Chapter ER 1

FORCE AND EFFECT OF RULES AND DEFINITIONS

ER 1.01 Force and effect of rules. Chapters ER 1 to 47 are promulgated under ss. 230.04 (5) and 227.11 (2) (a), Stats., to apply specifically to provisions of subchs. I and II of ch. 230, Stats., except on matters relating to the provisions of subch. II, for which responsibility is specifically charged to the administrator of the division of merit recruitment and selection. As provided under s. 230.01 (3), Stats., nothing in ch. 230, Stats., or in chs. ER 1 to 47 shall be construed either to infringe upon or supersede the rights guaranteed state employes under the provisions of subch. V of ch. 111, Stats., the state employment labor relations act.

History: Cr. Register, February, 1984, No. 338, eff. 3-1-84; renum. from ER 41.01 and am. Register, May, 1988, No. 389, eff. 6-1-88.

ER 1.02 Definitions. In addition to those terms defined under ss. 111.81 and 230.03, Stats., and as specified in chs. ER 2 to 47, the following are definitions for terms used in chs. ER 1 to 47:

(1) "Administrator" means the administrator of the division of merit recruitment and selection.

(2) "Affirmative action" means specific actions in employment which are designed and taken for the purposes of all of the following:

(a) Ensuring equal opportunities.

(b) Eliminating a substantial disparity between the proportion of members of racial and ethnic, gender or handicap groups either in the classified civil service determined by grouping classifications according to similar responsibilities, pay ranges, nature of work, other factors recognized in the job evaluation process and any other factors the department considers relevant, or in similar functional groups in the unclassified service, and the proportion of members of racial and ethnic, gender or handicap groups in the relevant labor pool.

(c) Eliminating present effects of past discrimination.

(3) "Annual leave" means time off without loss of base pay accrued in accordance with s. 230.35 (1), (1m) and (1p), Stats., and used with the approval of the appointing authority.

(4) "Appointment" means the action of an appointing authority to place a person in a position within the agency in accordance with the law and chs. ER 1 to 47 and ER-MRS 1 to 34, effective when the employe reports for work or is in paid leave status on the agreed starting date and time. "Appointment" does not include an acting assignment under ch. ER-MRS 32.

(5) "Base pay" or "basic pay" means the pay rate excluding any overtime or supplementary compensation.

(6) "Continuous service" means all the time in continuous employment status, as defined in s. ER 18.01 (3) and computed under s. ER 18.02 (2), in the unclassified service or as a permanent employe in the classified service. Continuous service does not include time served in limited term employment and in those positions under s. 230.08 (2) (j) and (k), Stats., regarding youth camps and students, respectively.

(7) "Counterpart pay ranges" means pay ranges or groupings of pay ranges in different pay schedules which are designated by the secretary to be at the same level for the purposes of determining personnel transactions.

(8) "Demotion" means the permanent appointment of an employe with permanent status in one class to a position in a lower class than the highest position currently held in which the employe has permanent status in class, unless excluded under s. ER-MRS 17.02.

(9) "Discrimination" means unlawful actions or practices which constitute unequal or different treatment of, or create an unequal or different effect on an individual or group of people, on the basis of age, race, creed or religion, color, handicap, sex, marital status, national origin or ancestry, political affiliation, arrest or conviction record, sexual orientation, or other bases specified under subch. II of ch. 111, Stats.

(10) "Employe" means any person who receives remuneration for services rendered to the state under an employer-employe relationship in the classified civil service, except where otherwise stated or modified by rule.

(11) "Employing unit" means an agency or a functional organizational or geographic unit within the agency which has been approved, under s. 230.30, Stats., for the agency to use for any one or combination of the following: promotion, demotion, transfer, reinstatement, restoration, layoff and other related personnel transactions.

(12) "Higher class" means a class assigned to a higher pay range.

(13) "Higher pay range" means the pay range which has the greater pay range dollar value maximum when comparing pay ranges not designated as counterparts.

(14) "Last rate received" means the highest rate received in the classified civil service position from which reinstatement eligibility is derived or the highest rate received within the last 3 years in a position in which the employe attained permanent status in class, whichever is greater.

(15) "Layoff" means the termination of the services of an employe with permanent status in class from a position in

a layoff group approved under s. ER-MRS 22.05, in which a reduction in force is to be accomplished.

(16) "Leave of absence" means absence from employment with the approval of the appointing authority with or without loss of pay in accordance with the appropriate statutory provision or rule.

(17) "Limited term employment" means employment in which the nature and conditions do not permit attainment of permanent status in class and for which the use of normal procedures for recruitment and examination are not practicable.

(18) "Lower class" means a class assigned to a lower pay range.

(19) "Lower pay range" means the pay range which has the lesser pay range dollar value maximum when comparing pay ranges not designated as counterparts.

(20) "Minimum of the pay range" means any of the following:

(a) With respect to any permanent or project position, the lowest rate payable to an employe upon appointment to a position.

(b) With respect to any trainee position, the lowest rate payable to an employe upon original appointment to the trainee position.

(21) "Month" means a calendar month or the period from a given date in one month through the date preceding the given date in the following month, whichever the context requires.

(22) "Original appointment" means the appointment of a person who has not attained permanent status in class or permanent status, or the appointment of a former employe on other than a reinstatement or restoration basis to a classified position in which permanent status can be attained.

(23) "Pay range" means either of the following:

(a) With respect to a classification to which a non-trainee position is allocated, the range on an official hourly basis as prescribed in the compensation plan.

(b) With respect to a classification to which a trainee position is allocated, the minimum of the pay range for the trainee position up to the maximum of the pay range for a non-trainee position allocated to the same class.

(24) "Pay status" means the status of an employe when receiving payment for hours worked or paid leave. Pay status does not mean the status of an employe while on a leave of absence without pay, on layoff, serving a suspension without pay, or receiving income continuation or worker's compensation benefits.

(25) "Permanent appointment" means the appointment of a person to a classified position in which permanent status can be attained.

(26) "Permanent classified employe" or "Permanent employe" means a person who is an employe as a result of a permanent appointment, whether or not the employe has attained permanent status.

(27) "Permanent employment" means employment in a position in which permanent status in class may be obtained and which requires the services of an employe for 600 hours or more on an annual basis and includes seasonal employment under sub. (44), sessional employment under sub. (45) and school year employment under s. 230.08 (3) (e), Stats.

(28) "Permanent status" means the rights and privileges attained upon successful completion of a probationary period or career executive trial period required upon an appointment to a permanent, seasonal or sessional position.

(29) "Permanent status in class" means the rights and privileges attained upon successful completion of a probationary period required upon an appointment to a permanent, seasonal or sessional position.

(30) "Position" means a group of duties and responsibilities in either the classified or unclassified divisions of the civil service, which require the services of an employe on a part-time or full-time basis, as defined in s. 230.03 (11), Stats.

(31) "Probationary period" means the time period specified in s. 230.28, Stats.

(32) "Progression series" means a classification grouping whereby the class specifications or position standards specifically identify an entry and full performance objective level. The full performance objective level within a progression series means the classification level that any employe could reasonably be expected to achieve with satisfactory performance of increasingly complex duties or the attainment of specified training, education, or experience.

(33) "Project appointment" means the appointment of a person to a project position under conditions of employment which do not provide for attainment of permanent status.

(34) "Project employe" means a person who is an employe as a result of a project appointment.

(35) "Project employment" means employment as a result of a project appointment in a project position.

(36) Except as provided in s. ER-MRS 14.02, "promotion" means any of the following:

(a) The permanent appointment of an employe to a different position in a higher class than the highest position currently held in which the employe has permanent status in class;

(b) The permanent appointment of an employe or former employe in layoff status to a different position in a higher class than the highest position in which permanent status in class was held at the time the employe or former employe became subject to layoff; or

(c) The permanent appointment of an employe on an approved leave of absence, either statutorily mandated or granted by an appointing authority, to a different position in a higher class than the highest position in which permanent status in class was held at the time the employe began the leave of absence.

(37) "PSICM" means permanent status in class minimum rate of pay which in applicable pay schedules is the

minimum rate to be paid to an employe who is not serving the first 6 months of either a probationary period or a career executive trial period.

(38) "Reallocation" means the assignment of a position to a different class by the secretary as provided in s. ER 3.01 (2).

(39) "Reclassification" means the assignment of a filled position to a different class by the secretary as provided in s. ER 3.01 (3).

(40) "Regrade" means the determination of the secretary under s. 230.09 (2) (d), Stats., that the incumbent of a filled position which has been reallocated or reclassified should remain in the position without opening the position to other candidates.

(41) "Reinstatement" means the act of permissive reappointment without competition of an employe or former employe under s. 230.31, 230.33 or 230.34, Stats., to a position: (a) in the same class in which the person was previously employed; (b) in another classification to which the person would have been eligible to transfer had there been no break in employment; or (c) in a class having a lower pay rate or pay range maximum for which the person is qualified to perform the work after the customary orientation provided to newly hired workers in the position.

(42) "Restoration" means the act of mandatory reappointment without competition of an employe or former employe under s. 230.31, 230.32, 230.33 or 230.34, Stats., to a position: (a) in the same class in which the person was previously employed; (b) in another classification to which the person would have been eligible to transfer had there been no break in employment; or (c) in a class having a lower pay rate or pay range maximum for which the person is qualified to perform the work after the customary orientation provided to newly hired workers in the position.

(43) "Secretary" means the secretary of the department of employment relations.

(44) "Seasonal employment" means employment which normally permits attainment of permanent status in class through successive reinstatements and requires the services of an employe on an intermittent and recurring basis for at least 600 hours each year, during no more than 24 biweekly payroll periods of any 26 consecutive full biweekly payroll periods.

(45) "Sessional employment" means employment in positions of legislative agencies that require the services of an employe more than 600 hours in any 26 consecutive full biweekly payroll periods and which normally permits attainment of permanent status in class through successive reinstatements, but the duration of which is closely related to the legislative session.

(46) "Transfer" means the permanent appointment of an employe to a different position assigned to a class having the same or counterpart pay rate or pay range as a class to which any of the employe's current positions is assigned.

(47) "Vacancy" means a classified position to which a permanent appointment may be made after the appointing authority has initiated an action to fill that position.

(48) "Year" means a calendar year or the period from a given date in one year through the date preceding the given date in the following year, whichever the context requires.

History: Cr. Register, February, 1984, No. 338, eff. 3-1-84; renum. (intro.) from ER 41.02 (intro.), and am., r. (1) and (2), cr. (1) to (48), Register, May, 1988, No. 389, eff. 6-1-88; **correction in (4), (8), (15) and (36), made under s. 13.93 (2m) (b) 7, Stats., Register, October, 1994, No. 466.**