

Chapter ER-MRS 17

DEMOTION

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Note: Chapter Pers 17 was renumbered chapter ER-Pers 17, effective March 1, 1983. Chapter ER-Pers 17 was renumbered chapter ER-MRS 17 under s. 13.93 (2m) (b) 1., Stats., Register, October, 1994, No. 466.

ER-MRS 17.01 Eligibility for demotion. To be eligible for demotion, an employee 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-MRS 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-MRS 17.02 Exclusions. (1) The movement of an employee to a position in a lower classification while the employee is serving an original appointment probationary period shall be considered a new original appointment.

(2) The appointment of a former employee, 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-MRS 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 employee with permanent status to a lower classification is a reallocation or reclassification under ch. ER 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; correction in (2) and (3) made under s. 13.93 (2m) (b) 7, Stats., Register, October, 1994, No. 466.

ER-MRS 17.025 Non-completion of promotional probationary period. The action by which a promoted employee is restored to the employee's previous position and pay as provided in s. ER-MRS 14.03 (1) is not a demotion. Such action is a restoration under s. ER-MRS 16.03 (5). Any such restored employee who thereafter moves by promotion to a different position shall be required to serve a new probationary period under s. ER-MRS 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; corrections made under s. 13.93 (2m) (b) 7., Stats., Register, October, 1994, No. 466.

ER-MRS 17.03 Notice to employee. The appointing authority shall notify an employee 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. Such notification shall be in writing and shall advise the employee of his or her right to appeal the action under s. 230.44 (1) (c), Stats. The appointing authority shall place a copy of the notice in the employee's personnel file.

History: Cr. Register, October, 1972, No. 202, eff. 11-1-72; am. (1), Register, December, 1976, No. 252, 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; **CR 04-138: am. Register June 2005 No. 594, eff. 7-1-05.**

ER-MRS 17.04 Kinds of demotion; status and rights. (1) DEMOTION FOR DISCIPLINARY PURPOSES. An appointing authority may demote an employee 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 employee may appeal the demotion as provided under s. 230.44, Stats.

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

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

(3) VOLUNTARY DEMOTION WITHIN AN AGENCY. An employee 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 employee's request, the appointing authority's response, and the employee's acceptance of the demotion shall be in writing. The appointing authority shall place a copy of the employee's acceptance in the employee's personnel file.

(a) The employee 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 employee is not required to serve a probationary period, the employee 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 employee 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 employee is not required to serve a probationary period, the employee immediately attains permanent status in class in the class to which voluntarily demoted.

(d) If an employee is required to serve a probationary period under par. (b) or (c), the employee 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 employee is not required to serve a probationary period upon transfer or reinstatement, the employee immediately attains permanent status in class in the class to which transferred or reinstated.

(4) VOLUNTARY DEMOTION BETWEEN AGENCIES. An employee may request and, with approval of the appointing authority of the receiving agency, may accept a voluntary demotion between agencies. The appointing authority shall place a copy of the employee's written acceptance of such voluntary demotion in the employee's personnel file.

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

(b) An employee 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-MRS 13.02 (1). During the probationary period, the employee may be separated from the service without the right of appeal. If the employee is not required to serve a probationary period, the employee 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) or the compensation plan.

(c) For provisions relating to the return of an employee to the

former class of position, see ch. ER-MRS 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; corrections made under s. 13.93 (2m) (b) 7., Stats., Register, October, 1994, No. 466; **CR 04-138: am. (3) (intro.) and (4) intro. Register June 2005 No. 594, eff. 7-1-05.**

ER-MRS 17.05 Pay on voluntary demotion or demotion for disciplinary purposes. See s. ER 29.03 (8) or the compensation plan.

History: Cr. Register, October, 1972, No. 202, eff. 11-1-72; r. and recr. Register, February, 1981, No. 302, eff. 3-1-81; correction made under s. 13.93 (2m) (b) 7., Stats., Register, October, 1994, No. 466; **CR 04-138: am. Register June 2005 No. 594, eff. 7-1-05.**