

Title 5: ADMINISTRATIVE PROCEDURES AND SERVICES

Chapter 372: STATE CIVIL SERVICE SYSTEM

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Title 5: ADMINISTRATIVE PROCEDURES AND SERVICES

Chapter 372: STATE CIVIL SERVICE SYSTEM

Subchapter 1: STRUCTURE AND AUTHORITY

Article 1: BUREAU OF HUMAN RESOURCES

§7031. PURPOSE AND MISSION

The Legislature finds that State Government is the largest single employer in the State and has a substantial impact, not only upon the growth and development of the State, but also with respect to policies that directly affect Maine citizens. The Legislature further finds that state employees are a valuable human resource who possess valuable skills and knowledge necessary to the effective operation of State Government and to the general health, safety and welfare of Maine citizens. [1985, c. 785, Pt. B, §38 (NEW).]

The Legislature further finds that it is essential to the welfare of all Maine citizens for state employees to undertake their duties and responsibilities in a conscientious and dependable manner. It is also of vast importance to the efficient and effective operation of State Government that all qualified Maine citizens have fair and equal opportunity to enter the service of State Government on the basis of merit and to work free from the forces of favoritism, nepotism and political patronage. Further, it is essential that individuals possessing the knowledge and skills necessary for the effective operation of State Government are hired and retained. [1985, c. 785, Pt. B, §38 (NEW).]

To achieve these goals, it is vital that the personnel administrative organization of State Government recognize and develop the talents, contributions and potential of state employees and applicants for employment. [1985, c. 785, Pt. B, §38 (NEW).]

It is in the public interest and is the policy of the State of Maine to foster and encourage an educational leave program to permit employees of the State to increase knowledge and skills and to improve work techniques and procedures. This would permit the agencies themselves and the citizens of Maine to benefit by what the employee has learned and will impart to others upon return. [2001, c. 519, §3 (NEW).]

It is the intent of the Legislature to establish the Bureau of Human Resources as the agency responsible for the administration of the human resources activities of State Government and that shall act as a service organization to respond quickly and effectively to the needs of state employees and state agencies. It is also the intent of the Legislature that the Bureau of Human Resources operate flexibly to expedite the duties and responsibilities of state employees and state agencies. [2007, c. 240, Pt. HH, §3 (AMD).]

Every employee of the Bureau of Human Resources and any other affected state agency shall act to assure that the provisions of the Civil Service Law are carried out in an open, fair and expeditious manner, with the objective of hiring and retaining the best person for a position as quickly as possible. To this end, all state agencies shall take steps to speed up handling of matters and to reduce and simplify the procedures and paperwork required by the Civil Service Law. [1991, c. 2, §10 (COR).]

It is not the intent of the Legislature in this chapter or any part of it to limit or restrict the rights of state employees to bargain collectively as provided in Title 26. [1985, c. 785, Pt. B, §38 (NEW).]

SECTION HISTORY

1985, c. 785, §B38 (NEW). RR 1991, c. 2, §10 (COR). 2001, c. 519, §3 (AMD). 2007, c. 240, Pt. HH, §3 (AMD).

§7032. DEFINITIONS

As used in this chapter, unless the context otherwise indicates, the following terms have the following meanings. [1985, c. 785, Pt. B, §38 (NEW).]

1. Appeals board. "Appeals board" means the State Civil Service Appeals Board.

[1985, c. 785, Pt. B, §38 (NEW) .]

2. Appointing authority. "Appointing authority" means the officer, board, commission, person or group of persons having the power by virtue of the Constitution of Maine, a statute or lawfully delegated authority to make appointments.

[1985, c. 785, Pt. B, §38 (NEW) .]

3. Classified service. "Classified service" means all offices and positions of trust and employment in state service, except those placed in the unclassified service by chapter 71.

[1985, c. 785, Pt. B, §38 (NEW) .]

4. Director. "Director" means the Director of Human Resources.

[1985, c. 785, Pt. B, §38 (NEW) .]

5. Eligible register. "Eligible register" means any book or other type of record or list on which the names of persons are placed who are qualified for the specific job classification for which the register is created.

[1985, c. 785, Pt. B, §38 (NEW) .]

6. Employee. "Employee" means any person holding a position subject to appointment by an appointing authority.

[1985, c. 785, Pt. B, §38 (NEW) .]

6-A. Employee from the executive branch in the unclassified service. "Employee from the executive branch in the unclassified service" means all executive branch employees listed in section 931, but does not include any elective or constitutional officers listed in that section or their direct appointees.

[1997, c. 498, §2 (NEW) .]

7. Policy Review Board.

[1999, c. 668, §8 (RP) .]

8. Resident. "Resident" means a person who is domiciled in this State.

[1985, c. 785, Pt. B, §38 (NEW) .]

SECTION HISTORY

1985, c. 785, §B38 (NEW). 1997, c. 498, §2 (AMD). 1999, c. 668, §8 (AMD).

§7033. BUREAU OF HUMAN RESOURCES; ESTABLISHED

1. Goals and objectives. The Bureau of Human Resources is established within the Department of Administrative and Financial Services as the administrative agency for state civil service matters and as a service agency to state agencies and departments. In addition to any other goals and objectives established in this chapter, the Bureau of Human Resources shall strive to:

- A. Establish within State Government a high concern for state employees as people; [1985, c. 785, Pt. B, §38 (NEW).]
- B. Provide managers with the skills and knowledge needed to manage people effectively with particular emphasis on "people soundness;" [1985, c. 785, Pt. B, §38 (NEW).]
- C. Establish a civil service system that provides State Government with highly qualified and motivated employees; [1985, c. 785, Pt. B, §38 (NEW).]
- D. Encourage state employees to realize their potential and thereby increase the quality of service; [1985, c. 785, Pt. B, §38 (NEW).]
- E. Establish itself as a service agency to assist other agencies and departments of State Government to perform their duties in an efficient and quality manner; [1985, c. 785, Pt. B, §38 (NEW).]
- F. Preserve the integrity of the civil service system; [2007, c. 240, Pt. HH, §4 (AMD).]
- G. Establish a civil service system with sufficient flexibility to adopt new technologies, procedures and policies in order to respond quickly and effectively to the needs of state agencies and employees; and [2007, c. 240, Pt. HH, §4 (AMD).]
- H. Promote effective labor relations. [2007, c. 240, Pt. HH, §4 (NEW).]

[2007, c. 240, Pt. HH, §4 (AMD) .]

SECTION HISTORY

1985, c. 785, §B38 (NEW). 2007, c. 240, Pt. HH, §4 (AMD).

§7034. BUREAU OF HUMAN RESOURCES; DUTIES

The Bureau of Human Resources shall be responsible for the administration of the civil service system of State Government. The bureau shall: [1985, c. 785, Pt. B, §38 (NEW).]

1. Act in a professional, courteous manner. Perform its duties in a highly professional and helpful manner;

[1985, c. 785, Pt. B, §38 (NEW) .]

2. Cooperate with agencies. Cooperate and work closely with all state agencies with respect to the personnel needs and matters of each agency. The bureau shall strive to ensure that personnel policies are understood and carried out by the agencies;

[1999, c. 668, §9 (AMD) .]

3. Respond quickly to requests. Act expeditiously upon requests of state agencies and state employees with respect to civil service matters;

[1985, c. 785, Pt. B, §38 (NEW) .]

4. Provide managerial training. To the extent that resources are available, provide training in management and supervision to all persons who enter into management and supervisory positions in State Government and provide management and supervisory training on a periodic basis to ensure that managerial and supervisory personnel are knowledgeable of the most current management theories and practices.

Managerial and supervisory training shall include, among other factors, training in employee evaluation. This training at a minimum shall include at least one day of training for every supervisor during their first probationary period as a supervisor;

[1987, c. 349, Pt. H, §5 (AMD) .]

5. Update registers. Update, at least annually, all registers of eligibility in the classified service, upon implementation of necessary automated procedures;

[1985, c. 785, Pt. B, §38 (NEW) .]

6. Review applications. Review applications for positions in State Government and determine the eligibility of the applicants in an expeditious manner;

[1991, c. 528, Pt. III, §15 (AMD); 1991, c. 528, Pt. RRR, (AFF); 1991, c. 591, Pt. III, §15 (AMD) .]

7. Implementation. Implement, in a conscientious manner, the tasks and duties assigned by the director;

[1991, c. 528, Pt. III, §15 (AMD); 1991, c. 528, Pt. RRR, (AFF); 1991, c. 591, Pt. III, §15 (AMD) .]

8. Administer state employee health program. Develop and maintain policies and programs directed to a healthful and safe working environment for state employees to include the administration of a first aid and health service in the State House complex for state employees and State House visitors;

[1991, c. 528, Pt. III, §16 (NEW); 1991, c. 528, Pt. RRR, (AFF); 1991, c. 591, Pt. III, §16 (NEW) .]

9. Administer state employee health insurance program. Administer a health insurance program that is consistent with the rules adopted by the State Employee Health Commission and the requirements of sections 285 to 286-A;

[1991, c. 780, Pt. Y, §93 (AMD) .]

10. Administer state employee assistance program. Administer assessment and referral services for employees in need of these services in accordance with the program defined by section 957; and

[1991, c. 780, Pt. Y, §93 (AMD) .]

11. Administer state employee workers' compensation program. Administer the program of workers' compensation for state employees in conjunction with the programs for health and wellness and health insurance.

[1991, c. 780, Pt. Y, §94 (NEW) .]

12. Represent departments, agencies and commissions. Represent all departments, agencies and commissions of the Executive Branch, as directed by the Governor, pursuant to Title 26, section 979-A, et seq.

[2007, c. 240, Pt. HH, §5 (NEW) .]

SECTION HISTORY

1985, c. 785, §B38 (NEW). 1987, c. 349, §H5 (AMD). 1991, c. 528, §§III15,16 (AMD). 1991, c. 528, §RRR (AFF). 1991, c. 591, §§III15,16 (AMD). 1991, c. 780, §§Y93,94 (AMD). 1999, c. 668, §9 (AMD). 2007, c. 240, Pt. HH, §5 (AMD).

§7035. DIRECTOR OF HUMAN RESOURCES

The Director of Human Resources must be qualified by education or experience in the administration of personnel systems, public or private, and in human resource management. The commissioner shall appoint the Director of Human Resources who serves at the pleasure of the commissioner. [1997, c. 632, §1 (AMD) .]

The director may name a designee to conduct employee relations activities set forth in Title 26, chapter 9-B and other proceedings such as negotiations, mediation, fact-finding, arbitration, grievance proceedings, unemployment compensation proceedings, workers' compensation proceedings, human rights proceedings and other labor relations proceedings. [2007, c. 240, Pt. HH, §6 (NEW) .]

1. Education and experience in personnel systems.

[1997, c. 632, §1 (RP) .]

2. Restricted political activity.

[1997, c. 632, §1 (RP) .]

3. Record of achievement.

[1997, c. 632, §1 (RP) .]

SECTION HISTORY

1985, c. 785, §B38 (NEW). 1997, c. 498, §3 (AMD). 1997, c. 632, §1 (AMD). 2007, c. 240, Pt. HH, §6 (AMD).

§7036. DUTIES OF THE DIRECTOR

The Director of Human Resources shall be responsible for the administration of this chapter. In carrying out these duties and responsibilities, the director shall: [2007, c. 240, Pt. HH, §7 (AMD) .]

1. Develop administrative procedures. Develop administrative procedures which are not subject to the Maine Administrative Procedure Act, chapter 375, with respect to the internal management of the office and the interaction of the office with other state agencies;

[1985, c. 785, Pt. B, §38 (NEW) .]

1-A. Conduct employee relations activities. Act as directed by the Governor, through the Commissioner of Administrative and Financial Services, to carry out all employee relations functions as set forth in Title 26, section 979-A, subsection 5, paragraphs A to G.

[2007, c. 240, Pt. HH, §8 (NEW) .]

2. Develop training programs. Provide for a statewide coordinated training and organizational development system and services; develop and implement training programs to ensure that managers and supervisors have the skills and knowledge needed to manage people effectively; provide career and professional development programs for employees; provide state agencies with organizational development and management consulting services; provide technical assistance and other programs for training and organizational development; and provide supported employment and special appointment counseling and placement.

A. The director may employ staff and contract for professional services as necessary to develop and conduct training, organizational development and managerial development programs. [1989, c. 501, Pt. P, §19 (NEW).]

B. Charges may be made to state agencies for programs and services provided. Any rate schedule recommended by the director is subject to the approval of the commissioner. [2007, c. 466, Pt. A, §13 (AMD).]

C. The Training and Organizational Development Fund is established as a dedicated revenue account fund for the purposes of this subsection. [1989, c. 501, Pt. P, §19 (NEW).]

D. No expenditures may be made from the Training and Organizational Development Fund for the purpose of providing any state employee, elected official or appointee with training intended specifically to enhance and promote their image as an individual without the authorization of the Governor; [1989, c. 501, Pt. P, §19 (NEW); 1989, c. 702, Pt. E, §3 (AMD).]

[2007, c. 466, Pt. A, §13 (AMD) .]

3. Provide information.

[2007, c. 240, Pt. HH, §9 (RP) .]

4. Develop career information. Develop and distribute brochures to provide periodic seminars to state employees that provide information regarding:

A. Careers available in State Government; [1985, c. 785, Pt. B, §38 (NEW).]

B. Job descriptions of the different careers or job classifications; [1985, c. 785, Pt. B, §38 (NEW).]

C. Basic qualifications for and requirements of the careers or job classifications; and [1985, c. 785, Pt. B, §38 (NEW).]

D. The process by which a person obtains additional information about and applies for different positions in the classified service; [1985, c. 785, Pt. B, §38 (NEW).]

[1985, c. 785, Pt. B, §38 (NEW) .]

5. Be responsible for development and implementation of system of registers of eligibles. Be responsible for the development and use of registers of eligibles and the updating of these registers.

After meeting and consulting with collective bargaining representatives of affected employees, the director shall implement the procedures authorized by this subsection with the goal to establish an efficient hiring process that meets the satisfaction of the agencies that the office serves;

[2015, c. 442, §1 (AMD) .]

6. Develop and oversee job application process. Develop and oversee the administration of the job application process with the goal to establish a very efficient process that meets the needs established in subsection 4;

[1999, c. 668, §10 (AMD) .]

7. Work closely with state agencies. Work closely and cooperate with state agencies with respect to personnel matters and personnel needs of state agencies and state employees. Personnel matters and personnel needs include, but are not limited to, the following:

A. Requests of state agencies' lists of eligible persons to fill vacant or new positions; [1985, c. 785, Pt. B, §38 (NEW).]

B. Requests of state agencies for reclassifications and reallocations of positions; [1985, c. 785, Pt. B, §38 (NEW).]

C. Requests of state employees for information about job opportunities in State Government; and [1985, c. 785, Pt. B, §38 (NEW).]

D. Requests of state employees for job reclassifications and reallocations. [1985, c. 785, Pt. B, §38 (NEW).]

The director shall, at least once a year, meet with the commissioners and directors of other state agencies to discuss, individually, the personnel needs and problems of each state agency and proposed solutions that may be offered by the various agencies. The director shall also discuss with each agency any future changes to the civil service system that the director intends to propose;

[2007, c. 466, Pt. A, §14 (AMD) .]

8. Establish and implement job performance evaluation process. Establish and implement an employee job performance evaluation process to be used by all agencies with employees in the classified service. The job performance evaluation procedure must be consistent in its use and application among all classified service employees;

[1999, c. 668, §10 (AMD) .]

9. Respond to requests of applicants for information concerning their qualifications for positions in State Government. Respond to requests of applicants and provide information to the applicants with respect to their qualifications, including their test scores, strengths of the applicants, weaknesses of the applicants, areas in need of improvement and the means by which the applicants may improve qualifications;

[1985, c. 785, Pt. B, §38 (NEW) .]

10. Undertake long-term and short-term planning. Undertake long-term and short-term planning with respect to the needs of the civil service system within the ensuing year and in the next 5 years. The director shall focus on the types of positions, qualifications and requirements for these positions, technologies and types of procedures necessary to maintain an efficient, modern, comprehensive, conscientious and effective state employee labor force;

[1985, c. 785, Pt. B, §38 (NEW) .]

11. Investigate complaints. Investigate complaints and problems relating to the administration and operation of the civil service system and inform the joint standing committee of the Legislature having jurisdiction over State Government of any legislation necessary to resolve the problems;

[1985, c. 785, Pt. B, §38 (NEW) .]

12. Coordinate and use State Government services. Coordinate and use the services available to State Government to create an effective, motivated state employee labor force, including the services of the Bureau of Employment Services; the Welfare Employment, Education and Training, WEET, program of the Department of Health and Human Services; and any other services that are appropriate to the purpose of the Bureau of Human Resources;

[1995, c. 560, Pt. G, §4 (AMD); 1995, c. 560, Pt. G, §29 (AFF); 2003, c. 689, Pt. B, §6 (REV) .]

13. Evaluate the operation of the civil service system. Evaluate the operation of the civil service system and report its findings to the joint standing committee of the Legislature having jurisdiction over State Government by October 15th of each year. This report shall include, at a minimum, the following:

A. The turnover rate in the state employee labor force for the classified and the unclassified services for the previous fiscal year; [1985, c. 785, Pt. B, §38 (NEW) .]

B. The turnover rate for each job classification for the previous fiscal year; [1985, c. 785, Pt. B, §38 (NEW) .]

C. The total number and disposition of job reclassification requests, which shall also indicate the period of time for a final decision for each request; [1985, c. 785, Pt. B, §38 (NEW) .]

D. The number of vacancies, occurring in the previous fiscal year, which required recruitment of personnel and the length of time required to fill each vacancy. The time period shall be measured from the time of notice of departure, transfer or promotion of the previous incumbent to the successor's assumption of the position; [1985, c. 785, Pt. B, §38 (NEW) .]

E. The reason for the occurrence of each vacancy that occurred in the previous fiscal year to include job promotion, problems with management and any other causes for the vacancies; and [1985, c. 785, Pt. B, §38 (NEW) .]

F. The training programs instituted by the bureau and the number of persons completing these programs in the previous fiscal year; [1985, c. 785, Pt. B, §38 (NEW) .]

[1985, c. 785, Pt. B, §38 (NEW) .]

14. Employ staff and other assistance. Employ staff, who must be employed in the classified service in accordance with the Civil Service Law. Persons appointed to major policy-influencing positions are unclassified and serve at the pleasure of the director. The classified and unclassified employees in the Bureau of Human Resources shall comply with section 7056-A, defining the political activities in which the employees may engage. All managerial, policy-influencing and professional employees in the bureau must be qualified by education, training and experience in the administration of personnel systems;

[1997, c. 498, §4 (AMD) .]

15. Prepare a budget. Prepare a budget for the administration and operation of the Bureau of Human Resources in accordance with the provisions of law that apply to departments of State Government;

[1985, c. 785, Pt. B, §38 (NEW) .]

16. Meet with Policy Review Board.

[1999, c. 668, §11 (RP) .]

17. Adopt rules. Adopt rules in accordance with the Maine Administrative Procedure Act, chapter 375, with respect to:

A. Provisional, emergency, exceptional and temporary appointments; [1985, c. 785, Pt. B, §38 (NEW) .]

B. Leave of absence, resignation, hours of service, vacation and sick leave; [1985, c. 785, Pt. B, §38 (NEW).]

C. Personnel records; [1985, c. 785, Pt. B, §38 (NEW).]

D. Suspension, lay off, dismissal and demotion; [1985, c. 785, Pt. B, §38 (NEW).]

E. Promotion in the classified service; [1985, c. 785, Pt. B, §38 (NEW).]

F. Probationary periods; [1985, c. 785, Pt. B, §38 (NEW).]

G. Certification of payrolls; [1985, c. 785, Pt. B, §38 (NEW).]

H. Eligible registers; [1985, c. 785, Pt. B, §38 (NEW).]

I. Classification of positions in the classified service; [1985, c. 785, Pt. B, §38 (NEW).]

J. Compensation plan; [1985, c. 785, Pt. B, §38 (NEW).]

K. Examination for admission to the classified service; [1985, c. 785, Pt. B, §38 (NEW).]

L. Transfer; [1985, c. 785, Pt. B, §38 (NEW).]

M. In-service training; [1985, c. 785, Pt. B, §38 (NEW).]

N. Service ratings; and [1985, c. 785, Pt. B, §38 (NEW).]

O. Alternative work hours; [1985, c. 785, Pt. B, §38 (NEW).]

[1985, c. 785, Pt. B, §38 (NEW) .]

18. Records.

[1987, c. 402, Pt. B, §§6, 7 (RP) .]

19. Hearings. In the course of any investigations under chapters 56, 65, 67, 71 and this chapter, hold hearings for the purpose of gathering information. The hearings are not adjudicatory proceedings under the Maine Administrative Procedure Act, chapter 375. In conjunction with the hearings, the director may administer oaths and subpoena and require the attendance of witnesses and the production of books, papers, public records and other documentary evidence pertinent to the investigation.

In case of the refusal of any person to comply with any subpoena issued under this subsection or to testify to any matter regarding which that person may be lawfully interrogated, the Superior Court in any county on application of the commissioner may issue an order requiring that person to comply with the subpoena and to testify; and any failure to obey the order of the court may be punished by the court as a contempt of the court;

[2001, c. 2, Pt. A, §8 (COR) .]

20. Contract and enter into agreements. Enter into contracts and agreements to achieve the purposes of this chapter;

[1985, c. 785, Pt. B, §38 (NEW) .]

21. Enforcement. To enforce the observance of the Civil Service Law and the rules made under it;

[1985, c. 785, Pt. B, §38 (NEW) .]

22. Records. Keep a full and complete record of adjudicatory proceedings, including hearings on matters of classification, reclassification or allocation, in accordance with the Maine Administrative Procedure Act, chapter 375, sections 9059 and 9061, and to keep a record of votes taken in rule-making

proceedings in accordance with the Maine Administrative Procedure Act, section 8056, and to keep full and complete minutes of investigatory hearings. These records and minutes must be open to public inspection unless otherwise provided by law;

[1991, c. 528, Pt. III, §17 (AMD); 1991, c. 528, Pt. RRR, (AFF); 1991, c. 591, Pt. III, §17 (AMD) .]

23. Organization and decentralization. Organize the bureau as the director determines most efficient and to decentralize personnel management among the various departments and agencies of the State consistent with the requirements of section 7031 and determined in the best interest of efficient administration;

[1991, c. 528, Pt. III, §17 (AMD); 1991, c. 528, Pt. RRR, (AFF); 1991, c. 591, Pt. III, §17 (AMD) .]

24. Administer state employee health insurance program for state employees. Administer the Employee Health Insurance Program and the fund accounts established for this purpose by sections 286, 286-A and 1731;

[1991, c. 528, Pt. III, §18 (NEW); 1991, c. 528, Pt. RRR, (AFF); 1991, c. 591, Pt. III, §18 (NEW) .]

25. Administer proactive state employee health and safety program. Work with other bureaus and departments and state employees and their representatives to establish policies and programs that minimize the risk of injury to and incidence of illness among state employees, to include the administration of a first aid and health service in the State House complex for state employees and State House visitors;

[2007, c. 240, Pt. HH, §10 (AMD) .]

26. Administer employee assistance program for state employees. Oversee and direct an employee assistance program for the purpose of assisting state employees to address and overcome personal difficulties that interfere with performance and productivity;

[2003, c. 230, §1 (AMD) .]

27. Administer state employee workers' compensation program. Administer the program of workers' compensation for state employees in conjunction with the programs for health and wellness and health insurance; and

[2003, c. 230, §2 (AMD) .]

28. Ensure establishment of policies regarding complaints against state employees. Ensure that each state agency establishes a policy that makes certain that complaints filed by the public against a state employee or group of state employees are addressed by that agency. Each agency policy must ensure that there are written instructions describing the most effective way for the public to file a complaint with the agency, a procedure for the agency to address complaints from the public and a provision that requires the agency to notify a complainant of the outcome of the complaint. This subsection does not authorize the release of confidential information that may not otherwise be released to the public.

[2003, c. 230, §3 (NEW) .]

SECTION HISTORY

1985, c. 785, §B38 (NEW). 1987, c. 402, §§B6,B7 (AMD). 1989, c. 501, §P19 (AMD). 1989, c. 702, §E3 (AMD). 1991, c. 528, §§III17,18 (AMD). 1991, c. 528, §RRR (AFF). 1991, c. 591, §§III17,18 (AMD). 1991, c. 780,

§§Y95,96 (AMD). 1995, c. 560, §G4 (AMD). 1995, c. 560, §G29 (AFF). 1997, c. 498, §4 (AMD). 1999, c. 668, §§10,11 (AMD). RR 2001, c. 2, §A8 (COR). 2003, c. 230, §§1-3 (AMD). 2003, c. 689, §B6 (REV). 2007, c. 240, Pt. HH, §§7-10 (AMD). 2007, c. 466, Pt. A, §§13, 14 (AMD). 2015, c. 442, §1 (AMD).

§7037. LIMITATIONS ON COLLECTIVE BARGAINING ACTIVITY *(REPEALED)*

SECTION HISTORY

1985, c. 785, §B38 (NEW). 2007, c. 240, Pt. HH, §11 (RP).

§7038. COMMUNICATIONS BETWEEN MANAGEMENT AND EMPLOYEES

The director is responsible for the development and monitoring of a communications process between management and subordinate employees in each agency of State Government. [1999, c. 668, §12 (AMD).]

1. Factors to be considered. In the development of a communications' process for each agency, the director shall:

- A. Consider the uniqueness and the responsibilities of each agency; [1985, c. 785, Pt. B, §38 (NEW).]
- B. Consider the valuable information that nonsupervisory employees may contribute to the operation of each agency; [1985, c. 785, Pt. B, §38 (NEW).]
- C. Consider the means, including confidentiality of identity, by which nonsupervisory employees may communicate information about department policies, procedures and practices to the management without intimidation or fear of reprisal from management; [1985, c. 785, Pt. B, §38 (NEW).]
- D. Consider the need for communication between supervisory personnel and policy-influencing persons which is necessary for the efficient and effective implementation of department policies and procedures; [1985, c. 785, Pt. B, §38 (NEW).]
- E. Consider employee evaluation of supervisors as a means of improving supervisory skills and management-employee relations; [1985, c. 785, Pt. B, §38 (NEW).]
- F. Consider the means by which professional and nonprofessional employees discuss issues of mutual concern on a regular basis; [1985, c. 785, Pt. B, §38 (NEW).]
- G. Emphasize an approach that promotes cooperation between management and nonsupervisory personnel; and [1985, c. 785, Pt. B, §38 (NEW).]
- H. Any other variable considered by the director to be important to the process. [1985, c. 785, Pt. B, §38 (NEW).]

[1985, c. 785, Pt. B, §38 (NEW) .]

2. Prohibitions. Any department policy, practice or procedure that any agency of State Government adopts or implements and which discriminates against persons for reasons other than merit, special skills or job qualifications or reasons authorized under collective bargaining agreements is void.

[1985, c. 785, Pt. B, §38 (NEW) .]

3. Communication on a regular basis. Any communications' process established pursuant to this section shall function on a regular basis.

[1985, c. 785, Pt. B, §38 (NEW) .]

4. Penalty for failure to comply. The Commissioner of Administrative and Financial Services may not authorize payment of any debts or liabilities of a department or salaries of persons in policy-influencing positions in a department or agency that, upon written notification by the director, is not in compliance with this section.

[1991, c. 780, Pt. Y, §97 (AMD) .]

5. Schedules. The Department of Health and Human Services shall be the first state agency scheduled for review by the Bureau of Human Resources. Findings of this process shall be reported to the joint standing committees of the Legislature having jurisdiction over audit and program review and human resources prior to June 1, 1988.

[1987, c. 395, Pt. A, §23 (NEW); 2003, c. 689, Pt. B, §6 (REV) .]

SECTION HISTORY

1985, c. 785, §B38 (NEW). 1987, c. 395, §A23 (AMD). 1991, c. 780, §Y97 (AMD). 1999, c. 668, §12 (AMD). 2003, c. 689, §B6 (REV).

§7039. CIVIL SERVICE LAW

The Civil Service Law consists of chapters 65, 67, 68, 69, 71 and this chapter. Whenever reference is made in statute or rule to the Civil Service Law, the chapters delineated in this section apply. [2001, c. 2, Pt. A, §9 (COR).]

SECTION HISTORY

1985, c. 785, §B38 (NEW). 1987, c. 402, §§B8,B9 (AMD). RR 1999, c. 2, §3 (COR). RR 2001, c. 2, §A9 (COR).

Article 2: POLICY REVIEW BOARD

§7041. POLICY REVIEW BOARD; ESTABLISHMENT; MEMBERSHIP; COMPENSATION

(REPEALED)

SECTION HISTORY

1985, c. 785, §B38 (NEW). 1985, c. 819, §A6 (AMD). 1991, c. 780, §§Y98-100 (AMD). 1993, c. 349, §11 (AMD). RR 1995, c. 2, §6 (COR). 1999, c. 668, §13 (RP).

§7042. DUTIES AND RESPONSIBILITIES OF THE POLICY REVIEW BOARD

(REPEALED)

SECTION HISTORY

1985, c. 785, §B38 (NEW). 1987, c. 240, §2 (AMD). 1999, c. 668, §14 (RP).

Subchapter 2: EMPLOYEE POLICIES, PRACTICES AND RESTRICTIONS

Article 1: CITIZENSHIP, RESIDENCY, HIRING PRACTICES AND VETERANS' PREFERENCE

§7051. GENERAL PROVISIONS

The following provisions apply to the classified and unclassified services or to the specific services as specified in this section. [1985, c. 785, Pt. B, §38 (NEW).]

1. Citizenship. In making appointments to or recruiting for any position on an open competitive basis in the classified service, preference shall be given to citizens of the United States. This requirement may be waived by the director on an individual basis when there exists compelling reasons for the waiver.

[1985, c. 785, Pt. B, §38 (NEW) .]

2. Discrimination prohibited. In carrying out this chapter, no discrimination may be made on account of political or religious opinions or affiliations or because of race or national origin, sex or marital status or age or physical disability, unless based upon a bona fide occupational qualification.

[1985, c. 785, Pt. B, §38 (NEW) .]

3. Hiring and promoting neutrality. The final decision of whether a person will be hired or promoted by the State may not be made in part or wholly by a person related to the job candidate by consanguinity or affinity within the 4th degree. The director by rules shall insure that this section will not deprive any applicant or employee of full consideration for hiring or promotion.

[1985, c. 785, Pt. B, §38 (NEW) .]

4. Employees in military service; substitutes. Whenever any employee, regularly employed in other than a temporary position for a period of at least 6 months by the State or by any department, bureau, commission or office of the State, or by the University of Maine System, community colleges, Maine School Building Authority, Maine Turnpike Authority, Finance Authority of Maine or any other state or quasi-state agency, or by any county, municipality, township or school district within the State shall in time of war, contemplated war, emergency or limited emergency, enlist, enroll, be called or ordered or be drafted into the Armed Forces of the United States or any branch or unit thereof, or shall be regularly drafted under federal manpower regulations, the employee shall not be deemed or held to have thereby resigned from or abandoned employment, nor shall be removable during the period of service. "Temporary," for the purpose of this section means employment based on a seasonal or on-call basis or employment based on a contract of less than 6 months' duration.

A. [2001, c. 662, §1 (RP).]

B. [2001, c. 662, §2 (RP).]

C. [2001, c. 662, §2 (RP).]

D. [2001, c. 662, §3 (RP).]

E. When a permanent classified employee is on extended leave, a substitute may be employed, subject to personnel rules, until return or separation of the incumbent. [1985, c. 785, Pt. B, §38 (NEW).]

[2001, c. 662, §1-3 (AMD); 2003, c. 20, Pt. OO, §2 (AMD); 2003, c. 20, Pt. OO, §4 (AFF) .]

5. Probationary period; permanent appointments. All original appointments to the classified service and all subsequent promotional appointments within the classified service shall be for a probationary period. The duration of the probationary period shall be determined by the director in consultation with the director or commissioner of the agency, but in no case may it be for less than 6 months.

A. Probationary employees shall be reviewed at the end of their 3rd month of employment by their supervisors. The supervisor and the employee shall mutually discuss the job tasks and the performance of the employee, including any necessary improvements. [1987, c. 240, §3 (NEW).]

B. Probationary employees shall be included in the payroll of the department in which they have been hired at the time of the commencement of their duties. Probationary employees shall be compensated in the same manner as permanent full-time employees, provided they have been hired in accordance with all applicable laws and procedures. [1987, c. 240, §3 (NEW).]

[1987, c. 240, §3 (AMD) .]

6. Temporary and provisional appointments. Whenever it is impossible to certify eligible persons for appointment to a vacancy in the classified service, the appointing authority may nominate a person to the director. If the nominee is found by the director to have had experience and training that appear to qualify the nominee for the position, the nominee may be temporarily appointed to fill the vacancy in accordance with policies and procedures developed by the director.

A. The director may make a provisional appointment to fill a technical or professional position that requires a specialized knowledge or training to carry out the duties of the position and that cannot be filled from the eligible register. [2007, c. 466, Pt. A, §15 (AMD).]

B. The director shall establish a policy to protect persons in temporary positions from remaining in a temporary position for an unreasonable period of time that may not exceed one year except that an extension may be granted to an individual by the director when unusual circumstances warrant that extension. [2015, c. 442, §2 (AMD).]

C. The director may authorize, without requiring competitive tests, the appointment of unskilled laborers or persons engaged in custodial and domestic work in state institutions or departments. [1985, c. 785, Pt. B, §38 (NEW).]

[2015, c. 442, §2 (AMD) .]

7. Dismissal and disciplinary action. An appointing authority may dismiss, suspend or otherwise discipline an employee in the classified service for cause. This right is subject to the right of appeal and arbitration of grievances set forth in the applicable labor contract, in sections 7081 to 7084 or by civil service rule; and sections 7081 to 7084 shall apply to any employee who has satisfactorily completed an initial probationary period. This subsection does not apply to unclassified employees listed in section 931, nor does this subsection in any way limit the collective bargaining rights of classified and unclassified employees. This subsection does not apply to an employee appointed to a major policy-influencing position listed in sections 932 to 953.

Notwithstanding any other provision of law, the head of any institution under the control of the Department of Health and Human Services as the appointing authority may suspend with pay any employee who is charged by indictment with the commission of a criminal offense involving acts alleged to have been perpetrated upon any resident or residents of any such institution. Any suspension with pay may be authorized by the appointing authority only when to permit the employee to remain on duty at the institution would be against the best interest of any one or more of the residents of the institution, and authorization for suspension with pay shall apply only during the pendency of the criminal proceedings in the trial court, but not longer than 30 working days. Sections 7081 to 7084 shall not apply to suspension with pay ordered by the appointing authority under this paragraph.

[1987, c. 9, §3 (AMD); 1995, c. 560, Pt. K, §82 (AMD); 1995, c. 560, Pt. K, §83 (AFF); 2001, c. 354, §3 (AMD); 2003, c. 689, Pt. B, §6 (REV) .]

SECTION HISTORY

1985, c. 785, §B38 (NEW). 1987, c. 9, §3 (AMD). 1987, c. 240, §3 (AMD). 1987, c. 402, §A55 (AMD). 1989, c. 443, §11 (AMD). 1995, c. 560, §K82 (AMD). 1995, c. 560, §K83 (AFF). 1999, c. 668, §15 (AMD). 2001, c. 354, §3 (AMD). 2001, c. 662, §§1-3 (AMD). 2003, c. 20, §OO2 (AMD). 2003, c. 20, §OO4 (AFF). 2003, c. 689, §B6 (REV). 2007, c. 466, Pt. A, §15 (AMD). 2009, c. 415, Pt. A, §4 (AMD). 2015, c. 442, §2 (AMD).

§7052. APPOINTMENTS AND PROMOTIONS

Appointments to and promotions in the classified service must be made according to merit and fitness, from eligible lists developed by the director pursuant to procedures and policies established by the director. A person may not be appointed, transferred, promoted or reduced as an officer, clerk or employee or laborer in the classified service in any manner or by any means other than those prescribed by law or rule pursuant to this chapter. [1999, c. 668, §16 (AMD).]

SECTION HISTORY

1985, c. 785, §B38 (NEW). 1999, c. 668, §16 (AMD).

§7053. INTERMITTENT EMPLOYEES

It is the policy of the State to permit all employees of the State to participate to the fullest extent possible in the benefits of the civil service system for classified and unclassified employees. This policy shall be extended to full-time, part-time, intermittent and all other categories of employees. [1985, c. 785, Pt. B, §38 (NEW).]

The Director of Human Resources shall, not later than July 1, 1986, adopt rules to assure the attainment of this policy for intermittent employees. At a minimum, the rules must: [1997, c. 2, §15 (COR).]

1. Define intermittent positions. Define intermittent positions and must in the definition limit the use of any position to employment for not more than 1040 hours in any consecutive 12-month period;

[1995, c. 502, Pt. F, §3 (AMD) .]

2. Eligibility provisions. Provide that a person who has been employed in an intermittent position for more than 1,040 hours shall:

A. Be eligible to accrue and use vacation and sick leave days at the same rate, pro rata, as full-time state employees; [1985, c. 785, Pt. B, §38 (NEW).]

B. Be eligible to receive holiday pay at the same rate, pro rata, at the same rate as full-time state employees, provided that the intermittent employee works on the days before and after the holiday; [1985, c. 785, Pt. B, §38 (NEW).]

C. Be eligible to receive an increase in salary to the next step on the same basis as full-time employees, that is, after completing 2,080 hours of work; [1985, c. 785, Pt. B, §38 (NEW).]

D. Be considered a classified employee for the purposes of:

- (1) Eligible registers;
- (2) Classification of positions;
- (3) The compensation plan;
- (4) Promotion in the classified service;
- (5) Provisional, emergency, exceptional and temporary appointments;
- (6) Probationary period;
- (7) Transfer;

- (8) Reinstatement;
- (9) Demotion;
- (10) Suspension, layoff and dismissal;
- (11) Leave of absence and resignation;
- (12) Personnel records;
- (13) In-service training;
- (14) Service ratings; and
- (15) Certification of payrolls; [1985, c. 785, Pt. B, §38 (NEW).]

E. Be eligible to participate on a pro rata basis in the retirement program for state employees; and [1985, c. 785, Pt. B, §38 (NEW).]

F. Be eligible to participate in health and hospitalization insurance programs at rates of participation reduced to reflect the less than full-time status; and [1985, c. 785, Pt. B, §38 (NEW).]

[1985, c. 785, Pt. B, §38 (NEW) .]

3. Restricted application. This section shall not apply if provided pursuant to Title 26, chapter 9-B.

[1985, c. 785, Pt. B, §38 (NEW) .]

SECTION HISTORY

1985, c. 785, §B38 (NEW). 1987, c. 320, (AMD). 1995, c. 502, §F3 (AMD). RR 1997, c. 2, §15 (COR).

§7054. VETERANS' PREFERENCE

(REPEALED)

SECTION HISTORY

1985, c. 785, §B38 (NEW). 1985, c. 811, (AMD). 1987, c. 402, §§A56,A57 (AMD). 1989, c. 20, (AMD). 1989, c. 443, §12 (AMD). 1993, c. 427, §§1,2 (AMD). 1995, c. 115, §1 (AMD). 1999, c. 462, §1 (AMD). RR 2001, c. 2, §A10 (COR). 2001, c. 512, §§1-3 (AMD). 2003, c. 20, §002 (AMD). 2003, c. 20, §004 (AFF). 2015, c. 438, §1 (RP).

§7054-A. ACCESS TO REGISTER FOR ASPIRE-JOBS PARTICIPANTS

In making referrals to a position on an open competitive basis in the classified service, preference must be given to ASPIRE-JOBS participants as set forth in this section. [1993, c. 385, §2 (NEW) .]

1. Eligibility. Candidates must be active participants of the ASPIRE-JOBS Program, as defined in Title 22, chapter 1054-A, or current recipients of Temporary Assistance for Needy Families who have completed the ASPIRE-JOBS Program within the past year at the time an application for employment is filed with the Bureau of Human Resources in order to be eligible for preference under this section. Candidates shall make their status in the ASPIRE-JOBS Program known to the Director of Human Resources in a manner prescribed by the director. Eligibility for preference continues for a period of one year after the date of application for employment and may be renewed at the end of one year at the request of the candidate if the candidate continues to meet the other eligibility criteria specified in this subsection. A candidate receives preference only if the candidate has earned a qualifying rating on all relevant examinations.

[1993, c. 385, §2 (NEW); 1997, c. 530, Pt. A, §34 (AMD) .]

2. Certification preference. Preference is limited to referral of the highest scoring ASPIRE-JOBS Program participant as an additional candidate to be interviewed. If the normal certification procedure includes an eligible ASPIRE-JOBS Program participant, further preferential certification may not be made. Preference under this section may not exclude a person who would be referred normally.

[1993, c. 385, §2 (NEW) .]

SECTION HISTORY

1993, c. 385, §2 (NEW). 1997, c. 530, §A34 (AMD).

§7054-B. VETERAN PREFERENCE

1. Definitions. As used in this section, unless the context otherwise indicates, the following terms have the following meanings.

A. "Gold star spouse" means a widow or widower of a veteran who is eligible to receive a gold star lapel pin under 10 United States Code, Section 1126 (2010). [2015, c. 438, §2 (NEW).]

B. "Veteran" means a person who has served on active duty in the United States Armed Forces including the Reserves of the United States Armed Forces and the National Guard and received a discharge other than dishonorable. [2015, c. 438, §2 (NEW).]

[2015, c. 438, §2 (NEW) .]

2. Interview. In filling any position in the classified service, the employing agency shall offer an interview to any veteran or gold star spouse who meets the minimum qualifications established for the position.

[2015, c. 438, §2 (NEW) .]

3. Retention preference. In any reduction in personnel in the state service, employees who are veterans or gold star spouses must be retained in preference to all other competing employees in the same classification with equal seniority, status and performance reviews.

[2015, c. 438, §2 (NEW) .]

SECTION HISTORY

2015, c. 438, §2 (NEW).

§7054-C. PERSON WITH DISABILITY PREFERENCE

1. Definitions. As used in this section, unless the context otherwise indicates, the following terms have the following meanings.

A. "Person with a disability" means a person who has been determined by a qualified professional to have a physical or mental impairment that constitutes a substantial barrier to employment but who can benefit in terms of an employment outcome from the provision of vocational rehabilitation services. [2017, c. 261, §1 (NEW).]

B. "Qualified professional" means a vocational rehabilitation counselor or other professional with advanced disability training and certification. [2017, c. 261, §1 (NEW).]

C. "Special appointment program" means the program established by rule by the Department of Administrative and Financial Services, Bureau of Human Resources to provide persons with disabilities increased access to positions in the classified service. [2017, c. 261, §1 (NEW).]

D. "Ticket to Work program" means the Ticket to Work and Self-Sufficiency Program under Section 1148 of the federal Social Security Act. [2017, c. 261, §1 (NEW).]

[2017, c. 261, §1 (NEW) .]

2. Interview. In filling a position in the classified service, the employing agency shall offer an interview to a person with a disability who is eligible for the Ticket to Work program and who meets the minimum qualifications established for the position and to a person who has been determined by a qualified professional to have a disability and who meets the minimum qualifications established for the position.

[2017, c. 261, §1 (NEW) .]

3. Guidance and referral if not hired. If a person with a disability applies for a position described in subsection 2 but is not selected, the Department of Administrative and Financial Services, Bureau of Human Resources shall provide guidance to the person regarding other available state positions, including opportunities in the special appointment program, for which the person might qualify. The Bureau of Human Resources may also refer the person to the Department of Labor, Bureau of Rehabilitation Services for potential vocational rehabilitation services if the person has not been referred by a qualified professional.

[2017, c. 261, §1 (NEW) .]

4. Retention preference. In any reduction in personnel in the state service, employees who are eligible for the Ticket to Work program or who are persons with disabilities must be retained in preference to all other competing employees in the same classification with equal seniority, status and performance reviews.

[2017, c. 261, §1 (NEW) .]

5. Right to nondisclosure. A person with a disability or who is eligible for the Ticket to Work program has the right to not disclose that person's disability at the time of hire but may not assert a right to a retention preference pursuant to subsection 4 at a later date.

[2017, c. 261, §1 (NEW) .]

SECTION HISTORY

2017, c. 261, §1 (NEW).

§7055. REOPENING OF EXAMINATIONS

(REPEALED)

SECTION HISTORY

1985, c. 785, §B38 (NEW). 2015, c. 438, §3 (RP).

§7056. POLITICAL ACTIVITY

(REPEALED)

SECTION HISTORY

1985, c. 785, §B38 (NEW). 1987, c. 487, (AMD). 1997, c. 498, §5 (RP).

§7056-A. POLITICAL ACTIVITY

1. Use of official authority. An officer or employee in the classified service or an employee from the executive branch in the unclassified service of this State may not use that officer's or employee's official authority, influence or supervisory position for the purpose of:

A. Interfering with or affecting the result of a partisan election or nomination for elective office; or [1997, c. 498, §6 (NEW).]

B. Attempting to intimidate, threaten, coerce, command or influence a person to give or withhold a political contribution or to engage or not to engage in any form of political activity as defined in this section. [1997, c. 498, §6 (NEW).]

For the purpose of this subsection, "use of official authority or influence" includes promising to confer or conferring a benefit such as compensation, a grant, contract, license or ruling; effecting or threatening to effect a reprisal, such as deprivation of compensation, a grant, contract, license or ruling; or taking, directing others to take, recommending, processing or approving any personnel action.

[1997, c. 498, §6 (NEW) .]

2. Political contributions. An officer or employee in the classified service or an employee from the executive branch in the unclassified service of this State may not:

A. Give or offer to give a political contribution to an individual to vote or refrain from voting or to vote for or against any candidate or measure in any partisan election; [1997, c. 498, §6 (NEW).]

B. Solicit, accept or receive a political contribution to vote or refrain from voting or to vote for or against any candidate or measure in any partisan election; [1997, c. 498, §6 (NEW).]

C. Knowingly give or hand over a political contribution to a superior of the employee; [1997, c. 498, §6 (NEW).]

D. Knowingly solicit, accept or receive or be in any manner concerned with soliciting, accepting or receiving a political contribution from another employee or a member of another employee's immediate family who is a subordinate of the employee; or [1997, c. 498, §6 (NEW).]

E. Knowingly solicit, accept or receive a political contribution from or give a political contribution to any person who:

(1) Has or is seeking to obtain contractual or other business or financial relations with the agency in which the employee is employed;

(2) Conducts operations or activities that are regulated by that agency; or

(3) Has interests that may be substantially affected by the performance or nonperformance of the employee's official duties. [1997, c. 498, §6 (NEW).]

[1997, c. 498, §6 (NEW) .]

3. Political activity. An officer or employee in the classified service or an employee from the executive branch in the unclassified service of this State may not engage in political activity:

A. When the employee is on duty; [1997, c. 498, §6 (NEW).]

B. In state-owned or leased work space occupied in the discharge of official duties or by using the facilities or services of the State; or [1997, c. 498, §6 (NEW).]

C. When wearing a uniform or official insignia identifying the office or position of the employee or while using a vehicle owned or leased by the State or its agencies. [1997, c. 498, §6 (NEW).]

As used in this subsection, political activity means to advocate expressly for the election or defeat of any candidate for a federal office, a constitutional office or any candidate for partisan elective municipal, county or state office, including leadership positions in the Senate and the House of Representatives or to solicit contributions reportable under Title 21-A, chapter 13.

[1997, c. 498, §6 (NEW) .]

4. Candidacy for elective office. An officer or employee in the classified service or an employee from the executive branch in the unclassified service of this State, except for an officer or enlisted person in the Maine National Guard, may not be a candidate for elective office in a partisan public election other than for a local office. This subsection may not be construed as prohibiting an officer or employee of the State from being a candidate in an election if none of the candidates is nominated or elected at that election as representing a party whose candidates for presidential elector received votes in the last preceding election during which presidential electors were selected. Law enforcement officers continue to be subject to departmental rules regarding procedures on candidacy.

[2007, c. 130, §1 (AMD) .]

5. Rights of voting and free expression. An officer or employee in the classified service or an employee from the executive branch in the unclassified service of this State retains the right to vote as that officer or employee chooses and to express opinions on political subjects and candidates.

[1997, c. 498, §6 (NEW) .]

6. Rights of participation in political organizations and activities. An officer or an employee of the classified service or an employee from the executive branch in the unclassified service of this State may:

- A. Campaign for and hold an elective office in political clubs and organizations; [1997, c. 498, §6 (NEW) .]
- B. Contribute money to political organizations or attend political fundraising functions; [1997, c. 498, §6 (NEW) .]
- C. Donate personal time and service to a political cause; [1997, c. 498, §6 (NEW) .]
- D. Be a candidate for public office in a nonpartisan election; and [1997, c. 498, §6 (NEW) .]
- E. Participate in any other activity not specifically prohibited by state or federal law. [1997, c. 498, §6 (NEW) .]

[1997, c. 498, §6 (NEW) .]

7. Exemption of official duties. This section may not be construed to apply to any actions taken in order to carry out the duties and responsibilities of an officer's or employee's position, including but not limited to advocacy on policy issues or legislation.

[1997, c. 498, §6 (NEW) .]

SECTION HISTORY

1997, c. 498, §6 (NEW). 2007, c. 130, §1 (AMD).

Article 2: JOB CLASSIFICATION, COMPENSATION AND QUALIFICATIONS

§7061. CLASSIFICATION PLAN

The director, in accordance with policies and procedures established by the director and in accordance with this section, shall record the duties and responsibilities of all positions in state service and establish classes for these positions. The titles of the positions and classes must be used in all personnel, accounting, budget, appropriation and financial records of all state departments, commissions and institutions. [1999, c. 668, §17 (AMD) .]

1. Involvement of commissioners and directors. In recording the duties and responsibilities of each position, the commissioners and directors of the departments and agencies of State Government shall be involved to the greatest extent possible.

[1987, c. 541, (RPR) .]

2. Development of job classifications. Job classifications created pursuant to this section shall be developed to meet the needs of each department in the most efficient and pertinent manner.

[1987, c. 541, (RPR) .]

2-A. Mental health professionals. Job classifications adopted by the director under subsection 2 must allow a person licensed as a marriage and family therapist under Title 32, chapter 119 to qualify for mental health therapist positions within the civil service system.

[2011, c. 6, §1 (NEW) .]

3. Collective bargaining.

[1987, c. 724, §1 (REEN); T. 5, §7061, sub-§7 (RP) .]

4. Implementation. The procedure established pursuant to this section shall be implemented by the bureau in conjunction with state agencies. State agencies shall provide sufficient employees and resources to efficiently and effectively implement this section.

A. The procedure shall provide for periodic updating of job descriptions at least every 5 years to accurately reflect current duties and responsibilities of each job classification. [1987, c. 541, (NEW) .]

[1987, c. 541, (NEW) .]

5. Reclassification requests. The bureau shall act as expeditiously as possible on job reclassification requests which occur while this section is in effect. Nothing in this section may be construed to authorize the bureau to defer from acting expeditiously on job reclassification requests while the issue of job classifications is being addressed pursuant to this section.

[1987, c. 541, (NEW) .]

6. Report. The director shall submit a progress report on or before February 15, 1988, to the joint standing committee of the Legislature having jurisdiction over state and local government.

[1987, c. 541, (NEW) .]

7. Sunset. Subsection 3 is repealed March 15, 1990.

[1987, c. 724, §2 (AMD) .]

SECTION HISTORY

1985, c. 785, §B38 (NEW). 1987, c. 541, (RPR). 1987, c. 724, §§1,2 (AMD). 1999, c. 668, §17 (AMD). 2011, c. 6, §1 (AMD).

§7062. REGISTERS OF ELIGIBILITY

The director, in accordance with policies and procedures established by the director, shall prepare for each class of positions in the classified service registers of persons eligible for appointment to positions in each class. Each eligible register consists of a list of all the persons who have shown by competitive tests, as

provided in section 7063, that they possess the qualifications that entitle them to be considered eligible for appointment to any position in the class for which the eligible register is to be prepared, and of employees who have resigned or been dismissed, laid off or granted leaves of absence and whose names have been restored to the eligible register in accordance with this chapter. [1999, c. 668, §18 (AMD).]

1. Placement of names on register. In establishing registers of eligible persons pursuant to this section, the names of all persons attaining the minimum final earned ratings established by the director must be placed on the register.

[2015, c. 442, §3 (AMD) .]

2. Establishment of direct hire procedures. The director shall, based on recruitment and retention needs and the provision of section 7036, subsection 22, establish where practicable direct hire procedures.

[1999, c. 668, §19 (AMD) .]

3. Removal from list prohibited under certain circumstances. A person may not be removed from a register of eligibles for:

A. Specifying the conditions under which the applicant will accept employment in a classification; [1985, c. 785, Pt. B, §38 (NEW).]

B. Specifying a department, bureau or division in which the applicant will accept employment in a classification; or [2015, c. 442, §3 (AMD).]

C. Specifying a department, bureau or division in which the applicant will not accept employment in a classification. [2015, c. 442, §3 (AMD).]

D. [2015, c. 442, §3 (RP).]

E. [2015, c. 442, §3 (RP).]

[2015, c. 442, §3 (AMD) .]

SECTION HISTORY

1985, c. 785, §B38 (NEW). 1999, c. 668, §§18,19 (AMD). 2015, c. 442, §3 (AMD).

§7063. EXAMINATIONS

Any examinations for positions in the classified service shall relate to those matters which will fairly test the capacity and fitness of the persons examined to discharge the duties of the office or employment for which they apply. For the purpose of sections 7062 and 7063, "competitive test" means any written examination, evaluation of training and experience, service rating, oral board or other device used to measure an applicant's knowledge, skills and abilities or to provide a relative ranking for certification purposes. [1985, c. 785, Pt. B, §38 (NEW).]

The director shall determine the character, type and content of examination for admission to the classified service; the time and place for holding examinations; the form of application blanks for admission to the examination to be filed by applicants; the minimum requirements for admission to the examination; and the value of each phase of the tests used in determining the average rating of the applicant. The director may adjust initial test results only to eliminate questions that are proven not relevant to the purposes of the test or that have a bias that is prohibited by state or federal law. Once a minimum final earned rating is established for a particular test, it may not be changed. [2007, c. 466, Pt. A, §16 (AMD).]

Public notice of every examination or test shall be given in the manner prescribed by rules drawn up by the director. [1985, c. 785, Pt. B, §38 (NEW).]

1. Examination content. In developing examinations for classifications, the examinations shall be constructed to test the most current knowledge, skills and use of equipment required in each classification.

[1985, c. 785, Pt. B, §38 (NEW) .]

2. Administration of tests. The director may establish policies and procedures to allow departments and agencies of State Government to administer the tests and to interview persons taking the tests.

[1985, c. 785, Pt. B, §38 (NEW) .]

3. Applicant and examination results. Any applicant, upon the applicant's request, shall be provided with the applicant's strengths, weaknesses and areas in need of improvement as determined from a test score or interview.

[1985, c. 785, Pt. B, §38 (NEW) .]

4. Objectives of testing. In addition to determining the merit of applicants for positions in the classified service on a fair and just basis, it shall also be an objective to administer tests as often as possible to establish registers of eligible persons with sufficient numbers of names of persons who are currently interested in employment in each classification and thereby reduce to a minimum the length of time to fill positions.

[1985, c. 785, Pt. B, §38 (NEW) .]

5. Educational requirements; experience. No application for a position in State Government may be rejected solely because the applicant lacks educational qualifications. Acceptable equivalent combinations of appropriate experience, including verifiable uncompensated experience, or education may be substituted for formal educational qualifications, except where the educational qualifications are reflected in necessary registrations, such as to practice law, medicine or engineering or where the educational requirements are set as standards by federal agencies making grants-in-aid or otherwise contributing to state programs.

[1985, c. 785, Pt. B, §38 (NEW) .]

SECTION HISTORY

1985, c. 785, §B38 (NEW). 2007, c. 466, Pt. A, §16 (AMD).

§7064. FILLING OF POSITIONS

Positions in the classified service must be filled by original appointment, promotion, transfer, reinstatement or demotion in accordance with policies and procedures developed by the director. These policies and procedures must provide for the direct hire of positions in the classified service where appropriate. [2007, c. 466, Pt. A, §17 (AMD).]

1. Objective. In developing policies and procedures for filling positions, the director must be guided by the principle of filling each position as efficiently and expeditiously as possible. The director shall strive to fill each position in 30 days and no later than 45 days from the date a request to fill a position has been received from a state agency.

[2007, c. 466, Pt. A, §18 (AMD) .]

2. Eligibility of unclassified employees for classified service. In addition to any other provisions in this chapter, unclassified employees listed in section 931, subsection 1, paragraph H, and other unclassified employees, except those cited in section 931, subsection 1, paragraphs A to G, and paragraphs I and J, and in sections 932 to 953, are eligible for appointment to the classified service on the same basis as other members of the classified service.

[2003, c. 177, §1 (AMD) .]

Notwithstanding any provision of this section to the contrary, a permanent, classified employee who accepts appointment to a major policy-influencing position listed in section 931 and in sections 932 to 952 retains, for the duration of the appointment, promotion, transfer and demotion rights consistent with this section. [2015, c. 2, §2 (COR).]

SECTION HISTORY

1985, c. 785, §B38 (NEW). 1987, c. 402, §B10 (AMD). 2003, c. 177, §1 (AMD). 2007, c. 466, Pt. A, §§17, 18 (AMD). RR 2015, c. 2, §2 (COR).

§7065. COMPENSATION PLAN

The director shall, as soon as practicable after the adoption of the classification plan, submit to the Legislature a proposed plan of compensation developed by the director showing for each class or position in the classified service minimum and maximum salary rates and such intermediate rates as the director considers desirable. [2007, c. 466, Pt. A, §19 (AMD).]

1. Salary reductions. When the compensation plan has become effective through its adoption by the Legislature, it shall constitute the official schedule of salaries for all classes or positions in the classified service, except that, if the adoption of a compensation plan results in the reduction of salary of an employee, the director shall certify to the proper fiscal officer of the State that the employee's salary shall not be subject to any reduction for a period of one year from the effective date of adoption of the plan.

[1985, c. 785, Pt. B, §38 (NEW) .]

2. Salary limits. No position may be assigned a salary greater than the maximum or less than the minimum rates fixed in the compensation plan except as provided by subsection 2-D.

[1993, c. 705, §1 (AMD) .]

2-A. Recruitment and retention adjustments.

[1989, c. 418, §§2, 4 (RPR); 1991, c. 591, Pt. III, §19 (AMD); T. 5, §7065, sub-§2-A (RP) .]

2-B. Limitations on recruitment and retention adjustment.

[1989, c. 418, §§2, 4 (RPR); 1991, c. 591, Pt. III, §19 (AMD); T. 5, §7065, sub-§2-B (RP) .]

2-C. Recruitment and retention adjustment process.

[1989, c. 418, §3 (NEW); 1991, c. 591, Pt. III, §20 (AMD); T. 5, §7065, sub-§2-C (RP) .]

2-D. Recruitment and retention adjustments. Subject to this subsection, the director, with the agreement of the bargaining agent, if applicable, may approve payment of recruitment and retention adjustments when the payment of a labor market adjustment is required to recruit and retain an adequate work force.

A. Payment of a recruitment and retention adjustment may be authorized only when justified by the following conditions.

- (1) High turnover exists or long-term vacancies exist within State Government in the relevant occupational classifications or job series.
- (2) The relevant occupational classification or job series has a clear, geographically definable labor market within which the State must compete.
- (3) All appropriate recruitment and retention efforts have been attempted and have proven ineffective at the current levels of compensation.
- (4) Comprehensive, verifiable documentation of labor market compensation levels for the relevant occupation has been compiled to determine competitive pay levels within the defined labor market. This documentation must demonstrate that a labor market disparity exists and that the disparity represents a long-term, not transitory or seasonal, problem. [1993, c. 705, §2 (NEW).]

B. The labor market adjustment must be reviewed at least every 2 years and adjusted to changes in the labor market or the overall relation of the standard pay policy to the specialized labor market. If the subsequent review provided in this paragraph results in the adjustment being decreased or discontinued, an employee receiving the recruitment and retention adjustment may not be subject to a reduction in pay. [1993, c. 705, §2 (NEW).]

C. To assist the director in making a determination under paragraphs A and B, a committee must be formed to evaluate each request from an agency or bargaining agent for a recruitment or retention adjustment. The committee must be composed of a representative of the bureau, a representative of the employing agency or agencies and a representative of the bargaining agent, if applicable. The committee shall evaluate the request against the criteria specified in paragraphs A and B and shall conduct studies as the committee considers necessary to evaluate the request. The committee shall, by majority vote, provide the director, the agency and the bargaining agent, if applicable, with a report recommending and documenting adjustments authorized under this subsection. The director, the agency and the bargaining agent, if applicable, shall act on this report. If a funding request is necessary to implement an approved adjustment, the director shall submit the cost items for inclusion in the Governor's next operating budget within 10 days after action on the report. [1993, c. 705, §2 (NEW).]

[1993, c. 705, §2 (NEW) .]

3. Salary increases based on merit. Salary advancements within an established range shall not be automatic, but shall be dependent upon specific recommendation of the appointing officer and approval of the commissioner. The recommendation shall be based upon standards of performance as indicated by merit ratings or other pertinent data. No advancements in salary may be made until the employee has completed the probationary period.

[1985, c. 785, Pt. B, §38 (NEW) .]

4. Compensation above the minimum step. In hiring any employee, the director or appointing authority may employ a person who is new to a state job classification above the minimum level established for that classification in order to compensate that person for the experience or outstanding qualifications that the person may possess. The director shall establish a policy to reflect the intent of this subsection.

[2007, c. 466, Pt. A, §20 (AMD) .]

SECTION HISTORY

1985, c. 785, §B38 (NEW). 1987, c. 402, §§A58,A59 (AMD). 1987, c. 431, §§1,2 (AMD). 1989, c. 418, §§1-4 (AMD). 1991, c. 528, §§III19,20 (AMD). 1991, c. 528, §RRR (AFF). 1991, c. 591, §§III19,20 (AMD). 1993, c. 705, §§1,2 (AMD). 2007, c. 466, Pt. A, §§19, 20 (AMD).

Article 3: EMPLOYEE BENEFITS, RECORDS AND TRAINING

§7068. OBLIGATION TO INFORM EMPLOYEE

1. Orientation session. The director shall provide that during the first 6 months of state employment each employee shall attend an employee orientation workshop which shall be work time for the employee. Such training shall describe the nature and costs of benefits available to state employees generally, the nature and costs of benefits available to the employee and the circumstances under which the employee's benefit eligibility or cost may be changed. These benefits include, but are not limited to, vacation, holiday and sick leave, insurance programs and retirement programs.

A. In carrying out these programs, the director shall invite and include, to the extent they wish to participate, representatives of the Bureau of Employee Health, the Maine Public Employees Retirement System and employee representatives who are bargaining agents for any or all of the state employees attending the conference. Such employee representatives shall participate as the director provides in the program, but shall at least be given the chance to address employees in represented bargaining units on the rights and obligations of employees under the contract for their bargaining unit and as to insurance programs and other benefits that are available from the employee representative. [1985, c. 785, Pt. B, §38 (NEW); 2007, c. 58, §3 (REV).]

[1985, c. 785, Pt. B, §38 (NEW); 2007, c. 58, §3 (REV) .]

2. Information provided to employees. The appointing authority shall be responsible for attendance of new employees at the orientation session, and shall provide every new employee with written information as to the employee's rate of pay and circumstances under which the rate may be changed, including merit increases.

A. The appointing authority shall also be responsible for distributing to new employees such written information as deemed appropriate by the director to carry out the spirit of this law and such information as provided in applicable labor agreements. [1985, c. 785, Pt. B, §38 (NEW).]

[1985, c. 785, Pt. B, §38 (NEW) .]

SECTION HISTORY

1985, c. 785, §B38 (NEW). 2007, c. 58, §3 (REV).

§7069. DIRECTOR TO DEVELOP BROCHURE OR PUBLICATION

The director shall develop a brochure or publication by which the information in section 7068 is clearly and simply presented. The brochure or publication shall be made available to new employees upon arrival at their jobs and to other state employees upon request. [1985, c. 785, Pt. B, §38 (NEW).]

SECTION HISTORY

1985, c. 785, §B38 (NEW).

§7070. PERSONNEL RECORDS

Every appointment, transfer, promotion, demotion, dismissal, vacancy, change of salary rate, leave of absence, absence from duty and other temporary or permanent change in status of employees in both the classified service and the unclassified service of the Executive and Legislative Departments shall be reported to the director at such time, in such form and together with such supportive or pertinent information as he shall by rule prescribe. [1985, c. 785, Pt. B, §38 (NEW).]

The director shall maintain a perpetual roster of all officers and employees in the classified and unclassified services, showing for each person such data that the director considers pertinent. [2007, c. 466, Pt. A, §21 (AMD).]

Records of the Bureau of Human Resources shall be public records and open to inspection of the public during regular office hours at reasonable times and in accordance with the procedure as the director may provide. [1985, c. 785, Pt. B, §38 (NEW).]

The following records shall be confidential and not open to public inspection, and shall not be "public records," as defined in Title 1, section 402, subsection 3: [1985, c. 785, Pt. B, §38 (NEW).]

1. Papers relating to applications, examinations or evaluations of applicants. Except as provided in this subsection, applications, resumes, letters and notes of reference, working papers, research materials, records, examinations and any other documents or records and the information they contain, solicited or prepared either by the applicant or the State for use in the examination or evaluation of applicants for positions as state employees.

A. Notwithstanding any confidentiality provision other than this subsection, applications, resumes and letters and notes of reference, other than those letters and notes of reference expressly submitted in confidence, pertaining to the applicant hired are public records after the applicant is hired, except that personal contact information is not a public record as provided in Title 1, section 402, subsection 3, paragraph O. [2007, c. 597, §5 (AMD).]

B. Telephone numbers are not public records if they are designated as "unlisted" or "unpublished" in an application, resume or letter or note of reference. [1989, c. 402, §1 (NEW).]

C. This subsection does not preclude union representatives from access to personnel records, consistent with subsection 4, which may be necessary for the bargaining agent to carry out its collective bargaining responsibilities. Any records available to union representatives which are otherwise covered by this subsection shall remain confidential and are not open to public inspection; [1989, c. 402, §1 (NEW).]

[2007, c. 597, §5 (AMD) .]

2. Personal information. Records containing the following, except they may be examined by the employee to whom they relate when the examination is permitted or required by law:

A. Medical information of any kind, including information pertaining to diagnosis or treatment of mental or emotional disorders; [1985, c. 785, Pt. B, §38 (NEW).]

B. Performance evaluations and personal references submitted in confidence; [1985, c. 785, Pt. B, §38 (NEW).]

C. Information pertaining to the credit worthiness of a named employee; [1985, c. 785, Pt. B, §38 (NEW).]

D. Information pertaining to the personal history, general character or conduct of members of the employee's immediate family; [1997, c. 124, §2 (AMD).]

D-1. Personal information pertaining to the employee's race, color, religion, sex, national origin, ancestry, age, physical disability, mental disability and marital status; social security number; personal contact information as provided in Title 1, section 402, subsection 3, paragraph O; and personal employment choices pertaining to elected payroll deductions, deferred compensation, savings plans,

pension plans, health insurance and life insurance. When there is a work requirement for public access to personal information under this paragraph that is not otherwise protected by law, that information may be made public. The Director of the Bureau of Human Resources, upon the request of the employing agency, shall make the determination that the release of certain personal information not otherwise protected by law is allowed; and [2007, c. 597, §6 (AMD).]

E. Except as provided in section 7070-A, complaints, charges or accusations of misconduct, replies to those complaints, charges or accusations and any other information or materials that may result in disciplinary action. If disciplinary action is taken, the final written decision relating to that action is no longer confidential after the decision is completed if it imposes or upholds discipline. If an arbitrator completely overturns or removes disciplinary action from an employee personnel file, the final written decision is public except that the employee's name must be deleted from the final written decision and kept confidential. If the employee whose name was deleted from the final written decision discloses that the employee is the person who is the subject of the final written decision, the entire final written report, with regard to that employee, is public.

For purposes of this paragraph, "final written decision" means:

- (1) The final written administrative decision that is not appealed pursuant to a grievance arbitration procedure; or
- (2) If the final written administrative decision is appealed to arbitration, the final written decision of a neutral arbitrator.

A final written administrative decision that is appealed to arbitration is no longer confidential 120 days after a written request for the decision is made to the employer if the final written decision of the neutral arbitrator is not issued and released before the expiration of the 120 days; [1997, c. 770, §1 (AMD).]

This subsection does not preclude union representatives from having access to personnel records, consistent with subsection 4, that may be necessary for the bargaining agent to carry out its collective bargaining responsibilities. Any records available to union representatives that are otherwise covered by this subsection remain confidential and are not open for public inspection;

[2007, c. 597, §6 (AMD).]

3. Other information. Other information to which access by the general public is prohibited by law.

[1985, c. 785, Pt. B, §38 (NEW).]

4. Disclosure of certain information for grievance and other proceedings. The Director of Human Resources may release specific information designated confidential by this section to be used in negotiations, mediation, fact-finding, arbitration, grievance proceedings and other proceedings in which the State is a party. For the purpose of this subsection, "other proceedings" means unemployment compensation proceedings, workers' compensation proceedings, human rights proceedings and labor relations proceedings.

Confidential information provided under this subsection shall be governed by the following.

A. The information to be released shall be information only as necessary and directly related to the proceeding as determined by the Director of Human Resources. [1987, c. 673, §1 (NEW).]

B. [2007, c. 240, Pt. HH, §12 (RP).]

C. The proceeding for which the confidential information is provided shall be private and not open to the public; or, if the proceeding is open to the public, the confidential information shall not be disclosed except exclusively in the presence of the fact finder, the parties and counsel of record, and the employee who is the subject of the proceeding and provisions are made to ensure that there is no public access to the confidential information. [1987, c. 673, §1 (NEW).]

The State may use this confidential information in proceedings and provide copies to the employee organization that is a party to the proceedings, provided the information is directly related to those proceedings as defined by the applicable collective bargaining agreement. Confidential personnel records in the possession of the Bureau of Human Resources may not be open to public inspection and may not be "public records," as defined in Title 1, section 402, subsection 3.

[2007, c. 240, Pt. HH, §12 (AMD) .]

5. Constitutional obligations of a prosecutor. Notwithstanding this section or any other provision of law, this section does not preclude the disclosure of confidential personnel records and the information contained in those records to the Attorney General, a deputy attorney general, an assistant attorney general, a district attorney, a deputy district attorney, an assistant district attorney or the equivalent departments or offices in a federal jurisdiction that are related to the determination of and compliance with the constitutional obligations of the State or the United States to provide discovery to a defendant in a criminal matter. A person or entity participating in good faith disclosure under this subsection or participating in a related proceeding is immune from criminal and civil liability for the act of disclosure or for participating in the proceeding.

[2013, c. 201, §1 (NEW) .]

SECTION HISTORY

1985, c. 785, §B38 (NEW). 1987, c. 673, §1 (AMD). 1989, c. 402, §1 (AMD). 1991, c. 229, §1 (AMD). 1991, c. 729, §1 (AMD). 1997, c. 124, §2 (AMD). 1997, c. 770, §1 (AMD). 2007, c. 240, Pt. HH, §12 (AMD). 2007, c. 466, Pt. A, §21 (AMD). 2007, c. 597, §§5, 6 (AMD). 2013, c. 201, §1 (AMD).

§7070-A. PERSONNEL RECORDS; DEADLY FORCE OR PHYSICAL FORCE BY LAW ENFORCEMENT OFFICER

The name of a law enforcement officer is not confidential under section 7070, subsection 2, paragraph E in cases involving: [1991, c. 729, §2 (NEW) .]

1. Deadly force. The use of deadly force by a law enforcement officer; or

[1991, c. 729, §2 (NEW) .]

2. Physical force. The use of physical force by a law enforcement officer resulting in death or serious bodily injury.

[1991, c. 729, §2 (NEW) .]

In cases specified in subsections 1 and 2, regardless of whether disciplinary action is taken, the findings of any investigation into the officer's conduct are no longer confidential when the investigation is completed and a decision on whether to bring criminal charges has been made, except that if criminal charges are brought, the findings of the investigation remain confidential until the conclusion of the criminal case. [1991, c. 729, §2 (NEW) .]

SECTION HISTORY

1991, c. 729, §2 (NEW) .

§7071. EMPLOYEE RIGHT TO REVIEW PERSONNEL FILE

The director shall, upon written request from an employee, provide the employee, former employee or his duly authorized representative with an opportunity to review his personnel file. These reviews shall take place in the Bureau of Human Resources and during its normal office hours. Time spent by an employee

in reviewing his personnel file shall not be considered as time worked. For the purposes of this section, a personnel file shall include, but not be limited to, any formal or informal employee evaluations and reports relating to the employee's character, credit, work habits, compensation and benefits which the director has in his possession. [1985, c. 785, Pt. B, §38 (NEW).]

SECTION HISTORY

1985, c. 785, §B38 (NEW).

§7072. TRAINING AND APPRENTICESHIP PROGRAMS

The director shall devise plans for and cooperate with appointing authorities and other supervising officials in the development and conduct of employee training and registered apprenticeship programs to recruit and develop well qualified employees, to aid in meeting affirmative action requirements and to otherwise carry out the State's role as a responsible and effective employer. [1985, c. 785, Pt. B, §38 (NEW).]

The Department of Labor, Bureau of Employment Services shall assist the director in determining which classifications are apprenticeable and in encouraging and assisting state agencies to utilize the benefits of registered apprenticeship programs or other training programs. [2011, c. 491, §2 (AMD).]

1. Listing of apprenticeable classifications.

[2011, c. 491, §4 (RP) .]

2. Agency review.

[2011, c. 491, §5 (RP) .]

3. Annual report. The director shall include in the annual report of the Bureau of Human Resources the following information:

A. A review of the development and operation of training and registered apprenticeship programs; [1993, c. 630, Pt. B, §4 (AMD).]

B. [2011, c. 491, §6 (RP).]

C. A summary of the agencies and types of positions involved; [1985, c. 785, Pt. B, §38 (NEW).]

D. A summary of registered apprenticeships; [1985, c. 785, Pt. B, §38 (NEW).]

E. The number of persons who applied for registered apprenticeship positions under this chapter; [1993, c. 630, Pt. B, §4 (AMD).]

F. The number of persons who were accepted into the registered apprenticeship program under this chapter; [1993, c. 630, Pt. B, §4 (AMD).]

G. The number of persons, under this chapter, who successfully completed and the number of persons who failed to complete the program established under this chapter; [1985, c. 785, Pt. B, §38 (NEW).]

H. The number of persons who, following the successful completion of the program, remain employed; [1985, c. 785, Pt. B, §38 (NEW).]

I. A summary of other training programs established; and [1985, c. 785, Pt. B, §38 (NEW).]

J. A breakdown of the total number of persons, defined in paragraphs E, F and G, by sex, race and any other characteristics deemed by the director to be pertinent to the intent of this chapter. [1985, c. 785, Pt. B, §38 (NEW).]

[2011, c. 491, §6 (AMD) .]

4. Bargaining agreements. Nothing in this section may operate to invalidate or supersede the provisions of a collective bargaining agreement between an employee organization and the State.

[1985, c. 785, Pt. B, §38 (NEW) .]

SECTION HISTORY

1985, c. 785, §B38 (NEW). 1993, c. 630, §§B2-4 (AMD). 1997, c. 530, §A34 (AMD). 2011, c. 491, §§2-6 (AMD).

Subchapter 3: STATE CIVIL SERVICE APPEALS BOARD

§7081. MEMBERSHIP; TERM; COMPENSATION

The State Civil Service Appeals Board, established by section 12004-B, subsection 4, shall be composed of 5 members with experience in personnel management or labor relations. No more than 3 members of the board may be of the same political party. No member may be a state employee. [1989, c. 503, Pt. B, §24 (AMD).]

Each member shall be appointed by the Governor, subject to review by the joint standing committee of the Legislature having jurisdiction over State Government and to confirmation by the Legislature. [1985, c. 785, Pt. B, §38 (NEW).]

One member of the appeals board shall be designated by the Governor as chairman. Except as otherwise provided by law, each member shall be appointed for a term of 4 years and until his successor has been appointed and qualified. Any vacancy shall be filled for the unexpired portion of the term by the Governor, subject to review by the joint standing committee of the Legislature having jurisdiction over State Government and to confirmation by the Legislature. [1985, c. 785, Pt. B, §38 (NEW).]

The members of the board shall be compensated as provided by chapter 379. [1985, c. 785, Pt. B, §38 (NEW).]

SECTION HISTORY

1985, c. 785, §B38 (NEW). 1989, c. 503, §B24 (AMD).

§7082. POWERS AND DUTIES OF THE STATE CIVIL SERVICE APPEALS BOARD

The State Civil Service Appeals Board shall be an impartial board and: [1985, c. 785, Pt. B, §38 (NEW).]

1. Administer subchapter. Shall administer this subchapter. In exercising its authority, the board may adopt policies and procedures to administer this subchapter. The appeals board shall employ, subject to the Civil Service Law, assistants as may be necessary to carry out this subchapter;

[1985, c. 785, Pt. B, §38 (NEW) .]

2. Adopt rules. Shall adopt rules necessary to effectuate the purposes of this subchapter;

[1985, c. 785, Pt. B, §38 (NEW) .]

3. Report. Shall report biennially to the Governor and Legislature facts and recommendations relating to the administration and needs of the board;

[1985, c. 785, Pt. B, §38 (NEW) .]

4. Mediate grievances and disputes. May mediate the final settlement of all grievances and disputes between individual state employees, both classified and unclassified, and their respective state agencies. All complaints between a state employee and the state agency by which he is employed shall be made and heard in the manner provided by this chapter for the mediation and settlement of the complaints. During the procedure for settlement, an employee may be represented at each step by his designated representative. The decision of the appeals board shall be final and binding upon the state agency and state employees involved in the dispute, and shall supersede any prior action taken by the state agency with reference to the employment and working conditions of the employees.

A. In the course of any investigation under this chapter, any member of the appeals board may subpoena and require the attendance of witnesses and the production thereby of books, papers, public records and other documentary evidence pertinent to that investigation. In the case of the refusal of any person to comply with any subpoena issued under this subsection or to testify to any matter regarding which he may be lawfully interrogated, the Superior Court in any county on application of any one of the members of the board may issue an order requiring that person to comply with the subpoena and to testify. Any failure to obey the order of the court may be punished by the court as a contempt of the court; and [1985, c. 785, Pt. B, §38 (NEW).]

[1985, c. 785, Pt. B, §38 (NEW) .]

5. Hear appeals. May hear appeals in accordance with this subchapter. Except where otherwise provided by a governing bargaining agreement, any employee or appointing authority aggrieved by the determination of the Director of Human Resources concerning the classification of positions, the allocation of new positions or the reallocation of existing positions in the classified service may appeal from the determination to the State Civil Service Appeals Board. The appeal must be made within 30 days after receipt of written notice of the determination from the director. The employee or appointing authority, or his representative, shall be afforded a public hearing before the appeals board. The appeals board shall examine and review the appeal and, upon the vote of at least 3 of its members, make changes in such classification, allocation or reallocation as may be just and equitable. Determinations of the appeals board shall be transmitted to the State Budget Officer, the Director of Human Resources, and the employees and department heads affected by the determinations.

A. Any classification of a position and any allocation or reallocation of a position made by the director or the appeals board pursuant to this section shall become effective on the first day of the fiscal year following approval by the State Budget Officer and the appropriation of funds for the classification, except that the State Budget Officer may, if he determines that sufficient funds exist, authorize an effective date prior to the first day of the ensuing fiscal year. [1985, c. 785, Pt. B, §38 (NEW) .]

B. Any request for classification of positions, the allocation of new positions or the reallocation of existing positions in the classified service or the unclassified service shall be processed by the director and the director's determination made within 25 days from the date of filing the request with the Bureau of Human Resources. Any employee or appointing authority that is a party to the request may appeal to the appeals board within 10 days after the expiration of the 25 days allotted for the process of the requests for hearing and review. The appeals board shall examine and review the appeal and make such changes as provided in this section. The appeals board's decision in the appeal shall be given within 30 days after the hearing on the appeal has been concluded. [1985, c. 785, Pt. B, §38 (NEW) .]

C. A hearing before the appeals board is an adjudicatory proceeding under the Maine Administrative Procedure Act, chapter 375, and shall be held in accordance with chapter 375, subchapter IV. [1985, c. 785, Pt. B, §38 (NEW).]

[1985, c. 785, Pt. B, §38 (NEW) .]

SECTION HISTORY

1985, c. 785, §B38 (NEW).

§7083. PROCEDURE FOR SETTLEMENT

A grievance or dispute between a state employee and the agency of the State by whom he is employed shall be entertained by the board upon the application of the employee, provided that there shall have been compliance with the following requirements: [1985, c. 785, Pt. B, §38 (NEW).]

1. Adjust dispute. That the employee aggrieved or his representative, or both, shall have attempted to adjust the dispute through oral communication with the employee's immediate supervisor within 7 working days of the time that the employee is aware of the grievable incident. The immediate supervisor is then required to render an oral decision to the employee within 3 working days;

[1985, c. 785, Pt. B, §38 (NEW) .]

2. Grievance in writing. If the employee is dissatisfied with the oral decision of his immediate supervisor, he or his representative, or both, may, before the end of the 10th working day following the day of the oral decision, present the grievance to his supervisor again, this time in written form. The supervisor is then required to make his decision in writing and present it to the employee within 10 working days;

[1985, c. 785, Pt. B, §38 (NEW) .]

3. Appeal to the department head. If the employee is dissatisfied with the supervisor's written decision, he or his representative, or both, then may, before the end of the 20th working day following receipt of the decision, appeal in writing to the department head. The department head shall meet with the employee or his designated representative, or both, within 20 working days of receipt of the employee's notice of dissatisfaction and attempt to adjust the dispute. Within 5 working days, the department head shall render a decision in writing to the aggrieved employee and his representative;

[1985, c. 785, Pt. B, §38 (NEW) .]

4. Appeal to Director of Human Resources. If the classified employee is dissatisfied with the written decision following the meeting with the department head, he may appeal in writing to the Director of Human Resources within 7 working days of meeting with the department head. The director shall within 10 working days reply in writing to the aggrieved employee, his representative and the department head involved stating his decision, based on the Civil Service Law and rules;

[1985, c. 785, Pt. B, §38 (NEW) .]

5. Submission to board. In the event the grievance shall not have been satisfactorily adjusted under subsections 1 to 4, within the time limits in those sections, the dispute may be submitted to the appeals board within 10 working days following receipt of the director's written decision. The appeals board shall investigate the matters in controversy, shall hear all interested persons who come before it and make a written decision, which shall be binding on the parties involved. The appeals board's written decision shall be issued within 30 working days after the hearing on the dispute is concluded, unless both parties agree that an extension of the time limit should be allowed; and

[1985, c. 785, Pt. B, §38 (NEW) .]

6. Procedure. Any member of the appeals board may administer oaths and subpoena and require the attendance of witnesses and the production of books, papers, public records and other relevant documentary evidence or certified copies of the evidence by the department head pertinent to the dispute and shall do so if requested in writing by any party to the dispute or the party's representative. A witness summonsed by subpoena is entitled to witness fees and travel allowance in the amount allowed for appearance in District Court, the costs of which must be advanced by the party requesting the subpoena prior to issuance of the subpoena. A state employee subpoenaed under this subsection may not lose pay to which the employee would otherwise be entitled.

[2013, c. 2, §4 (COR) .]

SECTION HISTORY

1985, c. 785, §B38 (NEW). RR 2013, c. 2, §4 (COR).

§7084. EXTENSION OF TIME LIMIT

1. Application for extension. The chairman of the appeals board may extend any time limit specified in section 7083, subsections 1 to 4, upon written application of either party on condition the application is submitted within time provided for in the applicable step. Failure of an employee to pursue a grievance within prescribed time limits shall constitute an acceptance of the last response by the department. Failure of the department to respond within stipulated time limits provided for in the applicable step shall constitute an automatic waiver of that step and the employee may proceed to the next step as outlined in this section.

A. At least one day prior to the presentation of the employee's grievance to his supervisor, the employee's representative, if any, shall have access to the work location of the employee involved during the working hours for the purpose of investigating the grievance. [1985, c. 785, Pt. B, §38 (NEW) .]

B. The department head may designate a representative, with authority to take appropriate action, who shall be at the deputy or assistant department head or labor specialist level to represent him in section 7083, subsections 2 and 3. [1985, c. 785, Pt. B, §38 (NEW) .]

[1985, c. 785, Pt. B, §38 (NEW) .]

SECTION HISTORY

1985, c. 785, §B38 (NEW) .

§7085. APPLICATIONS OF SECTIONS 7081 TO 7084

This subchapter applies to those employees who are excluded from bargaining pursuant to Title 26, sections 979 and 1021 to 1034. [1985, c. 785, Pt. B, §38 (NEW) .]

SECTION HISTORY

1985, c. 785, §B38 (NEW) .

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