

Chapter ER-Pers 17

DEMOTION

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Note: Chapter Pers 17 was renumbered Chapter ER-Pers 17, effective March 1, 1983.

ER-Pers 17.01 Eligibility for demotion. To be eligible for demotion, an employe must be qualified to perform the work of the position after the customary orientation provided for a newly hired worker in the position.

Note: The definition of demotion is set forth in s. ER-Pers 1.02 (5).

History: Cr. Register, October, 1972, No. 202, eff. 11-1-72; am. Register, February, 1981, No. 302, eff. 3-1-81; am. Register, February, 1983, No. 326, eff. 3-1-83; r. and recr. Register, May, 1988, No. 389, eff. 6-1-88.

ER-Pers 17.02 Exclusions. (1) The movement of an employe to a position in a lower classification while the employe is serving an original appointment probationary period shall be considered a new original appointment.

(2) The appointment of a former employe, who previously acquired permanent status, to a position in a lower classification following a break in service not covered by leave or the layoff provisions of these rules shall be considered an original appointment except when such return may be considered a reinstatement under ch. ER-Pers 16, and the appointing authority chooses to treat such appointment as a reinstatement.

(3) The change in the classification of a position held by an employe with permanent status to a lower classification is a reallocation or reclassification under ch. ER-Pers 3.

(4) Pay reduction that does not involve a change in position or class is not considered a demotion. See s. 230.34 (1), Stats.

History: Cr. Register, October, 1972, No. 202, eff. 11-1-72; am. (4), Register, September, 1975, No. 237, eff. 10-1-75; am. (1) to (3), renum. (4) to be Pers 17.025, renum. (5) to be (4) and am. Register, February, 1981, No. 302, eff. 3-1-81.

ER-Pers 17.025 Non-completion of promotional probationary period. The action by which a promoted employe is restored to the employe's previous position and pay as provided in s. ER-Pers 14.03 (1) is not a demotion. Such action is a restoration under s. ER-Pers 16.03 (5). Any such restored employe who thereafter moves by promotion to a different position shall be required to serve a new probationary period under s. ER-Pers 13.03 (2).

History: Cr. Register, October, 1972, No. 202, eff. 11-1-72; am. Register, September, 1975, No. 237, eff. 10-1-75; renum. from Pers 17.02 (4) and am. Register, February, 1981, No. 302, eff. 3-1-81; am. Register, February, 1983, No. 326, eff. 3-1-83.

ER-Pers 17.03 Notice to employe. The appointing authority shall notify an employe who is being demoted of the action and the reasons for the action at least 5 working days prior to the effective date of the action.

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Such notification shall be in writing and shall advise the employe of his or her right to appeal the action under s. 230.44 (1) (c), Stats. The appointing authority shall send a copy of the notification to the administrator.

History: Cr. Register, October, 1972, No. 202, eff. 11-1-72; am. (1), Register, December, 1976, No. 262, eff. 1-1-77; r. (2), renum. (1) and am. Register, February, 1981, No. 302, eff. 3-1-81; am. Register, May, 1988, No. 389, eff. 6-1-88.

ER-Pers 17.04 Kinds of demotion; status and rights. (1) DEMOTION FOR DISCIPLINARY PURPOSES. An appointing authority may demote an employe for disciplinary purposes as provided in s. 230.34 (1), Stats.

(a) The demotion may be to any position within the agency regardless of employing unit; and the employe may appeal the demotion as provided under s. 230.44, Stats.

(b) An employe demoted for disciplinary purposes does not retain permanent status in class previously acquired in the higher class, nor does the employe retain reinstatement eligibility to the higher class. The employe does attain permanent status in class in the class to which the employe is demoted. No probationary period is required for an employe demoted for disciplinary purposes.

(2) **DEMOTION AS RESULT OF LAYOFF.** See s. ER-Pers 22.08 (2).

(3) **VOLUNTARY DEMOTION WITHIN AN AGENCY.** An employe may request and with approval of the appointing authority be voluntarily demoted within the agency either to a position in the same employing unit, or to a position in a different employing unit. The employe's request, the appointing authority's response, and the employe's acceptance of the demotion shall be in writing. A copy of the employe's acceptance shall be sent to the administrator.

(a) The employe shall have no restoration rights to the previously held position or class.

(b) If the voluntary demotion is to a position in the same employing unit no probationary period for employment in the lower class may be required, except that a probationary period shall be required upon a voluntary demotion to a trainee position. If the employe is not required to serve a probationary period, the employe immediately attains permanent status in class in the class to which voluntarily demoted.

(c) If the voluntary demotion is to a position in a different employing unit, the employe may be required by the appointing authority to serve a probationary period, except that a probationary period shall be required upon voluntary demotion to a trainee position. If the employe is not required to serve a probationary period, the employe immediately attains permanent status in class in the class to which voluntarily demoted.

(d) If an employe is required to serve a probationary period under par. (b) or (c), the employe may be removed from the position during the probationary period by the appointing authority without the right of appeal and shall be either transferred to a different position or reinstated at the discretion of the appointing authority. If the employe is not required to serve a probationary period upon transfer or reinstatement, the employe immediately attains permanent status in class in the class to which transferred or reinstated.

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(4) **VOLUNTARY DEMOTION BETWEEN AGENCIES.** An employe may request and, with approval of the appointing authority of the receiving agency, may accept a voluntary demotion between agencies. A copy of the employe's written acceptance of such voluntary demotion shall be furnished to the administrator.

(a) The employe shall have no restoration rights to the previously held position or class.

(b) An employe demoted under this section may be required by the appointing authority to serve a probationary period. A probationary period shall be required for demotion to any position identified in s. ER-Pers 13.02 (1). During the probationary period, the employe may be separated from the service without the right of appeal. If the employe is not required to serve a probationary period, the employe immediately attains permanent status in class in the class to which demoted.

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

(c) For provisions relating to the return of an employe to the former class of position, see ch. ER-Pers 16.

History: Cr. Register, October, 1972, No. 202, eff. 11-1-72; am. (1), (3) (intro.), (b) and (c), r. and recr. (2), (3) (a), r. (3) (d) and (4), renum. (5) to be (4) and am. (intro.), (b) and (c) and r. and recr. (a), Register, February, 1981, No. 302, eff. 3-1-81; am. (1) (b), (2), (3) and (4) (b), cr. (3) (d), Register, February, 1983, No. 326, eff. 3-1-83; am. (3) (intro.) and (4) (b), Register, May, 1988, No. 389, eff. 6-1-88.

ER-Pers 17.05 Pay on voluntary demotion or demotion for disciplinary purposes. See s. ER-Pers 29.03 (8).

History: Cr. Register, October, 1972, No. 202, eff. 11-1-72; r. and recr. Register, February, 1981, No. 302, eff. 3-1-81.