

## CHAPTER 9575

### DEPARTMENT OF HUMAN SERVICES

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## **9575.0010 DEFINITIONS.**

Subpart 1. **Scope.** The following definitions apply to chapter 9575 unless the context clearly requires another meaning.

Subp. 1a. **Affirmative action.** "Affirmative action" means a management program designed to ensure equal employment opportunity and correct past discrimination by identifying and removing barriers throughout a personnel system. Affirmative action includes special efforts to eliminate underuse of disabled persons, minorities, and women through recruitment, hiring, and advancement of these groups.

Subp. 2. **Allocation.** "Allocation" means the assignment of a position to an appropriate class on the basis of the kind, difficulty, and responsibility of the work performed in the position.

Subp. 3. **Appointing authority.** "Appointing authority" means the county board, local social services agency, human service board, or officer authorized by statute or lawfully delegated authority to make appointments to positions under the merit system.

Subp. 3a. **Balanced class.** "Balanced class" means any class in which no more than 80 percent of the members are male and no more than 70 percent of the members are female.

Subp. 4. **Board.** "Board" means the county board, local social services agency, or human service board.

Subp. 5. **Change in allocation.** "Change in allocation" means the reclassification of a position resulting from significant sudden changes imposed by the appointing authority affecting the duties and responsibilities of a position.

Subp. 6. **Class.** "Class" means one or more positions sufficiently similar in the duties performed; degree of supervision exercised or required minimum requirements of training, experience, or skill; and such other characteristics that the same title, the same tests of fitness, and the same schedule of compensation may be applied with equity to all of the positions.

Subp. 7. **Commissioner or commissioner of human services.** "Commissioner" or "commissioner of human services" means the administrative head of the Department of Human Services.

Subp. 7a. **Comparability adjustment.** "Comparability adjustment" means a salary range adjustment for a particular classification to correct a compensation inequity based on comparable work value.

Subp. 7b. **Comparable work value.** "Comparable work value" means the value of work measured by the skill, effort, responsibility, and working conditions required in the performance of the work.

Subp. 8. **Council.** "Council" means the merit system council.

Subp. 9. **County agency.** "County agency" means the organization created by the county board, local social services agency, or the human service board to carry out the functions and policies of the board with regard to community social service or income maintenance programs funded in whole or in part by federal grants-in-aid requiring a merit system of personnel administration.

Subp. 10. **County register.** "County register" means the subregister established for a county from a statewide competitive or promotional register containing the names of persons who have legal residence in the county or, in the event of a promotional examination, who are employed by the county agency.

Subp. 11. **Local social services agency.** "Local social services agency" means the county welfare board, county board, or human service board.

Subp. 12. **Day.** "Day" means a calendar day except when otherwise specified in the specific rule.

Subp. 13. **Demotion.** "Demotion" means a change by an employee from a position in one class to a position in another class with less responsible duties and a lower salary range.

Subp. 13a. **Disability.** "Disability" means a condition or characteristic that renders a person a disabled person. A disabled person is a person who:

A. has a physical, sensory, or mental impairment that 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.

Subp. 14. **Disabled veteran.** "Disabled veteran" means a veteran who is rated or certified as disabled, in accordance with the provisions of Minnesota Statutes, section 43A.11.

Subp. 14a. **Discrimination.** "Discrimination" means unequal treatment, intentional or unintentional, that is based on the following protected characteristics: race, color, creed, sex, age, marital status, national origin, disability, reliance on public assistance, religion, political affiliation, membership or activity in a local commission, or sexual orientation.

Subp. 15. **Dismissal.** "Dismissal" means the termination of employment for cause.

Subp. 15a. **Disparity.** "Disparity" means the employment of fewer disabled persons, minorities, or women in the agency's work force than could reasonably be expected, based on their availability in the relevant labor area.

Subp. 16. **Eligible.** "Eligible" means any person whose name is on a register.

Subp. 17. **Emergency employee.** "Emergency employee" means an employee who was appointed to perform certain duties when an emergency situation exists.

Subp. 18. **Employee.** "Employee" means any person in the employ of a county board, local social services agency, or human services board, exclusive of its members, who occupies a position covered by chapter 9575 and who is paid a salary or wage.

Subp. 18a. **Equal employment opportunity.** "Equal employment opportunity" means the policy of basing all personnel activities solely on individual merit of applicants and employees in relation to job requirements, and without regard to race, color, creed, sex, age, marital status, national origin, disability, reliance on public assistance, religion, political affiliation, membership or activity in a local commission, or sexual orientation.

Subp. 18b. **Equitable compensation relationship.** "Equitable compensation relationship" means that a primary consideration in establishing, recommending, and approving total compensation is comparable work value in relationship to other employee positions within the merit system.

Subp. 19. **Exclusive representative.** "Exclusive representative" has the meaning given in Minnesota Statutes, section 179A.03, subdivision 8.

Subp. 20. **Facsimile.** "Facsimile" means a replica. A facsimile is a chart showing each of the salary rates adopted by an agency divided into monthly and hourly rates and either daily rates and biweekly rates or four-week rates if paid on this basis or the daily rate based on the number of working days in the month, 20, 21, 22, or 23 days if paid on a monthly basis.

Subp. 20a. **Female-dominated class.** "Female-dominated class" means any class in which 70 percent or more of the members are female.

Subp. 21. **General adjustment.** "General adjustment" means an annual merit system recommended salary adjustment based on a review of adjustments to salaries by employers with similar and competing types of employment and trends in the Twin Cities consumer price index. The general adjustment applies to all employees on the professional, support, clerical, and maintenance and trades salary schedules whose positions are not covered by the terms and conditions of a collective bargaining agreement.

Subp. 22. **Intermittent employee.** "Intermittent employee" means an employee who works whenever needed or on a schedule that cannot be predicted in advance.

Subp. 23. **Layoff.** "Layoff" means the termination of employment because of abolishment of a position, lack of funds, shortage of work, or other reason beyond the control of the employee.

Subp. 24. **Layoff list.** "Layoff list" means a list of permanent or probationary employees who have been laid off by reason of abolishment of their positions, lack of funds, shortage of work, or other reason beyond the control of the employee.

Subp. 24a. **Male-dominated class.** "Male-dominated class" means any class in which 80 percent or more of the members are male.

Subp. 25. **Merit increase.** "Merit increase" means an increase given to an employee based on meritorious job performance.

Subp. 26. **Military leave.** "Military leave" means a leave of absence granted by state law to employees entering active duty in the armed forces of the state of Minnesota or of the United States of America.

Subp. 27. **Minimum qualifications.** "Minimum qualifications" means the requirements of training and experience necessary to qualify for a given class.

Subp. 28. **Original appointment.** "Original appointment" means the date of initial entry to probationary status normally through appointment from an open competitive list.

Subp. 29. **Overtime.** "Overtime" means hours worked in excess of a normal work shift or beyond a normal work week.

Subp. 30. **Permanent employee.** "Permanent employee" means an employee who has successfully completed a probationary period or who has attained permanent status upon the installation of the merit system.

Subp. 31. **Position.** "Position" means a group of current duties and responsibilities assigned or delegated by competent authority requiring the full-time or part-time employment of one person.

Subp. 32. **Probationary employee.** "Probationary employee" means an employee who is serving a probationary period in a class to which the employee has been appointed from an eligible list.

Subp. 33. **Probationary period.** "Probationary period" means the six-month working trial period during which a new employee is required to demonstrate fitness for the position to which the employee is appointed by actual performance of the duties of the position.

Subp. 34. **Promotion.** "Promotion" means a change of an employee from a position in one class to a position in another class with more responsible duties and a higher salary range.

Subp. 34a. **Protected groups.** "Protected groups" means females, disabled persons, and members of the following minorities: Black, Hispanic, Asian, Pacific Islander, American Indian, or Alaskan native.

Subp. 35. **Provisional employee.** "Provisional employee" means an employee who meets the minimum qualifications for the position but who has been appointed to a position without having been appointed from an eligible register.

Subp. 36. **Reallocation.** "Reallocation" means the reclassification of a position resulting from significant changes in the duties and responsibilities of the position that occur gradually over a period of time.

Subp. 37. **Reclassification.** "Reclassification" means a reallocation or change in allocation of a position to a higher, lower, or equivalent class.

Subp. 38. **Reemployment list.** "Reemployment list" means a list of former permanent or probationary employees who have been laid off and the names of former permanent or probationary employees who have voluntarily separated from merit system employment in good standing and whose applications for reemployment in the merit system are submitted within one year of separation.

Subp. 39. **Register.** "Register" means an officially established list of eligibles for a particular class.

Subp. 40. **Resignation.** "Resignation" means the termination of employment made at the request of the employee.

Subp. 41. **Salary adjustment.** "Salary adjustment" means an increase given to employees due to cost-of-living factors, going rates for similar jobs, or labor market conditions.

Subp. 42. **Salary increase.** "Salary increase" means an increase granted to an employee on the basis of working out of class or due to unusual employment conditions and not based on job performance, cost-of-living factors, going rates for similar jobs, or labor market conditions.

Subp. 43. **State agency.** "State agency" means the Department of Human Services.

Subp. 44. **Supervisor.** "Supervisor" means the merit system supervisor.

Subp. 45. **Suspension.** "Suspension" means an enforced leave of absence with or without pay, for disciplinary purposes or pending investigation of charges made against an employee.

Subp. 46. **Temporary employee.** "Temporary employee" means an employee who is appointed with a definite ending date. A temporary employee's term of employment may not exceed a total of 12 months in any 24-month period in any one agency.

Subp. 47. **Transfer.** "Transfer" means the movement of a probationary or permanent employee from a position in one class to another position in the same class in the same or different county agency or to a position in a different class in the same or different county agency that has a salary range within one step of the former class and similar comparable work value and that meets the requirements of part 9575.0850.

Subp. 48. **Veteran.** "Veteran" means every person defined as a veteran by Minnesota Statutes, section 197.447.

Subp. 49. **Veterans preference.** "Veterans preference" means preference granted to veterans by Minnesota Statutes, section 43A.11.

**Statutory Authority:** *MS s 256.012*

**History:** *L 1984 c 654 art 5 s 58; 10 SR 1507; 14 SR 1008; 15 SR 452; 16 SR 2054; 18 SR 2277; L 1994 c 631 s 31*

#### **9575.0020 OBJECTIVES OF COUNTY WELFARE MERIT SYSTEM.**

It is the aim of the Department of Human Services of the state of Minnesota, through the establishment of the county welfare merit system, to provide appointing authorities with an effective system of personnel administration based on merit principles. Specific objectives are:

A. economy and effective service in the Minnesota welfare and human services program;

B. the proper classification of positions so that positions essentially alike in duties and responsibilities are treated alike and positions not so alike are treated with due consideration to the nature and extent of the differences between them;

C. fair and equal opportunity for all qualified persons to compete for positions and promotions under the jurisdiction of the merit system solely on the basis of merit and fitness as ascertained through practical examinations;

D. equitable pay scales for the various classes established on the basis of equal pay for work of equal value; and

E. an attractive career service in public welfare and human services employment within the state of Minnesota.

**Statutory Authority:** *MS s 256.012*

**History:** *L 1984 c 654 art 5 s 58; 14 SR 1008*

#### **9575.0030 STATUTORY AUTHORITY.**

In order to accomplish the objectives stated in part 9575.0020, chapter 9575 has been promulgated by the commissioner of human services in accordance with Minnesota Statutes, sections 256.01, subdivision 4; 256.012; and 393.07, subdivision 5; and in compliance with Minnesota Statutes, chapter 14.

**Statutory Authority:** *MS s 256.012*

**History:** *L 1984 c 654 art 5 s 58*

#### **9575.0040 AMENDMENTS.**

The commissioner of human services, with the advice and recommendations of the council, may amend chapter 9575 after compliance with the provisions of Minnesota Statutes, chapter 14.

**Statutory Authority:** *MS s 256.012*

**History:** *L 1984 c 654 art 5 s 58*

**9575.0050 EDITING THE RULES.**

Prior to issuing or reissuing sections of the merit system rules, the supervisor shall edit the rules and make the following, and only the following, changes:

- A. to correct spelling or typographical errors;
- B. to correct grammatical construction, but such changes shall not alter the interpretation, intent, or purpose of the rule;
- C. to correct exact quotations of statutes that are clearly identified by enclosure in quotation marks and by citation of statutory reference, when enactment of statutory amendments makes such action necessary to make the quotations true and accurate; and
- D. to renumber rules or rule references as necessary because of adoption of new rules or abolition of existing rules by the commissioner after proper notice and hearing.

Such changes shall not be deemed to be amendments to the rules, and each shall be reported to the commissioner before release of the material. Any changes not approved by the commissioner shall be excluded from the material to be released.

**Statutory Authority:** *MS s 256.012*

**9575.0060 POSITIONS COVERED BY THESE RULES.**

These rules shall apply to all positions and employees in these positions engaged in the administration of community social service or income maintenance programs funded in whole or in part by federal grants-in-aid requiring a merit system of personnel management under the jurisdiction of appointing authorities except duly appointed or elected members of these boards, all employees of institutions, sanatoria, and hospitals under the jurisdiction of such boards, and the director of community social services. These rules shall be applicable to such positions until such time as the counties adopt and maintain rules affecting classification and compensation, examination, and certification of eligibles and other personnel standards acceptable to the commissioner.

**Statutory Authority:** *MS s 256.012*

**9575.0070 VIOLATIONS.**

Subpart 1. **By employees.** Violations of any of the provisions of chapter 9575 by an employee in the service shall be considered sufficient cause for the dismissal of that employee.

Subp. 2. **By an appointing authority.** Violations of chapter 9575 by an appointing authority shall be brought to the attention of the appointing authority by the supervisor. The notice shall include remedial measures necessary to correct past violations and to ensure future compliance. If the appointing authority refuses to take corrective action, the supervisor shall inform the commissioner who shall deny or suspend payment of all or part of state and federal administrative reimbursement funds, suspend services from the merit system, or require that other corrective action be taken.

Subp. 3. **Appeals.** An appointing authority may appeal any denial or suspension of administrative reimbursement to the merit system council which shall, after a review of the record available to the commissioner, make its recommendation to the commissioner. The commissioner's decision shall be final.

**Statutory Authority:** *MS s 256.012*

**9575.0080 POLITICAL ACTIVITY.**

Subpart 1. **Prohibitions.** No employee shall use his or her official authority or influence for the purpose of interfering with or affecting the result of an election or nomination for office.

No employee shall directly coerce, attempt to coerce, command, or advise a merit system employee to pay, lend, or contribute anything of value to a party, committee, organization, agency, or person for political purposes.

No employee shall be a candidate in a partisan election for any public office or for any political party office which is obtained through a partisan election.

Subp. 2. **Federal restrictions.** An employee continues to be covered by the Federal Hatch Act restrictions including all restrictions listed in subparts 1 to 3 while on annual leave, sick leave, leave without pay, or administrative leave. Any employee shall resign from the service upon filing as a candidate for public office, except as provided in subpart 3.

All prohibitions of political activity provided in the Federal Hatch Act apply to employees under the merit system.

**Subp. 3. Nonpartisan elections.** Any employee may be a candidate in nonpartisan elections. These are elections in which none of the candidates is to be nominated or elected as representing a political party whose candidates for presidential election received votes in the last presidential election.

**Statutory Authority:** *MS s 256.012*

### **9575.0090 PROHIBITION AGAINST DISCRIMINATION.**

**Subpart 1. In general.** No person shall be discriminated for or against in recruitment, examination, appointment, tenure, compensation, classification, or promotion or in conditions, facilities, or privileges of employment because of race, color, political affiliation, creed, religion, national origin, disability, age, marital status, status with regard to public assistance, sex, membership or activity in a local commission, or sexual orientation. Any person aggrieved by a violation of these prohibitions may file a complaint under Minnesota Statutes, chapter 363, or may file a discrimination complaint under the county agency's internal complaint process.

**Subp. 2. [Repealed, 14 SR 1008]**

**Subp. 2a. Affirmative action plan.** Each county agency shall have an affirmative action plan for employees covered by parts 9575.0010 to 9575.1580. The plan must contain:

A. a policy defining and prohibiting discriminatory harassment, including sexual harassment;

B. an internal discrimination complaint policy and procedure that includes notification of the Department of Human Services Office for Equal Opportunity, Affirmative Action and Civil Rights of complaints that are brought and their resolution;

C. provision for appointment of a person to provide liaison between the county agency and the Department of Human Services Office for Equal Opportunity, Affirmative Action and Civil Rights and to have responsibility for implementation of the local agency's plan;

D. provision for participation by the county agency in an affirmative action committee;

E. provision for notification of the Department of Human Services Office for Equal Opportunity, Affirmative Action and Civil Rights of periodic hiring goals established by the county agency, for expanded certification purposes; and

F. provision for compliance with Title I of the Americans with Disabilities Act of 1990, which prohibits discrimination against disabled employees or job applicants.

These requirements may be incorporated as part of a countywide affirmative action plan or provided as an addendum to the plan.

**Subp. 3. [Repealed, 14 SR 1008]**

**Statutory Authority:** *MS s 256.012*

**History:** *14 SR 1008; 18 SR 2277*

### **MERIT SYSTEM ORGANIZATION**

#### **9575.0100 DUTIES AND POWERS OF THE COMMISSIONER.**

The commissioner of human services shall have authority to require methods of administration which are necessary for compliance with requirements of the Federal Social Security Act, as amended, and for the proper and efficient operation of all welfare programs. The adoption of methods relating to the establishment and maintenance of personnel standards on a merit basis for all employees in positions covered by chapter 9575 and the examination thereof, and the administration thereof, shall be directed and controlled exclusively by the commissioner of human services pursuant to Minnesota Statutes, sections 256.012 and 393.07. Nevertheless, the commissioner of human services shall exercise no authority in the selection, tenure of office, and compensation of a specific individual employed in accordance with these methods.

**Statutory Authority:** *MS s 256.012*

**History:** *L 1984 c 654 art 5 s 58*

**9575.0110 ORGANIZATION OF THE MERIT SYSTEM COUNCIL.**

Subpart 1. **Members.** The merit system council members shall be appointed by the governor from a panel of names submitted by the commissioner of human services. The council shall be composed of three members who shall be public-spirited persons of recognized standing and of known interest in the improvement of public administration and in the impartial selection of efficient government personnel. No member shall have held political office or have been an officer in a political organization during the year preceding appointment, or during the term of the appointment. No member of the council shall have been an employee of the state agency or an employee or member of an appointing authority within one year prior to appointment.

Subp. 2. **Terms.** Members of the council shall serve for a term of three years or until successors have been appointed. A member appointed to fill a vacancy occurring prior to the expiration of a term shall be appointed for the remainder of such term.

Subp. 3. **Chairperson.** The council shall elect a chair from its membership. Such term shall be for a two-year period. The election of a chair shall be considered every other year at the first meeting of the new year.

Subp. 4. **Duties of supervisor.** The supervisor shall serve as secretary of the council. The supervisor shall keep a calendar of all business to be transacted at each meeting, issue notices of regular and special meetings, present to the council all matters that require consideration by the council, keep records and files of the council and minutes, and handle other matters as the council may direct or circumstances indicate as necessary and proper in order to facilitate and give effect to the actions of the council within the scope of its powers and duties.

**Statutory Authority:** *MS s 256.012*

**History:** *L 1984 c 654 art 5 s 58; 17 SR 1279*

**9575.0120 MEETINGS OF THE COUNCIL.**

Subpart 1. **In general.** Meetings of the council shall be held as often as necessary and practicable, upon the call of the chair, or of the commissioner. The commissioner shall have the right to be represented at all meetings of the council, but such representation shall be without voting power. The council shall adopt procedures for the conduct of its activities.

Subp. 2. **Quorum.** Two members shall constitute a quorum for the transaction of business at any meeting, and the concurrence of two members shall be necessary to make any action effective.

**Statutory Authority:** *MS s 256.012*

**History:** *17 SR 1279*

**9575.0130 DUTIES OF THE MERIT SYSTEM COUNCIL.**

It shall be the duty of the council within the scope of chapter 9575:

A. to establish general policies for the administration of merit examinations and the hearing of personnel appeals as provided in parts 9575.1150 to 9575.1200;

B. to hear such appeals or to appoint an appeal board of three members or to appoint a referee to hear such appeals on its behalf;

C. to consult with the commissioner of human services about the appointment of a full-time merit system supervisor;

D. to consult with the supervisor in formulating procedures for the purpose of ensuring conformity with the rules and the policies of the council;

E. to review the classification and compensation plans and to make recommendations to the commissioner about their adoption and subsequent revision;

F. to make recommendations to the commissioner about internal personnel policies to ensure conformity with the rules;

G. to promote public understanding of the purposes, policies, and practices of the merit system; and



H. to review and make recommendations to the commissioner about any amendments to the rules of the merit system.

**Statutory Authority:** *MS s 256.012*

**History:** *L 1983 c 654 art 5 s 58*

#### **9575.0140 COMPENSATION OF COUNCIL MEMBERS.**

Each member of the council shall be paid \$50 per regular meeting, but no member shall be paid more than \$600 in any one calendar year for regular meetings. Each member of the council shall be paid \$50 per day when serving on an appeal or hearing board. In addition, members whose residence is in excess of 50 miles from the place of meeting shall be compensated for travel expenses and, in an instance in which the meeting is scheduled for more than one day or when the hour of the beginning of the meeting, or the close of the meeting, does not allow coming from or returning to the place of residence within a reasonable time, for lodging and meals.

**Statutory Authority:** *MS s 256.012*

#### **9575.0150 APPOINTMENT OF THE MERIT SYSTEM SUPERVISOR.**

The commissioner, after consultation with the council, shall appoint a merit system supervisor in accordance with Minnesota Statutes, chapter 43A, and the rules of the Minnesota Department of Employee Relations. The supervisor shall be a person who has had training and experience in a field related to merit system administration and who has known sympathies with the merit principle in government service and shall possess such other qualifications as are requisite for the performance of the duties defined in part 9575.0160. Within three years prior to appointment, the supervisor shall not have held, nor during the term of office shall the supervisor hold, political office or office in any political organization.

**Statutory Authority:** *MS s 256.012*

#### **9575.0160 DUTIES OF THE SUPERVISOR.**

In conformance with chapter 9575, it shall be the duty of the supervisor to:

A. Develop and put into continuous effect policies and procedures for the administration of the merit system program as they relate to the preparation, administration, and scoring of examinations; the preparation, custody, and maintenance of registers of eligibles; the determination of availability to eligibles for appointment; the certification for appointment; and the determination of the adequacy of existing registers.

B. Develop the classification and compensation plans and consult with the council on the adoption and revision of such plans as they relate to the merit system program of recruitment and examination.

C. Promote public understanding of purposes, policies, and practices of the merit system program.

D. Appoint staff members, including technicians, clerks, stenographers, and other permanent or temporary employees who are necessary to carry out the provisions of chapter 9575. Employees shall be chosen in accordance with the provisions of the Minnesota Department of Employee Relations rules.

E. Review, develop, and propose amendments to existing merit system rules for consideration and recommendation by the merit system council and in accordance with the provisions of Minnesota Statutes, chapter 14.

F. Perform other duties which are prescribed by chapter 9575.

**Statutory Authority:** *MS s 256.012*

### **COMPENSATION PLAN**

#### **9575.0300 PREPARATION AND ADOPTION.**

Subpart 1. **Preparation of plan.** In accordance with the Administrative Procedure Act, the commissioner shall formally adopt and make effective a comprehensive compensation plan including minimum and maximum salary rates as published in part 9575.1500, and recommended intervening steps as published in the Human Services Merit System Manual, as

amended through May 29, 1982, for all classes of positions. The plan shall apply to all agencies covered by the merit system except as otherwise negotiated for employees in a bargaining unit in agencies where there is an exclusive representative or in those instances where the requirements of part 9575.0350, subpart 2, item C have been satisfied. The plan shall include salary ranges for the various classes, with the salary of each class consistent with the functions outlined in the class specifications. Minimum, intervening, and maximum rates of pay for each class shall be established to provide for salary advancement without change in duty, in recognition of meritorious service. The advice and suggestions of appointing authorities, prevailing salary rates for similar and competing types of employment in business and government, and other relevant factors shall be taken into consideration in developing the salary schedules. Equitable compensation relationships shall be established between female-dominated classes, male-dominated classes, and balanced classes of employees in accordance with Minnesota Statutes, sections 471.991 to 471.999. Classes shall be evaluated in order to determine comparable work value and to establish equitable compensation relationships between classes of positions.

**Subp. 2. Review by council.** The proposed compensation plan, and any amendments to it, shall be submitted to the merit system council for review and recommendation. Upon review and recommendation by the council and after compliance with Minnesota Statutes, chapter 14, Administrative Procedure Act, the commissioner shall formally adopt the compensation plan which shall be the official salary schedule of the Minnesota merit system, effective the date specified.

**Subp. 3. Salary plans and salary rates.** The comprehensive compensation plan adopted by the commissioner shall provide for a single salary schedule for each occupational grouping of classes including professional, support, clerical and maintenance, and trades classes. The plan shall be established as provided in subpart 1 with minimum and maximum salaries for each class as provided in part 9575.1500. The plan shall be the official plan for all appointing authorities until amended.

**Statutory Authority:** *MS s 256.012*

**History:** *10 SR 1507; 15 SR 452*

#### **9575.0310 SELECTION OF SALARY RANGES BY APPOINTING AUTHORITY.**

**Subpart 1.** [Repealed, 15 SR 452]

**Subp. 2. Selection of rates.** Within the minimum and maximum salaries for classes on the salary schedules for each occupational grouping of classes, appointing authorities shall designate, by resolution, the minimum, intervening and maximum salary rates to be paid for each class of positions used by the appointing authority. The supervisor shall be promptly notified of the rates selected by each appointing authority.

**Subp. 3. Plan amendments.** The appointing authority may amend, by resolution, the minimum, intervening, and maximum salary rates to be paid for any class of positions used by the appointing authority. The supervisor shall be promptly notified of the official action taken by the appointing authority to amend its plan.

**Subp. 4. Incumbents.** Salary rates for incumbents of positions shall be established in accordance with the provisions of part 9575.0350, subparts 2 and 3 on the basis of the comprehensive compensation plan provided in part 9575.0300, subpart 3.

**Subp. 5. Nonrepresented employees.** In agencies with an exclusive representative, the appointing authority may pay confidential, supervisory, and other personnel not covered by an exclusive representative who are in the same class as employees who have an exclusive representative, the same rate of pay and salary range as negotiated for the class under part 9575.0330, subpart 1. In no case would this rule allow the appointing authority to reduce the rate of pay of confidential, supervisory, or other excluded employees.

**Statutory Authority:** *MS s 256.012*

**History:** *15 SR 452*

#### **9575.0320 ADJUSTMENT OF OFFICIAL SALARY SCHEDULE OF THE MINNESOTA MERIT SYSTEM.**

**Subpart 1. Annual adjustments.** The compensation plan provided in part 9575.1500 shall be adjusted annually to reflect changes in the level of salary rates in business and gov-

ernment for similar and competing types of employment and to achieve equitable compensation relationships between classes of positions based on their comparable work value.

Subp. 2. [Repealed, 12 SR 1335]

Subp. 3. **Plan amendments.** After a review of changes in the level of salary rates and consideration of available information regarding trends in the Twin City Consumer Price Index, the supervisor shall propose amendments to the compensation plan in accordance with Minnesota Statutes, chapter 14, the Administrative Procedure Act, and as outlined in part 9575.0300. Amendments shall include a proposed general adjustment to all rates of pay in the professional, support, clerical, and maintenance and trades salary schedules and specific comparability adjustments to all rates of pay for certain classes, as necessary, to correct compensation inequities based on comparable work value. The amended compensation plan shall be effective on the following January 1 or, for those agencies on a biweekly or four week payroll period, on the beginning date of the first payroll period after the following January 1.

Subp. 3a. **Employee salary adjustments.** Based on an annual review of adjustments to salary levels by employees with similar and competing types of employment and trends in the Twin City Consumer Price Index, the supervisor shall recommend a general salary adjustment for all employees on the professional, support, clerical, and maintenance and trades salary schedules whose positions are not covered by the terms and conditions of a collective bargaining agreement. The recommended general salary adjustment shall be proposed in accordance with Minnesota Statutes, chapter 14, the Administrative Procedure Act, in an amount as provided in part 9575.0350, subpart 3. The adopted salary adjustment shall be effective on the following January 1 or, for those agencies on a biweekly or four week payroll period, on the beginning date of the first payroll period after the following January 1.

Subp. 4. [Repealed, 12 SR 1335]

Subp. 5. **Plan adjustments.** The appointing authority may implement an adjusted compensation plan by adjusting the salaries of the employees to the same numerically designated salary rate on the adjusted plan that the employees were paid under the former plan.

Subp. 6. [Repealed, 12 SR 1335]

**Statutory Authority:** *MS s 256.012*

**History:** *L 1984 c 654 art 5 s 58; 10 SR 1507; 12 SR 1335*

### 9575.0330 NEGOTIATION OF A SALARY SCHEDULE.

Subpart 1. **Role of exclusive representative.** In those agencies where employees have elected an exclusive representative the appointing authority and the exclusive representative may negotiate their own salary schedules for employees in the bargaining unit by class, with the salary for each class consistent with the functions outlined in the class specifications. Minimum, intervening, and maximum rates of pay for each shall be established to provide for steps in salary advancement without change of duty, in recognition of meritorious service. When a new classification not previously used in the agency is established in the middle of the contract period and such class falls within the bargaining unit and no provision exists in the contract for establishing such salaries, the appointing authority and the exclusive representative shall negotiate a salary schedule for the new classification within 60 days of the date of establishment of the classification.

Subp. 2. **Filing.** A complete copy of the negotiated salary schedule must be filed with the supervisor within ten days after the signing of the contract or agreement. If the contract or agreement calls for succeeding increases in the salary schedule which change the original minimum and maximum salaries or intervening steps a new adjusted salary schedule must be filed with the supervisor within ten days after the effective date of any such succeeding adjustment.

**Statutory Authority:** *MS s 256.012*

### 9575.0340 ADMINISTRATION OF PLAN.

In those agencies without an exclusive representative or where the collective bargaining agreement is silent regarding initial salaries, the entrance salary for any new employee shall normally be at the minimum rate of pay for the class to which the appointment is made. Appointments may be made up to and including the third step of the salary range without

prior approval of the supervisor. Requests to appoint above the third step of the salary range may be made based on the exceptional qualifications of the candidate or the unavailability of candidates at a lower rate, giving consideration to the salaries of current employees in the same classification. All candidates with similar exceptional qualifications must be offered the same rate of pay which shall be one of the established steps in the agency's adopted salary range for the class to which the appointment is made. Requests, including the reasons for appointment above the third step of the salary range, must be submitted in writing by the appointing authority to the supervisor for prior approval.

**Statutory Authority:** *MS s 256.012*

**History:** *10 SR 1507*

### 9575.0350 SALARY ADJUSTMENTS AND INCREASES.

**Subpart 1. Availability of funds.** Before salary increases and adjustments are made in accordance with parts 9575.0300 to 9575.0380, or in accordance with a negotiated collective bargaining agreement, the appointing authority shall have in its records and carry in its minutes a definite statement that funds for this purpose are available.

**Subp. 2. Plan requirements.** In agencies where there is no exclusive representative or collective bargaining agreement, negotiated adjustments in the rates of pay of incumbents of positions, in order to conform to a newly adopted or currently effective compensation plan, shall be in accordance with the following provisions:

A. If the rate of pay of an employee is below the minimum of the range prescribed for the employee's classification on the merit system compensation plan, the rate shall be adjusted to that minimum.

B. If the rate of pay of an employee is at or above the new minimum salary adopted for their class, the employee may receive the general merit system adopted adjustment, and if the employee's class was adjusted to a greater extent than the general adopted adjustment, the employee may receive the additional adjustment as provided in part 9575.0320, subpart 4 as long as the additional adjustment does not place the employee's salary over the new maximum adopted salary for the class.

C. In those situations where the appointing authority has determined that the general merit system adopted adjustment is inappropriate for its employees, it may grant a different adjustment; however, the authority must file with the supervisor the new salary steps by class and a salary conversion table as provided for in part 9575.1510. These adjustments shall at least place employees at the minimum salary and not over the maximum salary for their class.

D. Employees at the maximum salary for their class may be granted salary adjustments over the maximum salary prescribed for their class, only if such a merit system adjustment is adopted and only in the amount adopted for incumbents of that class.

E. If the rate of pay of an employee is higher than the maximum of the range prescribed for the employee's class of positions, the rate may remain the same as long as the employee retains the same classification.

F. If the rate of pay of an employee falls between the minimum and maximum of the salary range prescribed for the employee's class but does not correspond to any intervening steps in the range, due to the adoption of merit system general adjustment, such rate may remain the same. In the case of subsequent merit increases, the employee shall be placed back on a step in the adopted salary range for his or her class.

G. Employees at or above the maximum salary rate for their class may be granted a salary adjustment only in the amount adopted by the merit system for all employees whose positions are not covered by the terms and conditions of a collective bargaining agreement. If an appointing authority wishes to grant a larger general adjustment to its employees than that adopted by the merit system, the appointing authority, by prior resolution, may grant that employee the annual equivalent of the difference between the merit system adopted adjustment for all employees and the agency adopted adjustment for its employees in the form of a single lump sum payment or lump sum salary payments commencing on the effective date of the general adjustment. The employee's base salary rate shall be equal to the employee's salary before the agency adjustment plus the merit system adopted adjustment.

H. An appointing authority may propose a salary increase within the salary range to an employee upon detailed written statements to the supervisor specifying the unusual employment conditions that make the action necessary and the interests of the agency that will be served by the action. The supervisor shall review each proposal, giving due consideration to the salary rates paid other employees in the same class in the agency and shall deny any request which does not assure equitable compensation for comparable work. Salary increases proposed in accordance with this section are not based on employee performance or a general merit system adopted salary adjustment. The granting of such an increase shall not affect the employees' eligibility for subsequent merit increases or salary adjustments in accordance with merit system rules. If the unusual employment conditions giving rise to such an increase are of a temporary nature, the employee's salary shall be decreased to its previous level upon conclusion of those conditions. This decrease is not subject to part 9575.0370 or part 9575.1180.

Subp. 3. **Recommended adjustment.** The merit system general adjustment recommended for incumbents is three percent for employees on the professional, support, clerical, and maintenance and trades salary schedules.

Subp. 4. **Salary differentials.** Intra-agency salary differentials between employees in the same class of positions, between employees in different classes of positions in the same occupational field, and between occupational fields in the same agency are recognized as important factors in the maintenance of satisfactory morale. If the general adjustments result in the reduction of the differential between employees in the same class of positions or between employees in different classes of positions in the same occupational field, adjustments may be made that will, insofar as practicable, maintain such differentials within the limits of the new plan. In maintaining such differentials, the appointing authority shall take into consideration the length of service and quality of performance of the employees affected.

Subp. 5. **Collective bargaining agreements.** In agencies where there is an exclusive representative and a negotiated salary schedule for employees in the bargaining unit, adjustments in the rates of pay of employees shall follow the wording of the contract or agreement.

**Statutory Authority:** *MS s 256.012*

**History:** 8 SR 1352; 9 SR 1339; 10 SR 1507; 11 SR 1075; 12 SR 1335; 14 SR 1806; 15 SR 452; 16 SR 2054; 17 SR 1829; 18 SR 2277; 19 SR 2090

#### **9575.0360 MERIT INCREASES.**

Subpart 1. **Increases by steps.** Merit increases from the minimum on the official merit system compensation plan or on any negotiated salary schedules or on any salary schedules filed with the supervisor pursuant to part 9575.0350, subpart 2, item C shall be by successive intervening steps of pay for the class, with due consideration for length of service and quality of performance.

Subp. 2. **Eligible employees.** In those agencies that have adopted a merit increase policy, an employee may be considered for a merit increase upon the satisfactory completion of the probationary period.

Subp. 3. **Annual review for merit increases.** In those agencies that have adopted a merit increase policy, a merit increase for each employee not at the maximum salary for his or her classification shall be considered at least once each 12-month period unless otherwise negotiated through a contract or agreement by the appointing authority and the exclusive representative. In the event an increase is not granted, the reasons for the denial of the increase shall be reported, in writing, to the employee and to the merit system supervisor.

Subp. 4. **Restriction on frequency of increases.** In those agencies that have adopted a merit increase policy and, except as otherwise negotiated by the appointing authority and the exclusive representative, a merit increase shall not be granted until the employee has served at least six months at the rate of pay from which an increase is proposed, except that in cases of exceptionally meritorious service, a merit increase of more than one salary step in the range or at less than a six-month interval may be permitted. In each case, however, the facts upon which the merit increase is based shall be recorded in the official minutes kept by the appointing authority and reported to the merit system supervisor.

Subp. 5. **Increases based on additional education.** In those agencies that have adopted a merit increase policy, an extraordinary merit increase within the agency's salary range may

be granted upon satisfactory completion of 15 additional credits in a field or fields pertinent to the employee's class. In each case the employee's transcript of coursework must accompany the proposed merit increase.

Subp. 6. **Lump sum payments.** In those agencies that have adopted a merit increase policy, the appointing authority may grant an employee who meets all other agency eligibility requirements for a merit increase but whose salary is at or above the maximum rate of pay in the adopted salary range for their classification the annual equivalent of a one-step merit increase in the form of a single lump sum payment in recognition of meritorious job performance. For this provision to be effective, appointing authorities, prior to the beginning of the year in which such merit increases, if granted, are effective must establish, by resolution, as its official policy that these payments will be granted for meritorious job performance. The base salary of an employee receiving a lump sum merit increase shall remain at the rate attained immediately prior to the increase.

**Statutory Authority:** *MS s 256.012*

#### 9575.0370 SALARY DECREASES.

Subpart 1. **In general.** Except as otherwise negotiated by an agency and the exclusive representative, a salary decrease within the range prescribed for the class may be made only for just cause. A permanent employee shall be notified of the intent to effect a reduction in pay and the reasons for the action at least ten calendar days prior to the date on which the reduction becomes effective. A copy of the notice shall be sent to the supervisor. A permanent employee whose salary is reduced may request a hearing as provided in part 9575.1180.

Subp. 2. **Exemption.** Collective bargaining agreement provisions whereby a salary adjustment or salary increase is negotiated for a set period of time do not fall within the provisions of subpart 1.

**Statutory Authority:** *MS s 256.012*

#### 9575.0380 WORK OUT OF CLASS.

If an employee is expressly assigned in writing to perform all the duties of a position allocated to a higher classification that is temporarily unoccupied for reasons other than vacation or sick leave and that work exceeds 15 consecutive work days in duration, the employee so assigned shall be paid for all hours of the assignment at least at the minimum rate of pay of the salary range for the higher class or may be granted a salary increase within the assigned employee's salary range. If the assignment is to a position in a classification at an equal or lower level, the employee shall be paid for all hours of the assignment at the employee's current rate of pay. A work out of class assignment is limited to no more than six months. An appointing authority may submit a written request to extend a work out of class assignment for up to an additional six months, specifying the reason why the extension is necessary. A request to extend a work out of class assignment must be initiated at least 15 days before the end of the initial six-month assignment. Approval of such assignments by the supervisor is required and must be received by the supervisor within five calendar days of the assignment. Upon completion of the work out of class assignment, the employee's salary shall be reduced to its previous level. This decrease is not subject to part 9575.0370 or part 9575.1180.

**Statutory Authority:** *MS s 256.012*

**History:** *14 SR 1008; 15 SR 452*

### RECRUITMENT OF APPLICANTS

#### 9575.0400 PHYSICAL EXAMINATIONS.

Applicants may be required to pass a satisfactory physical examination before appointment.

**Statutory Authority:** *MS s 256.012*

#### 9575.0410 APPLICATIONS.

Subpart 1. **Forms and filing.** All applications shall be made on forms prescribed by the supervisor and must be filed on or before the closing date specified in the announcement, or

postmarked before midnight of that date. On such applications the supervisor shall require all pertinent information pertaining to education, experience, age, and any other information that the supervisor may deem necessary. All applications shall be signed and the truth of all statements contained therein certified by such signature.

**Subp. 2. Hard-to-fill positions.** In those classes of positions in which there is difficulty in obtaining qualified eligibles, the supervisor may establish a program that will be both positive and continuous. Under such a plan, applications may be accepted at any time and examinations held whenever applicants have filed in sufficient numbers to ensure adequate competition.

**Statutory Authority:** *MS s 256.012*

#### **9575.0420 DISQUALIFICATION OF APPLICANTS.**

The supervisor may refuse to examine an applicant, or after examination may disqualify such applicant or remove the applicant's name from a register, or may refuse to certify any eligible person on a register if the applicant:

A. is found to lack any of the preliminary requirements established for the examination for the class of positions;

B. is physically, mentally, or emotionally so disabled as to be rendered unfit for the proper performance of the duties of the class;

C. is addicted to habit-forming drugs or is a habitual user of intoxicating liquors to excess;

D. has been guilty of any crime involving moral turpitude or of infamous or notoriously disgraceful conduct;

E. has been dismissed from the public service or any other position for delinquency or misconduct;

F. has made false statement of any material fact in the application;

G. has used or attempted to use a political pressure or bribery to obtain an advantage in the examination or appointment;

H. has directly or indirectly obtained information about the examinations to which the applicant was not entitled;

I. has failed to submit the application correctly or within the prescribed time limits;

J. has taken part in the compilation, administration, or correction of the examination;

K. has otherwise violated provisions of these rules; or

L. is not available in an area under the jurisdiction of the merit system.

A disqualified applicant shall be promptly notified of such action, and an applicant who is not admitted to an examination because of failure to meet the preliminary requirements shall be notified by letter of the applicant's last known address sufficiently in advance of the examination to allow for an appeal from rejection as provided in parts 9575.1150 to 9575.1200.

**Statutory Authority:** *MS s 256.012*

**History:** 17 SR 1279

### **EXAMINATIONS**

#### **9575.0450 CHARACTER OF EXAMINATIONS.**

**Subpart 1. In general.** Examinations for entrance into the public welfare and public safety merit systems shall be conducted on a competitive basis. Examinations shall be practical in nature, shall be constructed to reveal the capacity of the applicant for the particular position for which the applicant is competing, as well as the applicant's general background and related knowledge, and shall be rated objectively.

The supervisor shall determine the content of all examination processes which shall include: performance tests, written examinations, ratings of experience and training, promotional ratings, or oral examinations.

**Subp. 2. Weight assigned to parts.** The supervisor shall assign definite weights to each part of the examination prior to its public announcement.

Subp. 3. **Positions for disadvantaged groups.** Recruitment and selection for those positions identified in the minimum qualifications of the class specification as directed toward clients and other disadvantaged groups will be limited to persons of low income or low educational achievement, including the physically and mentally disabled. It will be the specific responsibility of the individual appointing authorities to effectively make known opportunities for these jobs to such persons. Persons who do not meet these limitations will be disqualified from competition for these positions and notified of the reasons therefor. Examinations for these positions will include at least one of the following: performance test, oral examination, written test, or oral directions test combining aspects of performance and minimum literacy. The supervisor shall assign a definite weight to each part of the examination prior to its public announcement. Eligible lists will be established on an area or county basis only. Certification of eligibles on an area basis smaller than the county unit may be approved by the supervisor. Because these positions cover a broad range of duties requiring many different abilities, knowledges, and basic skills, notwithstanding other provisions of chapter 9575, the supervisor also may approve selective certification of eligibles who possess a particular ability, knowledge, or skill.

**Statutory Authority:** *MS s 256.012*

**History:** *17 SR 1279*

#### **9575.0460 NOTICE OF EXAMINATION.**

The supervisor shall announce all examinations for original entrance into the public welfare and public safety merit systems at least two weeks in advance of the closing date for receipt of applications, and shall make every reasonable effort to attract qualified persons to compete in these examinations. Notice of examinations shall be posted in important centers throughout the state, and copies shall be distributed among appointing authorities throughout the state, newspapers, public officials, educational institutions, professional and vocational societies, and such other organizations and individuals as the supervisor may deem expedient. Public announcement of examinations shall specify the title and salary ranges of the class of positions, the duties to be performed, the minimum qualifications required, the final date on which applications will be received, and all other conditions of competition, including the relative weights assigned to the various parts of the examination.

**Statutory Authority:** *MS s 256.012*

#### **9575.0470 CONDUCT OF EXAMINATIONS.**

Subpart 1. **Place; monitors.** Written tests shall be conducted simultaneously in as many places as are necessary for the convenience of the applicants and as are practicable for proper administration. The supervisor may designate such monitors as may be necessary to conduct examinations under instructions prescribed by the supervisor and may also arrange for the use of public buildings in which to conduct the examinations. The supervisor shall provide for the compensation of monitors in accordance with the approved budget for the purpose.

Subp. 2. **Refusal to score.** The supervisor shall refuse to score the examination of an applicant who copies another applicant's examination paper, or falsifies an identity to gain admittance to the examination, or who otherwise meets the criteria for disqualification as provided for in part 9575.0420.

**Statutory Authority:** *MS s 256.012*

**History:** *17 SR 1279*

#### **9575.0480 RATING EXAMINATIONS.**

Subpart 1. **Determination of score.** The supervisor shall determine a final score for each applicant's examination, computed in accordance with the weights for the several parts established by the supervisor as set forth in the announcement. Failure in any part of an examination shall disqualify the applicant in the entire examination. All applicants for the same position shall be accorded uniform and equal treatment in all phases of the examination procedure.

Subp. 2. **Determination of passing point.** The supervisor shall utilize appropriate scientific techniques and procedures in rating the results of examinations and in determining the final scores of the applicants. The supervisor shall establish reasonable passing points for



all examinations, giving due regard to the number of vacancies that may reasonably be expected to occur during the life of the register.

**Statutory Authority:** *MS s 256.012*

#### **9575.0490 RATING TRAINING AND EXPERIENCE.**

When training and experience form a part of the total examination, the supervisor shall determine a procedure for the evaluation of the training and experience qualifications of the various applicants. The formula used in appraisal shall give due regard to recency and quality, as well as quantity, of experience and to the pertinency of the training. This procedure shall allow for the substitution of training for experience, and experience for training, within the limits stated in the class specifications.

**Statutory Authority:** *MS s 256.012*

#### **9575.0500 ORAL EXAMINATION.**

When an oral examination forms a part of a total examination for a class of positions, the supervisor shall select one or more oral examination boards as needed. An oral examination board shall consist of two or more members who shall be known to be interested in the improvement of public administration and in the selection of efficient government personnel and at least one of whom shall be technically familiar with the character of work in the position for which the applicant will be examined. Any person holding political office or any officer or committee member of any political organization, or any person actively engaged in the work of any political organization, shall not serve as a member of a board. If practicable, all applicants qualifying for the oral examination for the class of positions shall be rated by the same oral examination board. A member of an oral examination board shall disclose each instance in which the member knows the applicant personally and, in those instances, the supervisor shall determine whether the oral examination board member shall rate that applicant.

**Statutory Authority:** *MS s 256.012*

**History:** *17 SR 1279*

#### **9575.0510 NOTICE OF EXAMINATION RESULTS.**

Each applicant passing all parts of the examination shall be notified by mail by the supervisor of the final rating as soon as the rating of the examination has been completed and the register established. An eligible, upon request and presentation of proper identification, shall be entitled to information about the eligible's relative position on a register. An applicant who fails any part of the examination or the total examination shall be promptly notified of the failure.

**Statutory Authority:** *MS s 256.012*

**History:** *17 SR 1279*

#### **9575.0520 EXAMINATION RECORDS.**

The supervisor shall be responsible for the maintenance of all examination records. Applications and other necessary examination records shall be kept during the life of the register. Examination records of appointees shall be kept permanently, but examination records of applicants not appointed may be destroyed 30 days after the register expires.

**Statutory Authority:** *MS s 256.012*

#### **9575.0530 EXAMINATION RETESTING.**

Applicants may apply to retake a competitive or promotional examination that is open for application on a continuous basis but may not retake an examination within 60 days of the previous test date and more than three times in a calendar year.

**Statutory Authority:** *MS s 256.012*

**History:** *14 SR 1008*

### **REGISTERS**

#### **9575.0550 ESTABLISHMENT OF REGISTERS.**

Subpart 1. **Order of names.** After each examination the supervisor shall prepare and maintain registers of persons who attain passing scores in the examination. The names of eli-

gible persons shall be placed on registers in the order of their final rating, beginning with the highest, except as modified by veteran's preference. If two or more persons have final ratings that are identical, their names shall be arranged on the register in the order in which their applications for examination were accepted. Remaining tie scores shall be broken by arranging names in alphabetical order.

**Subp. 2. Types of registers.** Eligible registers resulting from examinations shall be of three kinds: open-competitive registers, from which original appointment shall be made; promotional registers, from which promotions shall be made; and trainee registers, from which trainee appointments shall be made. Other registers or lists of persons eligible for appointment may be established in accordance with other provisions of these rules.

**Subp. 3. Promotional registers.** Promotional registers shall consist of the names of permanent and probationary employees who attain passing scores in the examination for promotion to a class of positions.

**Subp. 4. Trainee registers.** Trainee registers shall consist of the names of persons who qualify in an examination for a trainee classification or those persons who qualify for appointment to a regular class of positions and who also apply for placement on a trainee subregister of the established register for the regular class of positions.

**Subp. 5. Local registers.** Registers shall normally be established on a statewide basis. Nevertheless, the supervisor, with the approval of the commissioner of human services, may offer examinations on a county or area basis or may establish a county area subregister of a statewide register. Eligibility for placement on a county or area subregister shall be determined by legal residence in the county or area or, in the case of a promotional register, by employment with the local social services agency.

**Subp. 6. Layoff lists.** Layoff lists shall be established by county and shall include the names of permanent and probationary employees who have been laid off from employment because of lack of funds or lack of work in accordance with the provisions of these rules. Names shall be placed on this list in reverse order of layoff.

**Subp. 7. Reemployment list.** The supervisor may establish a reemployment list of the names of former permanent and probationary employees who are eligible under the rules for reinstatement to a class of positions and who apply for placement on this list. Names shall be placed on this list in the manner determined by the supervisor. All persons on such list are equally eligible for appointment, and no rank or position shall be assigned.

**Statutory Authority:** *MS s 256.012*

**History:** *L 1984 c 654 art 5 s 58; L 1994 c 631 s 31*

#### **9575.0560 CHANGE OF ADDRESS.**

Each applicant or eligible shall file with the supervisor notice of any change of address.

**Statutory Authority:** *MS s 256.012*

#### **9575.0570 DURATION OF REGISTERS.**

The life of each register shall normally be one year from the date of its establishment, but this period may be reduced or extended by the supervisor with the approval of the council. In no case, however, shall a register be in existence for a period of more than three years. A register may be deemed by the supervisor to be exhausted if fewer than three available eligibles remain on it. Upon exhaustion of a register, or if the supervisor, with the approval of the council, reduces the life of a register, the supervisor shall notify each eligible remaining on such register to this effect by mail to the eligible's last known address.

**Statutory Authority:** *MS s 256.012*

**History:** *17 SR 1279*

#### **9575.0580 REMOVAL OF NAMES FROM REGISTERS.**

**Subpart 1. Reasons for removal.** The supervisor may remove the name of an eligible from a register for any of the following causes:

A. Appointment through certification from such register to fill a probationary appointment.

B. Appointment through certification from a register for another class whose minimum salary is either equal to or higher than the minimum salary for this class of positions;

but, at the request of the appointee in such a case, the appointee's name may be continued on, or restored to, any or all registers other than the one from which the appointment was made, for the remainder of the life of such register.

C. Filing of a statement by the eligible of unwillingness to accept appointment. Such statement of unwillingness may be restricted to a limited period of time or to geographic locations or positions involving other conditions of employment, as specified. The name of the eligible shall then be treated as not available and shall be passed over in certification to fill any vacancy under the conditions specified as though such name did not appear on the register. Any eligible may file a new statement at any time notifying for future consideration any prior statement about the time, place, or other conditions under which appointment will be accepted.

D. Declining of appointment under such conditions as the eligible previously has indicated a willingness to accept.

E. Failure to respond within five days to any inquiry of the supervisor, the personnel officer, or any appointing authority relative to availability for appointment.

F. Consideration of a probationary appointment from a promotional register by three different appointing authorities, or three times by one appointing authority, and not appointed.

G. Consideration of a probationary appointment from an open-competitive register to a class of positions within the preceding two years by three different appointing authorities, or three times by one appointing authority, and not appointed.

H. Any cause specified in part 9575.0420.

Subp. 2. **Notice of removal; names restored to list.** The supervisor, upon noting any declination or failure of any eligible to respond, may send a notice to the eligible of the removal of the eligible's name from the register. Such notice may include any inquiry about the reasons for such declination or failure to respond and a question as to whether the eligible is willing to accept the next appointment offered under such conditions as the eligible may specify. Upon the furnishing of reasons satisfactory to the supervisor for the declination or failure to respond, and a statement of willingness to accept appointment, the name of the eligible may be restored to the register for certification for appointment under the conditions specified. It shall be considered impossible to locate an eligible when any communication mailed to the last known address of record supplied by the eligible is not replied to within five days or is returned unclaimed, or if a telegram is not replied to within three days. It shall be known to the supervisor that an eligible is not willing to accept a position when a declination of appointment or statement of unwillingness to accept appointment is on file with the supervisor.

**Statutory Authority:** *MS s 256.012*

**History:** *17 SR 1279*

## CERTIFICATION OF ELIGIBLES

### 9575.0600 VACANCIES.

Vacancies in the classified service shall be filled by reemployment, original appointment, promotion, transfer, demotion, or reinstatement.

**Statutory Authority:** *MS s 256.012*

### 9575.0610 REQUISITION FOR CERTIFICATION.

If a vacancy in any position under an appointing authority is to be filled other than by reinstatement, noncompetitive examination, transfer, or demotion, and a new employee is needed, a requisition shall be submitted by the appointing authority to the supervisor. This requisition shall state the number of positions to be filled in each class, together with the class title and other appropriate information. In addition, desirable special qualifications for the particular position under consideration may be indicated. In requesting the certification of individuals with special qualifications, the appointing authority shall state in the request the reasons for the special qualifications requested. Eligibles shall be certified in strict order of standing on the register, except in a case in which the supervisor has determined that there is

reason for a certification of an eligible with special qualifications. Requests for certification of individuals with special qualifications approved by the supervisor shall be reported to the council at its next scheduled meeting.

**Statutory Authority:** *MS s 256.012*

#### 9575.0620 CERTIFICATION METHODS.

**Subpart 1. Competitive register.** Upon receiving a requisition, the supervisor shall certify the names of available eligibles. If one position is involved, the supervisor shall certify the 15 highest available names together with any additional names of persons having an examination rating within three points of the person on the certification with the highest examination rating, and any additional names of persons having the same examination score as that of the 15th person certified, from the open-competitive register established for the class of positions. Names of available eligibles from the appropriate reemployment register, if one exists, shall also be certified as additional names.

**Subp. 2. Promotional register.** The supervisor may also certify the seven highest available names together with any additional names of persons having an examination rating within three points of the person on the certification with the highest examination rating, and any additional names of persons having the same examination scores as that of the seventh name certified, from the appropriate promotional register if such register exists and is requested. Names of available eligibles from the appropriate reemployment register, if one exists, shall also be certified as additional names.

**Subp. 3. Certification for more than one vacancy.** If more than one vacancy exists, the supervisor shall certify at least as many names from the register as there are vacancies to be filled, together with any additional names of persons having an examination rating within three points of the person on the certification with the highest examination rating, and any additional names of persons having the same examination score as that of the last person certified on a competitive certification or as that of the last person certified on a promotional certification. Supplementary certifications will be issued only in instances in which it is found that there are fewer than 15 available candidates on the competitive certification or seven available candidates on the promotional certification.

**Subp. 4. Selection for appointment.** The appointing authority may select for appointment anyone among the certified candidates who is eligible for appointment.

**Subp. 5. Too few names on a certification.** When the number of different names available for filling any vacancy by original appointment, promotion, or reinstatement is fewer than seven on all competitive and promotional registers combined, the appointing authority may decline certification for that vacancy and may request certification from a register, or registers, that the supervisor deems appropriate.

**Subp. 6. Provisional filling of vacancy.** If there is no register that the supervisor deems appropriate, then the vacancy may be filled provisionally as provided for in part 9575.0660.

**Subp. 7. Expanded certification.** When the supervisor determines that a disparity exists between an agency's work force and its approved affirmative action plan, the supervisor shall ensure to the extent possible that available eligibles who are members of the protected group as defined in part 9575.0010, subpart 34a, for which the disparity exists are certified for appointment. When fewer than three protected group eligibles for which a disparity exists would be certified under subparts 1 and 2, the supervisor shall certify additional protected group eligibles for which a disparity exists to bring the number of eligibles certified to a total of three names from each protected group. Eligibles to be certified shall be determined by examination score.

**Statutory Authority:** *MS s 256.012*

**History:** *13 SR 1057; 14 SR 1008*

#### 9575.0630 COUNTY-OPTION CERTIFICATION.

The appointing authority may request from the supervisor names of eligibles from either the statewide original entrance register or from a subregister for the county, a restricted area, or a district of the state, as set forth in part 9575.0550, subpart 5. The supervisor, upon receipt of such requisition, shall refer names of eligibles from the register as requested.

If an appointing authority requests a certification of eligibles from a subregister established for a specific locality but there are insufficient eligibles thereon, certification shall be made on a statewide basis.

**Statutory Authority:** *MS s 256.012*

## APPOINTMENTS

### 9575.0650 APPOINTMENT FROM REGISTERS.

**Subpart 1. Original appointment.** The employment of any person from a certification from an open-competitive register shall be deemed to be an original appointment. In selecting persons from among those certified by the supervisor for original appointment, the appointing authority shall be permitted to examine their application and reports of investigation and to interview them. Final selection and the action taken on each candidate shall be reported to the supervisor in the manner prescribed by the supervisor.

**Subp. 2. Promotional appointments.** Promotional appointments shall be made in the same manner as original appointments as specified in subpart 1, except that the person appointed is selected from a certification from a promotional register.

**Subp. 3. Trainee appointments.** Trainee appointments shall be made in the same manner as original appointments as specified in subpart 1, except that the person appointed is selected from a certification from a trainee register. A trainee appointment shall be to a specific trainee classification as provided in the classification plan and shall be for the period of training, which shall not exceed one year in duration. Trainees so appointed shall be advanced to the classification for which they are in training upon the satisfactory completion of the training program and shall then serve a probationary period in the regular classification. A trainee appointment may be terminated at any time by the appointing authority.

**Statutory Authority:** *MS s 256.012*

**History:** 17 SR 1279

### 9575.0660 PROVISIONAL APPOINTMENT.

**Subpart 1. Procedure.** Whenever in the opinion of the appointing authority there are urgent reasons for filling a vacancy and the supervisor is unable to certify eligibles from a register established as a result of an examination for the position, and no appropriate promotional register or other appropriate register exists, the appointing authority may submit to the supervisor the names of persons to fill the position pending examination and establishment of a register. If such person's qualifications are certified by the supervisor as meeting the minimum qualifications for training and experience for the position, such persons may be provisionally appointed to fill the existing vacancy until an appropriate register is established and appointment made therefrom. No provisional appointment shall be made until the position has been allocated to a proper class and minimum qualifications established therefor in accordance with parts 9575.0650 to 9575.0700 nor without prior approval of the merit system supervisor.

**Subp. 2. In absence of promotional register.** In the absence of a promotional register, a provisional promotional appointment of a permanent or probationary employee meeting the minimum qualifications may be made pending the establishment of a promotional register or the administration of a noncompetitive promotional examination.

**Subp. 3. Termination of provisional appointment.** No provisional appointment shall be continued for more than 30 days after an appropriate register has been established for the class of positions and in no event for more than six months after the date of appointment. Successive provisional appointments of the same person shall not be permitted, and a position shall not be filled by repeated provisional appointments. Provisional appointments may be extended at the end of six-month period with the approval of the merit system supervisor, and successive provisional appointments of the same individual to different positions and successive provisional appointments to the same position may be made in exceptional circumstances, subject to the following conditions:

A. that an examination has been publicly announced and the supervisor has found that a sufficient number of applicants are not available to assure adequate competition; and

B. that continuous receipt of applications had been provided in accordance with part 9575.0410, subpart 2 and the examination is to be held whenever the supervisor finds that enough applicants have filed to ensure adequate competition.

Subp. 4. **Appointments made before establishment of a register.** All appointments made subsequent to the adoption of parts 9575.0650 to 9575.0700 but prior to the establishment of a register from which eligibles can be certified shall be considered as provisional appointments.

**Statutory Authority:** *MS s 256.012*

#### 9575.0670 EMERGENCY APPOINTMENT.

Whenever an emergency exists that requires the immediate services of one or more persons and it is not possible to obtain such persons from appropriate registers, the appointing authority may appoint a person or persons without consideration of other provisions of these rules governing appointment, except as provided in parts 9575.1410 to 9575.1450. Such appointments normally shall be limited to no more than 45 working days during any calendar year for the same person; however, such appointment of the same person can be extended to 67 working days with prior approval by the supervisor.

**Statutory Authority:** *MS s 256.012*

**History:** *12 SR 458*

#### 9575.0680 TEMPORARY APPOINTMENT.

Subpart 1. **Approval.** The supervisor may approve an appointing authority's temporary appointment for:

- A. filling a vacancy funded for six months or less;
- B. providing an employee for a temporary project not anticipated to last more than six months;
- C. filling a vacancy created by an approved leave of absence; or
- D. unusual documented instances, when an appointing authority asks to make a temporary appointment of six months or less to a position otherwise authorized for more than six months.

Subp. 2. **From eligible register.** Temporary appointments must be made from the eligible register. Certification must be made of the names of those eligible persons, in order of their place on an appropriate register, who have indicated willingness to accept temporary employment. Certification must be made according to parts 9575.0600 to 9575.0630. The acceptance or refusal of a temporary appointment does not affect an eligible person's standing on a register or eligibility for appointment to a permanent position.

Subp. 3. **No available candidates on eligible register.** In the absence of available candidates on the eligible register, the supervisor may authorize the appointing authority to make a direct appointment of a person who meets the minimum qualifications of education and experience for the classification, after considering the following documentation submitted by the appointing authority:

A. a statement that there is no appropriate eligible list available or that all eligible candidates on an incomplete certification from an eligible list are unavailable or unsuitable for temporary appointment; and

B. a description of the appointee's qualifications in a manner prescribed by the supervisor to permit examination of the appointee's qualifications.

Subp. 4. **Term of appointment.** Temporary appointments must be for the period of need only and are limited to six months. An appointing authority may submit a written request to extend a temporary appointment for up to an additional six months, specifying the reason why the extension is necessary. A temporary employee's term of employment may not exceed a total of 12 months in any 24-month period in any one agency. The period of the temporary appointment may not be counted as part of a probationary period. Successive temporary appointments to the same position may not be made.

**Statutory Authority:** *MS s 256.012*

**History:** *16 SR 2054*

**9575.0690 EMPLOYEE'S APPOINTMENT PRIOR TO ADOPTION OF THESE PARTS.**

Subpart 1. **Continuous service.** An employee on the staff of a local social services agency prior to the adoption of parts 9575.0650 to 9575.0700 by the board, with more than six months of continuous service, and who is certified by the appointing authority as having given satisfactory service since that time may be admitted to the examination for the position held on the date of adoption of these parts without consideration of minimum qualifications of training and experience. Upon certification by the supervisor that the person has attained a passing grade in the first examination held in accordance with parts 9575.0450 to 9575.0520, the person may be appointed as a permanent employee by the appointing authority without being required to serve a probationary period.

Subp. 2. **Transfer or promotion.** Such employee, certified as having given satisfactory service, who has been transferred or promoted to a position in another class within six months prior to the adoption of these parts and before the first examination for the position currently held, shall be admitted to the examination on the basis of the minimum qualifications of training and experience for the new class that were in effect at the time of the transfer or promotion. Such an employee may, on certification by the supervisor that the employee has attained a passing grade in the examination for that position previously held, be retained in that position as a permanent employee, provided that there is a vacancy in the class.

Subp. 3. **Failing grade.** The services of an employee whom the supervisor does not certify as having attained a passing grade in the examination for either of the positions referred to above shall be terminated within 90 days after the establishment of a register for such position or positions in accordance with these rules.

Subp. 4. **Probationary employee.** Such employee, certified as having given satisfactory service, who has been hired within six months before the adoption of these parts but prior to the first examination on the basis of the minimum qualifications of training and experience for the class that were in effect at the time of hire. Such an employee may, on certification by the supervisor that the employee has attained a passing grade in the examination for that position, be retained as a probationary employee by the appointing authority. An employee hired as described above who fails in the examination for the position held shall be terminated within 90 days after the establishment of a register for such position in accordance with these rules.

Subp. 5. **New Employee.** A new employee appointed after the adoption of these parts by a local social services agency but prior to the holding of the first examination under these parts shall be considered as having a provisional appointment and shall be required to compete in the examination without preference. Such new employee shall be admitted to the examination for the position on the basis of the minimum qualifications in effect at the time of appointment.

**Statutory Authority:** *MS s 256.012*

**History:** *17 SR 1279; L 1994 c 631 s 31*

**9575.0700 VETERAN'S PREFERENCE.**

Preference in the establishment of eligible registers shall be given to veterans in accordance with the provisions of Minnesota Statutes, section 43A.11.

**Statutory Authority:** *MS s 256.012*

**PROBATIONARY PERIOD****9575.0710 PURPOSE OF PROBATIONARY PERIOD.**

The probationary period is an essential part of the examination process and shall be used to closely observe the employee's work, to obtain the most effective adjustment of a new employee to the obligations of the position, and to remove any employee whose performance does not meet the required standard of work.

**Statutory Authority:** *MS s 256.012*

**9575.0720 PROBATION REQUIRED.**

A person employed by an appointing authority in any of the following ways shall serve a probationary period:

- A. appointment from an eligible register other than the layoff list;
- B. reinstatement of a former probationary employee or of a former permanent employee in an agency other than the last employing agency;
- C. transfer of an employee between counties except when specifically waived, in writing to the merit system supervisor, by the new employing county prior to the date on which the transfer of a permanent employee becomes effective; or
- D. transfer or reinstatement to a position on the basis of eligibility from a comparable position in a similar merit system jurisdiction.

An appointing authority may effect a probationary period in an employment action in which such period is not required as specified above by writing this condition of appointment on the appointment report submitted to the merit system. In no case, however, may a probationary period be required of a permanent employee who is appointed from the layoff list.

**Statutory Authority:** *MS s 256.012*

**History:** *14 SR 1008*

**9575.0730 DURATION OF PROBATIONARY PERIOD.**

The probationary period shall consist of the equivalent of the first six full months of compensated service following the date of the appointment action requiring a probationary period, except as provided in part 9575.0740. Intermittent employees shall serve a probationary period of six full months, not to exceed two calendar years. Unpaid leave of ten or fewer workdays during the probationary period does not affect the duration of the probationary period.

**Statutory Authority:** *MS s 256.012*

**History:** *18 SR 2277*

**9575.0740 EXTENSION OF PROBATIONARY PERIOD.**

In rare or unusual circumstances or conditions that prevent the making of a full and fair determination as a basis for granting permanent status or separating the employee from the service, an extension of the probationary period for up to three months may be granted. Initiation of a request to the merit system supervisor for extension must be made at least 15 days before the end of the probationary period and shall specify the reasons why the extension is necessary. A current evaluation of the employee's performance shall accompany the request. A copy of the request for extension and the evaluation shall be provided to the probationary employee by the appointing authority.

The supervisor's decision on the request shall be given to the agency and the employee at least five days in advance of the end of the initial probation period.

Each formal request for extension of the probationary period and the decision on the request shall be reported to the merit system council at its next meeting.

**Statutory Authority:** *MS s 256.012*

**History:** *12 SR 458*

**9575.0750 PROMOTION DURING PROBATION.**

An employee serving a probationary period may be promoted to a position in a higher class. An employee who is promoted begins a probationary period in the higher classification as of the date of that appointment.

A probationary employee who is promoted to a position in a higher class in the same occupational field shall complete a probationary period in the lower class by service in the higher position.

**Statutory Authority:** *MS s 256.012*

**History:** *17 SR 1279*

**9575.0760 TRANSFER DURING PROBATION.**

A probationary employee may be transferred from a position under one appointing authority to a position in the same class under another appointing authority if the employee was not appointed from a certification from a county register.

**Statutory Authority:** *MS s 256.012*



**9575.0770 DEMOTION DURING PROBATION.**

A probationary employee who is demoted to a class of positions in the same occupational field shall have included as a part of the probationary period in the lower class the period of service in the higher class unless the appointing authority writes on the report of the demotion to the merit system that a new probationary period is required in the lower class.

**Statutory Authority:** *MS s 256.012*

**History:** *17 SR 1279*

**9575.0780 REMOVAL DURING PROBATION.**

**Subpart 1. Written notice.** A probationary employee may be dismissed by an appointing authority without the right to an appeal or hearing except as may otherwise be provided by law. The employee shall be given written notification, including the reasons for dismissal, at least five days in advance of the date on which the dismissal becomes effective and a copy of the notification shall be submitted to the supervisor.

**Subp. 2. Restoration to former class.** A probationary employee who has permanent status in another class in the same agency and who is not granted permanent status in the new classification shall be restored to a position in the class from which the person was promoted as seniority permits or in a comparable class as these parts permit, unless the failure to grant permanent status was due to the misconduct of the employee.

When there is no position to which the employee can be restored, because of abolishment of jobs or lack of seniority, the provisions of part 9575.0930 apply.

**Statutory Authority:** *MS s 256.012*

**History:** *17 SR 1279*

**9575.0790 COMPLETION OF PROBATIONARY PERIOD.**

**Subpart 1. Notice and evaluation of performance.** The appointing authority shall submit written notice of the satisfactory completion of the probationary period to the employee and to the merit system at least ten days in advance of the expiration of the probationary period. A rating or appraisal of the employee's performance shall accompany the notice. The employee shall then be granted permanent status in the position the day following the last day of the probationary period.

**Subp. 2. Permanent status.** If an appointing authority fails to implement the purpose and intent of the probationary period by appropriate action as provided in parts 9575.0710 to 9575.0790, a probationary employee who is not certified permanent in accordance with subpart 1 and is not removed or demoted but is continued in employment beyond the full six-month period shall obtain permanent status in the position by the default of the agency. The payment of salary beyond the six-month probationary period shall be deemed to be evidence of the determination by the appointing authority that permanent status shall be granted to the employee. The supervisor shall enter such status on the record of the employee and shall notify the appointing authority and the employee of the change in status.

**Subp. 3. Report to council.** Each instance in which permanent status is granted to an employee in accordance with the provisions of subpart 2 shall be reported to the merit system council. The council may recommend and the commissioner may take appropriate action to ensure that the purpose and intent of the probationary period shall be given effect in the agency in all future appointments.

**Statutory Authority:** *MS s 256.012*

**PROMOTIONS****9575.0800 METHODS OF MAKING PROMOTIONS.**

As far as is practicable and feasible, a vacancy shall be filled by promotion of a qualified probationary or permanent employee based upon the performance of the employee's duties, as evidenced by recorded service ratings, with due consideration for length of service and for the employee's capacity for the new position. The appointing authority, in making a promotion, may consult with the supervisor about the promotional status of an employee. A candidate for promotion must be certified by the supervisor to possess the qualifications for the

position as set forth in the specifications for the class of positions for which the employee is a candidate. The candidate shall be required by the supervisor to qualify for the new position by promotional competitive or noncompetitive examination administered by the supervisor.

**Statutory Authority:** *MS s 256.012*

**History:** *17 SR 1279*

#### **9575.0810 PROMOTION BY COMPETITIVE EXAMINATION.**

Subpart 1. **Basic requirements.** An employee, to be eligible to compete for promotion, must have permanent or probationary status and must meet the minimum qualifications for training and experience for the class of positions.

Subp. 2. **Contents of examination.** At the discretion of the merit system supervisor and the appointing authority involved, a promotional competitive examination may be limited to the employees of one local social services agency or may be open to the employees of all local social services agencies. If it is determined by the commissioner of the Department of Human Services for the statewide service to fill vacancies in a particular class of positions by promotional competitive examination, such examination shall be given under the direction of the supervisor. A promotional competitive examination may consist of any combination of the following: written tests, ratings of training and experience, evaluation of recorded service ratings, promotional ratings, seniority, performance tests, and oral examinations. The combination in each case and procedure for the determination of the passing grade shall be announced by the supervisor in advance of the examination and shall take into consideration approved practices.

Subp. 3. **Placement on register.** All employees who receive a passing grade shall be placed on a promotional register for the class of positions in order of their final ratings, except as modified by part 9575.0700.

Subp. 4. **Existence of two registers.** If a promotional register and an original register exist, the same number of names shall be certified from each register in accordance with parts 9575.0600 to 9575.0630. The appointing authority may make its selection from the names submitted from either register, giving such preference to present employees as the good of the service will permit.

**Statutory Authority:** *MS s 256.012*

**History:** *L 1984 c 654 art 5 s 58; L 1994 c 631 s 31*

**9575.0820** [Repealed, 12 SR 458]

### **TRANSFERS AND DEMOTIONS**

#### **9575.0850 TRANSFERS.**

Subpart 1. **Between subdivisions in same county.** A transfer of an employee from a position in one organizational subdivision of a county welfare staff to a position of the same class in another organizational subdivision of the county welfare staff may be made at any time by the appointing authority concerned.

Subp. 2. **Same position in different counties.** Transfer of a probationary or permanent employee from a position on one county welfare staff to a position of the same class on another county welfare staff may be made with the approval of the appointing authorities concerned and the supervisor, subject to the provisions of parts 9575.0720 and 9575.0760. All such transfers must be reported to the supervisor.

Subp. 3. **Between different positions.** With the approval of the merit system supervisor, a permanent employee may transfer from a position in one class in a county agency to a position in a different class in the same or different county agency that has a salary range within one step of the former class and similar comparable work value. If the work behaviors and examination content areas of the two classes are not similar and if the employee has met the minimum qualifications of education and experience for the class to which transfer is proposed, the supervisor may require the employee to take and pass, on an advisory basis, the examination for the class to which transfer is proposed before approving the transfer.

**Statutory Authority:** *MS s 256.012*

**History:** *15 SR 452*

**9575.0860 DEMOTIONS.**

Subpart 1. **Reason.** An appointing authority may demote an employee for inefficient performance of duties, for disciplinary reasons, or for other just causes.

Subp. 2. **Statement of reason, reply, and right to a hearing.** A permanent employee shall be furnished with a statement in writing, setting forth the reasons for the demotion, before the action is taken. The employee shall be permitted five days' time to reply thereto, in writing, or upon request, to appear personally and reply to the appointing authority. A copy of the statement and the employee's reply, if any, shall be filed with the supervisor prior to the effective date of the demotion. The permanent employee, upon written request, may demand a hearing before the council in accordance with the provisions of parts 9575.1150 to 9575.1200.

Subp. 3. **Demotion.** At any time during the probationary period that an appointing authority determines that the employee's performance does not meet work standards, the appointing authority may demote the employee, except that no employee serving a probationary period following transfer or promotion shall be demoted except for just cause or with the employee's consent during the first 30 calendar days of the probationary period.

Subp. 4. **Seniority upon demotion.** Seniority of an employee in the class to which the employee is demoted shall be limited to service in the agency and shall consist of the combined total of prior seniority in the class to which demotion occurs, in all higher classes, and in all other classes that the supervisor determines to be sufficiently similar to the class to which demotion occurs.

Subp. 5. **Choice of employee.** Any permanent or probationary employee about to be laid off shall be demoted to displace any employee with less seniority in the next lower class in which the person previously served unless the person elects to be laid off. In either event the name of such employee shall be placed on an appropriate layoff list and upon written application may be placed on an appropriate reemployment list.

Subp. 6. **Other circumstances.** An appointing authority, with the consent of the affected employee, in lieu of layoff, may demote a permanent or probationary employee not covered by the preceding provision. Such action shall not entitle the employee to a hearing, in the demotion, but the employee's name shall be placed on the layoff list and upon request may be placed on the reemployment list for the class from which the employee was demoted. No employees so demoted shall displace a permanent or probationary employee except in order of seniority.

**Statutory Authority:** *MS s 256.012*

**History:** *17 SR 1279*

**SEPARATION, TENURE, AND REINSTATEMENT****9575.0900 RESIGNATIONS.**

Subpart 1. **Written resignation.** An employee who resigns shall present the reasons therefor in writing to the appointing authority. A copy of the resignation shall be forwarded to and recorded by the supervisor.

Subp. 2. **Absence without leave.** Any absence of an employee from duty that is not authorized by specific grant of leave of absence under the provisions of these rules shall be deemed an absence without leave. Any such absence shall be without pay and may be made grounds for disciplinary action. In the absence of such disciplinary action, any employee who is absent for three days without leave may be deemed to have resigned, but such absence may be covered by a subsequent grant of leave if the conditions warrant.

**Statutory Authority:** *MS s 256.012*

**History:** *17 SR 1279*

**9575.0910 DISMISSALS.**

Subpart 1. **Employees without permanent status.** Employees who do not have permanent status may be dismissed at any time at the discretion of the appointing authority except those serving the first 30 calendar days of a probationary period following a transfer. Employees serving the first 30 calendar days of a probationary period following a transfer can only be dismissed for just cause.

Subp. 2. **Permanent employees.** No employee who has permanent status shall be dismissed from a position except for just cause. Before the action is taken, a permanent employee shall be furnished with a statement, in writing, setting forth reasons for the dismissal. The employee shall be permitted five days time to reply thereto, in writing, or, upon request, to appear personally and reply to the appointing authority. A copy of the statement and the employee's reply, if any, shall be filed with the supervisor prior to the effective date of the dismissal. Any such employee who is dismissed may demand a hearing before the merit system council in the manner prescribed by part 9575.1180.

Subp. 3. **Deception or fraud.** Any employee who willfully practices, or attempts to practice, any deception or fraud in an application, in a certificate, in an examination, or in obtaining eligibility or appointment, shall upon discovery and proof thereof, be removed and discharged. Charges alleging such deception or fraud may be initiated by the appointing authority or by the supervisor, in conformity with the provisions of this section relating to notice of discharge and hearing before the merit system council.

**Statutory Authority:** *MS s 256.012*

**History:** *17 SR 1279*

### 9575.0920 SUSPENSION.

After written notice, the appointing authority may suspend any employee without pay for just cause for a period not to exceed 30 calendar days in any one calendar year. Suspensions of five or fewer consecutive working days or ten or fewer working days in a calendar year are not appealable to the council under part 9575.1180.

**Statutory Authority:** *MS s 256.012*

### 9575.0930 LAYOFF.

Subpart 1. **Reasons and procedures.** An appointing authority may lay off an employee in the classified service by reason of abolishment of the position, lack of funds, shortage of work, or other reason outside the control of the employee. No permanent employee, however, shall be laid off while any emergency, provisional, temporary, or probationary employee is continued in a position of the same class in the agency. Layoff shall be made in inverse order of seniority by employment conditions in the class of work in the agency. Seniority for purposes of layoff shall be the length of service in the class from which layoff occurs in the agency.

Subp. 2. **Equal seniority.** If two or more persons in the class in which layoff occurs have equal seniority, the order of layoff shall be in inverse order of the date of acquisition of permanent status in the class. If a tie still remains, the order of layoff shall be determined by the average of the last two service ratings, if available, or the last service rating if only one is available and the employee with the lowest such average or rating shall be laid off first. If no service ratings are available, the order of layoff shall be determined by the appointing authority in such a way as to retain in the agency the employee(s) considered most valuable.

Subp. 3. **Demotions.** Any permanent or probationary employee about to be laid off shall be demoted to replace the employee with the least seniority in the next lower class in which that employee previously served, unless the employee elects to be laid off.

Subp. 4. **Notice.** The appointing authority shall notify in writing the employee and the supervisor at least ten working days before the effective date of the layoff and shall state the reason for the layoff. If the appointing authority fails to certify before the effective date thereof that the layoff was for reasons not reflecting discredit on the employee, it shall be deemed a dismissal and shall be subject to the rules regarding dismissal.

Subp. 5. **Order on layoff list.** The names of permanent or probationary employees laid off or demoted in lieu of layoff shall be placed in order of seniority on the layoff list for the class and the agency from which the layoff took place. The affected employees shall have their names placed also on the reemployment list for the class from which the layoff took place and any other class in which they have permanent or probationary status prior to layoff.

Subp. 6. **Length of time on layoff list.** Names of laid off employees will remain on the layoff list for a minimum of one year and eligibility shall be extended to a period of time equal to the employee's previous service in the merit system not to exceed five years. The name of a laid off employee must be removed from the layoff list if the employee fails to

accept a position in the former classification and county agency or if the employee is appointed to a permanent position in a class equal to or higher than the one from which the employee was laid off. In such cases, the employee's name must remain on the reemployment list for the class from which the employee was laid off.

Subp. 7. **New positions.** Whenever an appointing authority submits a requisition to fill a vacancy for a new position in the agency and a layoff list exists for that agency for the class in which the position to be filled is classified, the one name highest on the layoff list shall be certified to the agency for appointment.

Subp. 8. **Scope.** The provisions of this part shall apply to all layoffs, except where otherwise provided in written contract between an agency and an exclusive bargaining representative.

**Statutory Authority:** *MS s 256.012*

**History:** *16 SR 2054*

#### **9575.0940 TENURE OF OFFICE.**

The tenure of office of every permanent employee shall be during good behavior and the satisfactory performance of duties as recorded by the employee's service ratings. This provision, however, shall not be interpreted to prevent the separation of an employee for cause or the separation of an employee because of lack of funds or curtailment of work or by retirement of the employee, when made in accordance with parts 9575.0900 to 9575.0980.

**Statutory Authority:** *MS s 256.012*

**History:** *17 SR 1279*

#### **9575.0950 REINSTATEMENT OF FORMER PERMANENT EMPLOYEE.**

Upon written request of an appointing authority to and with the approval of the supervisor, an employee who has successfully passed a merit examination and has acquired permanent status in a class under chapter 9575 may be reinstated to a position in the same class at any time within two years after the date of resignation in good standing. Under the same conditions, a reinstatement may be made within a period of time, not to exceed five years, equivalent to the continuous period of the employee's service since January 1, 1940, in a county welfare agency. Reinstatement shall be without benefit of previously acquired seniority. Upon approval of the supervisor, reinstatement may be made directly by an appointing authority, provided that there is a vacancy.

**Statutory Authority:** *MS s 256.012*

**History:** *17 SR 1279*

#### **9575.0960 REINSTATEMENT OF FORMER PROBATIONARY EMPLOYEE.**

Upon written request of an appointing authority and with the approval of the supervisor, a probationary employee who has resigned in good standing may be reinstated as a probationary employee to a position in the same class at any time within a year after the date of resignation.

**Statutory Authority:** *MS s 256.012*

#### **9575.0970 [Repealed, 12 SR 458]**

#### **9575.0980 REEMPLOYMENT OF FORMER PERMANENT OR PROBATIONARY EMPLOYEES.**

Former permanent or probationary merit system employees who voluntarily separate in good standing with a satisfactory or better separation rating may, upon request, have their names placed on a reemployment list for their last class of employment and for any other classes in which they possessed permanent status prior to separation. Requests must include which classes, locations, and employment conditions the former employee is willing to consider and must be submitted to the merit system within one year of separation. A person may remain on the reemployment list(s) for up to three years and must return to the merit system within four years of separation. Former employees reemployed under the provisions of parts 9575.0900 to 9575.0980 must serve a new probationary period upon appointment.

**Statutory Authority:** *MS s 256.012*

## LEAVES OF ABSENCE

**9575.1000 GENERAL POLICY.**

Subpart 1. **General policy.** Leave policies stated in parts 9575.1010 to 9575.1070 are minimum standards and shall apply to all employees except when otherwise negotiated by the appointing authority with an exclusive representative. At the discretion of the appointing authority, these negotiated benefits may be applied to all employees of the agency.

Subp. 2. **Optional policy.** Beyond the minimum standards listed in parts 9575.1010 to 9575.1070 the appointing authority may adopt an optional leave of absence policy to the extent allowed in part 9575.1080.

Subp. 3. **Agency without exclusive representative.** Agencies without an exclusive representative that adopt an optional leave policy beyond the minimum standards listed in parts 9575.1010 to 9575.1070 shall file a copy with the supervisor.

Agencies without an exclusive representative may develop and adopt a consistent countywide policy regarding vacation and sick leave accrual rates that differs from that in parts 9575.1010 to 9575.1070 and which shall apply to all employees covered by chapter 9575.

**Statutory Authority:** *MS s 256.012*

**9575.1010 JURY OR WITNESS DUTY.**

Subpart 1. **Leave granted.** After notice to the appointing authority, any employee under the merit system shall be granted leave with pay for service upon a jury or appearance before a court, legislative committee, or other judicial or quasi-judicial body as a witness in an action involving the federal government, state of Minnesota, or a political subdivision thereof, in response to a subpoena or other direction by proper authority.

Subp. 2. **Per diem.** At the option of the appointing authority the employee may be required to turn over to the agency any per diem payment received as a result of serving on a jury or as a witness as described in subpart 1. Moneys received as expenses shall be kept by the employee.

Subp. 3. **Private litigation.** Any absence, whether voluntary or in response to a legal order to appear and testify in private litigation, not as an employee of the county agency but as an individual, shall be taken as annual leave, as leave of absence without pay, or as a deduction from authorized accumulated overtime.

**Statutory Authority:** *MS s 256.012*

**9575.1020 LEAVES OF ABSENCE WITHOUT PAY.**

Any person holding a permanent or probationary position in the classified service of the Minnesota merit system shall be granted a leave of absence without pay on the grounds of sickness or disability and may be granted a leave of absence without pay for other good or sufficient reasons, provided that no such leave shall exceed one year. Disabilities caused or contributed to by pregnancy, miscarriage, abortion, childbirth, and recovery therefrom are, for all job-related purposes, temporary disabilities and the women so affected shall be treated the same as other persons who are not so affected, but who are similar in their ability or inability to work. The appointing authority shall establish the proof required of the existence of sickness or disability and the continuance thereof during that one-year period. The appointing authority may require that the employee produce medical certification from a registered practicing physician that the employee is fit for work before returning the employee to the job. Any employee who is granted a leave of absence without pay shall be accorded thereby an unqualified right to be reinstated to the same position if the leave is for 60 calendar days or less. An employee who is granted a leave of absence without pay shall be accorded thereby an unqualified right to be reinstated to a position in the same class at the expiration of leave, except that when all the positions in the class previously held by that employee have been abolished, the name of the employee shall be restored to the appropriate reemployment register provided for in part 9575.0930, subpart 5. If all the positions in the class are filled, the least senior employee in the class shall vacate his or her position subject to any eligibility for layoff, transfer, or demotion that he or she may have acquired under these rules. An employee on leave of absence, with the approval of the appointing authority and the

supervisor, may be reinstated to his or her class before the expiration of the leave in the same manner. Upon certification by a registered practicing physician, the employee who is physically or mentally capable of returning to work must comply within ten working days or face termination. If such an employee within the specified days cannot return to work, he or she must notify the appointing authority and request an approval for a leave of absence.

**Statutory Authority:** *MS s 256.012*

#### **9575.1030 VACATION LEAVE.**

**Subpart 1. Accrual rate.** Upon the completion of six full months of satisfactory service in the merit system, vacation leave shall accrue to a permanent, probationary, or trainee employee for time served at the rate of one working day for each full month of service except as otherwise adopted under part 9575.1000, subpart 3. No vacation leave shall be accrued or granted during the first six months of service in the merit system, but upon the satisfactory completion of such period, vacation leave shall accrue to a permanent, probationary, or trainee employee for the time served. Temporary and provisional employees with less than six full months of service and emergency employees shall not accrue vacation leave. Provisional employees with more than six months of service shall accrue vacation leave. Unused vacation leave shall accumulate to a total of at least 24 working days. The county agency shall determine the time at which vacation leave may be taken. Vacation leave may not be used prior to completion of the period in which it is accrued. Part-time employees shall accrue vacation leave on a prorated basis based on hours worked in accordance with a schedule prepared by the appointing authority.

**Subp. 2. Nonpay status.** Vacation leave shall not accrue to an employee while in a nonpay status, except to employees on military leave.

**Subp. 3. Transfer to other county.** A permanent employee who is transferred or promoted from one county agency to another shall be paid by the former agency for the number of working days of accrued but unused vacation leave unless the new agency, upon the request of the employee, agrees to accept all or a portion of the employee's accrued but unused vacation leave.

**Subp. 4. Separation.** Any permanent, probationary, provisional, or trainee employee with six full months of satisfactory service in the merit system who is separated by layoff, resignation, death, or otherwise, shall be paid for the number of working days of unused vacation leave accrued.

**Statutory Authority:** *MS s 256.012*

**History:** *16 SR 2054; 17 SR 1279*

#### **9575.1040 SICK LEAVE.**

**Subpart 1. Accrual rate.** Every permanent, probationary, provisional, temporary, and trainee employee shall accrue sick leave at the rate of one working day for each completed month of service, except as otherwise adopted under part 9575.1000, and such accrued sick leave may be used under the conditions hereinafter prescribed:

Absence necessitated by an employee's inability to perform the duties of his or her position by reason of illness or injury, by necessity for medical or dental care, by reason of prenatal and postnatal care, by exposure to contagious disease under circumstances in which the health of the employees with whom associated or members of the public necessarily dealt with would be endangered by attendance on duty, or by illness in the employee's immediate family, for such period as shall be necessary. The term "immediate family" shall be limited to the employee's spouse, minor children, or parent living in the household of the employee when the parent has no other person to provide the necessary nursing care. Within the discretion of the appointing authority, use of sick leave also may be authorized in cases of death of the spouse, children, and wards of the employee and the siblings, parents, or grandparents of either the employee or the employee's spouse.

**Subp. 2. Unused sick leave.** Unused sick leave shall accumulate to a total of at least 100 working days.

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Subp. 3. **No sick leave with pay.** Sick leave with pay shall not accrue to emergency, hourly, or per diem employees.

Subp. 4. **Nonpay status.** Sick leave shall not accumulate to an employee while in a non-pay status, except employees on military leave.

Subp. 5. **Sick leave during vacation leave.** When sickness occurs within a period of vacation leave, the period of illness may, on presentation of a report from a registered practicing physician, be charged as sick leave and the charge against vacation leave reduced accordingly.

Subp. 6. **Medical certification.** The appointing authority may require the employee to produce medical certification from a registered practicing physician attesting to the need for sick leave or attesting that the employee is fit to return to work.

Subp. 7. **Reinstated or reemployed employee.** A former merit system employee who is reinstated or reemployed in accordance with merit system rules, except as a provisional or emergency appointee, may have previously accumulated and unused balance of sick leave revived and placed to the employee's credit upon approval of the new appointing authority.

Subp. 8. **Transfer or promotion.** A permanent or probationary employee who is transferred or promoted from one appointing authority to another may be granted credit in the new agency for all previously accrued but unused sick leave.

Subp. 9. **Limitations.** Sick leave may not be used prior to completion of the period in which it is accrued. Part-time employees shall accrue sick leave on a prorated basis based on hours worked in accordance with a schedule prepared by the appointing authority.

**Statutory Authority:** *MS s 256.012*

**History:** 16 SR 2054; 17 SR 1279

## 9575.1050 MILITARY LEAVE.

Employees who are in service in the armed forces of the state or the United States shall be entitled to leave of absence as provided for by Minnesota Statutes, section 192.261.

**Statutory Authority:** *MS s 256.012*

## 9575.1060 RECORD OF LEAVES.

Each appointing authority shall maintain a record of leaves with pay granted to employees.

**Statutory Authority:** *MS s 256.012*

## 9575.1070 HOLIDAYS.

Subpart 1. **Holidays.** Holidays for employees not represented by an exclusive representative shall include the following days:

- A. New Year's Day, January 1;
- B. Martin Luther King's Birthday, the third Monday in January;
- C. Lincoln's and Washington's Birthday, the third Monday in February;
- D. Memorial Day, the last Monday in May;
- E. Independence Day, July 4;
- F. Labor Day, the first Monday in September;
- G. Veteran's Day, November 11;
- H. Thanksgiving Day, the fourth Thursday in November;
- I. Christmas Day, December 25; and
- J. Any other day adopted as countywide policy by the appointing authority.

Appointing authorities may designate one or both of the following as holidays: Christopher Columbus Day, the second Monday in October; and the Friday after Thanksgiving.

Payment for the above specified holidays shall be determined by the appointing authority.



Subp. 2. **Sunday, Saturday holidays.** When New Year's Day, Independence Day, Veteran's Day, or Christmas Day falls on Sunday, the following Monday shall be a holiday. When New Year's Day, Independence Day, Veteran's Day, or Christmas Day falls on Saturday the preceding Friday shall be a holiday.

Subp. 3. [Repealed, 11 SR 893]

Subp. 4. [Repealed, 11 SR 893]

Subp. 5. [Repealed, 11 SR 893]

**Statutory Authority:** *MS s 256.012*

**History:** *10 SR 1507; 11 SR 893*

#### **9575.1080 OPTIONAL LEAVE POLICY.**

Subpart 1. **Purpose.** Beyond the minimum standards listed above, the appointing authority may adopt an optional leave of absence policy. The adoption of such a policy shall only be to increase the availability and use of leave of absences to employees.

Subp. 2. **Funeral leave.** Funeral leave, exclusive of sick leave or vacation leave, may be granted. Each appointing authority shall prepare written regulations governing such leave.

Funeral leave may be authorized in cases of death of the spouse, children, and wards and the siblings, parents, or grandparents of either the employee or his/her spouse.

Subp. 3. [Repealed, 11 SR 893]

Subp. 4. **Educational leave.** Educational leave, with or without pay, may be granted for a period not to exceed two years to any permanent or probationary employee. Such leave shall be for work-related programs which are in the best interest of the agency and consistent with the agency's training and staff development plan approved by the Department of Human Services Staff Development Director. Such leave shall otherwise be subject to part 9575.1000, subpart 3. The appointing authority may allow the employee to continue to accrue eligibility for merit increases, as in part 9575.0360, and the merit increase may be granted at the same time the increase would have been granted, but for the leave of absence. Educational leave with pay shall be approved by the supervisor prior to authorization.

In an instance in which an appointing authority grants an educational leave of absence to the agency director in order that the director can pursue a course of academic study and when it does not appear feasible to fill the vacant position through a contract with a neighboring county or by employing a new director on a temporary basis during the period of leave, the appointing authority may elect to name one of its professional staff members as acting director for the period of leave, not to exceed two years. The professional staff member shall remain in his/her present class and serve as director only in an acting capacity; however if the appointing authority so elects, it can increase the salary of the person so named up to, but not to exceed, the maximum salary of his/her present class.

**Statutory Authority:** *MS s 256.012*

**History:** *L 1984 c 654 art 5 s 58; 17 SR 1279*

### **APPEALS AND HEARINGS**

#### **9575.1150 APPEALS AND HEARINGS IN GENERAL.**

Subpart 1. **Council hears appeals.** The council or appeal board or referee appointed by the council shall hear all appeals under parts 9575.1150 to 9575.1200.

Subp. 2. **Written notice.** A written notice of appeal, specifying the reason or reasons for the appeal, must be submitted to the supervisor within 30 days of the action appealed or within 30 days of the date notification of the action was mailed to the affected party, whichever is later.

Subp. 3. **Response to appeal.** Except for appeals under part 9575.1180, the supervisor shall reply to the appeal, interpreting the merit system rules and applicable law relative to the issues in the appeal. All affected parties will receive copies of the response.

Subp. 4. **Appeal of resolution.** Any affected party who is dissatisfied with the supervisor's resolution may appeal that resolution and the appeal will be placed on the agenda of the next council meeting.

Subp. 5. **Collective bargaining agreement.** Any permanent employee under a collective bargaining agreement who appeals a dismissal, suspension, or a reduction in pay or position under the provisions of a grievance procedure in such agreement may not subsequently appeal the same action to the council.

Subp. 6. **Timing and copies of decisions.** All decisions shall be given within a reasonable time following the hearing and shall be in writing. Copies shall be sent to all parties involved and the merit system where final decisions are made by the appointing authority.

Subp. 7. **Rules governing appeals.** Appeals shall be pursuant to the Administrative Procedure Act, Minnesota Statutes, chapter 14, and contested case rules of the Office of Administrative Hearings in parts 1400.5200 to 1400.8500.

**Statutory Authority:** *MS s 256.012*

#### **9575.1160 APPEALS FROM SELECTION AND APPOINTMENT PROCEDURES.**

Subpart 1. **Right to appeal rejection of application.** Any applicant may appeal a rejection of his or her application based on qualifications or removal from a register for reasons specified in part 9575.0580. The council shall review the reasonableness of the rejection or removal.

Subp. 2. **Right to appeal for review of examination rating.** Any applicant who has taken an examination may appeal for review of the rating procedures in any part of the examination. The council shall review the rating procedures in order to determine whether they have been applied equally and fairly to all applicants.

Subp. 3. **Decisions are final.** Decisions of the council regarding appeals under subparts 1 and 2 shall be final.

Subp. 4. **Effect of certain actions upon a certification or appointment.** Admission to an examination, restoration to a register, or correction of an examination rating resulting from an appeal shall not affect a certification or appointment that may have already been made.

**Statutory Authority:** *MS s 256.012*

#### **9575.1170 APPEAL FROM ALLOCATION.**

Any employee or appointing authority may appeal the allocation of a position. The council shall review all facts relating to the allocation and make a recommendation to the commissioner. The commissioner's decision shall be final.

**Statutory Authority:** *MS s 256.012*

#### **9575.1180 APPEAL FROM DISMISSAL, SUSPENSION, OR DEMOTION.**

Subpart 1. **Right to appeal.** Any permanent employee who has not appealed under the provisions of a grievance procedure contained in a collective bargaining agreement may appeal any dismissal, suspension of more than five consecutive working days or ten working days in a calendar year, or reduction in pay or position to the council. The council shall review the action for compliance with the procedural requirements of parts 9575.0900 to 9575.0980 and whether or not the action was taken for just cause.

Subp. 2. **Time of hearing.** The hearing shall be held within 30 days of when the appeal is received by the supervisor.

Subp. 3. **Recommendation.** After the hearing, the council shall make a recommendation to the appointing authority. Within 30 days of receiving the recommendation, the appointing authority shall make the final decision.

Subp. 4. **Veterans.** Any veteran covered under the provisions of Minnesota Statutes, section 197.46 shall not be removed except for incompetency or misconduct shown after a hearing upon due written notice which includes a statement of charges.

**Statutory Authority:** *MS s 256.012*

**9575.1190 APPEAL FROM DENIAL OF MERIT INCREASE.**

Subpart 1. **Right to appeal.** Any permanent employee of an appointing authority with an established policy of granting merit increases who has not received a merit increase for a 12-month period and who is denied a merit increase may appeal the denial if the reasons given for the denial do not reflect on the merit of the employee's performance. The council shall initially determine whether or not such reasons are given. If so, the appeal shall be denied. If not, the council shall take testimony regarding the performance of the employee. Both the appointing authority and the employee shall have the right to present witnesses and give evidence.

Subp. 2. **Recommendation and final decision.** The council shall recommend the appointing authority either grant or deny the merit increase. The appointing authority shall make the final decision.

**Statutory Authority:** *MS s 256.012*

**9575.1200 OTHER APPEALS.**

Any employee or appointing authority affected by action taken in the administration of chapter 9575 may appeal the action. The council shall review the action for compliance with the rules of the Minnesota merit system and applicable law and shall recommend to the commissioner remedial action it may deem warranted. The commissioner's action shall be final.

**Statutory Authority:** *MS s 256.012*

**MISCELLANEOUS****9575.1250 SERVICE RATINGS.**

Subpart 1. **Establishment of service rating system.** The supervisor, in consultation with appointing authorities, shall establish and make effective a system of service ratings designed to give a fair evaluation of the quality of work performed by employees in the merit system program. Insofar as practicable, the system of service ratings in the local social services agencies shall be uniform. Such ratings shall be prepared and recorded for all permanent employees at regular intervals at least annually.

Subp. 2. **Use of service ratings.** Service ratings shall be considered in determining salary advancements and in making promotions, demotions, and dismissals, and in determining the order of separations due to reduction of force.

**Statutory Authority:** *MS s 256.012*

**History:** *L 1994 c 631 s 31*

**9575.1260 EMPLOYEE TRAINING.**

The supervisor shall cooperate with appointing authorities, employees, and others in fostering and aiding in programs of preservice training for the county welfare service and in-service training of employees, to the end that the quality of personnel services rendered to the counties may be raised and that employees may be aided to equip themselves for advancement in the service.

**Statutory Authority:** *MS s 256.012*

**9575.1270 PROHIBITION AGAINST OTHER EMPLOYMENT.**

No employee shall hold other public office, except as provided in part 9575.0080, subpart 3, or have conflicting employment while in the employ of the appointing authority. Determination of conflicting employment shall be made by the appointing authority subject to the approval of the commissioner of human services.

**Statutory Authority:** *MS s 256.012*

**History:** *L 1984 c 654 art 5 s 58*

**9575.1280 INTERAGENCY OPERATIONS.**

Subpart 1. **Payroll review.** The commissioner of human services shall adopt a plan providing for the review by the supervisor of the payrolls or certified listings of employees and current salaries. Such plans shall provide for a periodic review of the payrolls or certified listings of employees and current salaries for conformity with the provisions of these rules.

Subp. 2. **Records and reports.** The supervisor shall establish and maintain service records for each employee, showing name and classification, organizational unit, salary, changes in status, service ratings, and such other personnel information as may be considered pertinent. Every recommendation for a temporary or permanent change in the status of an employee shall be submitted by the appointing authority to the supervisor on forms prescribed by the supervisor.

Subp. 3. **Cooperation with merit system agencies.** The supervisor, with the approval of the commissioner of human services, may cooperate with other state, federal, or local merit system agencies operating in conformity with the standards comparable to those contained in these rules. With the approval of the commissioner of human services, the supervisor may announce and administer joint examinations in conformity with the standards of these rules, and the registers so established shall be given recognition under these rules. When filling a vacant position, an appointing authority may request that the supervisor approve the transfer of a permanent employee from another merit system jurisdiction. If it is determined that both the classification level of the employee's position and the examination taken to obtain that position are comparable to those of the vacant position, the supervisor shall approve the transfer. All persons appointed under this rule shall be required to serve a six-month probationary period.

**Statutory Authority:** *MS s 256.012*

**History:** *L 1984 c 654 art 5 s 58; 17 SR 1279*

#### **9575.1290 AMENDMENTS TO RULES.**

If and when it appears desirable in the interest of good administration, the commissioner of human services, with the advice and recommendations of the council, may make additions to or amend the rules.

**Statutory Authority:** *MS s 256.012*

**History:** *L 1984 c 654 art 5 s 58*

#### **9575.1300 EFFECTIVE DATE.**

These rules shall supersede and replace previous rules adopted on August 1, 1941, with amendments. These rules shall become effective on the formal adoption by the commissioner of the Department of Human Services, providing that those employees now in the county welfare service who have acquired status under previous rules shall be accorded like status under these rules and providing that existing eligible registers are recognized and retained in accordance with the provisions of these rules.

**Statutory Authority:** *MS s 256.012*

**History:** *L 1984 c 654 art 5 s 58*

### **SALARY COMPUTATION**

#### **9575.1350 PAY PERIODS.**

The length of pay periods is at the discretion of the appointing authority but it may be negotiated when there is an exclusive representative.

**Statutory Authority:** *MS s 256.012*

#### **9575.1360 PAYMENT FOR FULL-TIME AND PART-TIME EMPLOYMENT.**

Subpart 1. **Standard rates.** All rates prescribed in parts 9575.1500 and 9575.1510 shall be standard rates for full-time employees except as otherwise negotiated for employees in a bargaining unit in agencies where there is an exclusive representative or under the provisions of part 9575.0350, subpart 2, item C. If employment in a position is on a part-time or intermittent basis, only the proportional part of the rate for the time actually employed shall be paid. Such time may be paid on an hourly, working day, or proportion of a month basis. The agencies using part 9575.1500 shall use the table prepared in accordance with part 9575.1510 in computing such payment.

Subp. 2. **Agencies with exclusive representatives.** Those agencies with an exclusive representative who negotiate different salary schedules from those shown in part 9575.1500 under the provisions of subpart 1 or those agencies operating under the provisions of part 9575.0350, subpart 2, item C shall file within ten days after the signing of the contract such schedules with the supervisor. Attached thereto shall be a table similar in format, computation, and information to the table provided for in part 9575.1510. The table shall show monthly rates with appropriate conversion to hourly rates and to daily rates based on the number of working days and paid holidays in the month, and payment by payroll period for full-time work if such payment is made on other than a monthly basis.

**Statutory Authority:** *MS s 256.012*

#### **9575.1370 PAYMENT FOR LESS THAN A FULL PAYROLL PERIOD.**

The amount of salary paid for a period less than a full payroll period to an employee shall be determined on the basis of the number of hours or days the employee worked in the payroll period. Agencies shall use the table provided for in part 9575.1510 in computing this salary. Those agencies with an exclusive representative who have negotiated different salary schedules and those agencies operating under the provisions of part 9575.0350, subpart 2, item C shall use their table prepared in accordance with part 9575.1510 in computing this salary.

**Statutory Authority:** *MS s 256.012*

#### **9575.1380 PART PAYMENT FROM ANOTHER SOURCE.**

When part of the compensation of a county welfare or human service employee regularly is paid from another source, such as federal, state, city, or county governmental departments, or from a different fund or account outside the control of the appointing authority, the total salary from all governmental sources combined shall not exceed the amount payable at the maximum rate for the class of position involved on the compensation plan adopted by the agency.

**Statutory Authority:** *MS s 256.012*

#### **9575.1390 COMPENSATION FOR VACATION OR SICK LEAVE OR BOTH UPON SEPARATION.**

Subpart 1. **Computation illustrations.** An employee, who has permanent status in the county agency in some class, who is separated from the agency shall be paid for accumulated, unused vacation leave in accordance with part 9575.1040, subpart 3 on the basis of the appropriate daily or hourly rate as shown on the table prepared in accordance with part 9575.1510. This is illustrated by the following examples:

A. An employee who earns \$844 a month and is paid \$388 on a biweekly payroll (\$38.80 daily rate) works eight days in the payroll period and terminates employment. The employee has 11 days of vacation accumulated. Daily rate of \$38.80 x 19 days (eight regular working days plus 11 days of vacation) = \$737.20.

B. An employee who earns \$844 a month and is paid on a monthly basis works eight days in the month which has 22 working days in it and terminates employment. The employee has 11 days of vacation accumulated. Daily rates of \$38.36 (for 22 day month) x 19 days (eight regular working days plus 11 days of vacation) = \$727.70.

Subp. 2. **Lump sum payment.** The amount of vacation pay due shall be added to the salary earned by the employee for time worked in the last pay period of his/her employment and made in the form of a single lump sum payment.

Subp. 3. **Sick leave payment.** Compensation for sick leave payment, in cases where such payment is made on termination, shall be in the same manner as for vacation leave under subpart 2.

**Statutory Authority:** *MS s 256.012*

**History:** 17 SR 1279

**9575.1400 OVERTIME COMPENSATION.**

Except for the provisions of the Federal Fair Labor Standards Act, no additional compensation shall be paid for overtime, whether in the discharge of duties of the position or for the duties of another position, except:

- A. in an emergency in which the appointing authority orders overtime;
- B. when overtime is otherwise approved in advance by the appointing authority or its designee; or
- C. as may be otherwise negotiated.

Rates of pay and method of payment for this overtime work shall be in accordance with the Federal Fair Labor Standards Act. When payment is made for overtime, the rate and the number of hours worked shall be shown in the "remarks" column on the payroll report.

**Statutory Authority:** *MS s 256.012*

**History:** *10 SR 1507*

**SALARIES FOR APPOINTMENTS, PROMOTIONS, DEMOTIONS,  
TRANSFERS, AND REINSTATEMENTS**

**9575.1410 SALARY FOR APPOINTMENTS.**

Subpart 1. **Entrance salary.** The entrance salary for the original appointment, provisional appointment, or emergency appointment of a new employee shall be at the minimum salary for the class of positions to which appointed, except when appointments are permitted above the minimum in accordance with part 9575.0340.

Subp. 2. **Provisional employees.** An employee who is provisionally employed at a rate of pay higher than the minimum of the range prescribed for the class shall not be reduced in pay at the time of appointment from a register to the class.

**Statutory Authority:** *MS s 256.012*

**History:** *17 SR 1279*

**9575.1420 SALARY FOR PROMOTIONS.**

Subpart 1. **Increases.** An employee who is promoted shall have his or her salary raised to the minimum rate of pay for the new class. If his or her salary before promotion falls within the range of the new class but not on any step within that range, the salary shall be adjusted to the next higher step.

Subp. 2. **Return to lower class after promotion.** An employee granted a salary increase after having been promoted may be permitted to retain that increase when returned to a lower class, if the salary paid does not exceed the maximum salary for the lower class.

**Statutory Authority:** *MS s 256.012*

**9575.1430 SALARY FOR DEMOTIONS.**

An employee who is demoted except in accordance with part 9575.1580 and whose salary is above the maximum rate for the lower class shall be reduced in salary to at least the maximum rate for the new class. If the former salary is within the salary range for the lower class, the same salary may be continued. An employee whose position is reclassified downward in accordance with part 9575.1580 and remains in the same position may retain his or her former salary if it is above the maximum salary rate for the lower class but shall be ineligible to receive any further increases except those subsequently provided in the new classification.

**Statutory Authority:** *MS s 256.012*

**9575.1440 SALARY FOR TRANSFERS.**

An employee who is transferred may be paid the same salary received prior to transfer. If an employee's salary prior to transfer falls within the salary range of the class to which the employee is transferring but not on a salary step in that range, the employee's salary may be increased to the next higher step in the range but it shall not be lowered.

**Statutory Authority:** *MS s 256.012*

**History:** *17 SR 1279*

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## 9575.1450 SALARY FOR REINSTATEMENTS.

A former employee who is reinstated or reemployed may be paid the same salary rate that the employee last received in the same class of position if it coincides with a step on the current salary range for the class, or if it does not coincide, at the next higher step.

**Statutory Authority:** *MS s 256.012*

**History:** *17 SR 1279*

## 9575.1490 COUNTY REGULATIONS.

Any variation from the compensation plan adopted by the local social services agency shall be in accordance with the provisions of the merit system rules (see part 9575.0310).

**Statutory Authority:** *MS s 256.012*

**History:** *L 1994 c 631 s 31*

## COMPENSATION PLAN

### 9575.1500 COMPENSATION PLAN; HUMAN SERVICES, 1995.

Subpart 1. **Professional.** The following minimum and maximum salary steps in monthly salary amounts shall be applicable to the specified classes of positions:

	Minimum	Maximum
Accountant	1978	3222
Accounting Supervisor	2360	4026
Administrative Assistant I	2468	4411
Administrative Assistant II	2885	4706
Administrative Assistant III	3294	5131
Adult Day Care Center Supervisor	1890	3222
Assistant Welfare Director	4411	6830
Business Manager	3222	5023
Chemical Dependency Coordinator	1978	3222
Collections and Accounting Unit Supervisor	2070	3528
Collection Services Supervisor II	2070	3528
Community Health Services Supervisor	2360	4026
Computer Programmer	1890	3222
Contract Services Representative	2161	3684
County Agency Social Worker (Licensing Specialist)	1890	3222
County Agency Social Worker	1978	3528
County Agency Social Worker (Child Protection Specialist)	1978	3528
County Agency Social Worker (MSW)	2070	3528
County Agency Social Worker (MSW) (Child Protection Specialist)	2070	3528
Day Treatment Supervisor	2262	3684
Day Treatment Therapist	1978	3528
Director of Business Management I	2885	4706
Director of Business Management II	3451	5361
Director of Financial Assistance	3451	5361
Director of Planning	3451	5361
Director of Public Health Nursing	2360	4026
Director of Social Services	3451	5361
Employment Guidance Counselor	1809	2824
Family Based Services Supervisor	1978	3222
Family Service Coordinator II	1809	2824
Financial Assistance Supervisor I	2070	3528
Financial Assistance Supervisor II	2360	4026
Financial Assistance Supervisor III	2468	4411
Fiscal Manager	2468	4411
Fiscal Officer	1809	2824

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Fiscal Supervisor I	1890	3222
Fiscal Supervisor II	2360	4026
Gerontology Counselor	2070	3528
Human Services Director III	3769	5859
Human Services Supervisor I	2468	4411
Human Services Supervisor II	3222	5023
Mental Health Program Manager	2885	4706
Mental Health Worker	2161	3684
Nutrition Project Assistant Director	1890	3222
Nutrition Project Director	2360	4026
Office Services Supervisor	1809	2824
Planner (Human Services)	2161	3684
Psychologist I	2070	3528
Psychologist II	2360	4026
Psychologist III	3150	4706
Public Health Educator	1978	3528
Public Health Nurse	2070	3370
Public Health Nurse (Team Leader)	2161	3528
Public Health Nursing Supervisor	2262	3684
Recreational Therapist	1809	2824
Registered Dietician	1890	3222
Registered Nurse (A.A. Degree, 3 year Diploma, or B.S. Degree)	1978	3222
Sanitarian	1890	3222
Senior Staff Development Specialist	2360	4026
Social Services Supervisor I	2468	4411
Social Services Supervisor II	2824	4814
Social Services Supervisor III	3222	5023
Special Services Supervisor	2262	3684
Staff Development Specialist	1890	3222
Student Social Worker (Intern)	Rate proposed by appointing authority.	
Support Services and Accounting Supervisor	2161	3684
Support Services Supervisor	1978	3222
Trainee	Rate proposed by appointing authority and approved by the merit system supervisor and the commissioner of human services.	
Volunteer Services Coordinator	1890	3222
Welfare Director I	2885	4706
Welfare Director II	3222	5023
Welfare Director III	3451	5361
Welfare Director IV	3769	5859
Welfare Director V	4026	6255

Subp. 2. [Repealed, 15 SR 452]

Subp. 3. [Repealed, 15 SR 452]

Subp. 4. **Support personnel.** The following minimum and maximum salary steps in monthly salary amounts shall be applicable to the specified classes of positions:

	Minimum	Maximum
Account Clerk	1293	2020
Accounting Technician	1384	2161
Adult Day Care Center Program Coordinator	1517	2360
Case Aide	1384	2360
Chemical Dependency Counselor	1689	2522
Child Health Aide	1107	1890
Child Support Officer (Administrative Process)	1809	2824
Child Support Officer I	1689	2522



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Child Support Officer II	1809	2824
Collections Officer	1517	2360
Collection Services Supervisor I	1978	3222
Community Service Aide	1107	1890
Community Support Technician	1689	2522
Computer Operations Specialist	1293	2020
Coordinator of Aging	1809	2824
Crisis Center Resource Aide	1384	2161
Executive Assistant	1689	2522
Family Based Services Provider	1689	2522
Family Service Aide I	1293	2020
Family Service Aide II	1384	2161
Family Service Coordinator I	1517	2360
Family Service/Home Health Aide	1293	2020
Financial Assistance Specialist	1809	2824
Financial Worker	1581	2522
Fraud Prevention Specialist	1689	2522
Home Health Aide	1293	2020
Home Health Aide Coordinator	1517	2360
Housekeeper	Rate proposed by appointing authority and approved by the merit system supervisor and the commissioner of human services.	
Housing Coordinator	1978	3222
Housing Rehabilitation Specialist	1517	2360
Licensed Practical Nurse	1517	2360
Methods and Procedures Technician	1689	2522
Monitoring and Review Specialist	1517	2360
Public Health Aide	1107	1890
Senior Citizen's Aide	1293	2020
SILS Program Coordinator	1689	2522
Social Services Administrative Aide	1809	2824
Support and Collections Specialist	1809	2824
Support Enforcement Aide	1293	2020
Welfare Fraud Investigator	1809	2824

Subp. 5. [Repealed, 15 SR 452]

Subp. 6. [Repealed, 15 SR 452]

Subp. 7. **Clerical.** The following minimum and maximum salary steps in monthly salary amounts shall be applicable to the specified classes of positions:

	Minimum	Maximum
Administrative Secretary	1384	2161
Clerk I	953	1618
Clerk II	1107	1890
Clerk III	1293	2020
Clerk-Typist I	1040	1769
Clerk-Typist II	1107	1890
Clerk-Typist III	1384	2161
Clerk-Steno	1107	1890
Data Entry Operator	1040	1769
Information Systems Specialist	1107	1890
Legal Secretary	1293	2020
Switchboard Operator	1040	1769

Subp. 8. [Repealed, 15 SR 452]

Subp. 9. [Repealed, 15 SR 452]

Subp. 10. **Maintenance and trades.** The following minimum and maximum salary steps in monthly salary amounts shall be applicable to the specified classes of positions. Janitors who are required to work for a period of at least five hours after 6 p.m. on a regularly

scheduled basis may be paid a shift differential in the amount of one salary step above their normal day-work rate.

	Minimum	Maximum
Automobile/Van Driver	1040	1769
Bus Driver	1107	1890
Janitor	1107	1890
Maintenance Worker	1293	2020

Subp. 11. [Repealed, 15 SR 452]

**Statutory Authority:** *MS s 256.012*

**History:** 8 SR 1352; 9 SR 1339; 10 SR 1507; 11 SR 1075; 12 SR 458; 12 SR 1335; 13 SR 1688; 14 SR 1806; 15 SR 452; 15 SR 1697; 16 SR 2054; 17 SR 1829; 18 SR 2277; 19 SR 2090

### **9575.1510 COMPUTING MONTHLY, HOURLY, LESS-THAN-FULL-TIME, BI-WEEKLY, AND FOUR-WEEK SALARY RATES; CONVERSION TABLES.**

The supervisor shall publish a salary conversion table as part of the Minnesota Merit System Manual. The table shall list all existing salary rates listed in part 9575.1500. For those salary rates, the supervisor shall calculate hourly, daily, and payroll period salaries for each of the salary rates listed. This table shall be based on an eight-hour day, 40-hour week and 2,088-hour year. Agencies with a normal work schedule which varies from an eight-hour day, 40-hour week, or 2,088-hour year or agencies with payroll periods other than once every two weeks, every four weeks, or every month, shall supply the supervisor with a salary conversion table.

**Statutory Authority:** *MS s 256.012*

## **CLASSIFICATION PLAN**

### **9575.1550 PREPARATION AND ADOPTION OF CLASSIFICATION PLAN.**

Subpart 1. **Commissioner's duty.** The commissioner of human services shall formally adopt and make effective a comprehensive classification plan for all positions covered by chapter 9575 which shall be published as part of the Human Services Merit System Manual. The plan shall be based on investigation and analysis of the duties and responsibilities of each position, and each position shall be allocated to its proper class in the classification plan. The plan shall be developed after consultation with supervisory officials, classification specialists, and persons technically familiar with the character of the work. All classifications shall be evaluated by use of a formal job evaluation system. When complete, the classification plan shall include for each class of positions an appropriate class title, a description of the duties and responsibilities, and the minimum requirements of training, experience, and other qualifications.

Subp. 2. **Review by council.** The proposed classification plan, and any changes therein, shall be submitted to the merit system council for review and recommendations. After that review and recommendation and upon formal adoption by the commissioner of human services, the classification plan shall be the official plan for all positions. Class titles established by the adoption of the classification plan shall be used in all personnel and financial records of the Department of Human Services and appointing authorities, as well as in all examination procedures.

**Statutory Authority:** *MS s 256.012*

**History:** *L 1984 c 654 art 5 s 58; 10 SR 1507*

### **9575.1560 ALLOCATION OF POSITIONS.**

Every position under the jurisdiction of an appointing authority shall be allocated by the supervisor to one of the appropriate classes established by the classification plan. No person shall be appointed or promoted to any position until it has been properly classified as herein provided. As additional classes are established or existing classes are abolished or changed,

the necessary allocations or reallocations shall be made by the supervisor to new or existing classes as necessary.

**Statutory Authority:** *MS s 256.012*

#### **9575.1570 REVISION OF PLAN.**

Existing classes may be abolished or changed, or new classes added, in the same manner as the classification plan is originally adopted. All new or revised classes shall be evaluated by use of a formal job evaluation system.

**Statutory Authority:** *MS s 256.012*

**History:** *10 SR 1507*

#### **9575.1580 INCUMBENTS OF RECLASSIFIED POSITIONS.**

**Subpart 1. Appointment authorized.** When a position is reclassified and it is determined to be a reallocation resulting from a significant change in the duties and responsibilities of the position occurring gradually over a period of time, the supervisor shall authorize an appointing authority to promote the incumbent of the reallocated position. An employee promoted in accordance with this provision shall serve a probationary period in the higher class.

**Subp. 2. Eligibility.** When a position is reclassified resulting from a change in allocation the incumbent shall not be eligible to continue in the position except as provided in subpart 3 or unless eligible for original appointment, promotion, transfer, or demotion to the new class of positions. If ineligible to continue in such a position, the incumbent may be transferred, promoted, or demoted by appropriate action of the appointing authority in accordance with the applicable provisions of chapter 9575. If ineligibility of a permanent or probationary incumbent of such a reclassified position arises from the existence of an eligible register established from an examination that the incumbent did not take, the incumbent may be permitted to take the same or equivalent examination from which the existing register was established, providing that the incumbent's name is not on the existing register, the incumbent did not take and fail the examination from which the existing register was established, and the incumbent was eligible to take the examination at the time it was given. The names of successful candidates examined under this rule shall be placed on the existing register in accordance with the score attained. In any case in which the incumbent is ineligible to continue in the position and is not transferred, promoted, or demoted, the provisions of these rules about layoff shall apply. Any transfer, promotion, demotion, or layoff in accordance with those provisions must occur within 60 days of the notification of reclassification of the position.

**Subp. 3. Change in agency size.** If a position is reclassified as a direct result of the change in size of the employing agency without change in duties and functions, an incumbent with permanent or probationary status in the lower class shall be permitted to take a noncompetitive qualifying examination without regard to the qualifications for the class. An incumbent whose name is on a competitive promotional register for the higher class may be certified to the position regardless of the relative ranks of other candidates on the eligible register.

Subp. 4. [Repealed, 10 SR 1507]

Subp. 5. [Repealed, 10 SR 1507]

Subp. 6. [Repealed, 10 SR 1507]

**Statutory Authority:** *MS s 256.012*

**History:** *L 1984 c 654 art 5 s 58; 17 SR 1279*