

MINNESOTA CODE OF AGENCY RULES

RULES OF THE DEPARTMENT OF EMPLOYEE RELATIONS

1982 Reprint



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Prepared by

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DEPARTMENT OF EMPLOYEE RELATIONS

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Chapter One §§ 2.001—2.006 Purpose, Adoption and Amendment of Rules

2 MCAR § 2.001 Purpose of the rules. It is the purpose of these rules to provide an uniform, comprehensive and effective system of personnel administration for the State of Minnesota, consistent with Minnesota Statutes.

To provide such a system of personnel administration:

A. The state service shall be made attractive as a career.

B. Fair and equal opportunity shall be accorded to all qualified individuals to enter state employment on the basis of merit and fitness.

C. Positions essentially alike shall be treated in a uniform manner in all personnel processes, and positions not so alike shall be treated with appropriate recognition of the nature and extent of the differences between them.

D. Agencies of the state shall be involved in the selection of competent employees and the development of employees to assure the maximum effectiveness in state government.

[Filed July 3, 1975]

2 MCAR § 2.002 Adoption and amendment of the rules. These rules, prepared by the commissioner, after public hearing, shall be known as the "Personnel Rules".

Amendments shall be prepared, approved and made effective as provided by law (Minn. Stat. § 15.0412).

Personnel actions taken prior to the effective date of the new, abolished, or amended rules, shall be governed by the rules that were in effect on the date that such actions were taken.

[Filed July 3, 1975]

2 MCAR § 2.003 Scope of rules. Certain negotiable matters covered by the personnel rules are included in collective bargaining agreements between the State of Minnesota and the exclusive representatives of state employees. If a subject matter is clearly covered by a collective bargaining agreement, the collective bargaining agreement controls in any conflict with the personnel rules.

[Filed July 3, 1975]

2 MCAR § 2.004 Employees covered by personnel rules. Unless otherwise specified, the personnel rules apply only to employees in the executive branch of government. All personnel rules apply to all classified employees.

Certain personnel rules cover unclassified employees which include, unless otherwise specified, all executive branch unclassified employees except those in the offices of the constitutional officers, and those employees in the state university system, Higher Education Coordinating Board, and the state community college system whose salaries are established under the provisions of Minn. Stat. § 43.064.

2 MCAR §§ 2.005—2.006 Reserved for future use.

Chapter Two: §§ 2.007—2.015 State Service and Its Divisions

2 MCAR § 2.010 Temporary designation of positions in the unclassified service. The commissioner may authorize the designation of a position in the unclassified service for a limited period of time. The appointing authority shall report to the commissioner the description of the position and the conditions under which it is to be established, which serve to limit the duration of employment, the expected termination date and the nature of the function to which it is to be assigned. Any position which has been designated in the unclassified service by the commissioner, in accordance with this rule, and which will continue for longer than two years, shall be reviewed at the end of the second year by the commissioner to determine whether it shall continue in the unclassified service. No position assigned to the unclassified service in accordance with this rule shall continue longer than three years in the unclassified service and, except as provided by Minn. Stat. § 15.61, no employee shall continue in a position or positions established in the unclassified service under the provisions of this rule to perform the same function in the same agency for a total of more than three years. (Minn. Stat. § 43.05).

[Amended December 17, 1979]

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2 MCAR § 2.011 Contractual services. Notwithstanding 2 MCAR § 2.004, this rule also applies to all unclassified employees in the executive branch. Specialized personal services rendered by an individual to the state under contract as an independent contractor as a part of, or incidental to, the individual's regular professional occupation, and not as a state employee, or by individuals employed by a firm contracting with the state, shall be designated as a contractual service and shall not be subject to the provisions of these rules.

A. In determining whether the services to be rendered constitute contractual service or an employer-employee relationship, the following guidelines will be used:

1. Consultants generally contract to produce certain results or conclusions within given specifications.
2. Consultants are generally responsible for approaches, techniques, and results.
3. Consultant's services shall be offered and available to the public, and to the state incidentally as a prospective user of such consulting services.
4. Consultant services are offered to the state as a part of or incidental to the consultant's regular occupation.
5. Consultant's contracts shall extend for a limited period, with clearly specified time limits indicated in the contract, to attain specific results.
6. Except where provided in the contract specifying special circumstances related to the nature and requirements of the work to be performed, consultants shall not perform services on state premises, use state equipment or supplies, or utilize state employees.
7. Consultants generally deliver a completed work, usually organized into a formal report with recommendations.

B. In addition to the financial information, the contract shall specify results to be accomplished, delivery dates, and the manner in which the contractual arrangements are to be conducted.

C. Retired state employees may be used for contract employment providing their services are necessary for the completion of a specific project in which the former employee was engaged at the time of retirement.

D. No agency of the state shall contract for the services of persons who, were they members of the classified service, would occupy positions assigned to schedule "C", except in accordance with law (Minn. Stat. § 43.20, subd. 6).

Chapter Three: §§ 2.016—2.027 Classification Plan

2 MCAR § 2.022 Class specifications. The commissioner shall provide, and may amend, written class specifications for any class in the classification plan. Each of the class specifications shall include the class title, a general description of the scope of the work, as well as a statement of the qualifications an incumbent should possess to enable that individual to perform the duties of the particular position with reasonable prospects of success. Where a classification consists of only one position, the approved position description may, at the discretion of the commissioner, constitute the specification for that classification.

Specification of the classes of positions in the classification plan are hereby declared to have the following force and effect:

A. Definitions are descriptive and not restrictive, tending to indicate the kinds of positions allocated to classes, and shall not be construed as limiting in any way or modifying the power of the appointing authority, to appoint, direct, and control the work of employees. The use of a particular expression or illustration of duties shall not be held to exclude others not mentioned that are of a similar kind or quality.

B. In determining the class to which any position shall be allocated, the definition of each class shall be considered as a whole, and consideration shall be given to the general duties, areas of accountability, specific tasks, responsibilities, qualifications, as well as relationships to other classes, to the extent that they clearly indicate a picture of the kind of employment the class is intended to embrace.

C. Qualifications commonly required of an incumbent for positions of any class, such as honesty, integrity, initiative, and willingness to cooperate, shall be deemed to be implied as qualification requirements for entrance into, and continued employment in each class, even though they may not be specifically mentioned in the class specifications.

D. Specifications for any class, as interpreted herein, and job analysis data and other relevant information, where available, shall constitute the basis and source of authority for the development or modification of screening devices or techniques to be used in examining for the class.

2 MCAR § 2.023 Use of class titles. The title of the class shall be the official title of every position allocated to that class for all purposes having to do with the position and shall be used on all payroll, budget estimates, official records and reports related to the position. Any other title desired by the appointing authority may be used to designate any particular position for the purposes of internal administration and in any other connection not involving the personnel processes covered by the law or these rules.

[Amended and filed July 3, 1975]

Chapter Four: §§ 2.028—2.037 Compensation Plan

2 MCAR § 2.029 Administration of the wage and salary plan. Except for subdivisions F. and G., this rule also applies to those unclassified positions which have been directly compared to the classified service. The following provisions assume that funds are available and expenditures have been authorized by the Commissioner of Finance.

A. Beginning salary. The minimum rate of pay shall normally be paid upon appointment to a class. In schedules A and C, the appointing authority may, however, make an original appointment within the salary range but not to exceed the third salary step.

All original appointments beyond the minimum rate for a class shall be documented in the form prescribed by the commissioner and shall be based upon the exceptional qualifications of the candidate or the unavailability of candidates at the minimum rate, and consideration shall be given to the salaries of current employees in the same or related classifications.

In the Special Teachers salary schedule, appointments may be made up to and including the sixth step under conditions outlined in the compensation provisions relating to that schedule.

B. Salary on promotion. Promotional increases shall normally be of one or two salary steps, depending on the actual increase in responsibilities assumed upon promotion, unless greater adjustment is necessary to bring the employee's salary to the minimum of the new pay range. Any promotional increase beyond that provided for above must be approved in advance by the commissioner based on documentation to support such additional increase. No salary increase may be granted which would place the employee's rate of pay above the authorized salary range.

C. Salary upon reemployment or reinstatement. If a former employee is reemployed or reinstated into a class in which that employee was previously employed, the appointing authority may make an appointment at the same rate of pay the employee had been receiving at the time of separation from the state civil service and/or the class, plus any automatic adjustments that may have been made since the employee left the state civil service and/or the class. Appointments above such rate of pay must be approved by the commissioner before they can take effect.

D. Salary increases. Salary increases may be granted in accordance with law. (Minn. Stat. §§ 43.12, 43.121—43.122, 43.126—43.127 and other applicable provisions.)

E. Achievement awards. In addition to being eligible for normal salary increases, employees whose positions are assigned to salary Schedule A are eligible for achievement awards based on demonstrated outstanding performance. Increases in this schedule must be submitted and awarded within the context of a results-oriented management or standards of performance system which has been approved by the commissioner. An achievement award shall be awarded as prescribed by law. Achievement awards shall be administered in a manner that will encourage and recognize excellence among employees. Achievement award increases may be granted up to 30% of the classified and 30% of the unclassified employees whose salary ranges are set by direct comparison to the classified service authorized for the agency at the beginning of the fiscal year. Unclassified positions where the salaries are set by statute are not to be included in the calculations of the number of allowable increases for unclassified employees.

F. Salary decreases. Salary decreases for just cause may be made to reduce the salary of the employee within the salary range. In the case of a permanent employee, written notice of intent to effect such reduction in pay, and the reasons for such action, shall be given to the employees at least 5 working days prior to the effective date of the reduction and a copy submitted to the commissioner prior to the effective date of the reduction. The permanent employee so affected may request a hearing before the board as provided in the law.

G. Salary on transfer. An employee who is transferred to a different agency in the same class or to a similar class shall receive the salary being paid before such transfer. In any case of transfer, no employee shall receive a rate of pay below the minimum of the range for the class to which such employee has been transferred.

H. Salary on demotion. An employee who has been demoted to a class in a lower salary range shall be paid a salary rate within the range of the class to which such employee has been demoted except as provided by law. (Minn. Stat. § 43.12, subd. 26).

I. Total remuneration. This subdivision applies to all classified and unclassified employees in the executive branch. Except as otherwise provided in these rules, no employee shall receive pay in addition to the salary authorized for services rendered either in the discharge of the assigned ordinary duties, or additional duties which may be performed by the employee or which the employee may undertake or volunteer to perform.

An employee may receive a separate salary from more than one state agency for hours worked during the same pay period under the following conditions:

1. The work assignments performed for another state agency is not part of the employee's normal duties; the employee is qualified to perform the assignment; and the appointing authorities of both agencies and the commissioner approve the assignment in advance; or
2. The employee is appointed under provisions of these rules to less than full-time positions in more than one state agency, and the combined established work schedules do not exceed a normal 40 hour work week.

Employees in payroll status in two or more agencies for a total of 75% or more of the time, because of concurrent appointments, shall be eligible for state paid insurance in the same manner as other employees. The state paid premium for such eligible employees shall be borne by the agency in which the majority of the time is worked.

J. Hourly rates. Hourly rates for pay shall be paid in accordance with law. (Minn. Stat. §§ 16.027 and 43.01, subd. 9).

K. Project employment. The commissioner may authorize a rate of pay which may exceed the maximum of the range provided by not more than 70% where skilled craft employment is on a strictly project basis. In cases of project employment, the employee shall not be entitled to any other benefits.

Project employment for purposes of this rule shall be restricted to a planned work program which normally will be completed in a specified time period and is not of a seasonal or regularly recurring nature.

[Amended December 17, 1979]

2 MCAR § 2.030 Computation of payments for less than a full payroll period.

Computations of payments to all classified and unclassified employees in the executive branch, if made for less than a full payroll period, shall be determined by multiplying the hourly equivalent computed for the monthly salary by the number of working hours for which the employee is to be paid. (Minn. Stat. § 16A.17).

[Amended and filed March 15, 1976]

Chapter Five: 2 MCAR §§ 2.038—2.055 Selection Processes

2 MCAR § 2.038 Announcements. Announcements shall specify the title, scope and nature of the class for which the selection process is announced, as well as the time, place and manner of making application. Further, the announcement shall also provide any other pertinent information that the commissioner considers necessary to effectively recruit and is consistent with the law and these rules.

The announcement of promotional selection processes shall, in addition, specify the organizational unit or units for which the resulting eligible lists will be used and, when appropriate, the class or classes of employees which shall be considered eligible to compete.

Notice shall be given by means of public announcement posted on the office bulletin boards of the Department of Personnel sufficiently in advance of the last date for filing applications. Announcements shall be given such publicity as the commissioner deems warranted in the interest of attracting adequate numbers of qualified applicants. In the case of promotional selection processes, announcements shall be supplied to each appointing authority under whom there are employees eligible to compete therein, and it shall be the duty of each appointing authority to post such notices on the appropriate bulletin boards or through other established communication systems. The appointing authority shall notify all employees of the method and location of all job postings and it shall be the responsibility of each employee to be aware of postings.

[Filed June 28, 1974]

2 MCAR § 2.039 Eligibility to compete.

A. Open competitive selection processes. Competitive selection processes shall, after public notice, be open to all applicants who meet the reasonable standards or requirements fixed by the commissioner with regard to factors that relate to the ability of the candidates to perform the duties of the position with reasonable efficiency and effectiveness. Persons with physical disabilities who, when demonstrated to the satisfaction of the commissioner, could not be selected in the normal manner, shall be selected in such a manner that will fairly test their ability to perform the duties of the position.

In the case of an applicant who is blind, the department will provide the applicant with either a braille selection process, or the services of a reader chosen by the applicant with the approval of the department, or subject to the approval of the applicant, whichever means of screening is available to the department.

No applicant shall be rejected because the applicant lacks educational qualifications, unless such qualifications relate directly to the duties of the class for which the announcement is made, or where such educational requirements are established by the federal agencies making grants-in-aid or otherwise contributing to state programs.

B. Promotional selection processes. Promotional selection processes shall be open to all employees of the state, the agency or other organizational unit for which the selection process is being held who meet the requirements described in the announcements and who hold classified positions in the executive branch of the state civil service, or the Minnesota State Retirement System, or the Teachers Retirement Association, or the Legislative Audit Commission; or who hold unclassified positions in the executive or legislative branches of the state civil service. Emergency employees and interns are not eligible to compete in promotional selection processes.

C. Selection processes for incumbents of reallocated positions. The commissioner may authorize any appointing authority to promote the incumbent of a reallocated position to a higher class without examination in accordance with law. In the absence of such authorization the incumbent of a position which has been reallocated in accordance with 2 MCAR § 2.019 and 2 MCAR § 2.240 shall be permitted to compete in the selection process for the class to which the position has been reallocated. (Minn. Stat. § 43.19, subd. 1(2)).

If the incumbent of a reallocated position passes the examination process, notwithstanding the provisions of 2 MCAR § 2.084, the commissioner may certify only the name of the eligible incumbent.

Where the incumbent of a position which has been reallocated has failed to qualify in the selection process and/or otherwise is ineligible to continue in the position in the new class, the employee must be removed from the position within 30 calendar days from the date of notification to the appointing authority of the incumbent's failure to qualify.

Where the incumbent is ineligible to continue in the position and is not transferred, promoted or demoted, the lay-off provisions of the personnel law and rules apply.

[Amended December 17, 1979]

2 MCAR § 2.040 Applications and admissions.

A. The form of application. The application shall be made on forms prescribed by the commissioner. The forms shall require information requested by the commissioner and requested on the announcement. The application form shall contain a statement that wrongful statements on the application may subject the applicant to the penalty provisions of Minn. Stat. § 43.35 and 2 MCAR §§ 2.108, 2.110, or 2.111 and a statement regarding the responsibility of the appointing authority pursuant to Minn. Stat. § 43.162 to verify information provided on the application.

B. Selection processes. Persons whose applications are received within the Department of Personnel on or before the last date for filing, and whose applications clearly show that the applicants meet the requirements for admission to the selection process as specified in the official announcement, shall be admitted to compete in the selection process for which they are applying. Where doubt exists as to whether an applicant meets the admission requirements, the commissioner may conditionally authorize the applicant to participate in the selection process, but such action shall not be construed as entitling the applicant to become eligible for certification or appointment until the circumstances leading to the conditional acceptance are clarified to the commissioner's satisfaction. Each individual whose application has been accepted shall be notified of the date, time and place for those parts of the selection process which require the candidate to appear in person. No person shall be admitted to any part of the selection process without proper authorization, or satisfactory evidence of acceptance or conditional acceptance of the application by the commissioner.

2 MCAR § 2.041 Disqualification of applicant. Whenever the commissioner refuses to accept an application or certifies an applicant ineligible under provisions of Minn. Stat. § 43.14, the commissioner, upon the request of the person so rejected, shall furnish that person a statement of the reasons for the refusal.

[Filed June 28, 1974]

2 MCAR § 2.042 Postponement or cancellation of the selection process. The commissioner may postpone the last filing date and the date of any part of the selection process or cancel the examination, and in such cases shall give the applicants suitable notice.

[Filed June 28, 1974]

2 MCAR § 2.044 Conduct of selection processes. Any or all parts of the selection processes shall be held at such times and places as in the judgment of the commissioner most nearly meet the needs of the service, practicability of administration, and the convenience of applicants. The selection process shall be conducted either by the commissioner or persons designated by the commissioner. No person whose application has been accepted shall be entitled to take any part of the selection process on a date, time or place other than those determined by the commissioner. In order to protect the security of examinations by providing a reasonable period between test administrations, applicants shall be prohibited from participating in the same written or oral tests more than once within any six month period. However, if the same written or oral test is used for more than one classification or if a classification is opened for competition on both a competitive and promotional basis within a six month period, an applicant who would otherwise be prohibited from participating in an examination because of the six month retest prohibition shall, upon submission of another application, have the scores obtained on the written or oral portion of the initial examination apply to the subsequent examination.

2 MCAR § 2.046 Rating results of selection processes.

A. Appropriate scientific techniques and procedures shall be used in scoring the results of selection processes and in determining the relative ranking of competitors. Such techniques may include electronic data processing of test answer or experience and training rating forms filled out by the applicant. The minimum rating for which eligibility may be achieved shall be set by the commissioner, taking into account the number of vacancies anticipated during the term of the eligible list. Final rank may be based on all factors of the selection process and other qualifying elements as shown on the competitor's application or other verified information. Final ratings of each competitor shall be determined by averaging the earned score of each part of the selection process in accordance with the weights established for each part prior to the date of any part of the selection process. All competitors may be required to obtain at least a minimum rating in each part of the selection process in order to receive a final passing rating or to be rated on the remaining parts of the process. Where rating procedures involve assignment of a numerical score, a score of 70 is necessary to pass and a score of 100 is the maximum score awarded to any competitor.

B. The commissioner may announce, in advance of the establishment of an eligible list, the maximum number of competitors who shall have their names placed on the list, or who shall be permitted to compete in any of the separate parts of the selection process. Under such procedure, those considered as having passed and who are permitted to take the remainder of the screening process shall be the set number of candidates scoring highest in the process or part thereof. The commissioner also may establish a procedure for admitting candidates to a subsequent stage of the selection process in rank-order of score on the previous stage and candidates may be invited to complete the examination process as the need to create or enlarge an eligible list is determined.

C. Competitors failing to qualify as eligible for the class for which the screening process was conducted may, with the approval of the commissioner, be rated with reference to their eligibility for a lower class for which a selection process is being conducted and in cases where competitors signify their willingness to accept appointment to such lower class. If found eligible, names of these competitors shall be added to the eligible list for such lower class.

[Amended December 17, 1979]

2 MCAR § 2.049 Notification of results. All persons competing in any selection process shall be given written notice of the results. Papers and records of ratings of competitors shall be held as official records of the department. Upon request, the department shall provide to the competitor or authorized representative an explanation of the methods by which the rating was determined. Such request shall be made within thirty days of the date of mailing of the notice. Reports of character and other investigations in the department shall be kept confidential.

[Filed June 28, 1974]

Chapter Six: 2 MCAR §§ 2.056-2.080 Eligible Lists

2 MCAR § 2.056 Eligible lists. The commissioner shall establish and maintain eligible lists necessary to carry out the purposes of the personnel law and rules. Eligible lists shall be by class of employment and shall be statewide in application, except where the rules or actions of the commissioner specifically make provisions for establishment of lists by geographical areas, agency, bargaining units, or organizational units.

[Amended and filed March 15, 1976]

2 MCAR § 2.061 Reemployment list. The reemployment list shall contain the names of all permanent or probationary employees laid off in the class of employment, and the names of former permanent or probationary employees in the class whose written applications made within three years of separation in good standing are approved by the commissioner based on considerations of quality of service. The commissioner shall consider the recommendation of the appointing authority before approving or disapproving applications for reemployment. A person may remain on a reemployment list for up to three years and must return to employment in the class within four years of separation from the class.

The name of a laid-off employee shall be placed on the reemployment list for all classes in which the employee possessed permanent or probationary status prior to layoff and for locations and employment conditions for which the employee is eligible and has expressed a willingness to accept employment. When notice of layoff is given to the department, the appointing authority shall also notify the department of the classes, locations and employment conditions which the employee is willing to consider. The laid off employee may make changes in availability for classes, locations or employment conditions at any time within three years from the date of layoff.

[Amended December 17, 1979]

2 MCAR § 2.064 Duration of eligible lists. The commissioner shall determine the period during which promotional or open competitive eligible lists shall remain in effect. However, this period shall not be less than six months for open competitive lists or one year for layoff, reemployment or promotional lists, nor more than three years for any list except for layoff lists, where the eligibility of a candidate shall be extended to a period of time equal to the employee's length of continuous service to a maximum of eight years. If an eligible list exists for any class and the commissioner deems it necessary to establish another such list for the same class, the existing list shall either be cancelled, or combined with the new list by placing names of eligibles in order of final ratings as provided in these rules. In making this decision the commissioner shall consider the following factors: the number of anticipated vacancies, the frequency of previous examination administrations, continued candidate availability or changes in the selection process. The eligibility of individuals placed on such combined lists shall expire at the end of the period established by the commissioner, but at the discretion of the commissioner, such eligibility may be extended for an additional period or periods not to exceed three years. With eligible lists for classes for which continuous or frequent testing is conducted, the term of individual candidate eligibility shall begin on the date of placement of the candidate's name on the eligible list and continue for a period established by the commissioner, based on consideration of the following factors: the number of anticipated vacancies, continued candidate availability, or changes in the selection process.

2 MCAR § 2.065 Removal of names from eligible lists. In addition to the causes stated in Minn. Stat. § 43.14, the commissioner may remove names from eligible lists permanently or temporarily for any of the following reasons:

- A. Appointment through certification from such list to fill a permanent position.
- B. Appointment to fill a permanent position through certification from a list for another class at the same or higher salary. If an employee is on more than one eligible list at the same or higher salary, the employee may be kept on other eligible lists by a written request to the commissioner.
- C. Failure to respond within seven days from the date of mailing to a written inquiry of the commissioner relative to availability for appointment or failure to respond within seven days from the date of mailing to a written inquiry of an appointing authority sent by certified mail relative to availability for employment.
- D. Failure to respond within two days to a telegraph inquiry from the commissioner relative to availability for appointment.
- E. Declination of appointment under such conditions as the eligible previously indicated would be acceptable.
- F. Failure to report for duty or for scheduled employment interview within the time prescribed by the appointing authority.
- G. Expiration of term of eligibility on the eligible list.
- H. Failure to maintain a record of current address with the department. For this purpose, the return of a letter by the postal authority, if properly addressed to the last address on the records, shall be deemed sufficient grounds for such removal of the name from the eligible list.
- I. In the case of agency promotional lists, appointment or transfer of an employee to a new agency or another duly established organizational unit.
- J. In the case of promotional lists, upon termination in the state service.
- K. In the case of promotional lists upon certification to three separate positions except that the name of an individual so removed shall continue to be referred to positions in the class in the agency which gave the individual a satisfactory or better rating in the selection process for such class.
- L. Upon certification at least seven times to the same or different appointing authorities where no appointment is made.
- M. Subsequent documentation that the candidate on the eligible list does not meet the requirements of the position(s) to which such candidate may be certified.

[Amended December 17, 1979]

2 MCAR § 2.066 Restoration of names to eligible lists. Any eligible whose name is removed from an eligible list as provided above may make a written request to the commissioner for the restoration of that individual's name to such list for the duration of the list. Such request shall set forth the reasons for the conduct resulting in the removal of the name from the list, and shall further specify the reasons advanced for restoration of the name to the list. The commissioner, after full consideration of the request, may restore the name to the eligible list, or may refuse such request.

Former employees reinstated in the state service shall have their names restored to an existing statewide promotional list from which they were removed because of separation from the state service, provided the commissioner approves a written application by the employee for such action and the eligible list is still in existence.

Former employees reinstated in the state service shall have their names restored to any existing agency promotional lists from which they were removed because of separation from the state service, provided written application by the employee for such action is approved by the appointing authority and the commissioner.

Probationary or permanent employees whose names have been removed from an agency promotional list because of transfer or original appointment with probationary or permanent status under a new appointing authority may have their names placed on the agency promotional list for the same class in the new agency, provided written application is made by the employee during the duration of the list from which the name was removed, and this application is approved by the new appointing authority and the commissioner.

An appointing authority may make any of the above cited requests on behalf of an eligible employee.

[Filed June 28, 1974]

2 MCAR § 2.067 Statement of availability. Whenever an eligible submits a statement restricting the conditions under which that individual will be available for employment the eligible's name shall be withheld from all certifications which do not meet the conditions specified. An eligible may file a new statement any time during the duration of an eligible list, modifying any prior statement regarding conditions under which the eligible will be available for employment, except that if such statement results in the withdrawal of the eligible's name from the certification outstanding at the time of receipt of statement, it may be deemed a declination of appointment. If such statement would result in the addition of the eligible's name to a certification outstanding at the time of receipt of the statement, it may be added at the request of an appointing authority.

[Amended December 17, 1979]

2 MCAR § 2.068 Cooperative use of eligible lists by governmental merit system jurisdictions. Upon the request of an appointing authority, and after due consideration of the needs and interests of the state service, the commissioner, in the absence of an appropriate state eligible list or when there are not sufficient names on the state eligible list to make a complete certification, may authorize the use of an eligible list established by another governmental merit system jurisdiction employing U.S. Civil Service Commission-approved standards to make an appointment to a classified position in the state service, providing the job classification for which the eligible list was established in the cooperating jurisdiction is determined to be similar in job duties to the position for which it is to be used in the state service and that the selection process measures knowledges, skills and abilities essential for satisfactory performance in the position in the state service for which the list will be used. Any eligible list adopted under this rule shall be considered to constitute an open competitive list and the ranking and referral of candidates' names shall be in accord with the provisions of 2 MCAR §§ 2.082 and 2.084.

Chapter Seven: 2 MCAR §§ 2.081—2.095 Certification and Appointment**2 MCAR § 2.084 Certification of eligibles.****A. Order of certification.**

1. In the case of a layoff list, the one name highest on the layoff list shall be certified for one vacancy.
2. In the case of competitive eligible lists, the commissioner shall certify the first ten names, when available, on such lists; together with the names of any persons having the same score as the tenth name so certified; and as many additional names as may be necessary to comply with Minn. Stat. § 43.15, subd. 5.
3. In the case of promotional eligible lists, the commissioner shall certify the first three names on such lists, together with the names of any persons having examination ratings within three points of the person on the list with the highest examination rating; the names of any persons having the same score as the last name certified in accordance with the above; and as many additional names as may be necessary to comply with Minn. Stat. § 43.15, subd. 5.
4. Eligibles shall be certified in strict order of standing without regard to sex or special qualifications, except when the commissioner is satisfied that the facts and reasons specified by the appointing authority warrant such action, certification may be limited to the eligibles possessing the special qualifications.

B. Concurrent certification. Groups of eligibles shall be certified to the vacancies in order of receipt of requisitions for employees, with due regard for the right of eligibles standing highest on the list. This section shall not require simultaneous certification of the same names on different certifications made concurrently, but certification in such instances shall be consistent with guidelines established by the commissioner.

C. Fewer than the required number of eligibles. Whenever there are not sufficient names on an eligible list to make a complete certification, the commissioner may augment those names by a sufficient number of names from other appropriate lists to make a complete certification.

D. Incomplete certification. Where the number of names available to fill a vacancy are fewer than authorized by the law, except in the case of certification from the layoff list, the commissioner may proceed to fill the vacancy in any other manner provided by the law or these rules. If there are fewer candidates on the eligible list for a class than the number of names that can be certified to a vacancy as provided by the law and these rules, the commissioner may determine that the existing eligible list is a complete certification for consideration by the appointing authority.

E. Certification from related lists. The commissioner may certify from eligible lists for higher classes to vacancies occurring in lower classes or from eligible lists for one class for vacancies in another class where the commissioner determines the examination reasonably measures the ability of the eligible to perform the duties in the class to which certification is made.

F. Nonappointment of a veteran when certified. In the event of rejection by the appointing authority of an eligible entitled to veterans' preference under Minn. Stat. § 43.30, when certified for a promotion or to fill a vacancy or a new position, the appointing authority shall forthwith file in writing the reasons for such rejection and shall furnish to the rejected veteran a copy thereof.

G. Withdrawal of certification. In the event the appointment is not reported within ten days of the date of certification, the commissioner may withdraw such certification and shall certify the names of eligibles included in such certification on the next requisition received for the appropriate class of employment.

2 MCAR § 2.085 Permanent appointments from eligible lists. All vacancies in positions in the classified service having a duration in excess of six months shall be filled by appointment through certification from eligible lists except as otherwise provided by Minn. Stat. ch. 43 and these rules. In making an appointment from an eligible list, the appointing authority shall give consideration to the quality and length of service of any eligible state employee in addition to the primary consideration of the knowledges, skills and abilities of the candidate in relation to the specific vacancy and the needs of the agency. An appointment shall be effective on the date stated on the report of appointment.

2 MCAR § 2.088 Provisional appointment. In the absence of an appropriate eligible list and when authorized by the commissioner, the appointing authority may appoint a qualified person to fill a vacant position on a provisional basis. The appointment shall terminate 90 days after establishment of an eligible list from which a selection and appointment could be made as a result of examination, or upon the expiration of six months, whichever comes first. In individual cases, the commissioner may grant exceptions based on written documentation of continued shortage of qualified eligibles.

The appointing authority in nominating a person for provisional employment, shall transmit to the commissioner a statement of qualifications of the nominee in such form as the commissioner shall prescribe.

2 MCAR § 2.090 Trainee appointments. Trainee appointments are subject to the approval of the commissioner. Such appointments may be noncompetitive and shall not exceed two years in duration except for psychiatric residencies where periods shall not exceed five years. Trainees shall acquire no permanent classified status by virtue of such appointments. Each appointment under provisions of these rules shall be approved by the commissioner.

A permanent or probationary employee may be appointed as a trainee in a pre-service training program approved by the commissioner. During the course of such program, the employee's status and seniority will accrue in the class from which the employee is detached for training and the appropriate salary rates for the class and other benefits for which the employee is eligible in the classified service will apply as though the employee's service in the class had not been interrupted for training.

[Filed June 28, 1974]

2 MCAR § 2.091 Transfers.

A. An employee may be transferred to a position in the same class in a different agency, or organization unit, with the approval of the commissioner and the appointing authorities concerned. Transfers of an employee may be made from a position in one class to a position in another class only if it is determined by the commissioner that the employee to be transferred possesses satisfactory qualifications and if the commissioner is satisfied that such transfer is in the best interests of the service. The commissioner may require written examinations or other evidence for the purpose of determining qualifications for transfer.

B. No transfer or change in work assignment imposed as a penalty or which otherwise prejudices any employee, and without the employee's voluntary consent, shall be approved unless the commissioner is satisfied that such action is necessary in the best interest of the state service.

C. Seniority shall be transferred in all cases of transfer within the same agency, or in cases of transfer by the Commissioner of Administration, but shall not be transferred in other cases of inter-departmental transfer.

D. A transferred probationary or permanent employee may be required to serve a full probationary period beginning on the date of transfer at the request of the receiving appointing authority. The agency shall file notice of this requirement in writing with the commissioner and shall provide a copy of the notice to the employee prior to completion of the transfer. In the absence of such notice, transfer of a probationary employee will not affect the running of the probationary period, and transfer of a permanent employee shall be with such status and not subject to a probationary period. When a probationary period is required in the case of a transfer of a permanent employee, such employee shall have a thirty calendar day trial period in the new position before the employee may be dismissed (except for just cause) demoted, or transferred without the employee's consent. Upon dismissal during the probationary period for cause other than misconduct or delinquency on the part of the employee during the probationary period and after the thirty calendar day trial period, the employee shall be restored to the position held prior to transfer.

E. The commissioner may enter into arrangements with public personnel agencies in other jurisdictions for the purpose of effecting transfer of employees. The commissioner shall not approve any transfer of an employee from a jurisdiction without a federally approved merit system to a grant-in-aid agency. Transferred employees shall accrue vacation leave in accordance with these rules and may be credited with accumulated service in the agency from which transfer is made for purposes of determining vacation accrual rate. Transferred employees may be required to serve a new probationary period and may be credited with accumulated sick leave as provided in 2 MCAR § 2.136.

F. Any state employee who is transferred on a temporary basis to a non-state agency shall continue to accrue benefits, seniority and retirement of a state employee.

[Amended December 17, 1979]

Chapter Eight: 2 MCAR §§ 2.096—2.105 Probationary Period

2 MCAR § 2.096 Objective. The probationary period shall be regarded as an integral part of the selection process and shall be utilized for closely observing the employee's work, for securing the most effective adjustment of new employees to the position, and for rejecting any employee whose performance does not meet the required work standards.

[Filed June 28, 1974]

Chapter Ten: 2 MCAR §§ 2.116—2.124 Reinstatement

2 MCAR § 2.118 Reinstatement after resignation, retirement, voluntary demotion, or expiration of a leave of absence. Upon written approval of the commissioner, an appointing authority may reinstate a former probationary or permanent employee to a position in a former class within one year of the date of resignation, retirement, voluntary demotion, or expiration of leave of absence. Seniority upon reinstatement shall be calculated as provided in 2 MCAR § 2.119. No former employee shall be reinstated directly as provided in this rule if a layoff list exists for the class for the agency or organizational unit but may make application to have his/her name placed on the reemployment list.

[Amended December 17, 1979]

Chapter Thirteen: §§ 2.160-2.169 Employee Development

2 MCAR § 2.165 Trainee programs. Pre-service training programs may be established by the operating departments with the approval of the commissioner. Trainee appointments under these programs shall be consistent with 2 MCAR § 2.090.

[Filed June 28, 1974]

Chapter Fifteen: 2 MCAR §§ 2.175-2.179 Grievance Procedure**2 MCAR § 2.179 Appeals.**

A. Appeals from selection process scores. Any competitor may appeal directly to the commissioner for reconsideration of a score received in any selection process within 30 calendar days after the date of mailing notice of the score by written request to the commissioner. The commissioner shall grant a review in the event that reasons satisfactory to the commissioner are presented. The commissioner may change the score of the competitor if it is determined that an error was made in the original score. If such review discloses errors affecting the scores of other competitors, the review may be extended to the scores of such other competitors. No change made in the scores of such other competitors shall invalidate or in any way affect an appointment already made in good faith as a result of the original score which may have been changed subject to this rule.

B. Appeals from reallocation of position. Any classified or unclassified employee whose position is reallocated, upon written request within 30 calendar days of the date of notice of reallocation of the position, shall be entitled to appeal the action of the commissioner for reconsideration. Such request shall be in writing and shall include materials and exhibits to support the request for reconsideration.

C. Other appeals and investigations. The commissioner may consider any matters concerned with the administration of the personnel law and rules, either on his own initiative or upon protest of an employee. The commissioner may conduct any necessary investigation and may order any remedial action deemed warranted.

[Filed March 15, 1976]

Chapter Sixteen: 2 MCAR §§ 2.180—2.187 Travel and Relocation Expenses

2 MCAR § 2.182 Relocation expenses.

A. Authorization. An employee shall be reimbursed for relocation expenses under the provisions of this rule if the conditions of 2 MCAR § 2.182 B.6. are met and if:

1. The appointing authority determines that an employee is required to be transferred or reassigned to a different work station, when the transfer or reassignment is not for the employee's sole benefit, or:

2. The employee must change residence as a condition of employment, or:

3. The employee accepts an appointment at a higher salary range, or:

4. The employee is reassigned, transferred or demoted to a vacant position in the employee's agency due to the abolishment, transfer of the function to another governmental jurisdiction or private enterprise, removal to a new location or to another state agency of all or a major portion of the operations of the employee's appointing authority.

An employee transferred under these conditions shall receive prior authorization before incurring any expenses authorized by this rule.

An employee who is demoted during the probationary period after the trial period, shall receive those relocation expenses provided in 2 MCAR § 2.182 B.3. and 4.

Relocation expenses authorized by this rule may be paid to a person initially accepting employment in the state service with the advance approval of the commissioner. Payment shall be made only after the person becomes a state employee.

B. Relocation expenses covered.

1. Travel status. An employee transferred or reassigned at the convenience of the state service as defined in A. above shall be considered in a travel status for a period of up to ninety calendar days and shall be authorized to be reimbursed for return to such employee's original work station once a week. During the first ninety calendar days the state may also reimburse the cost of transporting the employee's spouse twice during such period, including the cost of mileage, meals and lodging, but not to exceed a total period of seven calendar days. In addition, the state may reimburse the employee's family for reasonable transportation costs to the new work station at the point that the move is made, including mileage, meals, and lodging. Such expenses shall be reimbursed consistent with these rules.

2. Realtor's fees. The state may pay the cost of realtor's fees on the home being sold by the employee but in no case shall such payment exceed \$3,000.00.

3. Moving expenses. The state shall pay the cost of moving and packing of household goods. The employee shall obtain two or more bids for packing and moving of household goods. Approval shall be given by the appointing authority before authorizing a mover to pack and ship household goods. The state shall also pay for the cost of moving house trailers where that is the domicile of the employee, including the cost of transporting blocks, skirts, or other attached fixtures. The employee shall obtain two or more bids.

4. Miscellaneous expenses. The employee shall be reimbursed up to a maximum of \$350.00 for miscellaneous expenses directly related to a move. Such expenses shall be reimbursed when supported by documentation. These expenses may include such things as disconnecting and connecting appliances and/or utilities, or other costs associated with the purchasing or rental of a new residence not covered elsewhere in this rule.

5. Liability. Neither the State of Minnesota nor any of its agencies shall be responsible for loss or damage to any employee's household goods or personal effects as a result of such transfer.

6. Eligibility. In order to be eligible for any payment of moving expenses or to be eligible for reimbursement of any expenses under this section, the new permanent work station shall be at least 35 miles from the current work station or the change in residence must be required by the appointing authority as a condition of employment and the change in residence must be completed within 6 months of the effective date of the appointment to the new position, unless an extension of time is approved by the appointing authority.

[Amended July 1, 1979 and December 17, 1979]

Chapter Seventeen: General Provisions

2 MCAR § 2.198 Social Security Administration for the public sector.

A. Authorization. Pursuant to Minnesota Statutes, section 355, the following rules are promulgated to be applicable to the state, any political subdivision thereof, or coverage group to be included under the Federal Old Age and Survivors Insurance System.

B. Definition of terms. The terms defined in this section shall have the meaning ascribed to them herein.

1. The terms "state agency," "wages," "employment," "employee," "Social Security Act," "political subdivision," and "Federal Insurance Contributions Act," mean as defined Minnesota Statutes, section 355.

2. The term "coverage group" means the grouping of positions in any political subdivision or political subdivisions of the state as they are brought under the provisions of the Federal Social Security Act, pursuant to Minnesota Statutes, section 355, and for which contributions for each grouping are required by law to be transmitted to the state agency.

C. Employee account numbers. At the time a political subdivision makes its first quarterly report for Federal Old Age and Survivors Insurance, it shall be necessary for each covered employee of such political subdivision to have a social security account number.

1. Each employee shall make available for the records of the payroll record unit the social security account number which has been assigned by the Social Security Administration. If an employee does not have a number, the employee shall make application therefor with any field office of the Social Security Administration within seven days after the employee begins work for the reporting unit, except that the application shall be made on or before the employee leaves the employ of the reporting unit, if such date of leaving precedes the seventh day. Application is made on Form SS-5.

2. Only one account number shall be assigned to any employee. Any employee whose name is changed by marriage or otherwise, or has stated incorrect information on Form SS-5, should report such change or correction to a field office of the Social Security Administration. The old name should be used for payroll and for wage report purposes, however, until the change has been processed by the Social Security Administration.

3. The political subdivision shall enter the employee's name and account number exactly as shown on the individual's account number card on all records, returns, reports and claims. Upon failure of an individual to show the card when the

individual first performs services under an agreement, the political subdivision by which the individual is employed shall request to see the individual's card.

D. Identification number for coverage groups. The Social Security Administration will assign an employer identification number to the state, each political subdivision thereof, and coverage group to be included under the Federal Old Age and Survivors Insurance System. If any political subdivision maintains more than one payroll record unit, a unit number will be assigned to each separate payroll record within the coverage group. The identification number, including the unit numbers assigned to payroll record units, if any will be entered on all reports, returns, forms, claims and correspondence.

E. Employee's contribution. The employee's contribution is measured by the amount of wages actually received on or after the effective date of the agreement or modification entered into between the state and the Secretary of Health, Education and Welfare (hereinafter referred to as "state agreement") with respect to services performed in employment by the employee in a coverage group included in such agreement or modification. After the maximum reportable wages as provided in Title II of the Federal Social Security Act have been paid an employee during a calendar year, additional wages paid that employee during the remainder of the calendar year are not subject to deductions for social security taxes and no further wage contributions are required.

1. The social security tax rates to be applied against the wages of employees within the coverage group and which are to be matched with an equal amount by the payroll record unit of the state or political subdivision (hereinafter referred to as the "reporting unit") are the contribution rates established by Title II of the Federal Social Security Act.

2. Taxes shall be computed on the basis of the rate effective at the time the wages are actually or constructively received or paid.

However, wages received by an employee subsequent to the effective date of coverage for services rendered in a period prior to the effective date of coverage cannot be regarded as "wages received for employment" and such amounts are not subject to tax. Therefore, where the state agreement makes social security coverage effective January 1 of a calendar year, wages received by an employee in such calendar year for services rendered in the previous calendar year cannot be regarded as "wages received for employment" and such amounts are not subject to tax.

3. Where an employee performs services during a calendar year for the state and one or more political subdivisions or for two or more political subdivisions, the wages paid in any calendar year to such employee by the state and each such political subdivision not in excess of the maximum reportable

wages as provided in Title II of the Federal Social Security Act shall be reported by the state and each political subdivision, with the following exception: Where the state of Minnesota pays the matching employer social security contributions tax, such as for teachers in Minnesota public schools, then only the maximum reportable wages as provided in Title II of the Federal Social Security Act paid to such individual in the aggregate are subject to the social security tax and reported as wages.

4. The reporting unit shall be responsible for and shall collect from each employee the amount of tax determined to be due by deducting said amount from employee's wages when actually or constructively paid. The reporting unit shall collect the tax notwithstanding the fact that the wages are paid in any medium other than cash. After the matching amount has been provided by the reporting unit, the total social security contribution shall be remitted to the state agency for credit to the Social Security Contributions Fund in accordance with the following schedule:

a. For each month, the social security contributions due on the wages paid shall be forwarded to the state agency within the fifteen days period following the end of each month beginning with the month of July 1980. Where the last day of the 15-day period is a legal holiday or a nonwork day, the social security contribution payment is due on the next preceding work day.

b. Where the state assumes the responsibility for the matching employer social security contribution pursuant to Minnesota Statutes, section 355.46, subdivision 3 (b), the payments under a. above shall be equal to the required employee contribution withheld only.

c. In lieu of remitting at times indicated above, the reporting unit may remit the required social security contribution payment at the end of each payroll period or after each salary payment made to the employees, but in no event shall the contribution payment be made later than the time periods specified in a. of this section.

d. With each contribution payment, the reporting unit must submit a completed approved remittance form prescribed by the state agency.

e. If any monthly contribution payment is not received by the state agency within the deadlines specified in a. above, interest will be charged to the reporting unit at the rate of six percent per annum on the contributions due for each month or part of a month from the due date, but in no case shall such interest charge or penalty be less than five dollars (\$5).

5. The reporting unit is liable to the state agency for the employee's share of the tax whether or not such share has been withheld from the employee's wages. Notwithstanding the foregoing, the employee remains liable for the employee's share

of the tax on all wages received by the employee not in excess of the maximum reportable wages as provided in Title II of the Federal Social Security Act per calendar year.

6. If any reporting unit fails to make the social security contribution payments required by law and these rules, the delinquent payments due with interest thereon at the rate of six percent per annum or the minimum penalty as established by these rules, whichever is greater, may be recovered in an action by the state agency in a court of competent jurisdiction against each and every political subdivision liable therefor or may, at the request of the state agency, be deducted from any other moneys payable to such political subdivision by any department or agency of the state.

7. The state or a political subdivision is not authorized to begin making deductions for social security taxes from the earnings of employees until after the state agreement has been approved on behalf of the federal government by the Secretary of Health, Education and Welfare. However, as soon as the state agreement has been fully executed and has been approved, the political subdivision shall make the necessary deductions from earnings, retroactive to effective date of said agreement or modification thereof, so that the total contribution payments required from the effective date of the state agreement are transmitted to the state agency along with initial reports before the initial deadline as determined by the state agency. The exact method and time of deducting retroactive contributions from employees are matters to be determined by each political subdivision individually.

8. The responsibility of each reporting unit to make the required deductions from earnings of all covered employees shall not be affected by the fact that some employees may, while employed, be receiving social security benefits.

F. Wage reports. Every political subdivision, and coverage group therein, included in the state agreement shall make a wage report to the state agency for each reporting period beginning with the first reporting period with respect to which the agreement or modification is effective, until it files a final report as required by law.

1. Quarterly reporting of covered wages paid is required for periods prior to January 1, 1981.

a. The original and one duplicate copy of the consolidated quarterly payroll report shall be submitted on Form SSA-3963 for each reporting unit in conformity with the requirements of the Secretary of Health, Education and Welfare. Each quarterly report must be a consolidated report, which shall include all covered wages paid to personnel employed by any department, boards, and commissions reportable under the identification number assigned to the political subdivision or coverage group. The summary information shall be shown at the bottom of page 1 of the Form SSA-3963.

b. Each quarterly report, properly completed, must be received by the state agency not later than the following dates:

April 20 (for the quarter ending March 31)

July 20 (for the quarter ending June 30)

October 20 (for the quarter ending September 30)

January 20 (for the quarter ending December 31)

c. Each quarterly report must be accompanied by a check or checks made payable to Minnesota State Treasurer, Contribution Fund, or by a copy of the remittance form prescribed in 2 MCAR S 2.198 E.4. above, which amount shall equal the sum of both the required contribution of the political subdivision and the required deductions from the earnings of all personnel in the coverage group. In payment of contributions to the state agency, the reporting unit may disregard a fractional part of a cent unless it amounts to one-half cent or more, in which case it shall be increased to the nearest cent.

d. The initial quarterly reports and required remittances for the period from the effective date of coverage to the end of the quarter in which any political subdivision becomes covered under the state agreement must be transmitted so as to be received by the state agency on or before the date fixed by the state agency for the filing of such initial reports.

e. Even though no wages are paid in a quarter, the reporting unit must file a report on Form SSA-3963 indicating "no covered wages paid." This notation shall be made on the body of the form.

f. If any quarterly report is not received by the state agency within the respective established deadlines, interest will be charged to the reporting unit at the rate of six percent per annum on reportable contributions for each month or part of a month from the date due, but in no case shall such interest charge or penalty be less than five dollars (\$5).

2. Annual reporting of covered wages required for calendar year 1981 and for each year thereafter.

a. Each report must be a consolidated report which shall include all covered wages paid and reportable under the identification number assigned to the political subdivision. The information shall be furnished on forms prescribed by Social Security Administration.

b. Each report must be received by the state agency not later than January 31 of the following year. Reports and contribution payments which have not been prepared in accordance with state agency rules and instructions will not be accepted and will be subject to the penalties imposed by these rules.

c. The contribution payments remitted for each calendar year pursuant to E.4. shall equal the social security contributions due on the covered wages included on the report submitted pursuant to this section. Any differences shall be fully explained and the additional contributions, if any, shall be remitted with the completed report.

d. Wage reports received after the established due date will be considered delinquent. To cover the additional administrative costs, a penalty of five dollars (\$5) for the first day of the delinquency and one dollar (\$1) for each additional day that the report is delinquent will be assessed against the reporting unit.

e. In addition to the wage reports required by the above paragraphs of this section, quarterly summary data as prescribed by Federal Social Security regulations shall be submitted in accordance with state agency instructions.

3. The original and one copy of any adjustment report called "State's Report of Adjustments," Form SSA-3964 shall be immediately completed and forwarded to the state agency upon determination by the reporting unit that one or more of the following errors were made on one or more quarterly wage reports or on a previously submitted adjustment report.

- a. Wages omitted from report.
- b. Not enough wages reported.
- c. Excessive wages reported.
- d. Wages reported in excess of the maximum reportable wages as provided in Title II of the Federal Social Security Act.
- e. Wages shown on report for wrong period.
- f. Wages reported for wrong individual.

The reporting unit shall be liable for the payment of interest on any Form SSA-3964 adjustment report which is determined by the federal government to be delinquent.

4. The adjustments listed in 2 MCAR S 2.198 F.3. above must be submitted before the expiration of the time limitations established by the federal statute of limitations which are as follows:

a. Adjustments covering reporting of additional wages resulting in the assessment of additional taxes must be received by Social Security Administration before the latest of the following:

(1) Three years, three months, and 15 days after the year in which the wages, upon which the additional tax became due under the state agreement, were paid; or

(2) Three years after the date on which such tax became due.

b. Adjustments covering reduction or cancellation of wages previously reported and resulting in a claim for refund or credit must be received by Social Security Administration before the latest of the following:

(1) Three years, three months and 15 days after the year which includes the calendar quarter in which wages were paid or alleged to have been paid with respect to which the overpayment occurred; or

(2) Three years after the due date of the payment which included the overpayment; or

(3) Two years after the overpayment was made to the Secretary of the Treasury by the state agency.

G. Records. Every political subdivision shall keep accurate records of all wages, whether in cash or in a medium other than cash, paid or available for payment to employees of the political subdivision.

1. Each political subdivision shall use such forms and systems of accounting as will enable the state agency, the state agency's duly authorized representatives, or the agents of the Secretary of Health, Education and Welfare, to ascertain whether the social security taxes for which the political subdivision or coverage group is liable are correctly computed and paid. Such records shall show with respect to each employee:

a. The name, address and account number of the employee and such additional information with respect to the employee as is required by these regulations when the employee does not show the employee's social security account number card as issued to the employee.

b. The total amount (including any sum withheld therefrom as contribution or any other reason) and date of each wage payment and the period of services covered by such payment.

c. The amount of such wage payment which constitutes wages subject to tax.

d. The amount of employee's contributions withheld or collected with respect to each total wage payment, and if collected at a time other than the time such payment was made, the date collected.

If the total wages, item b. above, and the amount thereof which is subject to tax, item c. above, are not equal, the reason therefor shall be made as a matter of record.

Accurate records of the details of each adjustment or settlement, made pursuant to any state agency instructions or

rules or federal regulations, shall also be kept by the political subdivision.

2. Each such political subdivision shall keep a copy of any return, report, schedule, statement or any other documents as a part of its records.

3. Any such political subdivision or any employee claiming refund, credit or abatement of any tax or interest collected shall present a detailed record to establish the validity of such claim.

4. All records required by these rules and federal regulations shall be kept at a convenient and safe location accessible to representatives of the Secretary of Health, Education and Welfare and of the state agency. Such records shall at all times be open for inspection by such officials.

5. Each political subdivision shall establish a system of controls whereby no employee shall be taxed on wages in excess of the maximum reportable wages as provided in Title II of the Federal Social Security Act for each calendar year. These controls shall be set up so that the tax will be withheld on the exact amount of the reportable wages as provided in Title II of the Federal Social Security Act received by an employee in a calendar year. There shall be no pro-rating of the year's total tax liability of such employees over the 12 months' period.

6. All records required by these rules and federal regulations shall be maintained for a period of at least four years after the date the contributions, to which the records relate, became due, or after the date the contributions were paid, whichever is later. Records required in 2 MCAR § 2.198 G.3. above shall be maintained for a period of at least four years after date in which the claim is filed. No records shall be destroyed or otherwise disposed of, even after the lapse of the four years, without the written consent required pursuant to Minnesota Statutes, section 138.17.

7. Any political subdivision whose existence is terminated by reorganization, consolidation or annexation or which is abolished by statute or other legal action shall report such fact to the state agency at the time the final report is submitted and also indicate at that time where all records and documents will be stored or maintained and the name of the individual or officer responsible for the safekeeping of such records and documents.

8. Each such political subdivision shall furnish to each individual performing service in employment as an employee in a coverage group included in the state agreement a written statement showing with respect to wages paid or available for payment to the employee for such service on or after the effective date of the agreement or modification:

a. The name and identification number of the political

subdivision or coverage group in which services were performed;

- b. The name and account number of the employee;
- c. The period covered by the statement;
- d. The total amount of wages subject to contributions paid during this period; and
- e. The amount of employee's contribution withheld in respect to wages.

The statements must be given to employees not later than January 31 of the year following the calendar year covered by the statement unless the employee leaves employment in a coverage group, in which case, the final statement must be given to the employee on the date the last payment of wages is made. Since all employers, including the state and political subdivisions, are required to furnish employees with statements of income tax withheld and statements of social security contributions withheld, Form W-2, Withholding Statement, shall be used for the above purposes.

H. Administrative costs. Each department or agency of the state and each political subdivision which is included in the coverage agreement or modification entered into between the state and the Secretary of Health, Education and Welfare will be liable for a pro-rata share of the costs of administration of Minnesota Statutes, section 355, as certified by the state agency. The amounts certified will be based upon the social security contribution tax paid or payable on wages paid to employees of said political subdivisions or coverage group coming within the provision of said law, provided that in addition to the above ordinary reimbursable expenses, the state agency may charge a political subdivision for any extraordinary costs of administration relating to matters affecting exclusively that particular political subdivision. Notwithstanding the above provisions for determination of the pro-rata charges, there shall be a minimum pro-rata charge of five dollars (\$5) for each reporting unit which reports wages for any individual during the period involved. The amounts certified shall be due and payable upon notice from the state agency and all checks shall be payable to Minnesota State Treasurer, State Agency Revolving Fund. Further, the amounts appropriated, if any, by the state legislature to cover the pro-rata costs of state departments and agencies operating on state appropriations shall be considered to fully cover the pro-rata charges of such departments and agencies for such period.

I. Neither wage reports nor social security contributions may be made direct to the Social Security Administration or Federal Reserve Bank by a political subdivision.

Chapter Eighteen: Definitions

The following words and terms wherever used in these rules shall have the meaning indicated below:

0741-0814 2 MCAR S 2.201 "Affirmative action" means a management posture or point of view that all barriers to employment opportunity that are not based on specific job requirements should be identified and removed; further, that initial employment and advancement opportunities for persons in protected groups shown to be underutilized in an agency's work force should be facilitated so that the imbalance is redressed.

0741-0814 2 MCAR S 2.202 "Affirmative action plan" means a coherent set of management policies and procedures designed to find the barriers contributing to imbalance in an agency's work force and to foster the correction of any imbalances which are found to exist.

0741-0814 2 MCAR S 2.205 "Agency subdivision" for purposes of affirmative action, means a state hospital/nursing home, state school, state university, community college, correctional facility or regional or district office under the jurisdiction of a state agency, which is geographically separate and which has an appointing authority.

0741-0814 2 MCAR S 2.208 "Board" means the State Personnel Board.

0741-0814 2 MCAR S 2.212 "Craft" means those positions involved in skill specialized work, where the completion of formal apprenticeships, vocational school, or equivalent training are normally required for successful work performance. Usually special licensing is required.

0741-0814 2 MCAR S 2.2121 "Craft-supervisory" means those positions which meet the definitions of both 2 MCAR SS 2.212 and 2.259.

0741-0814 2 MCAR S 2.215 "Department" means the State Personnel Department, including the commissioner and the employees thereof.

0741-0814 2 MCAR S 2.222 "Exist or existing" for purposes of an eligible list means that a list has not been abolished by the commissioner or has not exceeded the maximum duration for an eligible list as prescribed by the law.

0741-0814 2 MCAR S 2.224 "Goal" means a numerical objective designed to correct an identified deficiency in the utilization of protected group members.

0741-0814 *Repealed 8 SR 1479 12-19-83*
 2 MCAR S 2.225 "Handicapped" means any person who:

- A. has a physical or mental impairment which substantially limits one or more major life activities,
- B. has a record of such an impairment, or
- C. is regarded as having such an impairment.

For purposes of these rules, the term "handicapped" does not include any individual who is an alcohol or drug abuser whose current use of alcohol or drugs prevents such individual from performing the duties of the job in question or whose employment, by reason of such current alcohol or drug abuse, would constitute a direct threat to property or the safety of others.

0741-0814 2 MCAR S 2.227 "Intern" means persons employed in programs which are associated with an academic institution where the intern receives credit from the academic institution for the work experience. These programs are generally one year in length with employment being effected by contract through the coordinator of internships.

0741-0814 2 MCAR S 2.228 "Labor force statistics" means figures as determined by the most recent federal census published by the U.S. Department of Commerce, Bureau of the Census on the estimated number of persons sixteen (16) years of age or over who are working or are seeking work or who are unemployed at the time.

0741-0814 2 MCAR S 2.229 "Labor market area" means a geographic area in which an employer is seeking a particular occupational category of worker and there is an available supply of workers seeking jobs in that occupational category.

0741-0814 2 MCAR S 2.230 "Laborer" means those positions performing unskilled manual work requiring no special training and usually done with clearly-defined procedures under class supervision or with specific directions, such as digging, loading or wrapping materials.

0741-0814 *Repealed 8 SR 1479 12-19-83*
 2 MCAR S 2.2301 "Laborer-supervisory" means those positions which meet the definitions of both 2 MCAR SS 2.230 and 2.259.

0741-0814 2 MCAR S 2.231 "Law" means the state personnel act and amendments thereto.

0741-0814
2 MCAR S 2.233 "Leadworker" means employees whose function is to provide work direction to a limited number of co-workers, while also participating in the work of the unit. The majority of work performed has to do with the same kinds of tasks as that performed by subordinates or, where not the same, has to do with ordinary production or professional work which is a regular part of the employee's duties. Leadworkers typically do not exercise the supervisory authority described in the definition of the term "supervisor." Where leadworkers are required to exercise judgment in dealing with other employees, decisions are of a routine or clerical nature.

2 MCAR S 2.236 "Occupational category" means one of the groups of classes defined in 2 MCAR SS 2.212, 2.2121, 2.230, 2.301A, 2.234, 2.237, 2.2371, 2.239, 2.2391, 2.249, 2.2491, 2.256, 2.2561, 2.260, and 2.2601.

2 MCAR S 2.237 "Office/clerical" means those positions involving a wide variety of office skills needed to carry out office processes and procedures, such as keeping records, processing paperwork, operating office machines and handling communications.

2 MCAR S 2.2371 "Office/clerical-supervisory" means those positions which meet the definitions of both 2 MCAR SS 2.237 and 2.259.

2 MCAR S 2.239 "Operative" means those positions performing semi-skilled manual work involving limited training and judgment. Work is generally performed under close supervision and may include the operation of light trucks and vehicles or other machines and equipment.

2 MCAR S 2.2391 "Operative-supervisory" means those positions which meet the definitions of both 2 MCAR SS 2.239 and 2.259.

2 MCAR S 2.245 "Pre-service trainee" means persons employed in programs which are associated with a specific class or position and lead directly to employment in the classified service. These programs vary in length from 30 days to two years. Training plans for specific programs are received and approved by personnel's training division.

2 MCAR S 2.249 "Professional" means any employee engaged in work predominantly intellectual and varied in character, as opposed to routine mental, manual, mechanical, or physical work; involving the consistent exercise of discretion and judgment in the theoretical principles and techniques of a field of science or learning, however acquired, but customarily acquired by a prolonged course of specialized instruction and study in an

institution of higher learning, as distinguished from a general secondary education, or technical post-secondary education such as an apprenticeship or training in the performance of routine mental, manual, or physical processes.

0741-
0814
2 MCAR S 2.2491 "Professional-supervisory" means those positions which meet the definitions of both 2 MCAR SS 2.249 and 2.259.

2 MCAR S 2.251 "Protected group" means all groups defined as "protected group" by Minnesota Statutes, section 43.15, subdivision 1. See also definition of "handicapped," 2 MCAR S 2.225.

2 MCAR S 2.252 "Provisional employee" means an employee who has been appointed to a position without having been appointed from an eligible list on a conditional basis in accordance with Minnesota Statutes, section 43.20, subdivision 2, pending examination and probationary appointment in accordance with Minnesota Statutes, Chapter 43 and these rules.

2 MCAR S 2.255 "Seasonal" means employment for a period not to exceed ten months during 12 consecutive months.

2 MCAR S 2.256 "Service" means those positions which attend to the personal rather than production needs of a particular client group or the general public. Positions in this category may provide personal and health care to residents of state institutions, or perform work in areas such as building maintenance, security, food service, or inspection. Usually requires little or no prior training and experience. Service positions are distinguished from laborer positions since such positions usually do not involve as much heavy work and most commonly work inside.

2 MCAR S 2.2561 "Service-supervisory" means those positions which meet the definitions of both 2 MCAR SS 2.256 and 2.259.

2 MCAR S 2.258 "Student worker" means persons employed in programs which are related to an academic program and/or department speciality and personnel needs. No academic credit is given and the training experience does not lead directly or indirectly to employment in the classified service. These programs are generally seasonal or temporary in nature with persons employed in the unclassified service.

2 MCAR S 2.259 "Supervisory" means those positions which are primarily involved with the human resource, accountable for getting things done through and with assigned personnel. This

includes providing work direction, and utilizing allotted resources in order to accomplish assignments. The significance of positions included in this category is that they have authority to perform the following actions, or to effectively recommend them: hire, transfer, suspend, layoff, recall, promote, discharge, assign, reward, or discipline other employees or responsibility for directing them or adjusting their grievances. To be defined as a supervisor, positions need not perform all or a majority of these responsibilities. However, a substantial amount of time must be consumed by the activities described above.

0744-0814
2 MCAR S 2.260 "Technical/paraprofessional" means those positions requiring a basic knowledge of the practice and procedures of a scientific or professional field. Work performed is normally supportive of a professional discipline, but does not require knowledge of the theoretical principles of the field. Some independence in judgment is normally required. Some positions in this category may require licensing or registration.

2 MCAR S 2.2601 "Technical/paraprofessional-supervisory" means those positions which meet the definitions of both 2 MCAR SS 2.260 and 2.259.

2 MCAR S 2.261 "Temporary employee" means an employee who has been appointed to a position which has a definite ending date. (Minnesota Statutes, section 43.20, subdivision 5)

2 MCAR S 2.262 "Timetable" means a prescribed reasonable time period in which affirmative action goals are expected to be achieved.

2 MCAR S 2.263 "Transfer" means the movement of an employee from one department or organizational unit to another department or organizational unit, or from one class to another class within the same department or organizational unit in a comparable salary range and usually involving the performance of similar duties and requiring essentially the same basic qualifications. Job rotation assignments made in conjunction with an established job rotation program designed to acquaint employees with various operations of an agency are not transfers.

2 MCAR S 2.264 "Under utilization" means the employment, in an occupational category, of fewer qualified protected group members than would reasonably be expected by their availability in the labor market area.

Chapter Twenty: Statewide Affirmative Action Program

2741-
0824
2 MCAR S 2.290 Policy. It is the policy of the state of Minnesota to implement and maintain an affirmative action program designed to eliminate underutilization of qualified protected group members within the state civil service through a series of specific result oriented procedures combined with good faith effort.

2 MCAR S 2.291 Scope. The provisions of this chapter shall apply to all agencies in the executive branch and to both classified and unclassified positions of those agencies, notwithstanding 2 MCAR S 2.004. In the event of a conflict or duplication between requirements of these rules and federal regulations and at the request of the agency head, the commissioner shall permit an agency to substitute a federally required procedure for a similar procedure otherwise required by these rules.

2 MCAR S 2.292 Responsibility and accountability of the agency head.

A. The agency head shall be responsible for administering the agency's affirmative action program in compliance with existing laws, federal regulations and state rules.

B. The agency head shall be accountable to the governor and to the commissioner for affirmative action compliance.

2 MCAR S 2.293 Requirements for agency affirmative action plans.

A. The head of each agency with twenty-five (25) or more employees shall submit to the commissioner an agency affirmative action plan that shall contain at least the following but at the discretion of the agency head may contain other provisions not in conflict with these rules:

1. Identification of the protected group or groups underrepresented in the agency's work force and, therefore, covered by the affirmative action plan.

2. Designations of those persons or groups responsible for directing and implementing the agency affirmative action program and the specific responsibility, accountability, and duties of each person or group.

3. Statement of the agency head's commitment to affirmative action program and to the implementation of the agency affirmative action plan.

4. Specify a readily accessible location for the posting of the agency's affirmative action plan.

5. Description of methods by which the agency affirmative action program is communicated internally and externally to employees and other interested persons.

6. Description of internal procedure for processing complaints of alleged discrimination from employees.

a. The initial step shall provide for a determination as to whether the complaint is properly a discrimination complaint and, therefore, appropriate to be addressed by the internal procedure. Time limits on such determinations shall be established to permit the employee to pursue a complaint determined to be other than a discrimination complaint through other appropriate grievance procedures in accordance with the time limitations of those procedures.

b. Complaint procedures shall provide for a final written answer within sixty (60) days of the filing of a formal complaint.

c. Disposition of complaints shall be filed with the commissioner within thirty (30) days of final determination.

7. Goals and timetables that shall be established using the following standards.

a. Numerical goals shall be established for the agency and for each agency's subdivision with 25 or more employees that is in a geographic location with a labor market area separate from that of the central office.

b. Agency heads shall use labor force statistics from census data when available to examine work force participation, or when an agency requests the authority to substitute more specific data, the commissioner shall consider alternative data sources and determine their applicability based on the following criteria:

(1) the objectivity of the supplying organization,

(2) the reliability of statistical procedures used to generate the data, and

(3) comparability of data categories (occupational, geographic, handicapping condition, for example) used.

c. Underutilization of protected groups shall be determined using statistical formulae which shall be based on the following criteria:

(1) Types of jobs within each agency and agency subdivision;

(2) Number of employees in those jobs, by state class title and by protected group;

(3) Availability of protected group workers having the qualifications for those jobs and;

(4) Geographic locations and applicable labor market areas for each type of job in each agency and agency subdivision.

d. Goals shall be established for each occupational category by protected group based upon a comparison of the composition of the agency or the agency's subdivision work force to the composition of the relevant civilian labor force in an identified labor market area.

e. Goals shall be established for each occupational category by protected group for which the comparison shows an underutilization of one or more protected groups.

f. Timetables shall be established to meet goals based upon turnover and hire rates within each occupational category in the agency or within each agency subdivision.

8. Identification and description of methods for developing programs and program objectives designed to meet affirmative action goals.

9. Methods of auditing, evaluating, and reporting program success to include a procedure that requires pre-employment review of all hiring decisions for occupational categories with unmet affirmative action goals.

10. The official affirmative action transmittal form which provides for section by section verification of the plan's components.

B. The head of each agency with fewer than twenty-five (25) employees shall submit to the commissioner an agency affirmative action plan that shall contain the following:

1. Statement of the agency head's commitment to the affirmative action program.

2. Statement of the agency head's objective to hire members of protected groups when vacancies occur if an apparent underutilization of protected group members exists in the agency work force.

3. Description of internal procedure for processing complaints of alleged discrimination from employees.

a. The initial step shall provide for a determination as to whether the complaint is properly a discrimination complaint and, therefore, appropriate to be addressed by the internal procedure. Time limits on such determinations shall be so established to permit the employee to pursue a complaint determined to be other than a discrimination complaint through other appropriate grievance procedures in accordance with the time limitations of those procedures.

b. Complaints procedures shall provide for final written answer within sixty (60) days of filing of a formal complaint.

c. Disposition of complaints shall be filed with the commissioner within thirty (30) days of the final determination.

2 MCAR S 2.294 Affirmative action plan review.

A. Agency heads shall submit an affirmative action plan annually to the state director of equal employment opportunity, within thirty (30) days following the end of the prior fiscal year.

B. Within thirty (30) days of receipt of the agency plan, the state director of equal employment opportunity shall review the agency affirmative action plan and shall notify the agency head of the approval or of the need to modify the plan.

C. The state director of equal employment opportunity shall approve an agency plan which meets the requirements of the foregoing rules and shall indicate the basis on which an agency affirmative action plan was not approved.

D. An agency affirmative action plan that is not approved by the state director of equal employment opportunity shall be modified as necessary by the agency head and resubmitted to the state director of equal employment opportunity within thirty (30) days from the date of notification.

E. The state director of equal employment opportunity shall respond within ten (10) days of receipt of the resubmitted affirmative action plan.

2 MCAR S 2.295 Reporting requirements.

A. Agency heads with twenty-five (25) or more employees shall submit quarterly to the commissioner a report of the agency's efforts to meet affirmative action goals and the progress resulting from those efforts.

B. Agency heads with fewer than twenty-five (25) employees shall submit semi-annually to the commissioner a report of the agency's efforts to meet affirmative action objectives and the progress resulting from those efforts.

C. Reports shall be due thirty (30) days following the close of the reporting period.

D. Agency heads shall submit to the commissioner, concurrent with the biennial agency budget request, a report on the results of the agency's affirmative action plan. The commissioner shall submit these reports to the governor and the legislature.

AFFIRMATIVE ACTION PLAN
Fiscal Year _____
For _____

(Agency or Agency Subdivision)

1. This annual review revealed underutilization of the following protected group(s) in the following occupational categories: (Check each category appropriate)

OCCUPATIONAL CATEGORIES	PROTECTED GROUPS			
	WOMEN	MINORITIES	HANDICAPPED	VETERANS
Unclassified				
Management				
Professional-S				
Professional				
Technical-S				
Technical				
Crafts-S				
Crafts				
Office-S				
Office				
Operative-S				
Operative				
Laborer-S				
Laborer				
Service-S				
Service				

2. This annual plan is and will be posted at the following central location so that every employee is aware of the agency's commitments in affirmative action for the year.

3. This annual plan contains an internal procedure for processing complaints of alleged discrimination from employees, and each employee has been apprised of this procedure as well as our agency's affirmative action goals for this fiscal year.

Affirmative Action Officer

Date

4. This annual plan contains clear designations of those persons and groups responsible for implementing the attached affirmative action plan as well as my personal statement of commitment to achieving the goals and timetables described herein.

Agency Head

Date

5. This annual plan meets the rules governing affirmative action, Chapter 20: 2 MCAR 2.290-2.299, and contains goals and timetables as well as methods for achieving them which are reasonable and sufficiently aggressive to deal with the identified disparities.

Equal Opportunity Division

Date

PE-00102-01 (12/80)

insert new 2 MAR 55 300-
2.4117, AR 20057, AR 28737