

CHAPTER 3900

DEPARTMENT OF EMPLOYEE RELATIONS

PERSONNEL

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3900.0100 PURPOSE AND SCOPE OF RULES.

Chapters 3900 and 3905 supplement and clarify the provisions of Minnesota Statutes, chapter 43A, which generally affect the rights of or processes available to the general public. They also apply to state employees of the executive branch when the employees participate in any process that is available to the general public. Unless otherwise stated, these rules apply to positions in the civil service in the executive branch, the office of the legislative auditor, the Minnesota State Retirement System, the Public Employees Retirement Association, and the Teachers Retirement Association.

Statutory Authority: *MS s 43A.04*

History: *30 SR 807*

3900.0400 DEFINITIONS.

Subpart 1. **Scope.** For purposes of chapters 3900 and 3905, the terms defined in this part have the meanings given them. Terms used in chapters 3900 and 3905 which are defined in Minnesota Statutes, section 43A.02, shall have the meanings there given them.

[For text of subps 2 and 3, see M.R.]

Subp 4. **Agency subdivision.** "Agency subdivision," for purposes of affirmative action, means a state hospital or nursing home, state school, state college or university, correctional facility, or regional or district office, or any other organizational unit under the jurisdiction of a state agency, which is geographically separate and which has an appointing authority.

Subp 4a. **Applicant with a disability.** "Applicant with a disability" means any applicant who has a physical or mental impairment that substantially limits one or more major life activities, has a record of such an impairment, or is regarded as having an impairment.

An applicant with a disability does not include any individual who is an alcohol or drug abuser whose current use of alcohol or drugs prevents the individual from performing the duties of the job in question or whose employment, by reason of the current alcohol or drug abuse, would constitute a direct threat to property or the safety of others.

[For text of subp 5, see M.R.]

Subp. 6. [Repealed, 30 SR 807]

Subp. 7. **Emergency employee.** "Emergency employee" means an employee who is appointed for no more than 45 aggregate working days in any 12-month period for any single appointing authority

[For text of subps 8 to 10, see M R]

Subp. 12a. [Repealed, 30 SR 807]

Subp. 13. [Repealed, 30 SR 807]

Subp. 13a. **Job grouping.** "Job grouping" means a cluster of classes with similar recruitment needs. Each class is assigned to a single job grouping by the commissioner

[For text of subps 14 and 15, see M R]

Subp. 16a. **Minimum qualifications.** "Minimum qualifications" are the requirements of a job class or position that are necessary at the time of hire to satisfactorily perform the essential functions of a job

[For text of subps 17 and 18, see M R]

Subp. 19. **Temporary employee.** "Temporary employee" means an employee who is appointed under Minnesota Statutes, section 43A 15, subdivision 3, with a definite ending date. A temporary employee's term of employment may not exceed a total of 12 months in any 24-month period in any one agency.

[For text of subps 20 to 22, see M R]

Statutory Authority: *MS s 43A 04*

History: *30 SR 807*

3900.2100 ADMINISTRATION OF THE WAGE AND SALARY PLAN.

Subpart 1 **Scope.** This part applies to all classified and unclassified positions in the executive branch, the classified positions in the Office of the Legislative Auditor, the Minnesota State Retirement System, the Public Employees Retirement Association, and the Teachers Retirement Association, which have been assigned to salary ranges by the commissioner. The rule is conditional upon the availability of funds and authorization by the commissioner of finance.

Subp. 2 **Salary upon entry into civil service.** Salary upon entry into civil service should usually be at the minimum rate for the classification. An appointing authority may make an appointment at the second or third step of a range or within 12 percent of the minimum rate for the class when the salary range does not contain steps. An appointing authority must receive prior authorization from the commissioner to make an appointment at or beyond the fourth step of the salary range or more than 12 percent above the minimum rate when the range does not contain steps. The commissioner may disapprove an unauthorized salary offer by an appointing authority beyond the third step of a salary range or more than 12 percent from the minimum rate. Appointments above the minimum rate must be based upon the exceptional qualifications of the applicant or the unavailability of applicants at the minimum rate. Salaries paid to current employees in the same or related classifications must also be taken into consideration.

Subp. 3. **Salary upon reinstatement.** If a former employee is reinstated in a classification in which the employee was previously employed, the appointing authority may make the appointment at the same rate of pay the employee had been receiving at the time of last separation from that classification plus any automatic adjustments that may have been made since the employee left the civil service or the classification. Appointments above this rate of pay must be approved by the commissioner before they can take effect. Automatic adjustments include, but are not limited to, across-the-board adjustments, equity adjustments, and cost-of-living adjustments and do not include performance-related increases that the employee might have received had the employee remained in the classification.

Statutory Authority: *MS s 43A 04*

History: *30 SR 807*

3900.3100 LIMITATIONS ON APPLICANT ADMISSION.

The commissioner shall decide whether to open a vacancy to the general public or limit consideration to applicants who are current employees of the civil service, current permanent and probationary employees who have indicated availability for transfer or demotion to the class of the vacancy, or former permanent and probationary employees of the class of the vacancy who have indicated availability for reinstatement to the class. To make this decision, the commissioner shall consider:

[For text of items A to E, see MR]

Statutory Authority: *MS s 43A 04*

History: *30 SR 807*

3900.3200 PUBLIC NOTICE.

The commissioner shall provide public notice of application requirements and procedures. The commissioner shall also provide public notice, for not less than 24 hours, of any unlimited classified vacancy which is open to the general public. The commissioner may publicize this information in any way the commissioner considers appropriate to attract qualified applicants. These ways may include providing notice of announcements in newspapers or appropriate public offices. Vacancy announcements must specify the title of the class/class option, typical job duties, minimum qualifications, location, employment conditions, travel status, and job grouping of the vacancy; the application process, and any specified limitations on applicant consideration.

Statutory Authority: *MS s 43A 04*

History: *30 SR 807*

3900.3400 EXPENSES OF APPLICANTS FOR CIVIL SERVICE POSITIONS.

The commissioner or an appointing authority may pay travel expenses for applicants invited to participate in oral assessments or employment interviews. In determining to pay travel expenses, the commissioner or an appointing authority will consider the availability of qualified applicants, the needs of the agency or state service, and the availability of funds. Any expenses paid are subject to the provisions of the commissioner's plan, established under Minnesota Statutes, section 43A 18, subdivision 2, regarding types and maximum amounts of reimbursement.

Statutory Authority: *MS s 43A 04*

History: *30 SR 807*

3900.4100 APPLICATION REQUIREMENTS TO BE ADMITTED TO THE RESUME DATABASE.

Applicants shall apply on paper or electronic forms prescribed by the commissioner. The forms must be used to ask for information for use in the selection and appointment process, including an indication of applicant availability for certain geographic locations, employment conditions, job groupings, or travel. The application form must contain a statement providing that false information on the application may subject the applicant to the penalty provisions of Minnesota Statutes, section 43A.39. It must also contain a statement explaining why private or confidential information is being collected and the purpose for which it is to be used and must indicate that the appointing authority has the right to verify information provided in the application. The commissioner will notify applicants whose applications are rejected of the reasons for rejection and the corrective action to be taken before the application may be accepted.

Statutory Authority: *MS s 43A 04*

History: *30 SR 807*

3900.4200 CONSIDERATION OF APPLICANTS FOR INDIVIDUAL VACANCIES.

Subpart 1 Admission to applicant pool. The appointing authority shall review the qualifications of all applicants who indicate an interest in being considered for a particular vacancy, whose completed applications are received at the place specified

and who meet any limitations on applicant admission in the vacancy announcement, and shall admit to the applicant pool any such applicant who meets the minimum qualifications. The appointing authority shall also admit to the applicant pool any identified individuals whose applications were received in the resume database and who appear to best meet the announced minimum qualifications and limitations on admission, and who indicated availability for the geographic location, employment condition, shift, travel status, and job grouping specified in the vacancy notice. The appointing authority may consider additional qualified applicants who may have indicated availability for different locations, employment conditions, travel status, and job groupings if the original number of applicants available is insufficient to fill the vacancy.

The appointing authority may consider an applicant who has submitted an incomplete timely application but shall require completion of the application. The appointing authority may withdraw from consideration applicants who fail to respond to requests for information within a specified period.

Subp. 2 Additional limits to consideration. The appointing authority may limit consideration in the following ways if public notice of the intent to do so is provided in the vacancy announcement:

A. The appointing authority may limit the maximum number of applicants whose names will be permitted to compete in any of the separate assessment parts. Criteria for how this determination will be made must be included in the public notice.

B. The appointing authority may admit applicants to later assessment parts in rank order of their rating on the previous parts.

Subp. 3. Removal from consideration. The appointing authority may remove from further consideration for a vacancy an applicant who:

A. does not appear at the scheduled time or place for an assessment or interview;

B. fails to respond within seven days from the date of mailing to a written or electronic inquiry about availability for appointment,

C. declines an appointment under conditions the applicant previously indicated would be acceptable,

D. fails to report for work within the time period prescribed by the appointing authority;

E. fails to maintain a record of current address;

F. does not meet the minimum requirements of the position,

G. does not successfully complete an assessment that is part of the selection process for the vacancy, or

H. does not follow instructions specified in the vacancy announcement.

Subp. 4. Notice of assessment. The appointing authority shall notify applicants of the date, time, and place for those parts of the assessment process which require the applicant to appear in person.

Statutory Authority: *MS s 43A.04*

History: *30 SR 807*

3900.4300 CHANGE OF APPLICATION DEADLINE OR ASSESSMENT DATE OR CANCELLATION OF A VACANCY NOTICE.

The appointing authority may revise the date of any assessment part or may cancel an assessment or vacancy notice by notifying applicants for the vacancy of the new date or cancellation.

Statutory Authority: *MS s 43A.04*

History: *30 SR 807*

3900.4400 ADMINISTRATION OF ASSESSMENTS.

The commissioner will administer assessments that are part of the selection process at the time and place and by the personnel the commissioner decides most nearly meet the needs of the service

Statutory Authority: *MS s 43A.04*

History: *30 SR 807*

3900.4500 ASSESSMENT OF APPLICANTS.

Subpart 1 Determination of qualifications. The commissioner shall decide the appropriate scientific techniques and procedures to be used to assess whether applicants meet the minimum and preferred qualifications of the position. The commissioner shall set the minimum qualifications for the position considering the requirements of the class and the position. The commissioner may require applicants to obtain a minimum rating on each assessment part in order to receive a final passing rating or to pass all preceding assessment parts in order to be rated on the remaining parts of the assessment process. Veteran's preference will be assigned according to Minnesota Statutes, section 43A.11, and applied only after an applicant has met the minimum qualifications of the position.

The commissioner may revise the minimum qualifications of a position by providing public notice of the changes. Applicants who have already applied will be re-evaluated based on the new qualifications. The appointing authority shall also reconsider applicants whose applications were received in the resume database based on the revised qualifications.

Subp. 2. Frequency of access to assessment methods. To protect the security and validity of an assessment method, the commissioner may refuse to allow an applicant to retake an assessment when the applicant has taken the same assessment within the preceding six months. In deciding whether to let an applicant repeat an assessment, the commissioner shall consider the type of assessment questions involved, the effect of memory and practice, the availability of unassessed applicants, and other circumstances regarding the assessment, the needs of the agency, and situations of individual applicants. If the same assessment is used more than once within a six-month period for the same or a different classification, applicants who have been refused the opportunity to retake the assessment because of a six-month prohibition will be considered based upon their results obtained on the previously taken assessment.

Statutory Authority: *MS s 43A.04*

History: *30 SR 807*

3900.4600 [Repealed, 30 SR 807]**3900.4700 EXPLANATION AND APPEALS OF QUALIFICATIONS DETERMINATION.**

Subpart 1 Procedures. Upon request, the appointing authority shall give an applicant or an authorized representative an explanation of the methods used to assess whether the applicant met the minimum/preferred qualifications for a vacant position to which the applicant expressed interest. An applicant may appeal to the appointing authority in writing for reconsideration of the applicant's qualifications. The appeal must be received in the agency within 30 calendar days of the date on the notice of the original determination and shall state the grounds for the appeal. The appointing authority shall grant a review on the grounds of error, irregularity, or fraud in the conduct or scoring of any assessments or upon submission of additional information affecting the original determination.

Subp. 2 Review of other applicants' status. If a review discloses errors, fraud, or irregularities affecting the assessment of other applicants, the review may be extended to the assessment of those applicants.

Subp. 3. **Determination change required.** The appointing authority must change the final determination of an applicant's ability to meet minimum/preferred qualifications if additional information affecting the original determination is submitted or if an error was made in the original determination, or must order a new assessment or a revision to the assessment for the applicant or for all applicants if an error or irregularity occurred in the conduct or scoring of the assessment.

Subp. 4. **Effect of determination change.** A change made in the determination of an applicant's ability to meet the minimum/preferred qualifications of a position as the result of an appeal will not affect an appointment already made in good faith as the result of original determinations

Statutory Authority: *MS s 43A 04*

History: *30 SR 807*

3900.5100 ACCOMMODATIONS FOR APPLICANTS WITH DISABILITIES.

Applicants with disabilities may request that an assessment procedure be altered to accommodate their disabilities on the written or electronic application form prescribed in part 3900.4100

The appointing authority shall consider the following in reviewing requests for assessment procedure accommodations: whether the content and form of the assessment procedure would make the requested accommodations necessary, whether the requested accommodations would compromise the validity or job-relatedness of the assessment procedure, and whether the requested accommodations can reasonably be made. The appointing authority shall decide whether to make the requested accommodations or to deny the request for accommodations. If the appointing authority denies the request for accommodations, the applicant shall be offered the choice of appealing the decision to the commissioner, participating in the assessment procedure offered to other applicants or, if the commissioner determines that the applicant meets the eligibility criteria in Minnesota Statutes, section 43A 15, subdivision 14, participating in an on-the-job demonstration process according to part 3900.5200.

Statutory Authority: *MS s 43A 04*

History: *30 SR 807*

3900.5200 ON-THE-JOB DEMONSTRATION PROCESS AND APPOINTMENT.

Subpart 1. **Criteria for offering.** The commissioner may offer applicants whose disabilities are so severe that they cannot be accommodated in the selection process an opportunity to participate in an on-the-job demonstration process according to Minnesota Statutes, section 43A.15, subdivision 14. The on-the-job demonstration process shall consist of an on-the-job trial work experience of up to 700 hours. The commissioner shall approve an on-the-job demonstration process if the commissioner determines that not all of the standard selection requirements need to be met for some positions in the class and whether the job duties or procedures can be altered so that the applicant could perform the essential duties of a position in the class

Subp. 2 **Placement.** An applicant admitted for an on-the-job demonstration process must be given a list of agencies having positions in the class and written authorization by the commissioner to seek a vacant position in the class. The applicant, with the help of a placement and referral specialist in a rehabilitation program recognized by the state, may contact the agencies to develop a suitable placement. The commissioner in accordance with Minnesota Statutes, section 43A 15, subdivision 14, shall authorize an on-the-job demonstration process for any position determined suitable by the applicant, counselor, and appointing authority

Subp. 3. **Completion or termination of process.** An on-the-job demonstration process may be successfully completed at any time during the 700 hours of work experience if the appointing authority notifies the commissioner that the applicant can satisfactorily perform the essential duties of the position and is eligible for probationary appointment according to Minnesota Statutes, section 43A.15, subdivision 14. An on-

the-job demonstration process may be terminated at any point during the 700 hours of work experience, except for the first 30 scheduled work days from the date of the start of the process, if the appointing authority notifies the commissioner that the applicant cannot satisfactorily perform the essential duties of the position. An applicant terminated from an on-the-job demonstration process shall be authorized to seek placement in other positions in the class if the commissioner decides that the applicant's inability to perform was limited to duties essential to the specific position in which the applicant was placed but which are not essential for other positions in the class.

Statutory Authority: *MS s 43A 04*

History: *30 SR 807*

3900.5300 NOTICE.

The appointing authority shall notify an applicant with a disability and, upon request, provide a written statement of the reasons for the decision to provide or deny a request for assessment accommodations except when the accommodation is unnecessary due to the selection process format. The commissioner shall notify an applicant with a disability and, upon request, provide a written statement of the reasons for the decision to admit or deny admission to an on-the-job demonstration process.

Statutory Authority: *MS s 43A 04*

History: *30 SR 807*

3900.6200 [Repealed, 30 SR 807]

3900.6650 DURATION OF AVAILABILITY IN RESUME DATABASE.

The commissioner will retain an applicant's availability in the resume database for at least one year from the date an applicant's completed application is received, or until the applicant is appointed to a position, whichever comes first.

Statutory Authority: *MS s 43A 04*

History: *30 SR 807*

3900.6700 CHANGES IN APPLICANT'S AVAILABILITY.

Applicants may update the resume database with changes in their availability at any time.

Statutory Authority: *MS s 43A.04*

History: *30 SR 807*

3900.7500 APPOINTMENTS.

Positions in the classified service must be filled by appointments from the applicant pool except as otherwise provided by chapters 3900 and 3905 and Minnesota Statutes, chapter 43A. An appointing authority may select an applicant from the applicant pool after comparing the knowledge, skills, and abilities of the applicant with the specific needs of the position and agency. Specific needs include meeting agency affirmative action goals.

The appointing authority is responsible for verifying all job-related information on all prospective employees for civil service positions. On or before the appointment date, the appointing authority should explain to the prospective employee the proposed classification title, employment status, salary, and terms and conditions of employment. The appointing authority shall submit appropriate appointment forms to the commissioner which must include the effective date of appointment. Appointments made from the applicant pool are effective only on or after the date of completion of the selection process.

Statutory Authority: *MS s 43A 04*

History: *30 SR 807*

3900.8100 OTHER MEANS OF FILLING CIVIL SERVICE POSITIONS.

In addition to filling vacancies in the civil service by appointing from the applicant pool, appointing authorities may make noncompetitive, qualifying, work training, revenue seasonal, internship, or unclassified appointments according to Minnesota Statutes. Those appointments may be made when authorized by the commissioner or by statute and are subject to parts 3900 8200 to 3900 9000

Statutory Authority: *MS s 43A 04*

History: *30 SR 807*

3900.8200 EMERGENCY APPOINTMENTS.

An appointing authority may make an emergency appointment to meet unique and immediate needs. The appointing authority may appoint any person considered qualified. Appointments are limited to 45 working days in any 12-month period by Minnesota Statutes, section 43A 15, subdivision 2.

Statutory Authority: *MS s 43A 04*

History: *30 SR 807*

3900.8300 TEMPORARY APPOINTMENTS.

The commissioner may approve an appointing authority's written request for a temporary appointment for:

[For text of items A to C, see MR]

D. unusual documented instances, when an appointing authority asks to make a temporary appointment of six months or less to a position otherwise authorized for more than six months.

The commissioner may, in the best interest of the state, grant an extension of a temporary appointment to a maximum period of one year.

An appointing authority may request authorization to make a direct temporary appointment of any person considered qualified according to Minnesota Statutes, section 43A.15, subdivision 3. The commissioner may authorize the appointing authority to search the state's resume database for a qualified applicant or to make a direct appointment of a person considered qualified or both. In making this decision, the commissioner will consider requests from the appointing authority, the anticipated length of the temporary appointment, and the number and availability of applicants for temporary appointments.

Statutory Authority: *MS s 43A 04*

History: *30 SR 807*

3900.8400 PROVISIONAL APPOINTMENTS.

Subpart 1. **Authorization.** The commissioner may authorize a provisional appointment according to Minnesota Statutes, section 43A.15, subdivision 4, after considering the following documentation submitted by the appointing authority:

A. a statement that no applicant is suitable or available for appointment, including a specific statement of the job-related reasons for determining an applicant to be unsuitable, and

B. a description of the nominee's qualifications in the form prescribed by the commissioner demonstrating that the person to be provisionally appointed is qualified in all respects except completion of a licensure or certification requirement.

Subp 2. **Termination.** The appointing authority shall terminate a provisional appointment 90 days after the commissioner provides an applicant who is suitable and qualified for appointment, or after six months, whichever is earlier. However, in individual cases, the commissioner may grant exceptions and extend provisional appointments according to Minnesota Statutes, section 43A 15, subdivision 4, if the appointing authority documents a continued shortage of qualified and suitable applicants.

cants, and the provisional appointee is continuing to work to complete the licensure or certification requirement

Statutory Authority: *MS s 43A 04*

History: *30 SR 807*

3900.8500 EMPLOYEE TRANSFERS FROM OTHER PUBLIC JURISDICTIONS.

Subpart 1 **Permitted transfers or demotions.** The commissioner may approve the transfer or voluntary demotion of an employee from another public jurisdiction if the following conditions are met

A the employee is currently working in the other public jurisdiction or has worked in the other public jurisdiction within the preceding year;

B. the position held by the employee in the other public jurisdiction is covered by a personnel system with competitive entry and promotion standards, comparable in duties and responsibilities to the Minnesota classified position, and compensated at a level similar to or higher than the position to which the employee is being transferred or demoted, and

C the employee meets the qualifications for the position to which the employee is being transferred or demoted.

Subp 2. **Disallowed transfers.** The commissioner shall not approve the transfer of an employee to a position funded by a grant-in-aid program from a public jurisdiction without a federally approved merit system.

Statutory Authority: *MS s 43A 04*

History: *30 SR 807*