER-MRS 12.01, 12.06 (title) and Note, 12.07, 14.02 (5), 14.03 (1) and Note, 14.04, 14.05, Note to 15.03, 15.04, 15.05, 15.06, 15.07 (1), 16.025 (2) and (4) (a), 16.03 (6) (c), 16.035 (1), (2) and (3), 16.04 (2), 16.05, 16.06, 17.03, 17.04 (3) (intro) and (4) (intro), Note to ER-MRS 17.04 (4) (b), 17.05, 22.06 (2), 22.08(2) (a) 2 and 3, (2) (b)2, (3) (a) 2 and (3) (c), 22.09(2) (a), (b) and (c), 22.10 (intro), Note to ER-MRS 22.10(2), 22.10 (4), 22.11 (1m), (2) (intro) and (3), 24.03 (7), 27.01, 27.02 (2) and (4)(a), 27.03 (1), 27.04 (1), 27.05 (1) title and (1) (intro), 32.04 and 34.08 (3) and (4), to create 1.02 (3), to renumber and amend 27.02 (1), and to repeal ER-MRS 8.26, 16.025 (1), 22.11 (1) and 22.11 (2) (a) and (b) and 34.08 (2), relating to the Entry Professional Program, submission of notices and requests to the administrator, promotional appointments and pay, involuntary transfers, periods of eligibility for reinstatement, the definition of “state property”, acting assignments and obsolete references, correct cross-references, clarifying language and other minor, technical changes.

Analysis Prepared by the Division of Merit Recruitment and Selection of the Office of State Employment Relations

Statutory Authority: Section 230.05 (5), Stats., grants the Administrator of the Division of Merit Recruitment and Selection general authority to promulgate rules on provisions for which the administrator has statutory responsibility.

Section 230.25 (3) (a), Stats., as amended by 1997 Wisconsin Act 307, provides that the reinstatement eligibility period for state employees is five years.

Section 19.45 (11) (a), Wis. Stats., requires the Administrator to promulgate rules to implement a code of ethics for certain classified and unclassified state employees.

Statutes Interpreted:

- 19.45 (11) (a), relating to a code of ethics
- 230.06 (1) (d) and (e), relating to information provided by agencies to the Administrator
- 230.15 (3) and 230.29, relating to transfers
- 230.19, relating to promotion
- 230.22, relating to an entry professional program
- 230.25 (1), relating to certification
- 230.25 (1n) (a), relating to expanded certification
- 230.25 (3) (a), relating to reinstatement
- 230.34 (1) (a), relating to demotions
- 230.34 (2), relating to layoffs

There are no related statutes or rules other than those listed above.

Plain Language Analysis of the Rules

Ch. ER-MRS 1

A definition of “compensation plan” is created.

Ch. ER-MRS 8

Classifications previously in the Entry Professional Program have been eliminated from it except at an agency’s specific request. The program’s value as an alternative recruitment and selection program was also diminished when the statutes were changed in 1998 to permit flexible certification for all positions. Thus, the need to provide separate information on the program for the annual affirmative action report no longer exists. The reporting requirement is repealed.

Ch. ER-MRS 12

Certification requests are submitted in a variety of forms, both on paper and electronically. This amendment removes references to “a prescribed form”, permitting submission of requests in paper or electronic format.

Chs. ER-MRS 12, 22 and 27 relating to references to “handicap” and “handicapped”

This amendment changes the term “handicap” or “handicapped” to “disability” or “individual with a disability”, respectively, in various provisions. These changes are being made to conform with preferred terminology and to be consistent with other references in chapters 111 and 230, Wisconsin Statutes, and the Administrative Code.

Ch. ER-MRS 14

Under certain conditions, an appointment from a register must be considered a promotion even though the appointee has reinstatement eligibility to the position being filled. The appointing authority should have the discretion to treat the appointment as a promotion.

Also see explanation under “Chs. 14, 15, 16, 17 and 22, relating to references to the Compensation Plan.”

Chs. 14, 15, 16, 17 and 22 relating to references to the Compensation Plan.

Determining the rate of pay on promotion needs to include references to the Compensation Plan. Therefore, related references to s. ER 29.03 in chs. ER-MRS 14, 15, 16, 17 and 22 are amended to include the Plan.

Ch. ER-MRS 15

A change is necessary to clarify that involuntary transfers are permitted within an employing unit and between employing units of the same agency. This change would clarify that voluntary and involuntary transfers are treated the same.

Also see explanation under “Chs. 14, 15, 16, 17 and 22, relating to references to the Compensation Plan.”

Chs. ER-MRS 16, 22 and 34, relating to references to reinstatement eligibility

Sections 230.25 (3) (a), 230.31 (1) (intro) and (a), 230.33(1) and 230.40 (3), Stats., were amended by 1997 Wisconsin Act 307 to increase the reinstatement eligibility period for state employees from 3 years to 5 years, effective July 5, 1998. Because more than 5 years have elapsed, a distinction between the “old” 3-year eligibility and the “new” 5-year eligibility is no longer necessary. Removal of all provisions noting the distinction is made to improve the readability of the provisions.

Also see explanation under “Chs. 14, 15, 16, 17 and 22, relating to references to the Compensation Plan.”

Ch. ER-MRS 17

The language is modified to eliminate various requirements that agencies submit copies of transactions to the administrator, specifically when the appointing authority notifies the employee of a demotion or when the employee accepts a demotion within an agency or between agencies. The process will be better served by the appointing authority placing a copy of these transactions in the employee’s personnel file.

Also see explanation under “Chs. 14, 15, 16, 17 and 22, relating to references to the Compensation Plan.”

Ch. ER-MRS 22

The language is amended to eliminate two incorrect references and to clarify application of the rules in certain situations.

Also see explanation under “Chs. 14, 15, 16, 17 and 22, relating to references to the Compensation Plan.”

Also see the explanation under “Chs. ER-MRS 16, 22 and 34, relating to references to reinstatement eligibility”

Also see explanation under “Chs. 12, 22 and 27, relating to references to “handicap” and “handicapped”.

Ch. ER-MRS 24

The definition of “state property” is updated to clearly include information technology and telecommunications resources.

Ch. ER-MRS 27

Also see explanation under “Chs. 12, 22 and 27, relating to references to “handicap” and “handicapped”.

Ch. ER-MRS 32

The language is modified to eliminate the requirement that the appointing authority submit a copy of the acting assignment notice to the administrator. The process will be better served by the appointing authority placing a copy in the employee’s personnel file.

Ch. ER-MRS 34

See the explanation under “Chs. ER-MRS 16, 22 and 34, relating to references to reinstatement eligibility”

There are no existing or proposed federal regulations that are intended to address the activities to be regulated by the proposed rules.

Attachment to this document represents a comparison of the rules involved herein that exist in adjacent states. Rule changes that are for clarification only are not reflected in the attachment.

No factual data or analytical methodologies were necessary for the rule changes involved herein.

The proposed rule changes affect persons employed by or who seek employment with the State of Wisconsin. The rule changes will not affect small business. There will be no anticipated costs that would be incurred by the private sector.

Response to Legislative Council Clearinghouse Recommendations

All recommendations of the Legislative Council Clearinghouse were accepted.

List of persons appearing or registering at public hearing

There were no appearances or registrations at the public hearing, and no written testimony was submitted to the Division.

Modifications made as a result of testimony at public hearing

No modifications were made as a result of testimony at the public hearing.

Contact Person

The agency contact person is Bob Van Hoesen (608) 267-1003 (voice), (608) 267-1000 (FAX) or by e-mail at bob.vanhoesen@oser.state.wi.us. Mailing address is PO Box 7855, Madison WI 53707.

Text of the rule

SECTION 1: ER-MRS 1.02 (3) is created to read:

ER-MRS 1.02 (3) “compensation plan” means the compensation plan adopted under s. 230.12, Stats.

SECTION 2: ER-MRS 8.26 is repealed.

SECTION 3: ER-MRS 12.01 is amended to read:

ER-MRS 12.01 Action by appointing authority. To fill a vacancy, the appointing authority shall submit a request ~~on the prescribed form~~ to the administrator.

SECTION 4: ER-MRS 12.06 (title) and Note and 12.07 are amended to read:

ER-MRS 12.06 Handicapped Disability expanded certification

Note: Forms are available free from the Division of Merit Recruitment and Selection, ~~137 E. Wilson St., 101 East Wilson Street, 4th floor, Madison,~~ or by mail at PO Box 7855, Madison, WI 53707-7855, at www.wiscjobs.state.wi.us or at other locations throughout the state where Applications for State Employment are available.

ER-MRS 12.07 Additional certifications. Upon request of an agency, the administrator may, under s. 230.08 (7), Stats., certify additional names to supplement those certified under s. ER-MRS 12.06. The additional names shall be those of ~~handicapped~~ candidates with a disability for whom the administrator has waived the test requirement. The administrator may waive the test requirement for a ~~handicapped~~ person with a disability under this section if the administrator determines that the ~~handicap~~ disability precludes the person from equitably participating in the tests used to examine candidates certified under s. 230.24 (1) or 230.25, Stats., because of impaired sensory, manual, reading or speaking skills not related to the tasks to be performed after reasonable accommodations have been made on the job.

SECTION 5: ER-MRS 14.02 (5) is amended to read:

ER-MRS 14.02 (5) The permissive appointment of an employee to a different position in a higher class than the highest position currently held in which the employee has permanent status in class, when the employee has been certified from a register as eligible for appointment, ~~is may~~ be considered a promotion when the position is in a class, class subtitle or progression series in which the employee has not previously attained permanent status in class. Such appointments are reinstatements when the employee is appointed on the basis of qualifying for the position other than as a result of being certified as eligible for appointment from a register.

SECTION 6: ER-MRS 14.03 (1) and Note are amended to read:

ER-MRS 14.03 Kinds of promotion; status and rights. (1) PROMOTION WITHIN THE SAME AGENCY. In accordance with s. 230.28 (1), Stats., the promoted employee shall be required to serve a probationary period. At any time during this period the appointing authority may remove the employee from the position to which the employee was promoted without the right of appeal and shall restore the employee to the employee's former position or a similar position and former rate of pay, as determined under ER29.03 (7) (a) or the compensation plan. Any other removal, suspension without pay, or discharge during the probationary period shall be subject to s. 230.44(1) (c), Stats. If the position to which the employee has restoration rights has been abolished, the employee shall be given consideration for any other vacant position in the same or counterpart pay range for which the employee is determined to be qualified by the appointing authority to perform the work after being given the customary orientation provided for newly hired workers. If no such vacant position exists, the employee shall be treated as if he or she had

been restored to the position held prior to promotion and the provisions for making layoffs under ch. ER-MRS 22 shall apply.



Note: For pay on promotion, new promotion and restoration, see s. ER 29.03 (4) (b), (4) (c) and (7) (a), respectively, or the compensation plan.

SECTION 7: ER-MRS 14.04 and 14.05 are amended to read:

ER-MRS 14.04 Pay on promotion. See s. ER 29.03 (4) or the compensation plan.

ER-MRS 14.05 Pay on new promotion. See s. ER 29.03 (4) or the compensation plan.

SECTION 8: Note to ER-MRS 15.03 amended to read

Note: For pay on transfer see s. ER 29.03 (5) or the compensation plan.

SECTION 9: ER-MRS 15.04 and 15.05 are amended to read

ER-MRS 15.04 Transfer between different employing units of the same agency. An employee who transfers or is involuntarily transferred between different employing units of the same agency may be required by the appointing authority to serve a probationary period, except that a probationary period shall be required upon a transfer to a trainee position. If the transfer is to a position in a different class and no probationary period resulting from the transfer is required, the employee shall immediately attain permanent status in class. An employee who transfers or who is involuntarily transferred while serving a probationary period may continue in the probationary status being served prior to transfer or begin a new probationary period under s. ER-MRS 15.07.

ER-MRS 15.05 Transfer within the same employing unit. No employee who transfers or who is involuntarily transferred within the same employing unit either to a position in a different class or to a different position in the same class may be required to serve a probationary period, except that a probationary period shall be required upon transfer to a trainee position.

SECTION 10: ER-MRS 15.06 is amended to read

ER-MRS 15.06 Pay on transfer. See s. ER 29.03 (5) or the compensation plan.

SECTION 11: ER-MRS 15.07 (1) is amended to read

ER-MRS 15.07 Transfer while serving a probationary period. (1) Employees serving a probationary period may transfer or be involuntarily transferred to a different position. The probationary period time served prior to such movement shall be carried over if the transfer is within an employing unit. If the transfer is between employing units of the same agency or between agencies, the probationary period time served prior to such movement may be carried over at the discretion of the appointing authority.

SECTION 12: ER-MRS 16.025 (1) is repealed.

SECTION 13: ER-MRS 16.025 (2) and (4) (a) are amended to read:

ER-MRS 16.025 (2) For reinstatements ~~based on reinstatement eligibility earned on or after July 5, 1998,~~ the period of eligibility shall begin with the date of separation from the position in which the eligibility was earned and end with the last day of the 5th year after the date of separation.

(4) (a) Except as provided in par. (b), any act of reinstatement or restoration must become effective during the applicable period of eligibility specified in subs. ~~(1) to (2)~~ (2) or (3) or in ss. 230.33 or 230.40 (3), Stats.

SECTION 14: ER-MRS 16.03 (6) (c) is amended to read:

ER-MRS 16.03 (6) (c) Pay upon return from leave. See s. ER 29.03 (7) or the compensation plan.

SECTION 15: ER-MRS 16.035 (1), (2) and (3) are amended to read:

ER-MRS 16.035 (1) GENERAL. ~~An employee who, prior to July 5, 1998, has separated from a position in the classified service without misconduct or delinquency or who has accepted a voluntary demotion for personal reasons shall be eligible for reinstatement in any agency for 3 years from the date of such separation or demotion.~~ An employee who, on or after July 5, 1998, has separated from a position in the classified service without misconduct or delinquency or who has accepted a voluntary demotion for personal reasons shall be eligible for reinstatement in any agency for 5 years from the date of such separation or demotion.

(2) RETURN FROM UNCLASSIFIED POSITION. ~~Any employee who left the classified service prior to July 5, 1998 to accept an appointment to an unclassified position shall have reinstatement eligibility in any agency for 3 years following the appointment to the unclassified service or one year after termination of the unclassified appointment, whichever is longer.~~ Any employee who

left the classified service ~~on or after July 5, 1998~~ to accept an appointment to an unclassified position shall have reinstatement eligibility in any agency for 5 years following the appointment to the unclassified service or one year after termination of the unclassified appointment, whichever is longer. The benefit under this subsection is in addition to any benefit under ER-MRS 16.03 (4)

(3) ~~DOWNWARD REALLOCATION OR RECLASSIFICATION OF A POSITION. An employee whose position has been reallocated or reclassified to a lower class prior to July 5, 1998 shall have reinstatement eligibility in any agency for 3 years from the date of the action.~~ An employee whose position has been reallocated or reclassified to a lower class ~~on or after July 5, 1998~~, shall have reinstatement eligibility in any agency for 5 years from the date of the action. For definitions of reallocation and reclassification, see s. ER 3.01(2) and (3), respectively.

SECTION 16: ER-MRS 16.04 (2) is amended to read:

ER-MRS 16.04 (2) SEPARATION DURING THE PROBATIONARY PERIOD. ~~A person who, prior to July 5, 1998, separates from a position without misconduct or delinquency while serving a probationary period may be reinstated to a position in a class in the same pay range or counterpart pay range or in a lower class than the position from which the employee separated at any time during a 3 year period from the date of separation providing the person is qualified to perform the work after the customary orientation provided to a newly hired worker in the position.~~ A person who, ~~on or after July 5, 1998~~, separates from a position without misconduct or delinquency while serving a probationary period may be reinstated to a position in a class in the same pay range or counterpart pay range or in a lower class than the position from which the employee separated at any time during a 5 year period from the date of separation providing the person is qualified to perform the work after the customary orientation provided to a newly hired worker in the position. The probationary time already served may be carried over by the appointing authority, except as provided in s. 230.32 (2) (b), Stats. The appointing authority shall determine the amount of carry-over at the time of the reinstatement and shall give written notice of the amount to the employee. The appointing authority shall keep a copy of that notice on file.

SECTION 17: ER-MRS 16.05 and 16.06 are amended to read:

ER-MRS 16.05 Pay on reinstatement. See s. ER 29.03 (6) or the compensation plan.

ER-MRS 16.06 Pay on restoration. See s. ER 29.03 (7) or the compensation plan.

SECTION 18: ER-MRS 17.03 is amended to read:

ER-MRS 17.03 Notice to employee. The appointing authority shall notify an employee who is being demoted of the action and the reasons for the action at least 5 working days prior to the effective date of the action. Such notification shall be in writing and shall advise the employee of his or her right to appeal the action under s. 230.44 (1) (c), Stats. The appointing authority shall ~~send a copy of the notification to the administrator~~ place a copy of the notice in the employee's personnel file.

SECTION 19: ER-MRS 17.04 (3) (intro) and (4) (intro) are amended to read:

ER-MRS 17.04 (3) (intro) VOLUNTARY DEMOTION WITHIN AN AGENCY. An employee may request and with approval of the appointing authority be voluntarily demoted within the agency either to a position in the same employing unit, or to a position in a different employing unit. The employee's request, the appointing authority's response, and the employee's acceptance of the demotion shall be in writing. ~~A copy of the employee's acceptance shall be sent to the administrator.~~ The appointing authority shall place a copy of the employee's acceptance in the employee's personnel file.

(4) (intro) VOLUNTARY DEMOTION BETWEEN AGENCIES. An employee may request and, with approval of the appointing authority of the receiving agency, may accept a voluntary demotion between agencies. ~~A copy of the employee's written acceptance of such voluntary demotion shall be furnished to the administrator.~~ The appointing authority shall place a copy of the employee's written acceptance of such voluntary demotion in the employee's personnel file.

SECTION 20: Note to ER-MRS 17.04 (4) (b) is amended to read:

Note: For pay on voluntary demotion or demotion for disciplinary purposes see s. ER 29.03 (8) or the compensation plan.

SECTION 21: ER-MRS 17.05 is amended to read:

ER-MRS 17.05 Pay on voluntary demotion or demotion for disciplinary purposes. See s. ER 29.03 (8) or the compensation plan.

SECTION 22: ER-MRS 22.06 (2) is amended to read:

ER-MRS 22.06 (2) The appointing authority may exempt from the layoff group up to 2 employees or 20%, whichever is greater, of the number of employees in the layoff group to retain employees having special or superior skills or for other purposes as determined by the appointing authority. In addition, for affirmative action purposes, as defined in s. 230.03 (2), Stats., the appointing authority may exempt, subject to the approval of the administrator, female, minority and ~~handicapped~~ employees with a disability in the layoff group. Exercise of these exemptions may be requested by the appointing authority as part of the layoff plan submitted under ER-MRS 22.05.

SECTION 23: ER-MRS 22.08(2) (a) 2 and 3, (2) (b) 2, (3) (a) 2 and (3) (c), are amended to read:

ER-MRS 22.08 (2) (a) 2. For pay provisions regarding an employee who is demoted by the appointing authority, as a result of a layoff to the highest level vacancy available for which the employee is qualified, see s. ER 29.03 (8) (c) or the compensation plan.

3. For pay provisions regarding an employee who chooses, with the approval of the appointing authority, to be demoted as a result of layoff to a vacancy which is at a lower level than other available vacancies to which the employee could be demoted, see s. ER 29.03 (8) (d) 1 or the compensation plan.

(2) (b) 2. An employee who demotes as a result of layoff between agencies shall have his or her pay determined under s. ER 29.03 (8) (d) 2 or the compensation plan.

(3) (a) 2 If the employee has previously attained permanent status in class in a position whose classification had been affected by an action of the ~~administrator~~ director, the employee shall immediately attain rights to the classification which replaced the original classification of the position previously held by the employee.

(3) (c) An employee who exercises displacement rights shall have his or her pay determined under s. ER 29.03 (8) (c) or the compensation plan.

SECTION 24: ER-MRS 22.09 (2) (a), (b) and (c) are amended to read:

ER-MRS 22.09 (2) (a) The position is one which the employee would be qualified to perform after customary orientation provided to new workers in the position;

(b) The position is the highest level position available within the agency to which the employee could either transfer or demote;

(c) The number of work hours required does not vary substantially from the number of work hours previously worked; ~~and~~

SECTION 25: ER-MRS 22.10 (intro) is amended to read:

ER-MRS 22.10 (intro) Restoration rights and conditions. An employee ~~or former employee~~ who transfers or demotes to another agency as a result of layoff under s. ER-MRS 22.08 (1) or (2) and is terminated while on probation, exercises displacement rights as a result of layoff under s. ER-MRS 22.08 (3), is demoted as a result of layoff under s. ER-MRS 22.08 (2), or is terminated as a result of layoff, shall, under s. 230.34 (2), Stats., be granted the following considerations for a 3-year period from the date of such action:

SECTION 26: Note to ER-MRS 22.10 (2) is amended to read:

Note: For pay of employees restored following layoff see s. ER 29.03 (7) or the compensation plan.

SECTION 27: ER-MRS 22.10 (4) is amended to read:

ER-MRS 22.10 (4) PAY ON RESTORATION. See s. ER 29.03 (7) or the compensation plan.

SECTION 28: ER-MRS 22.11 (1) is repealed.

SECTION 29: ER-MRS 22.11 (1m) and (2) (intro) are amended to read:

ER-MRS 22.11 (1m) When a vacancy, for which the employee is qualified, occurs in another employing unit of the agency in any class other than the approved layoff group from which the employee was terminated as a result of layoff, exercised displacement rights, demotion as a

result of layoff, or transfer or demotion between agencies as a result of layoff and the employee was terminated while on probation, the employee may be reinstated at the discretion of the appointing authority within a 5-year period from the date of any of the actions taken in this subsection as a result of being subject to layoff, ~~if the action taken as a result of being subject to layoff occurred on or after July 5, 1998.~~

(2) (intro) When a vacancy, for which the employee is qualified, occurs anywhere in state service other than the agency from which the employee was terminated as a result of layoff, exercised displacement rights, or demotion as a result of layoff, the employee may be reinstated at the discretion of the appointing authority within a 5-year period from the date of action resulting from layoff.

SECTION 30: ER-MRS 22.11 (2) (a) and (b) are repealed.

SECTION 31: ER-MRS 22.11 (3) is amended to read:

ER-MRS 22.11 (3) For pay of employees upon reinstatement following layoff, see s. ER 29.03 (6) or the compensation plan. For pay provisions upon reinstatement where a probationary period is required, see s. ER 29.03 (2) (b) or the compensation plan.

SECTION 32: ER-MRS 24.03 (7) is amended to read:

ER-MRS 24.03 (7) "State property" includes, but is not limited to, facilities, vehicles, supplies, equipment, telecommunications equipment and services, information-technology equipment and services, stenographic assistance and reproduction services.

SECTION 33: ER-MRS 27.01 is amended to read:

ER-MRS 27.01 Purpose. This chapter, promulgated under s. 230.08 (7), Stats., which authorizes the administrator to provide for exceptional methods and kinds of employment, enables the state, as an employer, to carry out its social, economic and community responsibilities through employment of individuals who are economically disadvantaged or ~~handicapped~~ have a disability, or to meet the needs of the service during periods of disaster or national emergency, or to comply with special funding requirements for specific positions.

SECTION 34: ER-MRS 27.02 (1) is renumbered ER-MRS 27.02 (4m) and amended to read:

ER-MRS 27.02 (4m) ~~"Handicapped"~~ "Individual with a disability" means an individual under s. 111.32 (8), Stats., who:

SECTION 35: ER-MRS 27.02 (2) is amended to read:

ER-MRS 27.02 (2) "Disability" means the same as ~~handicapped~~ "individual with a disability" as defined in sub. (1).

SECTION 36: ER-MRS 27.02 (4)(a) is amended to read:

ER-MRS 27.02 (4)(a) Vacancies have been set aside, as a part of an approved affirmative action plan, to provide training and permanent employment to ~~handicapped~~ individuals with a disability;

SECTION 37: ER-MRS 27.03 (1) is amended to read:

ER-MRS 27.03 (1) An agency has set aside positions for employment opportunities to provide training and permanent employment to ~~severely handicapped~~ individuals with a severe disability and it has been determined that the examination method traditionally used to examine for similar vacancies would measure the applicants' disability instead of their ability, aptitude or skill, or whatever other factor the test purports to measure.

SECTION 38: ER-MRS 27.04 (1) is amended to read:

ER-MRS 27.04 (1) For appointment to exceptional employment situations for ~~handicapped~~ individuals with a disability, applicants must be certified as severely ~~handicapped~~ disabled by appropriate specialists such as a physician, psychiatrist, psychologist, chiropractor, teachers or counselors specialized in learning disabilities or special education, vocational rehabilitation counselor, occupational or physical therapist or other specialist deemed appropriate by the administrator, and must require on-the-job training beyond that normally provided during the probationary period for similar positions.

SECTION 39: ER-MRS 27.05 (1) (title) and (1) (intro) are amended to read:

ER-MRS 27.05 (1) FOR EMPLOYMENT OF ~~HANDICAPPED~~ INDIVIDUALS WITH A DISABILITY. For employment of ~~handicapped~~ individuals with a disability, the administrator shall determine whether:

SECTION 40: ER-MRS 32.04 is amended to read:

ER-MRS 32.04 Letter of notification. The appointing authority shall give written notice to the employee of the acting assignment. This letter of notification shall identify the nature of the duties to be assigned, the planned duration and other conditions of the acting assignment, including the fact that no adjustment in pay shall be made. The appointing authority shall ~~send a copy of the notice of the acting assignment to the administrator~~ place a copy of the notice in the employee's personnel file.

SECTION 41: ER-MRS 34.08 (2) is repealed.

SECTION 42: ER-MRS 34.08 (3) and (4) are amended to read:

ER-MRS 34.08 (3) Employees so terminated ~~on or after July 5, 1998~~ do not have layoff, restoration or displacement rights to any permanent, seasonal or sessional position unless those rights were previously earned in a permanent, seasonal, or sessional position and are being applied within three years of the date of separation from that position or prior to the expiration of an approved leave of absence.

(4) Employees so terminated ~~on or after July 5, 1998~~ do not have reinstatement eligibility to any permanent, seasonal or sessional position unless the eligibility was previously earned in a permanent, seasonal, or sessional position and is being applied within five years of the date of separation from that position or prior to the expiration of an approved leave of absence.

Effective date

This rule shall take effect on the first day of the month following publication in the Wisconsin Administrative Register as provided in s. 227.22 (2) (intro), Stats.

Fiscal Estimate:

The elimination of reporting requirements for the Entry Professional Program and the submission of notices by appointing authorities may result in a minimal workload reduction for staff of the agencies and the Office of State Employment Relations. However, the amounts are indeterminate.

There is no fiscal impact from the other changes in this rule order.

Dated: _____

Agency: _____

Patricia Almond, Administrator
Division of Merit Recruitment and Selection
Office of State Employment Relations

Attachment

Comparison of changes to rules in adjacent states

Ch. ER-MRS 8

1. *If you have a special hiring program targeted at entry professional positions, is there a reporting requirement to the Legislature on the activities and results of such a program? If yes, what is required to be reported?*

Illinois: No
Iowa: No
Michigan: No
Minnesota: We have no such program.

Ch. ER-MRS 12

2. *Do your rules allow agencies to submit requests to fill a position by electronic form?*

Illinois: Yes
Iowa: Yes
Michigan: State of Michigan has decentralized hiring; Civil Service does not need to approve the filling of positions, however, a current hiring freeze necessitates approval from Budget to fill positions. That form is available online.
Minnesota: Yes, all requests are submitted this way.

Ch. ER-MRS 14

4. *If an employee is appointed to a higher classification, and the employee has reinstatement eligibility to that position, is it considered a promotion, or does the appointing authority have discretion to consider it a promotion?*

Illinois: Promotion
Iowa: No
Michigan: No. They would have to reinstate the employee using the recall list
Minnesota: It is considered a promotion if the higher class is at least two steps higher than the current one.

Chs. 14, 15, 16, 17 and 22 relating to references to the Compensation Plan.

5. *Where are pay provisions included for non-union employees – in your rules or a compensation plan?*

Illinois: Pay provisions for nonunion employees are within our Pay Plan.
Iowa: Our administrative rules
Michigan: Pay provisions for non-represented employees are included in civil service rules and in the civil service compensation plan. A coordinated compensation panel sends a “recommended coordinated compensation plan for all nonexclusively represented classified employees to the civil

service commission” each year for approval. Further details can be found in Regulation 6.06, http://www.michigan.gov/mdcs/1,1607,7-147-6877_9788-20144--00.html

Minnesota: Compensation Plan for unrepresented employees

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6. *Can employees be involuntarily transferred within an employing unit of any agency or between employing units within an agency?*

Illinois: No
Iowa: Yes, we call this a “reassignment”.
Michigan: Yes. We refer to this as a lateral job change.
Minnesota: Employees can be reassigned as outlined in our bargaining agreements.

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7. *Is an agency required to submit a notice to the central HR office of an involuntary or voluntary demotion?*

Illinois: Yes
Iowa: No, however, the payroll processing document would need to indicate the reason for the demotion.
Michigan: No
Minnesota: We have an HRIS database, in which all such transactions are recorded.

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8. *Does your ethics code for civil service employees prohibit the use of IT and telecommunications for personal gain?*

Illinois: Yes
Iowa: No, this would be accomplished through agency work rule policies.
Michigan: Such use is prohibited by the State’s Information Technology Resources Acceptable Use policy. Details can be found at the following link: http://www.michigan.gov/documents/Policy_1460_00_72204_7.pdf
Minnesota: The law says: An employee shall not use or allow the use of state time, supplies or state-owned or leased property and equipment for the employee's private interests or any other use not in the interest of the state, except as provided by law.

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9. *Is an agency required to submit a notice to the central HR office of an acting assignment?*

Illinois: No
Iowa: No, this would only be required if the agency wanted to compensate the employee for such an assignment

Michigan: No
Minnesota: Work out of class assignments are recorded in our HRIS database.