

CHAPTER 4670
DEPARTMENT OF HEALTH
MERIT SYSTEM

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4670.0100 DEFINITIONS.

Subpart 1. Scope. The following definitions apply to parts 4670.0100 to 4670.4300, unless the context clearly requires another meaning.

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

Subp. 3. Appointing authority. "Appointing authority" means the county board of commissioners or other officer or the commissioner of health authorized by statute or lawfully delegated authority to make appointments to positions under the merit system for public health.

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. Change in allocation. "Change in allocation" means the reclassification of a position resulting from significant sudden changes imposed by the appointing authority which affects the duties and responsibilities of a position.

Subp. 5. Class. "Class" means one or more positions sufficiently similar in the duties performed, degree of supervision exercised or required, 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 the positions.

Subp. 6. Classified service. "Classified service" means all positions covered by these rules as provided in part 4670.0400.

Subp. 7. Commissioner or commissioner of health. "Commissioner" or "commissioner of health" means the administrative head of the Department of Health.

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 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 local agency.

Subp. 10. **Day.** "Day" means calendar day except where otherwise specified in the specific rule.

Subp. 11. **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. 12. **Desirable qualifications.** "Desirable qualifications" means the requirements of training and experience desired but not necessary to qualify for a given class of positions in the classification plan.

Subp. 13. **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. 14. **Dismissal.** "Dismissal" means the termination of employment for cause.

Subp. 15. **Eligible or eligible person.** "Eligible" or "eligible person" means any person whose name is on a register.

Subp. 16. **Emergency appointment.** "Emergency appointment" means an appointment required by a state of emergency as described in part 4670.2520.

Subp. 17. **Employee.** "Employee" means any person employed by a local public health agency in a position covered by part 4670.0400 who is paid a salary or wage.

Subp. 17a. **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. 18. **Exclusive representative.** "Exclusive representative" has the meaning given in Minnesota Statutes, section 179A.03, subdivision 8.

Subp. 19. **Facsimile.** "Facsimile" means a replica, e.g., facsimile of part 4670.4300 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 or four-week rates if paid on this basis or the daily rate based on the number of working days in the month. The number of working days in a month is 20, 21, 22, or 23 days if an employee is paid on a monthly basis.

Subp. 19a. **Female-dominated class.** "Female-dominated class" means any class in which 70 percent or more of the members are female.

Subp. 20. **Intermittent employee.** "Intermittent employee" means an employee who works whenever needed or on a schedule which cannot be predicted in advance.

Subp. 21. **General adjustment.** "General adjustment" means the merit system recommended salary adjustment based on a salary survey or a review of consumer price index changes under part 4670.1200.

Subp. 22. **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. 23. **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 employees.

Subp. 24. **Limited term appointment.** "Limited term appointment" means an appointment from a register for a period not to exceed six months as described in parts 4670.2500 to 4670.2550.

Subp. 25. **Local agency.** "Local agency" means the organization created to carry out the functions and programs of the jurisdiction's public health responsibilities.

Subp. 26. **Local public health authority.** "Local public health authority" means the commission, or council under whose authority a county, town, village, or borough establishes a local public health agency.

Subp. 26a. **Male-dominated class.** "Male-dominated class" means any class in which 80 percent or more of the members are male.

Subp. 27. **Merit increase.** "Merit increase" means an increase given to an employee based on meritorious job performance.

Subp. 28. **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 the United States of America.

Subp. 29. **Minimum qualifications.** "Minimum qualifications" means the requirements of training and experience necessary to qualify for a given class.

Subp. 30. **Original appointment.** "Original appointment" means a regular appointment of an individual to a local public health staff through selection from an open competitive register. It is the beginning point of the probationary period, sometimes referred to as a probationary appointment.

Subp. 31. **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. 32. **Position.** "Position" means a group of current duties and responsibilities assigned or delegated by competent authority requiring the full or part-time employment of one person.

Subp. 33. **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. 34. **Probationary period.** "Probationary period" means the first six-month working test period during which a new appointee is required to demonstrate fitness for the position to which he is appointed by actual performance of the duties of the position.

Subp. 35. **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. 36. **Provisional appointment.** "Provisional appointment" means an appointment of a person not on a register, to fill a position pending the establishment of a register for that position in accordance with the provisions of parts 4670.2500 to 4670.2550.

Subp. 37. **Reallocation.** "Reallocation" means the reclassification of a position resulting from significant changes that occur gradually over a period of time in the duties and responsibilities of the position.

Subp. 38. **Reclassification.** "Reclassification" means a reallocation or change in the allocation of a position to a higher, lower, or equivalent class.

Subp. 39. **Reemployment list.** "Reemployment list" means a list of former permanent or probationary employees who have been laid off or 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. 40. **Register.** "Register" means an officially established list of eligibles for a particular class.

Subp. 41. **Resignation.** "Resignation" means the termination of employment made at the request of the employee.

Subp. 42. **Salary adjustment.** "Salary adjustment" means an increase given to employees due to cost-of-living factors, going rates for similar jobs, labor market conditions, or a combination of these reasons.

Subp. 43. **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, labor market conditions, or a combination of these reasons.

Subp. 44. **State agency.** "State agency" means the Department of Health, which is responsible for the administration and supervision of the public health programs in the state of Minnesota.

Subp. 45. **Supervisor.** "Supervisor" means the merit system supervisor.

Subp. 46. **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. 47. **Temporary employee.** "Temporary employee" means an employee who has been appointed to a position from an eligible register but the appointment has a definite ending date.

Subp. 48. **Transfer.** "Transfer" means a change from one position to another in the same class or in another class having the same salary range and usually involving the performance of similar duties and requiring essentially the same qualifications of training and experience.

Subp. 49. **Veteran.** "Veteran" means a person defined as a veteran by Minnesota Statutes, section 197.447.

Subp. 50. **Veterans' preference.** "Veterans' preference" means the preference granted to veterans by Minnesota Statutes, section 43A.11.

Statutory Authority: *MS s 144.071*

History: *L 1977 c 305 s 39; 10 SR 1502*

STATEMENT OF POLICY

4670.0200 OBJECTIVES.

The ultimate purpose in effecting the merit principle of personnel administration of the local public health agencies is to promote economy and effective service. It is the declared aim of the Department of Health to put into full force and effect the merit principles of personnel administration. To this end the council, the supervisor, and the commissioner shall work toward the objectives of:

A. the proper classification of positions in order that positions essentially alike in duties and responsibilities shall be treated alike and that positions not so alike shall be treated with due consideration of the nature and extent of the differences between them;

B. fair and equal opportunity to all qualified citizens of the United States 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 examination; and

C. an attractive career service in public health employment within the state of Minnesota.

Statutory Authority: *MS s 144.071*

4670.0300 ADOPTION OF RULES.

Parts 4670.0100 to 4670.4300 have been adopted to accomplish the objectives stated in part 4670.0200. The rules have been promulgated by the commissioner in accordance with Minnesota Statutes, section 144.071, and in compliance

with the provisions of Minnesota Statutes, chapter 14. Parts 4670.0100 to 4670.4300 of the public health merit system have been adopted in accordance with Minnesota Statutes, chapter 14 and have the force and effect of law. Merit System Manual IV-5000-6530, available from the office of the Minnesota merit system, of the public health merit system provides instructions to appointing authorities necessary to the implementation of the rules. These instructions from the manual are accorded similar status under these rules.

Statutory Authority: *MS s 144.071*

4670.0310 AMENDMENT OF RULES.

If and when it appears desirable in the interests of good administration, the commissioner with the advice and recommendations of the council may amend parts 4670.0100 to 4670.4300 after compliance with the provisions of Minnesota Statutes, chapter 14. For this purpose, the commissioner is authorized to call and hold public hearings for the purpose of amending parts 4670.0100 to 4670.4300 as well as to perform any and all acts incidental thereto, including but without being limited thereto, signing an order for hearing and notice of hearing as well as acting as presiding officer or appointing a presiding officer for the hearing. Amendments of the rules specified in part 4670.0300 shall be considered as amendments of these rules.

Statutory Authority: *MS s 144.071*

4670.0320 EDITING OF RULES.

Before issuing or reissuing sections of the merit system rules, the supervisor may make the following, and only the following, changes. Such changes shall not be deemed to be amendments to parts 4670.0100 to 4670.4300, 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. The supervisor may make:

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

Statutory Authority: *MS s 144.071*

4670.0400 POSITIONS COVERED.

Parts 4670.0100 to 4670.4300 shall apply to every position created under the jurisdiction of the local public health authority for which any federal personnel funds are paid to the local jurisdiction, except any agent of a board of health as authorized under Minnesota Statutes, section 145A.04, appointed pursuant to Minnesota Statutes, chapter 145A, and except the position of the director of a comprehensive health department established pursuant to Laws of Minnesota 1969, chapter 235.

Statutory Authority: *MS s 144.071*

History: *L 1987 c 309 s 24*

4670.0500 POLITICAL ACTIVITY.

Subpart 1. Prohibition on elections. 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.

Subp. 2. **Prohibition on contribution.** 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.

Subp. 3. **Prohibition of candidacy.** No employee shall be a candidate in a partisan election for any public office which is obtained through a partisan election. Candidacy for political party office is not prohibited.

Subp. 4. **Applicability during sick leave, leave without pay, or administrative leave.** An employee continues to be covered by the federal Hatch Act restrictions including all the restrictions listed in subparts 1 to 5 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 5.

Subp. 5. **Candidate in 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 elector received votes in the last presidential election.

Subp. 6. **Federal Hatch Act.** All prohibitions of political activity provided in the federal Hatch Act apply to employees under the merit system.

Statutory Authority: *MS s 144.071*

4670.0600 PROHIBITION AGAINST DISCRIMINATION.

No person shall be discriminated for or against in such matters as recruitment, examination, appointment, tenure, compensation, classification, or promotion, or in such matters as conditions, facilities, or privileges of employment because of race, color, creed, religion, national origin, physical disability where such disability does not interfere with the completion of assigned duties, age, marital status, status with regard to public assistance, or sex. Any person aggrieved by a violation of these prohibitions may file a complaint under the provisions of Minnesota Statutes, chapter 363.

Statutory Authority: *MS s 144.071*

4670.0610 POLITICAL OPINIONS; DISCRIMINATION.

No person shall be discriminated for or against as provided in part 4670.0600 because of his political opinions or affiliations within the limitations imposed by part 4670.0500, nor shall discrimination occur because of any other nonmerit factor. Any person aggrieved by a violation of a prohibited discrimination that does not come within the jurisdiction of Minnesota Statutes, chapter 363 may file a complaint with the supervisor setting forth the basis of his belief that an act or threat or promise of an act of discrimination occurred and identifying by name and position the person alleged to have committed such act or threat or promise of an act of discrimination.

Statutory Authority: *MS s 144.071*

4670.0620 INVESTIGATIONS OF DISCRIMINATION.

The supervisor or a designated representative shall conduct an investigation of the alleged discrimination and shall report the complaint and the findings of the investigation to the council at its next meeting. The complainant shall have the right to present his complaint personally to the council. The council shall order any further investigation or hearing as may be warranted before making its decision. If the council finds that discrimination has occurred, it shall take whatever action it deems warranted and within its authority to remedy the effect of any act or threat or promise of an act of discrimination and to prevent future discrimination.

Statutory Authority: *MS s 144.071*

4670.0700 VIOLATIONS.

Violations of any of the provisions of parts 4670.0100 to 4670.4300 by an employee in the service shall be considered sufficient cause for the dismissal of that person.

Violations of parts 4670.0100 to 4670.4300 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.

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

Statutory Authority: *MS s 144.071*

ORGANIZATION**4670.0800 DUTIES AND POWERS OF COMMISSIONER.**

The commissioner shall exercise the duties and powers specified in Minnesota Statutes, section 144.071.

Statutory Authority: *MS s 144.071*

4670.0810 AFFECTED EMPLOYEES.

The authority to require methods relating to the establishment and maintenance of personnel standards on a merit basis shall extend to all employees of local public health authorities with civil service systems except as provided in part 4670.0400. Parts 4670.0100 to 4670.4300 shall be applicable to these employees until the local jurisdiction adopts and maintains rules affecting classification and compensation, examination and certification of eligibles, and other personnel standards that substantially conform to parts 4670.0100 to 4670.4300 and are so certified as conforming by the supervisor.

Statutory Authority: *MS s 144.071*

4670.0820 PUBLIC HEALTH MERIT SYSTEM COUNCIL.

Subpart 1. Council. The public health merit system council shall be the council appointed by the governor to serve as the council for the county welfare merit system.

Subp. 2. Duties. It shall be the duty of the council within the scope of parts 4670.0100 to 4670.4300:

A. to establish general policies for the administration of merit examinations and the hearing of personnel appeals as provided in parts 4670.3500 to 4670.3550;

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

D. to review the classification and compensation plans in relation to the merit system program of recruitment and examination and to consult with the commissioner on their adoption and revision;

E. to make recommendations to the commissioner about internal personnel policies to ensure conformity with parts 4670.0100 to 4670.4300;

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

G. to review and make recommendations to the commissioner about amendments to the rules of the public health merit system.

Subp. 3. Meetings of the council. Meetings of the council shall be held as often as necessary and practicable upon call of the chairman, of the supervisor, 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. 4. Reimbursement. 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 of 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 144.071*

4670.0830 PUBLIC HEALTH MERIT SYSTEM SUPERVISOR.

The public health merit system supervisor shall be the duly appointed supervisor of the Minnesota merit system. In conformance with parts 4670.0100 to 4670.4300, it shall be the duty of the supervisor to:

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

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

C. maintain personnel records of all persons employed under the merit system and records of all personnel action;

D. promote public understanding of the purposes, policies, and practices of the merit system and to develop and put into effect procedures for carrying out the personnel administration of the rules of the merit system;

E. appoint a staff, including technicians, clerks, stenographers, and such other permanent or temporary employees as are necessary to carry out the provisions of parts 4670.0100 to 4670.4300 (the employees shall be chosen in accordance with the rules of the Minnesota Department of Employee Relations);

F. review, develop, and propose amendments to existing merit system rules for consideration and recommendation by the merit system council and in accordance with Minnesota Statutes, chapter 14; and

G. perform other duties prescribed by parts 4670.0100 to 4670.4300 or by the council.

Statutory Authority: *MS s 144.071*

CLASSIFICATION PLAN

4670.0900 PRESENTATION AND ADOPTION.

The commissioner of health shall formally adopt a comprehensive classification plan for all positions covered by parts 4670.0100 to 4670.4300 which shall be published as part of the health merit system manual. The plan shall be based on investigation and analysis of the duties and responsibilities of positions and shall be so developed and maintained that all positions that are substantially similar

in the kind, difficulty, and responsibility of work are included in the same class. 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.

Class titles established by the classification plan shall be used in all personnel and financial records of the Minnesota Department of Health and the local public health agencies, as well as in all examination procedures.

Any subsequent amendment shall be submitted to the council for review and recommendation in relation to the merit system program of recruitment and examination.

Statutory Authority: *MS s 144.071*

History: *10 SR 1502*

4670.0910 ALLOCATION OF POSITIONS.

Every position under the public health merit system as provided in part 4670.0400 shall be allocated by the supervisor to one of the appropriate classes established in 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, such necessary allocation or reallocation shall be made by the supervisor to new or existing classes as necessary.

Statutory Authority: *MS s 144.071*

4670.0920 RECLASSIFICATION OF POSITIONS.

Whenever a position appears to be improperly allocated, the supervisor shall, upon his own initiative, or upon the request of an appointing authority or a permanent employee, investigate the duties of the position. Following the investigation the supervisor shall allocate the position to its proper class and notify the affected parties.

Statutory Authority: *MS s 144.071*

4670.0930 INCUMBENTS OF RECLASSIFIED POSITIONS.

Subpart 1. Reallocation. When a position is reclassified and it is determined to be a reallocation, the supervisor shall authorize an appointing authority to promote the incumbent of the reallocated position. An employee so promoted shall serve a probationary period in the higher class.

Subp. 2. Reclassification. When a position in one class is reclassified because of a change in allocation, the incumbent shall not be deemed eligible to continue in the position unless he is eligible for original appointment, promotion, transfer, or demotion to the new class of positions. If he is ineligible to continue in such a position, he may be transferred, promoted, or demoted, by appropriate action of the appointing authority in accordance with such provisions of parts 4670.0100 to 4670.4300 as may be deemed to be applicable. 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, he may be permitted to take the same or equivalent examination from which the existing register was established, provided that his name is not on the existing register; he did not take and fail the examination from which the existing register was established; and he was eligible to take that 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 he is not transferred, promoted, or demoted, the provisions of these rules about layoff shall apply. A transfer, promotion, demotion, or layoff in accordance with parts 4670.0100 to 4670.4300 must occur within 60 days of the notification of reclassification of the position.

4670.0930 MERIT SYSTEM

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Subp. 3. [Repealed, 10 SR 1502]

Subp. 4. [Repealed, 10 SR 1502]

Statutory Authority: *MS s 144.071*

4670.0940 CLASS SPECIFICATIONS.

The classification plan shall consist of written specifications for each class. Each specification shall include an appropriate class title, a description of the duties and responsibilities of the work, and the requirements of training, experience, and other qualifications.

Statutory Authority: *MS s 144.071*

4670.0950 REVISION OF PLAN.

Existing classes may be abolished or changed and new classes added in the same manner as outlined in part 4670.0900. All new or revised classes shall be evaluated by use of a formal job evaluation system.

Statutory Authority: *MS s 144.071*

History: *10 SR 1502*

PREPARATION OF COMPENSATION PLAN

4670.1000 COMMISSIONER'S ADOPTION.

In accordance with the Administrative Procedure Act, the commissioner shall formally adopt and make effective a for comprehensive compensation plan, including minimum and maximum salary rates as provided in parts 4670.4200 to 4670.4240, and recommended intervening steps as published in the Health 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 an agency where there is an exclusive representative or in those instances where the requirements of part 4670.1310, item C have been satisfied. The plan shall include salary ranges for the various classes, with the salary of each class consistent with the duties and responsibilities 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 of 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 ranges. 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.

Statutory Authority: *MS s 144.071*

History: *10 SR 1502*

4670.1010 REVIEW BY COUNCIL.

The proposed compensation plan and any amendments shall be submitted to the council for review and recommendation. After review and recommendation by the council and after compliance with Minnesota Statutes, chapter 14, the commissioner shall formally adopt the compensation plan. That plan shall be the official salary schedule of the Minnesota merit system on the date specified in the plan.

Statutory Authority: *MS s 144.071*

4670.1020 CLASSES OF POSITIONS IN PLAN.

The comprehensive compensation plan shall provide for separate alphabeti-

cally designated salary plans for different occupational groupings of classes reflecting progressively higher salary ranges except for those classes for which a single range of rates is found to be appropriate. Plans shall be established as provided in part 4670.1000. Minimum and maximum salaries shall be provided for in parts 4670.4200 to 4670.4240.

Statutory Authority: *MS s 144.071*

SELECTION OF SALARY RANGES BY LOCAL PUBLIC HEALTH AUTHORITY

4670.1100 ADOPTION OF AN OFFICIAL PLAN.

Appointing authorities shall choose a salary plan by resolution for each occupational grouping of classes from among the plans listed in part 4670.1020 unless the provisions of part 4670.1140 apply or if salaries are negotiated with an exclusive representative. The plans adopted shall be the official plans for the appointing authority until amended.

Statutory Authority: *MS s 144.071*

4670.1110 SELECTION OF RATES.

By resolution, each appointing authority shall designate the minimum, intervening, and maximum salary rates to be paid for each class of positions used by the appointing authority. The rates must be within the minimum and maximum salaries for the classes in the adopted plan. The appointing authority shall promptly notify the supervisor about the rates selected.

Statutory Authority: *MS s 144.071*

4670.1120 PLAN AMENDMENTS.

By resolution, the appointing authority may amend its official plan for one or more occupational groupings of classes. The appointing authority shall promptly notify the supervisor about official action taken to amend its plan.

Statutory Authority: *MS s 144.071*

4670.1130 INCUMBENTS.

Salary rates for incumbents of positions shall be established in accordance with parts 4670.1310 and 4670.1320 on the basis of the plan adopted as provided in part 4670.1020.

Statutory Authority: *MS s 144.071*

4670.1140 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 ranges as negotiated for the class under part 4670.1210. 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 144.071*

4670.1200 ADJUSTMENT OF THE OFFICIAL SALARY SCHEDULE OF THE MINNESOTA MERIT SYSTEM.

Subpart 1. Annual adjustments. The compensation plan provided in parts 4670.4200 to 4670.4240 shall be adjusted annually to reflect changes in the level of salary rates in business and government 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 4670.1000. Amendments shall include a proposed general adjustment to all rates of pay in the professional, health services support, clerical, and building maintenance 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, health services support, clerical, and building maintenance 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 4670.1320. 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 144.071*

History: *10 SR 1502; 12 SR 1335*

4670.1210 NEGOTIATION OF SALARY SCHEDULE.

Subpart 1. Role of exclusive representative. In 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 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 the recognition of meritorious service. When a new classification not previously used in the agency is established in the middle of the contract period and that class falls within the bargaining unit and no provision exists in the contract for establishing those 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 adopted 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 144.071*

4670.1220 ADMINISTRATION OF PLAN; MINIMUM RATES OF PAY.

In 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 144.071*

History: *10 SR 1502*

SALARY ADJUSTMENTS AND INCREASES**4670.1300 AVAILABILITY OF FUNDS.**

Before salary increases and adjustments are made in accordance with related rules or in accordance with a negotiated collective bargaining agreement, the local public health authority shall have in its records and carry in its minutes a definite statement that funds for this purpose are available.

Statutory Authority: *MS s 144.071*

4670.1310 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 items A to H:

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 adopted by the local public health authority, 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 the employee's 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 4670.1200, subpart 4, as long as that additional adjustment does not place the employee's salary over the new maximum adopted salary for the class.

C. If a local public health authority determines the general merit system adopted adjustment is inappropriate for its employees, the authority may grant a different adjustment. The authority shall file with the supervisor the new salary steps by class and a salary conversion table as provided for in part 4670.4300. The adjustments shall at least place employees at the minimum salary and not over the maximum salary for their classes, on the salary plan adopted by the authority.

D. Employees at the maximum salary for their class may be granted salary adjustments over the maximum salary prescribed for their class only if that 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 a merit system general adjustment, that 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 the appropriate class.

G. Employees at the maximum salary rate for their class may be granted merit system adopted salary adjustments only in the amount adopted for incumbents of that class. If an appointing authority wishes to grant a larger general adjustment to its employees than that adopted by the merit system and that adjustment would place an employee's rate of pay above the maximum salary rate for the employee's class, the appointing authority by prior resolution may grant to that employee the annual equivalent of the difference between the merit system adopted adjustment for incumbents and the agency adopted adjustment in the form of a single lump-sum salary payment on the effective date of the general adjustment. The employee's base salary shall remain at the maximum salary rate for the class.

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 that action necessary and the interests of the authority that will be served by that action. The supervisor shall review each proposal giving due consideration to the salary rates paid other employees in the same class in the authority and shall deny any request which does not assure equitable compensation for comparable work. Salary increases proposed in accordance with this provision are not based on employee performance or a general merit system adopted salary adjustment. The granting of such an increase shall not affect the employee's 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 termination of those conditions, notwithstanding the provisions of part 4670.1500, subpart 1 or 4670.3530.

Statutory Authority: *MS s 144.071*

4670.1320 RECOMMENDED ADJUSTMENTS.

The merit system general adjustment recommended for incumbents is three percent for employees on the professional and administrative, health services support, clerical, and building maintenance salary schedules.

Statutory Authority: *MS s 144.071*

History: *10 SR 1502; 11 SR 1069; 12 SR 1335*

4670.1330 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 appointing authority are recognized as important factors in the maintenance of satisfactory morale. If the general adjustments result in the reduction of the differentials 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 differentials, within the limits of the new plan. In maintaining differentials, the appointing authority shall take into consideration the length of service and quality of performance of the employee affected.

Statutory Authority: *MS s 144.071*

4670.1340 COLLECTIVE BARGAINING AGREEMENT.

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 144.071*

MERIT INCREASES

4670.1400 INCREASES BY STEPS.

Merit increases from the minimum on the official merit system compensation plan or on any negotiated salary schedule or on any salary schedule filed with the supervisor pursuant to part 4670.1310, item C shall be by successive intervening steps of pay for the class, with due consideration for length of service and quality of performance.

Statutory Authority: *MS s 144.071*

4670.1410 ELIGIBLE EMPLOYEES.

In appointing authorities that have adopted a merit increase policy, an employee may be considered for a merit increase upon the satisfactory completion of the probationary period.

Statutory Authority: *MS s 144.071*

4670.1420 ANNUAL REVIEW FOR MERIT INCREASES.

In appointing authorities 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. If 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.

Statutory Authority: *MS s 144.071*

4670.1430 RESTRICTION ON FREQUENCY OF INCREASES.

In appointing authorities that have adopted a merit increase policy, 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 of the local public health authority and reported to the merit system supervisor.

Statutory Authority: *MS s 144.071*

4670.1440 INCREASES BASED ON ADDITIONAL EDUCATION.

In appointing authorities that have adopted a merit increase policy, an extraordinary merit increase within the authority'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.

Statutory Authority: *MS s 144.071*

4670.1450 LUMP SUM PAYMENTS.

In appointing authorities that have adopted a merit increase policy, the appointing authority may grant an employee who meets all other eligibility requirements of the authority for a merit increase but whose salary is at or above the maximum rate of pay in the adopted salary range for the relevant 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. Before this provi-

sion can be effective, an appointing authority must establish by resolution as its official policy prior to the beginning of the year in which such merit increases are granted that such 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 144.071*

4670.1500 SALARY DECREASES.

Subpart 1. General. Except as otherwise negotiated by an appointing authority 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 4670.3530.

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 144.071*

4670.1600 WORK-OUT-OF-CLASS ASSIGNMENTS.

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 one step salary increase within the 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 may be proposed only if the duration of the vacancy is anticipated to be less than six months. Approval of these assignments by the supervisor is required and requests for approval 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, notwithstanding the provisions of part 4670.1500, subpart 1 and part 4670.3530.

Statutory Authority: *MS s 144.071*

4670.1700 RECRUITMENT AND APPOINTMENT.

Before appointment applicants may be required to pass a satisfactory physical examination.

Statutory Authority: *MS s 144.071*

4670.1800 APPLICATIONS.

Subpart 1. Filing applications. 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.

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.

Subp. 2. Disqualification of applicants. The supervisor may refuse to examine an applicant, or after examination he may disqualify such applicant or remove his name from a register, or he 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 his application;

G. has used or attempted to use 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 as an applicant he was not entitled;

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

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

K. has otherwise violated provisions of parts 4670.0100 to 4670.4300.

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 mailed to his last known address sufficiently in advance of the examination to allow for an appeal from rejection as provided in part 4670.3400.

Statutory Authority: *MS s 144.071*

4670.1900 EXAMINATIONS.

Subpart 1. Content of examinations. Examinations for entrance into the public health merit system 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 he is competing as well as his general background and related knowledge, and shall be rated objectively.

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

Subp. 2. Weighting of 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 definite weights to each part of the examination prior to its public announcement. Eligible lists

will be established on an area or county basis only or on the basis of both area and county. Certification of eligibles on an area basis smaller than the county unit may be approved by the supervisor. Since these positions cover a broad range of duties requiring many different abilities, knowledges, and basic skills, notwithstanding other provisions of the rules, the supervisor also may approve selective certification of eligibles who possess a particular ability, knowledge, or skill or a combination of these attributes.

Statutory Authority: *MS s 144.071*

4670.1910 NOTICE OF EXAMINATIONS.

The supervisor shall announce all examinations for original entrance into the public health merit system 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 announcements of examinations shall specify the title and salary ranges of the classes 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 weight assigned to the various parts of the examination.

Statutory Authority: *MS s 144.071*

4670.1920 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 him 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 who falsifies his or her identity to gain admittance to the examination, or who otherwise meets the criteria for disqualification as provided in part 4670.1800, subpart 2.

Statutory Authority: *MS s 144.071*

4670.1930 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 applicants and to the number of vacancies that may reasonably be expected to occur during the life of the register.

Statutory Authority: *MS s 144.071*

4670.1940 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 144.071*

4670.1950 ORAL EXAMINATIONS.

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 any such board. If practicable, all applicants qualifying for the oral examination for the same class of positions shall be rated by the same oral examination board. A member of any oral examination board shall disclose each instance in which he knows the applicant personally and, in those instances, the supervisor shall determine whether that member shall rate that applicant.

Statutory Authority: *MS s 144.071*

4670.1960 NOTICE OF EXAMINATION RESULTS.

Each applicant passing all parts of the examination shall be notified by mail by the supervisor of his 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 his relative position on a register. An applicant who fails any part of the examination or the total examination shall be promptly notified of his failure.

Statutory Authority: *MS s 144.071*

4670.1970 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 144.071*

4670.2000 REGISTERS.

Subpart 1. Establishment of registers. After such examination the supervisor shall prepare and maintain registers of persons who attain passing scores in the examination. The names of eligible persons shall be placed on registers in the order of their final rating, beginning with the highest, except as modified by veterans' 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.

Eligible registers resulting from examinations shall be of three kinds: open competitive registers, from which original appointments 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 parts 4670.0100 to 4670.4300.

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.

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.

Registers shall normally be established on a statewide basis. Nevertheless, the supervisor may offer examinations on a county or area basis or may establish a county or 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 public health agency.

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 parts 4670.0100 to 4670.4300. Names shall be placed on this list in reverse order of layoff.

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.

Subp. 2. Change of address. Each applicant or eligible shall file with the supervisor notice of any change of address.

Subp. 3. 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. 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 reduces the life of a register, he shall notify each eligible remaining on such register to this effect by mail to his last known address.

Subp. 4. Removal of names from registers. 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, his 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 registers.

C. Filing of a statement by the eligible that he is not willing 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 modifying for future consideration any prior statement about the time, place, or other conditions under which appointment will be accepted.

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D. Declination of appointment under such conditions as the eligible previously has indicated he would accept.

E. Failure to respond within five days to any inquiry of the supervisor or an 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 4670.1800.

I. Is not available in an area under the jurisdiction of the merit system.

The supervisor, upon noting any declination or failure of any eligible to respond, may send a notice to the eligible of the removal of his 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 he 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 him at the last known address of record supplied by him 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 144.071*

4670.2100 METHODS FOR FILLING VACANCIES.

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

Statutory Authority: *MS s 144.071*

4670.2200 REQUISITION FOR CERTIFICATION OF CERTAIN INDIVIDUALS.

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. The 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 qualification requested. Eligibles shall be certified in strict order of standing on the register, except in a case in which the supervisor has determined there is reason for a certification of an eligible with special qualifications. Requests for certification of certain individuals with special qualifications approved by the supervisor shall be reported to the council at its next scheduled meeting.

Statutory Authority: *MS s 144.071*

4670.2300 CERTIFICATION METHODS.

Subpart 1. Competitive register. After 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 score 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. Multiple vacancies. 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 15th person certified on a competitive certification or as that of the seventh person certified on a promotional certification. Supplementary certifications will be issued only in instances in which it is found that there are less 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. Inadequate registers. When the number of names available for filling any vacancy by original appointment, promotion, or reinstatement is fewer than 15 on a competitive certification or seven on a promotional certification, and there are fewer than three different names on all 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 appointments. If there is no register that the supervisor deems appropriate, then the vacancy may be filled provisionally as provided for in part 4670.2510, subpart 1.

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 Minnesota Statutes, section 43A.02, subdivision 33, 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 144.071*

History: *13 SR 1057*

4670.2400 COUNTY-OPTION CERTIFICATION.

Subpart 1. Request for list of eligibles. 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 4670.2000, subpart 1. The supervisor, upon receiving such requisition, shall certify the names of eligibles from the register as requested.

Subp. 2. **Statewide certification.** 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 144.071*

APPOINTMENTS

4670.2500 APPOINTMENT FROM REGISTERS.

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 him.

Promotional appointments shall be made in the same manner as original appointments as specified in this part, except that the person appointed is selected from a certification from a promotional register.

Trainee appointments shall be made in the same manner as original appointments as specified in this part, 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 144.071*

4670.2510 PROVISIONAL APPOINTMENT.

Subpart 1. **When a provisional appointment can be made.** 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 these rules nor without prior approval of the supervisor.

Subp. 2. **Provisional promotional appointment.** 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. **Duration.** 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 from 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. Provi-

sional appointments may be extended at the end of the six-month period with the approval of the 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;

B. that continuous receipt of applications had been provided in accordance with part 4670.1800, subpart 1, and the examination is to be held whenever the supervisor finds that enough applicants have filed to assure adequate competition.

Subp. 4. Appointments prior to the adoption of parts 4670.0100 to 4670.4300. All appointments made subsequent to the adoption of parts 4670.0100 to 4670.4300 but prior to the establishment of a register from which eligibles can be certified shall be regarded as provisional appointments.

Statutory Authority: *MS s 144.071*

4670.2520 EMERGENCY APPOINTMENT.

Whenever any 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 appointments, except as provided in part 4670.4150. 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 of the supervisor. Each emergency appointment shall be reported to the supervisor in the manner prescribed by him when the appointment is made.

Statutory Authority: *MS s 144.071*

History: *12 SR 458*

4670.2530 LIMITED-TERM APPOINTMENT.

If an employee is needed for a limited period of not more than six months, a certification may be made by the supervisor of the names of those eligibles, in the order of their place on an appropriate register, who have indicated willingness to accept temporary employment. Certification shall be made in the manner set forth in part 4670.2100. The duration of the limited-term appointment shall be for the period of need only, and in no event shall such appointment continue for more than six months in any 12-month period. The acceptance or refusal of a limited-term appointment shall not affect an eligible's standing on a register or his eligibility for appointment to a permanent position, and the period of the limited-term appointment shall not constitute a part of a probationary period. Successive limited-term appointments to the same position shall not be made, nor shall an employee receive continued limited-term appointments.

Statutory Authority: *MS s 144.071*

4670.2540 EMPLOYEE'S APPOINTMENT PRIOR TO ADOPTION OF THESE RULES.

An employee on the staff of a local public health agency prior to adoption of these rules by that agency, 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 by him on the date of adoption of parts 4670.0100 to 4670.4300 without consideration of minimum qualifications of training and experience. Upon certification by the supervisor that he has attained a passing grade in the first examination

held in accordance with part 4670.1900, he may be appointed as a permanent employee by the appointing authority without being required to serve a probationary period.

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 parts 4670.0100 to 4670.4300 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 his transfer or promotion. Such an employee may, on certification by the supervisor that he has attained a passing grade in the examination for that position, be retained as a permanent employee by the appointing authority. An employee transferred or promoted as described above who fails in the examination for the position currently held by him may, on certification by the supervisor that he has attained a passing grade in the examination for the position previously held by him, be retained in that position as a permanent employee, provided that there is a vacancy in the class.

The services of an employee who 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 parts 4670.0100 to 4670.4300.

Such employee, certified as having given satisfactory service, who has been hired within six months before the adoption of these rules but prior to the first examination for the position held by him, shall be admitted to the examination on the basis of the minimum qualifications of training and experience for the class that were in effect at the time of his hire. Such an employee may, on certification by the supervisor that he 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 by him shall be terminated within 90 days after the establishment of a register for such position in accordance with parts 4670.0100 to 4670.4300.

A new employee appointed after the adoption of 4670.0100 to 4670.4300 by a local public health agency, but prior to the holding of the first examinations under parts 4670.0100 to 4670.4300 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 his appointment.

Statutory Authority: *MS s 144.071*

4670.2550 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 144.071*

4670.2600 PROBATIONARY PERIOD.

Subpart 1. Purpose. 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.

Subp. 2. When 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 authorities except when specifically waived in writing to the supervisor by the new employing authority 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.

Statutory Authority: *MS s 144.071*

4670.2610 PROBATION AS CONDITION OF EMPLOYMENT.

An appointing authority may effect a probationary period in an employment action in which such period is not required as specified in part 4670.2600, subpart 2 by writing this condition of appointment on the appointment report submitted to the supervisor. 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 144.071*

4670.2620 DURATION OF PROBATIONARY PERIOD.

The probationary period shall consist of the equivalent of the first full six months of compensated service following the date of the appointment action requiring such period, except as provided in part 4670.2630. Unpaid leave of ten or fewer work days during the probationary period does not affect the duration of the period.

Statutory Authority: *MS s 144.071*

4670.2630 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 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 probationary period.

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

Statutory Authority: *MS s 144.071*

History: *12 SR 458*

4670.2640 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 his probationary period in the lower class by service in the higher position.

Statutory Authority: *MS s 144.071*

4670.2650 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 144.071*

4670.2660 DEMOTION DURING PROBATION.

A probationary employee who is demoted to a class of positions in the same occupational field shall have included as part of the probationary period in the lower class his 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 144.071*

4670.2670 REMOVAL DURING PROBATION.

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 of dismissal, including the reasons for dismissal, at least five days in advance of the date on which the dismissal becomes effective. A copy of the notification shall also be submitted to the supervisor.

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 he was promoted as his seniority permits or in a comparable class as parts 4670.0100 to 4670.4300 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 4670.2930 apply.

Statutory Authority: *MS s 144.071*

4670.2680 COMPLETION OF PROBATIONARY PERIOD.

The appointing authority shall submit written notice of the satisfactory completion of the probationary period to the employee and to the supervisor 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.

Statutory Authority: *MS s 144.071*

4670.2690 VIOLATION OF RULES.

Subpart 1. Penalty. If an appointing authority fails to implement the purpose and intent of the probationary period by appropriate action as provided in parts 4670.2600 to 4670.2680, a probationary employee who is not certified permanent in accordance with part 4670.2680 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 appointing authority. 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. 2. Reports of violations. Each instance in which permanent status is granted to an employee in accordance with subpart 1 shall be reported to the council. The council may recommend and the commissioner may take appropriate action to insure that the purpose and intent of the probationary period shall be given effect in the appointing authority in all future appointments.

Statutory Authority: *MS s 144.071*

PROMOTIONS**4670.2700 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 his duties, as evidenced by recorded service ratings, with due consideration for length of service and upon his 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 he is a candidate, and he 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 144.071

4670.2710 PROMOTION BY COMPETITIVE EXAMINATION.

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

At the discretion of the supervisor and the appointing authority involved, a promotional competitive examination may be limited to the employees of one local public health agency or may be open to the employees of all local public health agencies. If it is determined by the secretary and executive officer 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.

All employees who received 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 4670.2550.

If a promotional register and an original entrance register exist, the same number of names shall be certified from each register in accordance with part 4670.2100. The appointing authority may make his selection from the names submitted from either register, giving such preference to present employees as the good of the local public health agency will permit.

Statutory Authority: MS s 144.071

4670.2720 [Repealed, 12 SR 458]

TRANSFERS AND DEMOTIONS**4670.2800 TRANSFERS.**

A transfer of an employee from a position in one organizational subdivision of a local public health agency to a position of the same class in another organizational subdivision of a local public health agency may be made at any time by the appointing authority concerned.

Transfer of a permanent employee from a position in one local public health agency to a position of the same class in another local public health agency may be made with the approval of the appointing authorities concerned and the supervisor, subject to the provisions of part 4670.2600, subpart 2. All such transfers must be reported to the supervisor.

A permanent employee may be transferred from a position in one class to

a position in another class, the transfer being either within one local public health agency or between local public health agencies providing that the supervisor certifies that the examination upon which appointment of the employee was based was of a character and standard to test the fitness of such employee for the position to which it is proposed to make such transfer and requires substantially similar qualifications.

Statutory Authority: *MS s 144.071*

4670.2810 DEMOTIONS.

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

A permanent employee shall be, before the action is taken, furnished with a statement in writing, setting forth the reasons for the demotion. He 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 part 4670.3440, subpart 2.

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

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

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 he previously served unless he elects to be laid off. In either event the name of such employee shall be placed on an appropriate layoff list and upon his written application may be placed on an appropriate reemployment list.

An appointing authority, with the consent of the affected employee, may demote, in lieu of layoff, 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 his name shall be placed on the layoff list and upon written request may be placed on the reemployment list for the class from which he was demoted. No employees so demoted shall displace a permanent or probationary employee except in order of seniority.

Statutory Authority: *MS s 144.071*

SEPARATION, TENURE, AND REINSTATEMENT

4670.2900 RESIGNATIONS.

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.

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 absents himself 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 144.071*

4670.2910 DISMISSALS.

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.

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. He 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 4670.3530.

Any employee who willfully practices, or attempts to practice, any deception or fraud in his application, in his certificate, in his examination, or in securing his 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 part relating to notice of discharge and hearing before the merit system council.

Statutory Authority: *MS s 144.071*

4670.2920 SUSPENSION.

The appointing authority may, after written notice, 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 the provisions of part 4670.3530, subpart 1.

Statutory Authority: *MS s 144.071*

4670.2930 LAYOFF.

Subpart 1. Reason for layoff. 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, limited-term, 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. 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 away as to retain in the agency the employee(s) considered most valuable. 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. 3. 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. 4. 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.

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.

Subp. 5. Vacancy. Whenever an appointing authority submits a requisition to fill a vacancy or 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. 6. Scope of rule. 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 144.071*

4670.2940 TENURE OF OFFICE.

The tenure of office of every permanent employee shall be during good behavior and the satisfactory performance of his duties as recorded by his 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 4670.0100 to 4670.4300.

Statutory Authority: *MS s 144.071*

4670.2950 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 may be reinstated to a position in the same class in the public health merit system at any time within two years after the date of his 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, 1971, in a local public health 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 144.071*

4670.2960 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 144.071*

4670.2970 [Repealed, 12 SR 458]

4670.2980 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 this part must serve a new probationary period upon appointment.

Statutory Authority: *MS s 144.071*

LEAVES OF ABSENCE

4670.3000 APPLICABILITY OF MINIMUM STANDARDS.

Leave policies stated in parts 4670.3010 to 4670.3070 are minimum standards and shall apply to all employees except when otherwise negotiated by the appointing authority with an exclusive representative or otherwise adopted in accordance with parts 4670.3000 to 4670.3080. At the discretion of the appointing authority, negotiated benefits may be applied to all employees of the agency.

Beyond the minimum standards listed in parts 4670.3010 to 4670.3070 the appointing authority may adopt an optional leave of absence policy to the extent allowed in part 4670.3080.

Agencies without an exclusive representative that adopt an optional leave policy beyond the minimum standards listed in parts 4670.3010 to 4670.3070 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 4670.3030, subpart 1 and 4670.3040, subpart 1 and which shall apply to all employees covered by parts 4670.0100 to 4670.4300

Statutory Authority: *MS s 144.071*

4670.3010 JURY OR WITNESS DUTY.

Subpart 1. Duty. After notice to the appointing authority, any employee under the merit system shall be granted leave with pay for service upon a jury or for 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. Payment. 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 in the actions listed in subpart 1. Moneys received as expenses shall be kept by the employee.

Subp. 3. Absence for testifying. Any absence, whether voluntary or in a 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 144.071*

4670.3020 LEAVES OF ABSENCE WITHOUT PAY.

Subpart 1. Generally. 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.

Subp. 2. Disabilities related to childbearing. Disabilities caused or contributed to by pregnancy, miscarriage, abortion, childbirth, and recovery therefrom are, for all job-related purposes, temporary disabilities. 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.

Subp. 3. Proof of disability. The appointing authority shall establish the proof required of the existence of sickness or disability and the continuance thereof during the one-year period. The appointing authority may require that the employee produce medical certification of fitness for work from a registered practicing physician before returning the employee to the job.

Subp. 4. Right to return to position. 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 fewer. 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 the employee have been abolished, the name of the employee shall be restored to the appropriate reemployment register provided for in part 4670.2930, subpart 4. 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 may have been acquired. 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 cannot return to work within the specified days, the employee must notify the appointing authority and request an approval for a leave of absence.

Statutory Authority: *MS s 144.071*

4670.3030 VACATION LEAVE.

Subpart 1. Accrual. 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 the time served at the rate of one working day for each full month of service except as otherwise provided under part 4670.3000. No vacation leave shall be accrued or granted during the first six months of service in the merit system; but upon satisfactory completion of that period, vacation leave shall accrue to a permanent, probationary, or trainee employee for the time served. Limited term 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 agency shall determine the time at which vacation leave may be taken. Vacation leave may not be used before 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. Noneligible employees. Vacation leave shall not accrue to an employee while in a nonpay status, except to an employee on military leave.

Subp. 3. Transferred employee. A permanent employee who is transferred or promoted from one 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 request of the employee, agrees to accept all or a portion of the employee's accrued but unused vacation leave.

Subp. 4. Unused vacation leave accrued. 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 144.071*

4670.3040 SICK LEAVE.

Subpart 1. Rate. Every permanent, probationary, provisional, and limited-term employee shall accrue sick leave at the rate of one working day for each completed month of service, except as otherwise adopted under part 4670.3000, and such accrued sick leave may be used under the conditions prescribed in subparts 2 to 10.

Subp. 2. Illness. Absence necessitated by employee's inability to perform the duties of his or her position by reason of illness or injury, by reason of prenatal and postnatal care, by necessity for medical or dental 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 parents living in the household of the employee, when the parents have 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 brothers, sisters, parents, or grandparents of either the employee or the employee's spouse.

Subp. 3. Unused sick leave. Unused sick leave shall accumulate to a total of at least 100 working days.

Subp. 4. Nonapplicable employees. Sick leave with pay shall not accrue to emergency, hourly, or per diem employees.

Subp. 5. Employees on nonpay status. Sick leave shall not accumulate to an employee while in a nonpay status, except an employee on military leave.

Subp. 6. Sickness within vacation days. 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. 7. Attestation of illness. The appointing authority may require the employee to produce medical certification from a registered practicing physician attesting to the need for sick leave and attesting that the employee is fit to return to work.

Subp. 8. Reviving sick leave of reinstated 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 recredited upon approval of the new appointing authority.

Subp. 9. Credit of sick days for transferring employee. 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 or a portion of previously accrued but unused sick leave at the discretion of the new appointing authority.

Subp. 10. Use of only accrued sick leave. 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 144.071*

4670.3050 MILITARY LEAVE.

Employees who are in service in the armed forces of the state or the United

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States shall be entitled to leave of absence as provided for by Minnesota Statutes, section 192.261.

Statutory Authority: *MS s 144.071*

4670.3060 RECORD OF LEAVE.

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

Statutory Authority: *MS s 144.071*

4670.3070 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.

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

Subp. 2. Designated holidays. Appointing authorities may designate one or both of the following as holidays:

- A. Christopher Columbus Day, the second Monday in October; and
- B. Friday after Thanksgiving.

Subp. 3. Holidays on Sunday or Saturday. 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. 4. [Repealed, 11 SR 1069]

Subp. 5. [Repealed, 11 SR 1069]

Subp. 6. [Repealed, 11 SR 1069]

Statutory Authority: *MS s 144.071*

History: *10 SR 1502; 11 SR 1069*

4670.3080 OPTIONAL POLICY.

Subpart 1. Adoption of optional policy. Beyond the minimum standards listed in parts 4670.3010 to 4670.3070, 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 leaves of absence 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 brothers, sisters, parents, or grandparents of either the employee or the employee's spouse.

Subp. 3. [Repealed, 11 SR 1069]

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. Such leave shall otherwise be subject to the filing requirement of part 4670.3000. The appointing authority may allow the employee to continue to accrue eligibility for merit increases, as in parts 4670.1400 to 4670.1450, and such salary 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.

Statutory Authority: *MS s 144.071*

4670.3100 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 and quantity of work performed by employees in the public health merit system. In so far as practicable, the system of service ratings in the local public health 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, dismissals, and in determining the order of separations due to reduction of force.

Statutory Authority: *MS s 144.071*

4670.3200 EMPLOYEE TRAINING.

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

Statutory Authority: *MS s 144.071*

4670.3300 OTHER EMPLOYMENT.

No employee shall hold other public office, except as provided in part 4670.0500, subpart 5, 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 council.

Statutory Authority: *MS s 144.071*

APPEALS AND HEARINGS

NOTE: The Notice of Hearing for Department of Health Minnesota Merit System rules, State Register, volume 6, pages 748 to 750, states that 7 MCAR 1.254 (renumbered as Minnesota Rules, parts 4670.3400 to 4670.3460) was proposed to be entirely stricken and replaced with new language. The new language occurs in 7 MCAR 1.2541 (renumbered as Minnesota Rules, parts 4670.3500 to 4670.3550), adopted in State Register, volume 6, page 1956, May 24, 1982. Through an oversight 7 MCAR 1.254 was not repealed.

4670.3400 APPEAL FROM EXAMINATION REJECTION.

Any applicant whose application for admission to an original entrance or promotional examination has been rejected by the supervisor may appeal to the council for consideration of his qualifications. The council shall consider such appeal, if in writing, provided it shall have been received by the supervisor not later than 48 hours prior to the announced time for holding the written test. The council's decision with respect to any such appeal shall be final.

Applicants may be admitted to an examination by the supervisor pending a consideration of a written appeal. Admission to a written test under such circumstances, however, shall not constitute the ultimate acceptance of the applicant under consideration.

Statutory Authority: *MS s 144.071*

4670.3410 REVIEW OF EXAMINATION RATINGS.

Any applicant who has taken an examination may appeal to the council for review of his rating in any part of such examination to assure that uniform rating procedures have been applied equally and fairly. Such appeal must be filed in writing at the office of the supervisor within 30 days after the date on which notification of the results of such examination was mailed to the applicant.

A rating in any part of an examination shall not be changed unless compliance with the foregoing conditions has been made and unless it is found by the supervisor and council that a substantial error has been made. The council's decision with respect to a review or change shall be final and shall be entered into its minutes. A correction in the rating shall not affect a certification or appointment which may have already been made from the register.

Statutory Authority: *MS s 144.071*

4670.3420 APPEAL FROM REMOVAL FROM REGISTER.

An eligible whose name has been removed from a register for any of the reasons specified in part 4670.2000, subpart 4 may appeal to the council for consideration. Such appeal must be filed in writing at the office of the supervisor within 30 days after the date on which notification was mailed to the applicant. The supervisor shall refer the appeal with all pertinent information to the council. The council, after investigation, shall make its decision and the eligible shall be notified accordingly by the supervisor.

Statutory Authority: *MS s 144.071*

4670.3430 APPEAL FROM ALLOCATION.

Upon receipt of a notice of an original allocation or reallocation to a specified class within the classification plan, either at the time of the installation of such plan or upon revision of the plan, an employee may appeal in writing within 30 days from the date of notification of such action to the council through the supervisor requesting an additional investigation of the employee's duties and asking that reallocation be considered. The supervisor shall make an additional investigation and a report to the council relative to the reallocation. The council shall make a study of the entire facts concerning the appeal and make recommendations to the secretary and executive officer regarding the allocation. The secretary and executive officer's decision in the matter shall be final. A copy of the secretary and executive officer's decision shall be forwarded to the appointing authority.

Statutory Authority: *MS s 144.071*

4670.3440 APPEAL FROM DISMISSAL, SUSPENSION, DEMOTION, OR REDUCTION IN PAY.

Subpart 1. Due process. Except as otherwise provided in parts 4670.2800 to 4670.2980, and 4670.3930, no permanent employee under the provisions of parts 4670.0100 to 4670.4300 shall be removed, discharged, or suspended without pay for more than 30 days, or reduced in pay or position except for cause. In case of any such disciplinary action as enumerated above in this section, the employee, before such action is taken, shall be furnished with a statement in writing specifically setting forth the reasons for such disciplinary action.

Subp. 2. Demand of public hearing. Such employee, upon written request to the council within 30 days after the effective date of such action, may demand a public hearing to determine the reasonableness of such action. The supervisor shall arrange such a hearing before the council, an appeal board or referee appointed by the council to hear appeals on its behalf, within 30 days of receipt of the appeal. Both the employee and his superior officer shall be notified reasonably in advance of the hearing and shall have the right to present witnesses and give evidence before the council.

Subp. 3. **Council recommendation.** The council, within a reasonable length of time after the hearing, shall make its recommendation in writing to the appointing authority for consideration. Within 30 days after receipt of the council's recommendation, and after consideration of that recommendation, the appointing authority shall make its decision which shall be final and duly recorded in the permanent merit system records. The appointing authority shall notify the employee promptly of its decision.

Subp. 4. **Veteran.** Any veteran under the provisions of Minnesota Statutes, section 197.46, shall not be removed except for incompetency or misconduct shown after a hearing, upon due notice, upon stated charges, in writing. The hearing shall be held before the council.

Statutory Authority: *MS s 144.071*

4670.3450 APPEAL FROM DENIAL OF SALARY INCREASE.

Any permanent employee who has not received a salary increase for a 12-month period and who is denied a salary increase may appeal the denial of the increase to the council within 30 days following the receipt of the letter of denial. In the case of such an appeal, the council shall consider the reasons given for denial and, if such reasons take into account the merit of the performance of the employee, shall deny the hearing of the appeal. If the reasons given do not reflect on the merit of the performance of the employee, the council shall take testimony regarding the performance of the employee and the appointing authority and the employee shall have the right to present witnesses and give evidence before the council. Within a reasonable period of time following the hearing the council shall determine whether the employee is to be reconsidered by the appointing authority for a salary increase and shall recommend that an increase be granted or not granted.

Statutory Authority: *MS s 144.071*

4670.3460 INVESTIGATIONS AND APPEALS.

The council shall receive and consider any protest by an employee or appointing authority in any manner concerned with the administration of parts 4670.0100 to 4670.4300 and, after such investigation and hearing or either of them as the council may deem desirable in any case, shall recommend to the secretary and executive officer such remedial action as it may deem warranted.

Statutory Authority: *MS s 144.071*

4670.3500 APPEALS AND HEARINGS PROCEDURE.

Subpart 1. **Hearing of appeals.** The council or appeal board or referee appointed by the council shall hear all appeals under parts 4670.3500 to 4670.3550.

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. **Supervisor reply to the appeal.** Except for appeals under part 4670.3530, 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 from supervisor's 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. **Limits on appeal.** 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 the agreement may not subsequently appeal the same action to the council.

Subp. 6. 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 supervisor when final decisions are made by the appointing authority.

Subp. 7. Appeals under the Administrative Procedure Act. Appeals under parts 4670.3510, 4670.3520, and 4670.3550 shall be pursuant to the Administrative Procedure Act, Minnesota Statutes, chapter 14, and contested case rules of the Office of Administrative Hearings, parts 1400.5100 to 1400.8500.

Statutory Authority: *MS s 144.071*

4670.3510 APPEALS FROM SELECTION AND APPOINTMENT PROCEDURES.

Subpart 1. Appeal of rejection. Any applicant may appeal a rejection of his or her application based on qualifications or removal from a register for reasons specified in part 4670.2000, subpart 4. The council shall review the reasonableness of such rejection or removal.

Subp. 2. Appeal of examination. 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 to see that they have been applied equally and fairly to all applicants.

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

Subp. 4. Readmission. 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 144.071*

4670.3520 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 144.071*

4670.3530 APPEAL FROM DISMISSAL, SUSPENSION, OR DEMOTION.

Subpart 1. Appealable actions. Any permanent employee who has not appealed such action 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 4670.2900 to 4670.2980 and for whether the action was taken for just cause.

Subp. 2. Hearing. The hearing shall be held within 30 days after the supervisor receives the appeal.

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 notice including written stated charges.

Statutory Authority: *MS s 144.071*

4670.3540 APPEAL FROM DENIAL OF MERIT INCREASE.

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.

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 144.071*

4670.3550 OTHER APPEALS.

Any employee or appointing authority affected by action taken in the administration of parts 4670.0100 to 4670.4300 may appeal the action. The council shall review the actions for compliance with the rules of the Minnesota merit system and applicable law and shall recommend to the commissioner remedial action which is warranted. The commissioner's action shall be final.

Statutory Authority: *MS s 144.071*

INTERAGENCY OPERATIONS**4670.3600 PAYROLL REVIEW.**

The commissioner 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 parts 4670.0100 to 4670.4300.

Statutory Authority: *MS s 144.071*

4670.3700 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 him.

Statutory Authority: *MS s 144.071*

4670.3800 COOPERATION WITH MERIT SYSTEM AGENCIES.

The supervisor, with the approval of the commissioner, may cooperate with other state, federal, or local merit system agencies operating in conformity with the standards comparable to those contained in parts 4670.0100 to 4670.4300. With the approval of the commissioner, the supervisor may announce and administer joint examinations in conformity with the standards of parts 4670.0100 to 4670.4300, and the registers so established shall be given recognition under parts 4670.0100 to 4670.4300. 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 part shall be required to serve a six-month probationary period.

Statutory Authority: *MS s 144.071*

4670.3900 [Repealed, 10 SR 1502]

4670.3910 [Repealed, 10 SR 1502]

4670.3920 [Repealed, 10 SR 1502]

4670.3930 [Repealed, 10 SR 1502]

4670.3940 [Repealed, 10 SR 1502]

SALARY COMPUTATION

4670.4000 PAY PERIODS.

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

Statutory Authority: *MS s 144.071*

4670.4010 FULL-TIME AND PART-TIME EMPLOYMENT.

Subpart 1. Prescribed rates. All rates prescribed by parts 4670.4200 to 4670.4240 and part 4670.4300 shall be standard rates for full-time employees except as otherwise negotiated for employees in a bargaining unit in an agency where there is an exclusive representative or under the provisions of part 4670.1310, 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 parts 4670.4200 to 4670.4240 shall use the table prepared in accordance with part 4670.4300 in computing such payment.

Subp. 2. Agencies negotiating different salary schedules. Those agencies with an exclusive representative who negotiate different salary schedules from those shown in parts 4670.4200 to 4670.4240 under the provisions of subpart 1 or those agencies operating under the provisions of part 4670.1310, 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 4670.4300. 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 144.071*

4670.4020 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 and days the employee worked in the payroll period. Agencies shall use the table provided for in part 4670.4300 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 4670.3910, subpart 1, item C shall use their table prepared in accordance with part 4670.4300 in computing this salary.

Statutory Authority: *MS s 144.071*

4670.4030 PART PAYMENT FROM ANOTHER SOURCE.

When part of the compensation of a local public health 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 local public health 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 144.071*

4670.4040 COMPENSATION FOR VACATION AND/OR SICK LEAVE UPON SEPARATION.

Subpart 1. Unused vacation. An employee who has permanent status in a local public health agency in some class and who is separated from the agency shall be paid for accumulated, unused vacation leave in accordance with part 4670.3030, subpart 4, on the basis of the appropriate daily or hourly rate as

shown on the table prepared in accordance with part 4670.4300. This is illustrated by the following examples:

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 her employment. She has 11 days of vacation accumulated. Daily rate of \$38.80 x 19 days (8 regular working days plus 11 days of vacation) = \$737.20.

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 her employment. She has 11 days of vacation accumulated. Daily rate of \$38.36 (for 22 day month) x 19 days (eight regular working days plus 11 days of vacation) = \$727.70.

Subp. 2. **Vacation pay due.** 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 employment and made in the form of a single lump sum payment.

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

Statutory Authority: *MS s 144.071*

4670.4050 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 in an emergency in which the local public health authority orders such overtime; or when such overtime is otherwise approved in advance by the local public health authority or its designee; or 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 144.071*

History: *10 SR 1502*

APPOINTMENT, PROMOTIONS, DEMOTIONS, TRANSFERS, AND REINSTATEMENTS

4670.4100 APPOINTMENT.

The entrance salary for any new employee, whether an original appointment, provisional appointment, or emergency appointment, shall be at the minimum salary for the class of positions to which the employee is appointed, except when appointments are permitted above the minimum in accordance with part 4670.1220.

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 144.071*

4670.4110 PROMOTIONS.

Employees who are promoted shall have their salaries raised to the minimum rate of pay for the new class. If their salaries before promotion fall within the range of the new class but not on any step within that range, the salaries shall be adjusted to the next higher step.

Employees granted salary increases after having been promoted may be permitted to retain that increase when returned to a lower class, if their salaries do not exceed the maximum salary for the lower class.

Statutory Authority: *MS s 144.071*

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4670.4120 DEMOTIONS.

An employee who is demoted except in accordance with part 4670.0930 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 4670.0930 and remains in the same position may retain the 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 144.071*

4670.4130 TRANSFERS.

An employee who is transferred may be paid the same salary that he 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 is not on a salary step in that range, the employee's salary may be increased to the next higher step in the range. It shall not be decreased.

Statutory Authority: *MS s 144.071*

4670.4140 REINSTATEMENTS.

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

Statutory Authority: *MS s 144.071*

4670.4150 LOCAL PUBLIC HEALTH AGENCY RULES.

Any variation from the compensation plan adopted by the local public health authority shall be in accordance with the provisions of the merit system rules (see part 4670.1010).

Statutory Authority: *MS s 144.071*

COMPENSATION PLANS

4670.4200 PUBLIC HEALTH COMPENSATION PLAN, 1989.

The tables in parts 4670.4210 to 4670.4240 list minimum and maximum salary steps in monthly salary amounts for the specified classes of positions.

Statutory Authority: *MS s 144.071*

History: 8 SR 1346; 9 SR 1339; 10 SR 1502; 11 SR 1069; 12 SR 1335; 13 SR 1687

4670.4210 PROFESSIONAL AND ADMINISTRATIVE COMPENSATION PLAN.

Subpart 1. Plan A.

	Minimum	Maximum
Assistant Director of Environmental Health	2114	3020
Director of Environmental Health	2418	3449
Director of Public Health Nursing I	1977	2955
Public Health Educator	1694	2418
Public Health Nurse	1773	2531
Registered Nurse (A.A. Degree, 3 year Diploma, or B.S. Degree)	1694	2418
Sanitarian	1549	2320
Senior Public Health Nurse	1937	2760

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Subp. 2. Plan B.

	Minimum	Maximum
Assistant Director of Environmental Health	2212	3156
Director of Environmental Health	2531	3613
Director of Public Health Nursing I	2063	3086
Public Health Educator	1773	2531
Public Health Nurse	1851	2643
Registered Nurse (A.A. Degree, 3 year Diploma, or B.S. Degree)	1773	2531
Sanitarian	1619	2418
Senior Public Health Nurse	2021	2887

Subp. 3. Plan C.

	Minimum	Maximum
Assistant Director of Environmental Health	2320	3302
Director of Environmental Health	2643	3779
Director of Public Health Nursing I	2262	3228
Public Health Educator	1851	2643
Public Health Nurse	2021	2760
Registered Nurse (A.A. Degree, 3 year Diploma, or B.S. Degree)	1937	2643
Sanitarian	1694	2531
Senior Public Health Nurse	2114	3020

Statutory Authority: *MS s 144.071*

History: 8 SR 1346; 9 SR 1339; 10 SR 1502; 11 SR 1069; 12 SR 1335; 13 SR 1687

4670.4220 HEALTH SERVICES SUPPORT PERSONNEL COMPENSATION PLAN.

Subpart 1. Plan A.

	Minimum	Maximum
Bookkeeper	1158	1655
Home Health Aide	1014	1514
Home Health Aide Coordinator	1299	1773
Inspector	1299	1773
Licensed Practical Nurse	1299	1773
Public Health Aide	949	1299

Subp. 2. Plan B.

	Minimum	Maximum
Bookkeeper	1210	1730
Home Health Aide	1060	1582
Home Health Aide Coordinator	1355	1851
Inspector	1355	1851
Licensed Practical Nurse	1355	1851
Public Health Aide	990	1415

Subp. 3. Plan C.

	Minimum	Maximum
Bookkeeper	1270	1809
Home Health Aide	1210	1655
Home Health Aide Coordinator	1415	1937
Inspector	1415	1937

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Licensed Practical Nurse	1415	1937
Public Health Aide	1134	1549

Statutory Authority: *MS s 144.071*

History: 8 SR 1346; 9 SR 1339; 10 SR 1502; 11 SR 1069; 12 SR 1335; 13 SR 1687

4670.4230 CLERICAL COMPENSATION PLAN.

Subpart 1. Plan A.

	Minimum	Maximum
Clerk I	804	1093
Clerk II	919	1309
Clerk III	1093	1496
Clerk-Typist I	882	1197
Clerk-Typist II	919	1309
Clerk-Typist III	1143	1634
Clerk-Steno	919	1309
Switchboard Operator	882	1197

Subp. 2. Plan B.

	Minimum	Maximum
Clerk I	919	1197
Clerk II	1046	1426
Clerk III	1222	1594
Clerk-Typist I	999	1309
Clerk-Typist II	1046	1426
Clerk-Typist III	1250	1710
Clerk-Steno	1046	1426
Switchboard Operator	999	1309

Subp. 3. Plan C.

	Minimum	Maximum
Clerk I	999	1309
Clerk II	1143	1563
Clerk III	1280	1671
Clerk-Typist I	1093	1426
Clerk-Typist II	1143	1563
Clerk-Typist III	1309	1788
Clerk-Steno	1143	1563
Switchboard Operator	1093	1426

Statutory Authority: *MS s 144.071*

History: 8 SR 1346; 9 SR 1339; 10 SR 1502; 11 SR 1069; 12 SR 1335; 13 SR 1687

4670.4240 BUILDING MAINTENANCE COMPENSATION PLAN.

Subpart 1. Shift Differential. Employees in the classes specified in subparts 2 and 3 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.

Subp. 2. Plan A.

	Minimum	Maximum
Janitor	1004	1288

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4670.4240 MERIT SYSTEM

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Subp. 3. Plan B.

	Minimum	Maximum
Janitor	1189	1527

Statutory Authority: *MS s 144.071*

History: 8 SR 1346; 9 SR 1339; 10 SR 1502; 11 SR 1069; 12 SR 1335; 13 SR 1687

4670.4300 PROVISIONS FOR COMPUTING MONTHLY, HOURLY, LESS-THAN-FULL-TIME, BIWEEKLY, AND FOUR-WEEK SALARY RATES.

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 parts 4670.4200 to 4670.4240. 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 2088-hour year. Agencies with a normal work schedule which varies from an eight-hour day, 40-hour week or 2088-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 144.071*