

CHAPTER 4670
DEPARTMENT OF HEALTH
LOCAL PUBLIC HEALTH AGENCIES;
MERIT SYSTEM

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4670.0100 DEFINITIONS.

Subpart 1. **Scope.** The following definitions apply to parts 4670.0100 to 4670.4240, unless the context clearly requires another meaning.

Subp. 1a. **Affirmative action.** "Affirmative action" means a management program designed to ensure equal employment opportunity and correct past discrimination by identifying and removing barriers throughout a personnel system. Affirmative action includes special efforts to eliminate underuse of disabled persons, minorities, and women through recruitment, hiring, and advancement of these groups.

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

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

Subp. 3a. **Balanced class.** "Balanced class" means any class in which no more than 80 percent of the members are male and no more than 70 percent of the members are female.

Subp. 4. **Change in allocation.** "Change in allocation" means the reclassification of a position resulting from significant sudden changes imposed by the appointing authority which affects the duties and responsibilities of a position.

Subp. 5. **Class.** "Class" means one or more positions sufficiently similar in the duties performed, degree of supervision exercised or required, requirements of training, experience, or skill, and such other characteristics that the same title, the same tests of fitness, and the same schedule of compensation may be applied with equity to all the positions.

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

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

Subp. 7a. **Comparability adjustment.** "Comparability adjustment" means a salary range adjustment for a particular classification to correct a compensation inequity based on comparable work value.

Subp. 7b. **Comparable work value.** "Comparable work value" means the value of work measured by the skill, effort, responsibility, and working conditions required in the performance of the work.

Subp. 8. **Council.** "Council" means the merit system council.

Subp. 9. **County register.** "County register" means the subregister established for a county from a statewide competitive or promotional register containing the names of persons who have legal residence in the county or, in the event of a promotional examination, who are employed by the local agency.

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

Subp. 11. **Demotion.** "Demotion" means a change by an employee from a position in one class to a position in another class with less responsible duties and a lower salary range.

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

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Subp. 12a. **Disability.** “Disability” means any condition or characteristic that renders a person a disabled person. A disabled person is any person who:

A. has a physical, sensory, or mental impairment which substantially limits one or more major life activities;

B. has a record of such an impairment; or

C. is regarded as having such an impairment.

Subp. 13. **Disabled veteran.** “Disabled veteran” means a veteran who is rated or certified as disabled in accordance with the provisions of Minnesota Statutes, section 43A.11.

Subp. 13a. **Discrimination.** “Discrimination” means unequal treatment, intentional or unintentional, that is based on the following protected characteristics: race, color, creed, sex, age, marital status, national origin, disability, reliance on public assistance, religion, political affiliation, membership or activity in a local commission, or sexual orientation.

Subp. 14. **Dismissal.** “Dismissal” means the termination of employment for cause.

Subp. 14a. **Disparity.** “Disparity” means the employment of fewer disabled persons, minorities, or women in the agency’s work force than could reasonably be expected, based on their availability in the relevant labor area.

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

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

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

Subp. 17a. **Equal employment opportunity.** “Equal employment opportunity” means the policy of basing all personnel activities solely on individual merit of applicants and employees in relation to job requirements, and without regard to race, color, creed, sex, age, marital status, national origin, disability, reliance on public assistance, religion, political affiliation, membership or activity in a local commission, or sexual orientation.

Subp. 17b. **Equitable compensation relationship.** “Equitable compensation relationship” means that a primary consideration in establishing, recommending, and approving total compensation is comparable work value in relationship to other employee positions within the merit system.

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

Subp. 19. [Repealed, 23 SR 2404]

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

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

Subp. 21. **General adjustment.** “General adjustment” means an annual merit system recommended salary adjustment based on a review of adjustments to salaries by employers with similar and competing types of employment and trends in the Twin Cities consumer price index. The general adjustment applies to all employees on the professional and administrative, health services support, clerical, and building maintenance salary schedules whose positions are not covered by the terms and conditions of a collective bargaining agreement.

Subp. 22. **Layoff.** “Layoff” means the termination of employment because of abolishment of a position, lack of funds, shortage of work, or other reason beyond the control of the employee.

Subp. 23. **Layoff list.** "Layoff list" means a list of permanent or probationary employees who have been laid off by reason of abolishment of their positions, lack of funds, shortage of work, or other reason beyond the control of the employees.

Subp. 24. [Repealed, 16 SR 2054]

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

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

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

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

Subp. 28. **Military leave.** "Military leave" means a leave of absence granted by state law to employees entering active duty in the armed forces of the state of Minnesota or the United States of America.

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

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

Subp. 31. **Permanent employee.** "Permanent employee" means an employee who has successfully completed a probationary period or who has attained permanent status upon the installation of the merit system. The permanent designation means that the employee has achieved a status entitling that employee to the benefits, rights, privileges, and obligations conferred by parts 4670.0100 to 4670.4240 but the designation is not a guarantee of lifetime or career employment with the appointing authority.

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

Subp. 33. **Probationary employee.** "Probationary employee" means an employee who is serving a probationary period in a class to which the employee has been appointed from an eligible list.

Subp. 34. **Probationary period.** "Probationary period" means the working trial period during which a new appointee is required to demonstrate fitness for the position to which the person is appointed by actual performance of the duties of the position.

Subp. 34a. **Protected groups.** "Protected groups" means females, disabled persons, and members of the following minorities: Black, Hispanic, Asian, Pacific Islander, American Indian, or Alaskan native.

Subp. 35. **Promotion.** "Promotion" means a change of an employee from a position in one class to a position in another class with more responsible duties and a higher salary range.

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

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

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

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Subp. 39. **Reemployment list.** "Reemployment list" means a list of former permanent or probationary employees who have been laid off or who have voluntarily separated from merit system employment in good standing and whose applications for reemployment in the merit system are submitted within one year of separation.

Subp. 40. **Register.** "Register" means an officially established list of eligibles for a particular class.

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

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

Subp. 43. **Salary increase.** "Salary increase" means an increase granted to an employee on the basis of working out of class or due to unusual employment conditions and not based on job performance, cost-of-living factors, going rates for similar jobs, labor market conditions, or a combination of these reasons.

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

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

Subp. 46. **Suspension.** "Suspension" means an enforced leave of absence with or without pay, for disciplinary purposes or pending investigation of charges made against an employee.

Subp. 47. **Temporary employee.** "Temporary employee" means an employee who is appointed with a definite ending date.

Subp. 48. **Transfer.** "Transfer" means the movement of a probationary or permanent employee from a position in one class to another position in the same class in the same or different local agency or to a position in a different class in the same or different local agency that has a salary range within one step of the former class and similar comparable work value and that meets the requirements of part 4670.2800.

Subp. 48a. **Unclassified service.** "Unclassified service" includes all positions designated as not being classified under the merit system pursuant to part 4670.2530, subpart 5.

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

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

Statutory Authority: *MS s 144.071*

History: *L 1977 c 305 s 39; 10 SR 1502; 14 SR 1008; 15 SR 452; 16 SR 2054; 17 SR 1279; 18 SR 2277; 22 SR 45; 23 SR 82; 23 SR 2404*

STATEMENT OF POLICY

4670.0200 OBJECTIVES.

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

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

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B. fair and equal opportunity to all qualified citizens of the United States to compete for positions and promotions under the jurisdiction of the merit system solely on the basis of merit and fitness as ascertained through practical examination; and

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

Statutory Authority: *MS s 144.071*

4670.0300 ADOPTION OF RULES.

Parts 4670.0100 to 4670.4240 have been adopted to accomplish the objectives stated in part 4670.0200. The rules have been promulgated by the commissioner in accordance with Minnesota Statutes, section 144.071, and in compliance with the provisions of Minnesota Statutes, chapter 14. Parts 4670.0100 to 4670.4240 of the public health merit system have been adopted in accordance with Minnesota Statutes, chapter 14 and have the force and effect of law. Merit System Manual IV-5000-6530, available from the office of the Minnesota merit system, of the public health merit system provides instructions to appointing authorities necessary to the implementation of the rules. These instructions from the manual are accorded similar status under these rules.

Statutory Authority: *MS s 144.071*

History: 23 SR 82

4670.0310 AMENDMENT OF RULES.

If and when it appears desirable in the interests of good administration, the commissioner with the advice and recommendations of the council may amend parts 4670.0100 to 4670.4240 after compliance with the provisions of Minnesota Statutes, chapter 14. For this purpose, the commissioner is authorized to call and hold public hearings for the purpose of amending parts 4670.0100 to 4670.4240 as well as to perform any and all acts incidental thereto, including but without being limited thereto, signing an order for hearing and notice of hearing as well as acting as presiding officer or appointing a presiding officer for the hearing. Amendments of the rules specified in part 4670.0300 shall be considered as amendments of these rules.

Statutory Authority: *MS s 144.071*

History: 23 SR 82

4670.0320 EDITING OF RULES.

Before issuing or reissuing sections of the merit system rules, the supervisor may make the following, and only the following, changes. Such changes shall not be deemed to be amendments to parts 4670.0100 to 4670.4240, and each shall be reported to the commissioner before release of the material. Any changes not approved by the commissioner shall be excluded from the material to be released. The supervisor may make:

A. changes to correct spelling or typographical errors;

B. changes to correct grammatical construction, but the changes shall not alter the interpretation, intent, or purpose of the rule;

C. changes to correct exact quotations of statutes which are clearly identified as such by enclosure in quotation marks and by citation of statutory reference when enactment of statutory amendments makes that action necessary to make the quotations true and accurate; and

D. changes to renumber rules or rule references as necessary due to the adoption of new rules or the abolition of existing rules.

Statutory Authority: *MS s 144.071*

History: 23 SR 82

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4670.0400 POSITIONS COVERED.

Parts 4670.0100 to 4670.4240 shall apply to every position created under the jurisdiction of the local public health authority for which any federal personnel funds are paid to the local jurisdiction, except any agent of a board of health as authorized under Minnesota Statutes, section 145A.04, appointed pursuant to Minnesota Statutes, chapter 145A, and except the position of the director of a comprehensive health department established pursuant to Laws of Minnesota 1969, chapter 235.

Statutory Authority: *MS s 144.071*

History: *L 1987 c 309 s 24; 23 SR 82*

4670.0500 POLITICAL ACTIVITY.

Subpart 1. **Prohibition on elections.** No employee shall use his or her official authority or influence for the purpose of interfering with or affecting the result of an election or nomination for office.

Subp. 2. **Prohibition on contribution.** No employee shall directly coerce, attempt to coerce, command, or advise a merit system employee to pay, lend, or contribute anything of value to a party, committee, organization, agency, or person for political purposes.

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

Subp. 4. **Applicability during sick leave, leave without pay, or administrative leave.** An employee continues to be covered by the federal Hatch Act restrictions including all the restrictions listed in subparts 1 to 5 while on annual leave, sick leave, leave without pay, or administrative leave. Any employee shall resign from the service upon filing as a candidate for public office, except as provided in subpart 5.

Subp. 5. **Candidate in nonpartisan elections.** Any employee may be a candidate in nonpartisan elections. These are elections in which none of the candidates is to be nominated or elected as representing a political party whose candidates for presidential elector received votes in the last presidential election.

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

Statutory Authority: *MS s 144.071*

4670.0600 PROHIBITION AGAINST DISCRIMINATION.

No person shall be discriminated for or against in such matters as recruitment, examination, appointment, tenure, compensation, classification, or promotion, or in such matters as conditions, facilities, or privileges of employment because of race, color, political affiliation, creed, religion, national origin, disability, age, marital status, status with regard to public assistance, sex, membership or activity in a local commission, or sexual orientation. Any person aggrieved by a violation of these prohibitions may file a complaint under Minnesota Statutes, chapter 363, or may file a discrimination complaint under the local agency's internal complaint process.

Statutory Authority: *MS s 144.071*

History: *14 SR 1008; 18 SR 2277*

4670.0610 AFFIRMATIVE ACTION PLAN.

Each local agency shall have an affirmative action plan for employees covered by parts 4670.0100 to 4670.4240. The plan must contain:

A. a policy defining and prohibiting discriminatory harassment, including sexual harassment;

B. an internal discrimination complaint policy and procedure that includes notification of the Department of Human Services Office for Equal Opportunity,

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Affirmative Action and Civil Rights of complaints that are brought and their resolution;

C. provision for appointment of a person to provide liaison between the local agency and the Department of Human Services Office for Equal Opportunity, Affirmative Action and Civil Rights and to have responsibility for implementation of the local agency's plan;

D. provision for participation by the local agency in an affirmative action committee;

E. provision for notification of the Department of Human Services Office for Equal Opportunity, Affirmative Action and Civil Rights of periodic hiring goals established by the local agency, for expanded certification purposes; and

F. provision for compliance with Title I of the Americans with Disabilities Act of 1990, which prohibits discrimination against disabled employees or job applicants.

These requirements may be incorporated as part of a countywide affirmative action plan or provided as an addendum to the plan.

Statutory Authority: *MS s 144.071*

History: *14 SR 1008; 18 SR 2277; 23 SR 82*

4670.0620 [Repealed, 14 SR 1008]

4670.0700 VIOLATIONS.

Violations of any of the provisions of parts 4670.0100 to 4670.4240 by an employee in the service shall be considered sufficient cause for the dismissal of that person.

Violations of parts 4670.0100 to 4670.4240 by an appointing authority shall be brought to the attention of the appointing authority by the supervisor. The notice shall include remedial measures necessary to correct past violations and to ensure future compliance. If the appointing authority refuses to take corrective action, the supervisor shall inform the commissioner who shall deny or suspend payment of all or part of state and federal administrative reimbursement funds, suspend services from the merit system, or require that other corrective action be taken.

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

Statutory Authority: *MS s 144.071*

History: *23 SR 82*

ORGANIZATION

4670.0800 DUTIES AND POWERS OF COMMISSIONER.

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

Statutory Authority: *MS s 144.071*

4670.0810 AFFECTED EMPLOYEES.

The authority to require methods relating to the establishment and maintenance of personnel standards on a merit basis shall extend to all employees of local public health authorities with civil service systems except as provided in part 4670.0400. Parts 4670.0100 to 4670.4240 shall be applicable to these employees until the local jurisdiction adopts and maintains rules affecting classification and compensation, examination and certification of eligibles, and other personnel standards that substantially conform to parts 4670.0100 to 4670.4240 and are so certified as conforming by the supervisor.

Statutory Authority: *MS s 144.071*

History: *23 SR 82*

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4670.0820 PUBLIC HEALTH MERIT SYSTEM COUNCIL.

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

Subp. 2. **Duties.** It shall be the duty of the council within the scope of parts 4670.0100 to 4670.4240:

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

B. to hear such appeals or to appoint an appeal board of three members or to appoint a referee to hear such appeals on its behalf;

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

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

E. to make recommendations to the commissioner about internal personnel policies to ensure conformity with parts 4670.0100 to 4670.4240;

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

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

Subp. 3. **Meetings of the council.** Meetings of the council shall be held as often as necessary and practicable upon call of the chair, of the supervisor, or of the commissioner. The commissioner shall have the right to be represented at all meetings of the council, but such representation shall be without voting power. The council shall adopt procedures for the conduct of its activities.

Subp. 4. **Reimbursement.** Each member of the council shall be paid \$50 per regular meeting, but no member shall be paid more than \$600 in any one calendar year for regular meetings. Each member of the council shall be paid \$50 per day when serving on an appeal or hearing board. In addition members whose residence is in excess of 50 miles of the place of meeting shall be compensated for travel expenses and, in an instance in which the meeting is scheduled for more than one day or when the hour of the beginning of the meeting, or the close of the meeting, does not allow coming from or returning to the place of residence within a reasonable time, for lodging and meals.

Statutory Authority: *MS s 144.071*

History: *17 SR 1279; 23 SR 82*

4670.0830 PUBLIC HEALTH MERIT SYSTEM SUPERVISOR.

The public health merit system supervisor shall be the duly appointed supervisor of the Minnesota merit system. In conformance with parts 4670.0100 to 4670.4240, it shall be the duty of the supervisor to:

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

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

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

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

E. appoint a staff, including technicians, clerks, stenographers, and such other permanent or temporary employees as are necessary to carry out the provisions of parts 4670.0100 to 4670.4240 (the employees shall be chosen in accordance with the rules of the Minnesota Department of Employee Relations);

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

G. perform other duties prescribed by parts 4670.0100 to 4670.4240 or by the council.

Statutory Authority: *MS s 144.071*

History: *23 SR 82*

CLASSIFICATION PLAN

4670.0900 PRESENTATION AND ADOPTION.

The commissioner of health shall formally adopt a comprehensive classification plan for all positions covered by parts 4670.0100 to 4670.4240 which shall be published as part of the health merit system manual. The plan shall be based on investigation and analysis of the duties and responsibilities of positions and shall be so developed and maintained that all positions that are substantially similar in the kind, difficulty, and responsibility of work are included in the same class. The plan shall be developed after consultation with supervisory officials, classification specialists, and persons technically familiar with the character of the work. All classifications shall be evaluated by use of a formal job evaluation system.

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

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

Statutory Authority: *MS s 144.071*

History: *10 SR 1502; 23 SR 82*

4670.0910 ALLOCATION OF POSITIONS.

Every position under the public health merit system as provided in part 4670.0400 shall be allocated by the supervisor to one of the appropriate classes established in the classification plan. No person shall be appointed or promoted to any position until it has been properly classified as herein provided. As additional classes are established or existing classes are abolished or changed, such necessary allocation or reallocation shall be made by the supervisor to new or existing classes as necessary.

Statutory Authority: *MS s 144.071*

4670.0920 RECLASSIFICATION OF POSITIONS.

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

Statutory Authority: *MS s 144.071*

History: *17 SR 1279*

4670.0930 INCUMBENTS OF RECLASSIFIED POSITIONS.

Subpart 1. **Reallocation.** When a position is reclassified and it is determined to be a reallocation, the supervisor shall authorize an appointing authority to promote the

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incumbent of the reallocated position. An employee so promoted shall serve a probationary period in the higher class.

Subp. 2. **Reclassification.** When a position is reclassified because of a change in allocation, the incumbent shall not be deemed eligible to continue in the position unless eligible for original appointment, promotion, transfer, or demotion to the new class of positions. If ineligible to continue in such a position, the incumbent may be transferred, promoted, or demoted, by appropriate action of the appointing authority in accordance with such provisions of parts 4670.0100 to 4670.4240 as may be deemed to be applicable. If ineligibility of a permanent or probationary incumbent of such a reclassified position arises from the existence of an eligible register established from an examination that the incumbent did not take, the incumbent may be permitted to take the same or equivalent examination from which the existing register was established, without the examination being open for application. At that time, the county will notify other employees that they may also apply and take the examination. The names of successful candidates examined under this part shall be placed on the existing register in accordance with the score attained. In any case in which the incumbent is ineligible to continue in the position and is not transferred, promoted, or demoted, the provisions of this chapter about layoff shall apply. A transfer, promotion, demotion, or layoff in accordance with parts 4670.0100 to 4670.4240 must occur within 60 days of the notification of reclassification of the position.

Subp. 3. [Repealed, 10 SR 1502]

Subp. 4. [Repealed, 10 SR 1502]

Statutory Authority: *MS s 144.071*

History: *17 SR 1279; 23 SR 82*

4670.0940 CLASS SPECIFICATIONS.

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

Statutory Authority: *MS s 144.071*

4670.0950 REVISION OF PLAN.

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

Statutory Authority: *MS s 144.071*

History: *10 SR 1502*

PREPARATION OF COMPENSATION PLAN

4670.1000 COMMISSIONER'S ADOPTION.

In accordance with the Administrative Procedure Act, the commissioner shall formally adopt and make effective a for comprehensive compensation plan, including minimum and maximum salary rates as provided in parts 4670.4200 to 4670.4240, and recommended intervening steps as published in the Health Merit System Manual as amended through May 29, 1982, for all classes of positions. The plan shall apply to all agencies covered by the merit system except as otherwise negotiated for employees in a bargaining unit in an agency where there is an exclusive representative or in those instances where the requirements of part 4670.1310, item C have been satisfied. The plan shall include salary ranges for the various classes, with the salary of each class consistent with the duties and responsibilities outlined in the class specifications. Minimum, intervening, and maximum rates of pay for each class shall be established to provide for salary advancement without change of duty, in recognition of meritorious

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service. The advice and suggestions of appointing authorities, prevailing salary rates for similar and competing types of employment in business and government, and other relevant factors shall be taken into consideration in developing the salary ranges. Equitable compensation relationships shall be established between female-dominated classes, male-dominated classes, and balanced classes of employees in accordance with Minnesota Statutes, sections 471.991 to 471.999. Classes shall be evaluated in order to determine comparable work value and to establish equitable compensation relationships between classes of positions.

Statutory Authority: *MS s 144.071*

History: *10 SR 1502*

4670.1010 REVIEW BY COUNCIL.

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

Statutory Authority: *MS s 144.071*

4670.1020 CLASSES OF POSITIONS IN PLAN.

The comprehensive compensation plan shall provide for a single salary schedule for each occupational grouping of classes including professional and administrative, health services support, clerical, and building maintenance classes. The plan shall be established as provided in part 4670.1000 with minimum and maximum salaries for each class as provided for in parts 4670.4200 to 4670.4240. The plan shall be the official plan for all appointing authorities until amended.

Statutory Authority: *MS s 144.071*

History: *15 SR 452*

4670.1100 [Repealed, 15 SR 452]

SELECTION OF SALARY RANGES BY LOCAL PUBLIC HEALTH AUTHORITY

4670.1110 SELECTION OF RATES.

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

Statutory Authority: *MS s 144.071*

History: *15 SR 452*

4670.1120 PLAN AMENDMENTS.

By resolution, the appointing authority may amend the minimum, intervening, and maximum salary rates to be paid for any class of positions used by the appointing authority. The appointing authority shall promptly notify the supervisor about official action taken to amend its plan.

Statutory Authority: *MS s 144.071*

History: *15 SR 452*

4670.1130 INCUMBENTS.

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

Statutory Authority: *MS s 144.071*

History: *15 SR 452*

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4670.1140 NONREPRESENTED EMPLOYEES.

In agencies with an exclusive representative, the appointing authority may pay confidential, supervisory, and other personnel not covered by an exclusive representative who are in the same class as employees who have an exclusive representative, the same rate of pay and salary range as negotiated for the class under part 4670.1210. In no case would this rule allow the appointing authority to reduce the rate of pay of confidential, supervisory, or other excluded employees.

Statutory Authority: *MS s 144.071*

History: *15 SR 452*

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

Subpart 1. **Annual adjustments.** The compensation plan provided in parts 4670.4200 to 4670.4240 shall be adjusted annually to reflect changes in the level of salary rates in business and government for similar and competing types of employment and to achieve equitable compensation relationships between classes of positions based on their comparable work value.

Subp. 2. [Repealed, 12 SR 1335]

Subp. 3. **Plan amendments.** After a review of changes in the level of salary rates and consideration of available information regarding trends in the Twin City consumer price index, the supervisor shall propose amendments to the compensation plan in accordance with Minnesota Statutes, chapter 14, the Administrative Procedure Act, and as outlined in part 4670.1000. Amendments shall include a proposed general adjustment to all rates of pay in the professional, health services support, clerical, and building maintenance salary schedules and specific comparability adjustments to all rates of pay for certain classes, as necessary, to correct compensation inequities based on comparable work value. The amended compensation plan shall be effective on the following January 1 or, for those agencies on a biweekly or four week payroll period, on the beginning date of the first payroll period after the following January 1.

Subp. 3a. **Employee salary adjustments.** Based on an annual review of adjustments to salary levels by employees with similar and competing types of employment and trends in the Twin City consumer price index, the supervisor shall recommend a general salary adjustment for all employees on the professional, health services support, clerical, and building maintenance salary schedules whose positions are not covered by the terms and conditions of a collective bargaining agreement. The recommended general salary adjustment shall be proposed in accordance with Minnesota Statutes, chapter 14, the Administrative Procedure Act, in an amount as provided in part 4670.1320. The adopted salary adjustment shall be effective on the following January 1 or, for those agencies on a biweekly or four week payroll period, on the beginning date of the first payroll period after the following January 1.

Subp. 4. [Repealed, 12 SR 1335]

Subp. 5. **Plan adjustments.** The appointing authority may implement an adjusted compensation plan by adjusting the salaries of the employees to the same numerically designated salary rate on the adjusted plan that the employees were paid under the former plan.

Subp. 6. [Repealed, 12 SR 1335]

Statutory Authority: *MS s 144.071*

History: *10 SR 1502; 12 SR 1335*

4670.1210 NEGOTIATION OF SALARY SCHEDULE.

Subpart 1. **Role of exclusive representative.** In agencies where employees have elected an exclusive representative the appointing authority and the exclusive representative may negotiate their own salary schedules for employees in the bargaining unit by class, with the salary for each consistent with the functions outlined in the class

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specifications. Minimum, intervening, and maximum rates of pay for each shall be established to provide for steps in salary advancement without change of duty in the recognition of meritorious service. When a new classification not previously used in the agency is established in the middle of the contract period and that class falls within the bargaining unit and no provision exists in the contract for establishing those salaries, the appointing authority and the exclusive representative shall negotiate a salary schedule for the new classification within 60 days of the date of establishment of the classification.

Subp. 2. **Filing.** A complete copy of the adopted salary schedule must be filed with the supervisor within ten days after the signing of the contract or agreement. If the contract or agreement calls for succeeding increases in the salary schedule which change the original minimum and maximum salaries or intervening steps a new adjusted salary schedule must be filed with the supervisor within ten days after the effective date of any such succeeding adjustment.

Statutory Authority: *MS s 144.071*

4670.1220 [Repealed, 22 SR 45]

SALARY ADJUSTMENTS AND INCREASES

4670.1300 AVAILABILITY OF FUNDS.

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

Statutory Authority: *MS s 144.071*

4670.1310 PLAN REQUIREMENTS.

In agencies where there is no exclusive representative or collective bargaining agreement, negotiated adjustments in the rates of pay of incumbents of positions, in order to conform to a newly adopted or currently effective compensation plan, shall be in accordance with items A to H:

A. If the rate of pay of an employee is below the minimum of the range prescribed for the employee's classification on the merit system compensation plan, the rate shall be adjusted to that minimum.

B. If the rate of pay of an employee is at or above the new minimum salary adopted for the employee's class, the employee may receive the general merit system adopted adjustment and, if the employee's class was adjusted to a greater extent than the general adopted adjustment, the employee may receive the additional adjustment as provided in part 4670.1200, subpart 3, as long as that additional adjustment does not place the employee's salary over the new maximum adopted salary for the class.

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

D. Employees at the maximum salary for their class may be granted salary adjustments over the maximum salary prescribed for their class only if that merit system adjustment is adopted and only in the amount adopted for incumbents of that class.

E. If the rate of pay of an employee is higher than the maximum of the range prescribed for the employee's class of positions, the rate may remain the same as long as the employee retains the same classification.

F. If the rate of pay of an employee falls between the minimum and maximum of the salary range prescribed for the employee's class but does not correspond to any

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intervening steps in the range due to the adoption of a merit system general adjustment, that rate may remain the same. In the case of subsequent merit increases, the employee shall be placed back on a step in the adopted salary range for the appropriate class.

G. Employees at or above the maximum salary rate for their class may be granted a salary adjustment only in the amount adopted by the merit system for all employees whose positions are not covered by the terms and conditions of a collective bargaining agreement. If an appointing authority wishes to grant a larger general adjustment to its employees than that adopted by the merit system, the appointing authority, by prior resolution, may grant that employee the annual equivalent of the difference between the merit system adopted adjustment for all employees and the agency adopted adjustment for its employees in the form of a single lump sum payment or lump sum salary payments commencing on the effective date of the general adjustment. The employee's base salary rate shall be equal to the employee's salary before the agency adjustment plus the merit system adopted adjustment.

H. An appointing authority may grant a salary increase within the salary range to an employee based upon unusual employment conditions that make that action necessary and the interests of the authority that will be served by that action. In granting this increase, the appointing authority shall give due consideration to the salary rates paid other employees in the same class in the authority and shall not grant an increase that does not assure equitable compensation for comparable work. Salary increases proposed according to this part are not based on employee performance or a general merit system adopted salary adjustment. The granting of such an increase shall not affect the employee's eligibility for subsequent merit increases or salary adjustments in accordance with merit system rules. If the unusual employment conditions giving rise to such an increase are of a temporary nature, the employee's salary shall be decreased to its previous level upon termination of those conditions, notwithstanding the provisions of part 4670.1500, subpart 1 or 4670.3530.

Statutory Authority: *MS s 144.071*

History: *15 SR 452; 22 SR 45; 23 SR 82*

4670.1320 RECOMMENDED ADJUSTMENTS.

The merit system general adjustment recommended for incumbents is 2-3/4 percent for employees on the professional and administrative, health services support, clerical, and building maintenance salary schedules.

Statutory Authority: *MS s 144.071*

History: *10 SR 1502; 11 SR 1069; 12 SR 1335; 14 SR 1806; 16 SR 2054; 17 SR 1829; 18 SR 2277; 19 SR 2090; 20 SR 2592; 23 SR 82; 23 SR 2404; 25 SR 487*

4670.1330 SALARY DIFFERENTIALS.

Intra-agency salary differentials between employees in the same class of positions, between employees in different classes of positions in the same occupational field, and between occupational fields in the same appointing authority are recognized as important factors in the maintenance of satisfactory morale. If the general adjustments result in the reduction of the differentials between employees in the same class of positions or between employees in different classes of positions in the same occupational field, adjustments may be made that will insofar as practicable maintain differentials, within the limits of the new plan. In maintaining differentials, the appointing authority shall take into consideration the length of service and quality of performance of the employee affected.

Statutory Authority: *MS s 144.071*

4670.1340 COLLECTIVE BARGAINING AGREEMENT.

In agencies where there is an exclusive representative and a negotiated salary schedule for employees in the bargaining unit, adjustments in the rates of pay of employees shall follow the wording of the contract or agreement.

Statutory Authority: *MS s 144.071*

4670.1400 [Repealed, 22 SR 45]

4670.1410 [Repealed, 22 SR 45]

4670.1420 [Repealed, 22 SR 45]

4670.1430 [Repealed, 22 SR 45]

4670.1440 [Repealed, 22 SR 45]

4670.1450 [Repealed, 22 SR 45]

4670.1500 SALARY DECREASES.

Subpart 1. **General.** Except as otherwise negotiated by an appointing authority and the exclusive representative, a salary decrease within the range prescribed for the class may be made only for just cause. A permanent employee shall be notified of the intent to effect a reduction in pay and the reasons for the action at least ten calendar days prior to the date on which the reduction becomes effective. A copy of the notice shall be sent to the supervisor. A permanent employee whose salary is reduced may request a hearing as provided in part 4670.3530.

Subp. 2. **Exemption.** Collective bargaining agreement provisions whereby a salary adjustment or salary increase is negotiated for a set period of time do not fall within the provisions of subpart 1.

Statutory Authority: *MS s 144.071*

4670.1600 [Repealed, 22 SR 45]

4670.1700 RECRUITMENT AND APPOINTMENT.

After a conditional job offer has been extended, an applicant may be required by the appointing authority to pass a medical examination. The examination may be required for only job-related reasons.

Statutory Authority: *MS s 144.071*

History: *23 SR 82*

4670.1800 APPLICATIONS.

Subpart 1. **Filing applications.** All applications shall be made on forms prescribed by the supervisor and must be filed on or before the closing date specified in the announcement. On such applications the supervisor shall require all pertinent information pertaining to education, experience, and any other information that the supervisor may deem necessary. All applications shall be signed and the truth of all statements contained therein certified by such signature.

In those classes of positions in which there is difficulty in obtaining qualified eligibles, the supervisor may establish a program that will be both positive and continuous. Under such a plan applications may be accepted at any time and examinations held whenever applicants have filed in sufficient numbers to ensure adequate competition.

Subp. 2. **Disqualification of applicants.** The supervisor may refuse to examine an applicant, or after examination may disqualify the applicant or remove the applicant's name from a register, or may refuse to certify any eligible person on a register if the applicant:

A. is found to lack any of the preliminary requirements established for the examination for the class of positions;

B. has been convicted of any crime which has a direct relationship to the position sought in accordance with Minnesota Statutes, chapter 364;

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C. has been dismissed from the public service or any other position for delinquency or misconduct, or, in lieu of dismissal, has been allowed to resign from employment;

D. has practiced or attempted to practice any deception or fraud in the application, examination, or appointment;

E. has used or attempted to use political pressure or bribery to obtain an advantage in the examination or appointment;

F. has directly or indirectly obtained information about the examinations to which applicants are not entitled;

G. has failed to submit the application for examination correctly or within the prescribed time limits;

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

I. has otherwise violated provisions of parts 4670.0100 to 4670.4240; or

J. is not available in an area under the jurisdiction of the merit system.

A disqualified applicant shall be promptly notified of such action, and an applicant who is not admitted to an examination because of failure to meet the preliminary requirements shall be notified by letter mailed to the applicant's last known address sufficiently in advance of the examination to allow for an appeal from rejection as provided in part 4670.3510.

Statutory Authority: *MS s 144.071*

History: *14 SR 1806; 17 SR 1279; 23 SR 82*

4670.1900 EXAMINATIONS.

Subpart 1. **Content of examinations.** Examinations for entrance into the public health merit system shall be conducted on a competitive basis. Examinations shall be practical in nature, shall be constructed to reveal the capacity of the applicant for the particular position for which the applicant is competing as well as the applicant's general background and related knowledge, and shall be rated objectively.

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

Subp. 2. **Weighting of parts.** The supervisor shall assign definite weights to each part of the examination prior to its public announcement.

Subp. 3. **Positions for disadvantaged groups.** Recruitment and selection for those positions identified in the minimum qualifications of the class specification as directed toward clients and other disadvantaged groups will be limited to persons of low income or low educational achievement, including the physically and mentally disabled. It will be the specific responsibility of the individual appointing authorities to effectively make known opportunities for these jobs to such persons. Persons who do not meet these limitations will be disqualified from competition for these positions and notified of the reasons therefor. Examinations for these positions will include at least one of the following: performance test, oral examination, written test, or oral directions test combining aspects of performance and minimum literacy. The supervisor shall assign definite weights to each part of the examination prior to its public announcement. Eligible lists will be established on an area or county basis only or on the basis of both area and county. Certification of eligibles on an area basis smaller than the county unit may be approved by the supervisor. Since these positions cover a broad range of duties requiring many different abilities, knowledges, and basic skills, notwithstanding other provisions of the rules, the supervisor also may approve selective certification of eligibles who possess a particular ability, knowledge, or skill or a combination of these attributes.

Statutory Authority: *MS s 144.071*

History: *17 SR 1279*

4670.1910 NOTICE OF EXAMINATIONS.

The supervisor shall announce all examinations for original entrance into the public health merit system at least two weeks in advance of the closing date for receipt of applications, and shall make every reasonable effort to attract qualified persons to compete in these examinations. Notice of examinations shall be posted in important centers throughout the state, and copies shall be distributed among appointing authorities throughout the state, newspapers, public officials, educational institutions, professional and vocational societies, and such other organizations and individuals as the supervisor may deem expedient. Public announcements of examinations shall specify the title and salary ranges of the classes of positions, the duties to be performed, the minimum qualifications required, the final date on which applications will be received, and all other conditions of competition, including the relative weight assigned to the various parts of the examination.

Statutory Authority: *MS s 144.071*

4670.1920 CONDUCT OF EXAMINATIONS.

Subpart 1. **Place; monitors.** Written tests shall be conducted simultaneously in as many places as are necessary for the convenience of the applicants and as are practicable for proper administration. The supervisor may designate such monitors as may be necessary to conduct examinations under instructions prescribed by the supervisor and may also arrange for the use of public buildings in which to conduct the examinations. The supervisor shall provide for the compensation of monitors in accordance with the approved budget for the purpose.

Subp. 2. **Refusal to score.** The supervisor shall refuse to score the examination of an applicant who copies another applicant's examination paper, or who falsifies his or her identity to gain admittance to the examination, or who otherwise meets the criteria for disqualification as provided in part 4670.1800, subpart 2.

Subp. 3. **Examination modification for applicants with disabilities.** Special examination arrangements shall be made for qualified applicants with disabilities when the usual selection process cannot adequately predict job performance unless the test or selection criteria are shown to be job-related or alternative or equally job-related tests or selection criteria with the same or less adverse impact are not shown to be available. Examination facilities and procedures may be modified to accommodate applicants with disabilities to provide for comparable assessment of essential job skills.

Statutory Authority: *MS s 144.071*

History: *17 SR 1279; 23 SR 82*

4670.1930 RATING EXAMINATIONS.

Subpart 1. **Determination of score.** The supervisor shall determine a final score for each applicant's examination, computed in accordance with the weights for the several parts established by the supervisor as set forth in the announcement. Failure in any part of an examination shall disqualify the applicant in the entire examination. All applicants for the same position shall be accorded uniform and equal treatment in all phases of the examination procedure.

Subp. 2. **Determination of passing point.** The supervisor shall utilize appropriate scientific techniques and procedures in rating the results of examinations and in determining the final scores of the applicants. The supervisor shall establish reasonable passing points for all examinations, giving due regard to the number of applicants and to the number of vacancies that may reasonably be expected to occur during the life of the register.

Statutory Authority: *MS s 144.071*

4670.1940 RATING TRAINING AND EXPERIENCE.

When training and experience form a part of the total examination, the supervisor shall determine a procedure for the evaluation of the training and experience qualifica-

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tions of the various applicants. The formula used in appraisal shall give due regard to recency and quality, as well as quantity, of experience and to the pertinency of the training. This procedure shall allow for the substitution of training for experience, and experience for training, within the limits stated in the class specifications.

Statutory Authority: *MS s 144.071*

4670.1950 ORAL EXAMINATIONS.

When an oral examination forms a part of a total examination for a class of positions, the supervisor shall select one or more oral examination boards as needed. An oral examination board shall consist of two or more members who shall be known to be interested in the improvement of public administration and in the selection of efficient government personnel and at least one of whom shall be technically familiar with the character of work in the position for which the applicant will be examined. Any person holding political office or any officer or committee member of any political organization, or any person actively engaged in the work of any political organization, shall not serve as a member of any such board. If practicable, all applicants qualifying for the oral examination for the same class of positions shall be rated by the same oral examination board. A member of any oral examination board shall disclose each instance in which the member knows the applicant personally and, in those instances, the supervisor shall determine whether that member shall rate that applicant.

Statutory Authority: *MS s 144.071*

History: *17 SR 1279*

4670.1960 NOTICE OF EXAMINATION RESULTS.

Each applicant passing all parts of the examination shall be notified by mail by the supervisor of the final rating as soon as the rating of the examination has been completed and the register established. An eligible, upon request and presentation of proper identification, shall be entitled to information about the eligible's relative position on a register. An applicant who fails any part of the examination or the total examination shall be promptly notified of the failure.

Statutory Authority: *MS s 144.071*

History: *17 SR 1279*

4670.1970 EXAMINATION RECORDS.

The supervisor shall be responsible for the maintenance of all examination records. Applications and other necessary examination records shall be kept during the life of the register. Examination records of appointees shall be kept permanently, but examination records of applicants not appointed may be destroyed 30 days after the register expires.

Statutory Authority: *MS s 144.071*

4670.1980 EXAMINATION RETESTING.

Applicants may apply to retake a competitive or promotional examination that is open for application on a continuous basis but may not retake an examination within 60 days of the previous test date and more than three times in a calendar year.

Statutory Authority: *MS s 144.071*

History: *14 SR 1008*

4670.2000 REGISTERS.

Subpart 1. **Establishment of registers.** After such examination the supervisor shall prepare and maintain registers of persons who attain passing scores in the examination. The names of eligible persons shall be placed on registers in the order of their final rating, beginning with the highest, except as modified by veterans' preference. If two or more persons have final ratings that are identical, their names shall be arranged on the

register in the order in which their applications for examination were accepted. Remaining tie scores shall be broken by arranging names in alphabetical order.

Eligible registers resulting from examinations shall be of three kinds: open competitive registers, from which original appointments shall be made; promotional registers, from which promotions shall be made; and trainee registers, from which trainee appointments shall be made. Other registers or lists of persons eligible for appointment may be established in accordance with other provisions of parts 4670.0100 to 4670.4240.

Promotional registers shall consist of the names of permanent and probationary employees who attain passing scores in the examination for promotion to a class of positions.

Trainee registers shall consist of the names of persons who qualify in an examination for a trainee classification or those persons who qualify for appointment to a regular class of positions and who also apply for placement on a trainee subregister of the established register for the regular class of positions.

Registers shall normally be established on a statewide basis. Nevertheless, the supervisor may offer examinations on a county or area basis or may establish a county or area subregister of a statewide register. Eligibility for placement on a county or area subregister shall be determined by legal residence in the county or area or, in the case of a promotional register, by employment with the local public health agency.

Layoff lists shall be established by county and shall include the names of permanent and probationary employees who have been laid off from employment because of lack of funds or lack of work in accordance with the provisions of parts 4670.0100 to 4670.4240. Names shall be placed on this list in reverse order of layoff.

The supervisor may establish a reemployment list of the names of former permanent and probationary employees who are eligible under the rules for reinstatement to a class of positions and who apply for placement on this list. Names shall be placed on this list in the manner determined by the supervisor. All persons on such list are equally eligible for appointment, and no rank or position shall be assigned.

The supervisor may establish a transfer list of the names of current permanent employees who are eligible under the rules to transfer to a class of positions and who apply for placement on this list. Names shall be placed on this list in the manner determined by the supervisor. All persons on this list are equally eligible for appointment, and no rank or position shall be established.

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

Subp. 3. Duration of registers. The life of each register shall normally be one year from the date of its establishment, but this period may be reduced or extended by the supervisor. In no case, however, shall a register be in existence for a period of more than three years. A register may be deemed by the supervisor to be exhausted if fewer than three available eligibles remain on it. Upon exhaustion of a register, or if the supervisor reduces the life of a register, the supervisor shall notify each eligible remaining on such register to this effect by mail to the last known address.

Subp. 4. Removal of names from registers. The supervisor may remove the name of an eligible from a register for any of the following causes:

A. Appointment through certification from such register to fill a probationary appointment.

B. Appointment through certification from a register for another class whose minimum salary is either equal to or higher than the minimum salary for this class of positions; but, at the request of the appointee in such a case, the appointee's name may be continued on, or restored to, any or all registers other than the one from which the appointment was made, for the remainder of the life of such registers.

C. Filing of a statement by the eligible that the eligible is not willing to accept appointment. Such statement of unwillingness may be restricted to a limited period of

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time, or to geographic locations or positions involving other conditions of employment, as specified. The name of the eligible shall then be treated as not available and shall be passed over in certification to fill any vacancy under the conditions specified as though such name did not appear on the register. Any eligible may file a new statement at any time modifying for future consideration any prior statement about the time, place, or other conditions under which appointment will be accepted.

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

E. Failure to respond within five days to any inquiry of the supervisor or an appointing authority relative to availability for appointment.

F. Consideration of a probationary appointment from a promotional register by three different appointing authorities, or three times by one appointing authority, and not appointed.

G. Consideration of a probationary appointment from an open competitive register to a class of positions within the preceding two years by three different appointing authorities, or three times by one appointing authority, and not appointed.

H. Any cause specified in part 4670.1800.

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

The supervisor, upon noting any declination or failure of any eligible to respond, may send a notice to the eligible of the removal of the eligible's name from the register. Such notice may include any inquiry about the reasons for such declination or failure to respond and a question as to whether the eligible is willing to accept the next appointment offered under such conditions as he or she may specify. Upon the furnishing of reasons satisfactory to the supervisor for the declination or failure to respond, and a statement of willingness to accept appointment, the name of the eligible may be restored to the register for certification for appointment under the conditions specified. It shall be considered impossible to locate an eligible when any communication mailed at the last known address of record supplied by the eligible is not replied to within five days or is returned unclaimed, or if a telegram is not replied to within three days. It shall be known to the supervisor that an eligible is not willing to accept a position when a declination of appointment or statement of unwillingness to accept appointment is on file with the supervisor.

Statutory Authority: *MS s 144.071*

History: *17 SR 1279; 23 SR 82; 23 SR 2404*

4670.2100 METHODS FOR FILLING VACANCIES.

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

Statutory Authority: *MS s 144.071*

4670.2200 REQUISITION FOR CERTIFICATION OF CERTAIN INDIVIDUALS.

If a vacancy in any position under an appointing authority is to be filled other than by reinstatement, noncompetitive examination, transfer, or demotion, and a new employee is needed, a requisition shall be submitted by the appointing authority to the supervisor. The requisition shall state the number of positions to be filled in each class together with the class title and other appropriate information. In addition, desirable special qualifications for the particular position under consideration may be indicated. In requesting the certification of individuals with special qualifications, the appointing authority shall state in the request the reasons for the special qualification requested. Eligibles shall be certified in strict order of standing on the register, except in a case in which the supervisor has determined there is reason for a certification of an eligible with special qualifications. Requests for certification of certain individuals with special qualifications approved by the supervisor shall be reported to the council at its next scheduled meeting.

Statutory Authority: *MS s 144.071*

4670.2300 CERTIFICATION METHODS.

Subpart 1. **Competitive register.** For positions to be filled by competitive open examination, the supervisor shall certify the 15 highest available names together with any additional names of persons having an examination rating within five points of the person on the certification with the highest examination rating, and any additional names of persons having the same examination score as that of the 15th person certified, from the open competitive register established for the class of positions. At the option of the appointing authority, the supervisor may refer additional names so that all scores with 90 and above and scores within ten points of the highest score are referred to the appointing authority. Where the number of names to refer would be so large as to preclude equitable, reliable, job-related screening, the appointing authority may request certification of fewer names, but never less than the top 15, plus scores tied to the 15th, and scores within five points of the highest score. Names of available eligibles from the appropriate reemployment and transfer registers, if they exist, shall also be certified as additional names.

Subp. 2. **Promotional register.** The supervisor may also certify the ten highest available names together with any additional names of persons having an examination rating within five points of the person on the certification with the highest examination rating, and any additional names of persons having the same examination score as that of the tenth name certified, from the appropriate promotional register if such register exists and is requested. At the option of the appointing authority, the supervisor may refer additional names so that all scores with 90 and above and scores within ten points of the highest score are referred to the appointing authority. Where the number of names to refer would be so large as to preclude equitable, reliable, job-related screening, the appointing authority may request certification of fewer names, but never less than the top ten, plus scores tied to the tenth, and scores within five points of the highest score. Names of available eligibles from the appropriate reemployment and transfer registers, if they exist, shall also be certified as additional names.

Subp. 3. **Multiple vacancies.** If more than one vacancy exists, the supervisor shall certify at least as many names from the register as there are vacancies to be filled, together with any additional names of persons having an examination rating within five points of the person on the certification with the highest examination rating, and any additional names of persons having the same examination score as that of the last person certified on a competitive certification or as that of the last person certified on a promotional certification. At the option of the appointing authority, the supervisor may refer additional names so that all scores with 90 and above and scores within ten points of the highest score are referred to the appointing authority. Where the number of names to refer would be so large as to preclude equitable, reliable, job-related screening, the appointing authority may request certification of fewer names, but never less than the top 15 scores, plus scores tied to the 15th and scores within five points of the highest score, on a competitive vacancy; or less than the top ten scores, plus scores tied to the tenth score and scores within five points of the highest score, on a promotional vacancy. Supplementary certifications will be issued only in instances in which it is found that there are less than 15 available candidates on the competitive certification or ten available candidates on the promotional certification.

Subp. 4. **Selection for appointment.** The appointing authority may select for appointment anyone among the certified candidates who is eligible for appointment.

Subp. 5. **Inadequate registers.** When the number of different names available for filling any vacancy by original appointment, promotion, or reinstatement is fewer than seven on all competitive and promotional registers combined, the appointing authority may decline certification for that vacancy and may request certification from a register, or registers, that the supervisor deems appropriate.

Subp. 6. **Provisional appointments.** If there is no register that the supervisor deems appropriate, then the vacancy may be filled provisionally as provided for in part 4670.2510, subpart 1.

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Subp. 7. **Expanded certification.** When the supervisor determines that a disparity exists between an agency's work force and its approved affirmative action plan, the supervisor shall ensure to the extent possible that available eligibles who are members of the protected group as defined in part 4670.0100, subpart 34a, for which the disparity exists are certified for appointment. When fewer than three protected group eligibles for which a disparity exists would be certified under subparts 1 and 2, the supervisor shall certify additional protected group eligibles for which a disparity exists to bring the number of eligibles certified to a total of three names from each protected group. Eligibles to be certified shall be determined by examination score.

Statutory Authority: *MS s 144.071*

History: *13 SR 1057; 14 SR 1008; 23 SR 2404*

4670.2400 COUNTY-OPTION CERTIFICATION.

Subpart 1. **Request for list of eligibles.** The appointing authority may request from the supervisor names of eligibles from either the statewide original entrance register or from a subregister for the county, a restricted area, or a district of the state, as set forth in part 4670.2000, subpart 1. The supervisor, upon receiving such requisition, shall certify the names of eligibles from the register as requested.

Subp. 2. **Statewide certification.** If an appointing authority requests a certification of eligibles from a subregister established for a specific locality but there are insufficient eligibles thereon, certification shall be made on a statewide basis.

Statutory Authority: *MS s 144.071*

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4670.2500 APPOINTMENT FROM REGISTERS.

The employment of any person from a certification from an open competitive register shall be deemed to be an original appointment. In selecting persons from among those certified by the supervisor for original appointment, the appointing authority may examine their applications, interview them, and check references or perform other background investigations. Final selection and the action taken on each candidate shall be reported to the supervisor in the manner prescribed by the supervisor.

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

Trainee appointments shall be made in the same manner as original appointments as specified in this part, except that the person appointed is selected from a certification from a trainee register. A trainee appointment shall be to a specific trainee classification as provided in the classification plan and shall be for the period of training, which shall not exceed one year in duration. Trainees so appointed shall be advanced to the classification for which they are in training upon the satisfactory completion of the training program and shall then serve a probationary period in the regular classification. A trainee appointment may be terminated at any time by the appointing authority.

Statutory Authority: *MS s 144.071*

History: *17 SR 1279; 23 SR 2404*

4670.2510 PROVISIONAL APPOINTMENT.

Subpart 1. **When a provisional appointment can be made.** Whenever in the opinion of the appointing authority there are urgent reasons for filling a vacancy and the supervisor is unable to certify eligibles from a register established as a result of an examination for the position, and no appropriate promotional register or other appropriate register exists, the appointing authority may appoint a person to the vacancy on a provisional basis. If the person appointed meets the minimum qualifica-

tions for training and experience for the position, that person may be provisionally appointed to fill the existing vacancy until an appropriate register is established and appointment made therefrom. No provisional appointment shall be made until the position has been allocated to a proper class and minimum qualifications established therefor in accordance with these rules.

Subp. 2. **Provisional promotional appointment.** In the absence of a promotional register, a provisional promotional appointment of a permanent or probationary employee meeting the minimum qualifications may be made pending the establishment of a promotional register or the administration of a noncompetitive promotional examination.

Subp. 3. **Duration.** The appointing authority shall terminate a provisional appointment 90 days after the supervisor provides a certification from which an appointment could be made. However, in individual cases, a provisional appointment may be extended for a period of up to six months. Successive provisional appointments of the same person shall not be permitted, and a position shall not be filled by repeated provisional appointments. Provisional appointments may be extended at the end of the six-month period with the approval of the supervisor, and successive provisional appointments of the same individual to different positions and successive provisional appointments to the same position may be made in exceptional circumstances, subject to the following conditions:

A. that an examination has been publicly announced and the supervisor has found that a sufficient number of applicants are not available to assure adequate competition;

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

Subp. 4. **Appointments prior to the adoption of parts 4670.0100 to 4670.4240.** All appointments made subsequent to the adoption of parts 4670.0100 to 4670.4240 but prior to the establishment of a register from which eligibles can be certified shall be regarded as provisional appointments.

Statutory Authority: *MS s 144.071*

History: 23 SR 82; 23 SR 2404

4670.2520 EMERGENCY APPOINTMENT.

Whenever any emergency exists that requires the immediate services of one or more persons and it is not possible to obtain such persons from appropriate registers, the appointing authority may appoint a person or persons without consideration of other provisions of this chapter governing appointments, except as provided in part 4670.4150. Such appointments normally shall be limited to no more than 45 working days during any calendar year for the same person; however, such appointment of the same person can be extended to 67 working days. Each emergency appointment shall be reported to the supervisor in the manner prescribed by the supervisor when the appointment is made.

Statutory Authority: *MS s 144.071*

History: 12 SR 458; 17 SR 1279; 22 SR 45

4670.2530 TEMPORARY APPOINTMENT.

Subpart 1. **Justification.** An appointing authority may make a temporary appointment for:

- A. filling a vacancy funded for six months or less;
- B. providing an employee for a temporary project not anticipated to last more than six months;
- C. filling a vacancy created by an approved leave of absence; or

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D. unusual documented instances, when an appointing authority makes a temporary appointment of six months or less to a position otherwise authorized for more than six months.

Subp. 2. **From eligible register.** Temporary appointments must be made from the eligible register. Certification will be made of the names of those eligibles, in order of their place on an appropriate register, who have indicated willingness to accept temporary employment. Certification must be made according to parts 4670.2100 to 4670.2400. The acceptance or refusal of a temporary appointment does not affect an eligible's standing on a register or eligibility for appointment to a permanent position.

Subp. 3. **No available candidates on eligible register.** In the absence of available candidates on the eligible register, the appointing authority may make a direct appointment of a person who meets the minimum qualifications of education and experience for the classification, after documenting the following:

A. that there is no appropriate eligible list available or that all eligible candidates on an incomplete certification from an eligible list are unavailable or unsuitable for temporary appointment; and

B. that the appointee meets the minimum qualifications of education and experience.

Subp. 4. **Term of appointment.** Temporary appointments must only be for the period of need and are limited to six months. A temporary appointment may be extended by the appointing authority for up to an additional six months. The period of the temporary appointment may not be counted as part of a probationary period. Successive temporary appointments to the same position may not be made.

Subp. 5. **Temporary unclassified positions.** The supervisor, upon request of an appointing authority, may authorize the temporary designation of a position in the unclassified service. The supervisor may make this authorization only for positions that are fully anticipated to be of limited duration. No unclassified appointment may exceed three years.

Statutory Authority: *MS s 144.071*

History: *16 SR 2054; 22 SR 45; 23 SR 2404*

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

An employee on the staff of a local public health agency prior to adoption of parts 4670.0100 to 4670.4240 by that agency with more than six months of continuous service in a classification, and who is certified by the appointing authority as having given satisfactory service since that time, may be appointed to a position in the classification held on the date of adoption of parts 4670.0100 to 4670.4240 without consideration of minimum qualifications of training and experience. The employee may be appointed by the appointing authority without being required to serve a probationary period.

An employee on the staff of a county board, welfare board, or human services board prior to the adoption of parts 9575.0650 to 9575.0700 by the board, with less than six months of continuous service in a classification, shall be appointed to a position in the classification held on the date of adoption of parts 4670.0650 to 4670.0700 only if the employee meets the minimum qualifications of training and experience. The employee shall serve a probationary period.

A new employee appointed after the adoption of parts 4670.0100 to 4670.4240 by a local public health agency, but prior to the holding of the first examinations under parts 4670.0100 to 4670.4240 shall be considered as having a provisional appointment and shall be required to compete in the examination without preference. The new employee shall be admitted to the examination for the position on the basis of the minimum qualifications in effect at the time of appointment.

Statutory Authority: *MS s 144.071*

History: *17 SR 1279; 22 SR 45; 23 SR 82*

4670.2550 VETERAN'S PREFERENCE.

Preference in the establishment of eligible registers shall be given to veterans in accordance with the provisions of Minnesota Statutes, section 43A.11.

Statutory Authority: *MS s 144.071*

4670.2600 PROBATIONARY PERIOD.

Subpart 1. **Purpose.** The probationary period is an essential part of the examination process and shall be used to closely observe the employee's work, to obtain the most effective adjustment of a new employee to the obligations of the position, and to remove any employee whose performance does not meet the required standard of work.

Subp. 2. **When required.** A person employed by an appointing authority in any of the following ways shall serve a probationary period:

- A. appointment from an eligible register other than the layoff list;
- B. reinstatement of a former probationary employee or of a former permanent employee in an agency other than the last employing agency;
- C. transfer of an employee between authorities except when specifically waived in writing to the supervisor by the new employing authority prior to the date on which the transfer of a permanent employee becomes effective; or
- D. transfer or reinstatement to a position on the basis of eligibility from a comparable position in a similar merit system jurisdiction.

Statutory Authority: *MS s 144.071*

4670.2610 PROBATION AS CONDITION OF EMPLOYMENT.

An appointing authority may effect a probationary period in an employment action in which such period is not required as specified in part 4670.2600, subpart 2 by writing this condition of appointment on the appointment report submitted to the supervisor. In no case, however, may a probationary period be required of a permanent employee who is appointed from the layoff list.

Statutory Authority: *MS s 144.071*

4670.2620 DURATION OF PROBATIONARY PERIOD.

The probationary period shall consist of the equivalent of the first full six months of compensated service following the date of the appointment action requiring such period, except as provided in part 4670.2630. Intermittent employees shall serve a probationary period of six full months, not to exceed two calendar years. Employees who are in the professional series of classifications and who are supervisors or managers shall serve a one-year probationary period. Unpaid leave of ten or fewer work days during the probationary period does not affect the duration of the period. If the appointing authority has an established policy that applies to all employees of that appointing authority governing the length of the probationary period, the appointing authority may follow that policy.

Statutory Authority: *MS s 144.071*

History: 18 SR 2277; 23 SR 2404

4670.2630 EXTENSION OF PROBATIONARY PERIOD.

In rare or unusual circumstances or conditions that prevent the making of a full and fair determination as a basis for granting permanent status or separating the employee from the service, an extension of the probationary period for up to three months may be granted. The appointing authority shall provide notice of the extension to the merit system and the employee. A current evaluation of the employee's performance shall accompany the notice. A copy of the notice of extension and the evaluation shall be provided to the probationary employee by the appointing authority. If the appointing authority has an established policy that applies to all employees of the

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appointing authority and allows for an extension for a period of more than three months, the appointing authority may follow that policy.

Statutory Authority: *MS s 144.071*

History: *12 SR 458; 22 SR 45; 23 SR 2404*

4670.2640 PROMOTION DURING PROBATION.

An employee serving a probationary period may be promoted to a position in a higher class. An employee who is promoted begins a probationary period in the higher classification as of the date of that appointment.

A probationary employee who is promoted to a position in a higher class in the same occupational field shall complete the probationary period in the lower class by service in the higher position.

Statutory Authority: *MS s 144.071*

History: *17 SR 1279*

4670.2650 TRANSFER DURING PROBATION.

A probationary employee may be transferred from a position under one appointing authority to a position in the same class under another appointing authority if the employee was not appointed from a certification from a county register.

Statutory Authority: *MS s 144.071*

4670.2660 DEMOTION DURING PROBATION.

A probationary employee who is demoted to a class of positions in the same occupational field shall have included as part of the probationary period in the lower class the period of service in the higher class unless the appointing authority writes on the report of the demotion to the merit system that a new probationary period is required in the lower class.

Statutory Authority: *MS s 144.071*

History: *17 SR 1279*

4670.2670 REMOVAL DURING PROBATION.

A probationary employee may be dismissed by an appointing authority without the right to an appeal or hearing except as may otherwise be provided by law. The employee shall be given written notification of dismissal, including the reasons for dismissal. A copy of the notification shall also be submitted to the supervisor.

A probationary employee who has permanent status in another class in the same agency and who is not granted permanent status in the new classification shall be restored to a position in the class from which the person was promoted as seniority permits or in a comparable class as parts 4670.0100 to 4670.4240 permit, unless the failure to grant permanent status was due to the misconduct of the employee.

When there is no position to which the employee can be restored, because of abolishment of jobs or lack of seniority, the provisions of part 4670.2930 apply.

Statutory Authority: *MS s 144.071*

History: *17 SR 1279; 23 SR 82; 25 SR 487*

4670.2680 COMPLETION OF PROBATIONARY PERIOD.

The appointing authority shall submit written notice of the satisfactory completion of the probationary period to the employee and to the supervisor within ten days of the expiration of the probationary period. A rating or appraisal of the employee's performance shall accompany the notice. The employee shall then be granted permanent status in the position the day following the last day of the probationary period.

Statutory Authority: *MS s 144.071*

History: *23 SR 2404*

4670.2690 VIOLATION OF RULES.

Subpart 1. **Penalty.** If an appointing authority fails to implement the purpose and intent of the probationary period by appropriate action as provided in parts 4670.2600 to 4670.2680, a probationary employee whose probationary period is not extended or who is not certified permanent in accordance with part 4670.2680 and is not removed or demoted but is continued in employment beyond the full probationary period shall obtain permanent status in the position by the default of the appointing authority. The payment of salary beyond the probationary period shall be deemed to be evidence of the determination by the appointing authority that permanent status shall be granted to the employee. The supervisor shall enter such status on the record of the employee and shall notify the appointing authority and the employee of the change in status.

Subp. 2. **Reports of violations.** Each instance in which permanent status is granted to an employee in accordance with subpart 1 shall be reported to the council. The council may recommend and the commissioner may take appropriate action to insure that the purpose and intent of the probationary period shall be given effect in the appointing authority in all future appointments.

Statutory Authority: *MS s 144.071*

History: *23 SR 2404*

PROMOTIONS**4670.2700 METHODS OF MAKING PROMOTIONS.**

As far as is practicable and feasible, a vacancy shall be filled by promotion of a qualified probationary or permanent employee based upon the performance of the employee's duties, as evidenced by recorded service ratings, with due consideration for length of service and upon the employee's capacity for the new position. The appointing authority in making a promotion may consult with the supervisor about the promotional status of an employee. A candidate for promotion must be certified by the supervisor to possess the qualifications for the position as set forth in the specifications for the class of positions for which the employee is a candidate. The candidate shall be required by the supervisor to qualify for the new position by promotional competitive or noncompetitive examination administered by the supervisor.

Statutory Authority: *MS s 144.071*

History: *17 SR 1279*

4670.2710 PROMOTION BY COMPETITIVE EXAMINATION.

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

At the discretion of the supervisor and the appointing authority involved, a promotional competitive examination may be limited to the employees of one local public health agency or may be open to the employees of all local public health agencies. If it is determined by the secretary and executive officer for the statewide service to fill vacancies in a particular class of positions by promotional competitive examination, such examination shall be given under the direction of the supervisor. A promotional competitive examination may consist of any combination of the following: written tests, ratings of training and experience, evaluation of recorded service ratings, promotional ratings, seniority, performance tests, and oral examinations. The combination in each case and procedure for the determination of the passing grade shall be announced by the supervisor in advance of the examination and shall take into consideration approved practices.

All employees who received a passing grade shall be placed on a promotional register for the class of positions in order of their final ratings except as modified by part 4670.2550.

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

Statutory Authority: *MS s 144.071*

History: *17 SR 1279*

4670.2720 [Repealed, 12 SR 458]

TRANSFERS AND DEMOTIONS

4670.2800 TRANSFERS.

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

Transfer of a probationary or permanent employee from a position in one local public health agency to a position of the same class in another local public health agency may be made with the approval of the appointing authorities concerned and the supervisor, subject to the provisions of parts 4670.2600, subpart 2, and 4670.2650. All such transfers must be reported to the supervisor. With the approval of the merit system supervisor, a permanent employee may transfer from a position in one class in a county agency to a position in a different class in the same or different county agency that has a salary range within one step of the former class and similar comparable work value. If the work behaviors and examination content areas of the two classes are not similar and if the employee has met the minimum qualifications of education and experience for the class to which transfer is proposed, the supervisor may require the employee to take and pass, on an advisory basis, the examination for the class to which transfer is proposed before approving the transfer.

Statutory Authority: *MS s 144.071*

History: *15 SR 452*

4670.2810 DEMOTIONS.

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

A permanent employee shall be, before the action is taken, furnished with a statement in writing, setting forth the reasons for the demotion. The employee shall be permitted five days' time to reply thereto, in writing, or upon request, to appear personally and reply to the appointing authority. A copy of the statement and the employee's reply, if any, shall be filed with the supervisor prior to the effective date of the demotion. The permanent employee upon written request may demand a hearing before the council in accordance with the provisions of part 4670.3530.

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

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

Any permanent or probationary employee about to be laid off shall be demoted to displace any employee with less seniority in the next lower class in which the person

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

An appointing authority, with the consent of the affected employee, may demote, in lieu of layoff, a permanent or probationary employee not covered by the preceding provision. Such action shall not entitle the employee to a hearing, in the demotion, but the employee's name shall be placed on the layoff list and upon written request may be placed on the reemployment list for the class from which the employee was demoted. No employees so demoted shall displace a permanent or probationary employee except in order of seniority.

Statutory Authority: *MS s 144.071*

History: *14 SR 1806; 17 SR 1279*

SEPARATION, TENURE, AND REINSTATEMENT

4670.2900 RESIGNATIONS.

An employee who resigns shall notify the appointing authority in writing. A copy of the resignation shall be forwarded to and recorded by the supervisor.

Statutory Authority: *MS s 144.071*

History: *17 SR 1279; 25 SR 487*

4670.2910 DISMISSALS.

No employee who has permanent status shall be dismissed from a position except for just cause. Before the action is taken, a permanent employee shall be furnished with a statement in writing setting forth reasons for the dismissal. The employee shall be permitted five days time to reply thereto in writing or, upon request, to appear personally and reply to the appointing authority. A copy of the statement and the employee's reply, if any, shall be filed with the supervisor prior to the effective date of the dismissal. Any such employee who is dismissed may demand a hearing before the merit system council in the manner prescribed by part 4670.3530.

Any employee who willfully practices, or attempts to practice, any deception or fraud in an application, in a certificate, in an examination, or in securing eligibility or appointment, shall, upon discovery and proof thereof, be removed and discharged. Charges alleging such deception or fraud may be initiated by the appointing authority or by the supervisor, in conformity with the provisions of this part relating to notice of discharge and hearing before the merit system council.

Statutory Authority: *MS s 144.071*

History: *17 SR 1279; 25 SR 487*

4670.2920 SUSPENSIONS AND INVESTIGATORY LEAVE.

Subpart 1. **Unpaid suspensions.** The appointing authority may, after written notice, suspend any employee without pay for just cause for a period not to exceed 30 calendar days in any one calendar year. Suspensions of five or fewer consecutive working days or ten or fewer working days in a calendar year are not appealable to the council under the provisions of part 4670.3530, subpart 1.

Subp. 2. **Investigatory leaves.** The appointing authority may place an employee who is the subject of a disciplinary investigation on an investigatory leave with pay if a reasonable basis exists to warrant the leave. This action by an appointing authority may not be appealed to the merit system council under part 4670.3530, subpart 1.

Statutory Authority: *MS s 144.071*

History: *25 SR 487*

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4670.2930 LAYOFF.

Subpart 1. **Reason for layoff.** An appointing authority may lay off an employee in the classified service by reason of abolishment of the position, lack of funds, shortage of work, or other reason outside the control of the employee. No permanent employee, however, shall be laid off while any emergency, provisional, temporary, or probationary employee is continued in a position of the same class in the agency. Layoff shall be made in inverse order of seniority by employment conditions in the class of work in the agency. Seniority for purposes of layoff shall be the length of service in the class from which layoff occurs in the agency.

Subp. 2. **Seniority.** If two or more persons in the class in which layoff occurs have equal seniority, the order of layoff shall be in inverse order of the date of acquisition of permanent status in the class. If a tie still remains, the order of layoff shall be determined by the average of the last two performance evaluations, if available, or the last evaluation, if only one is available and the employee with the lowest such average or evaluation shall be laid off first. If no performance evaluations are available, the order of layoff shall be determined by the appointing authority in such a way as to retain in the agency the employee(s) considered most valuable. Any permanent or probationary employee about to be laid off shall be demoted to replace the employee with the least seniority in the next lower class in which that employee previously served, unless the employee elects to be laid off.

Subp. 3. **Notice.** The appointing authority shall notify in writing the employee and the supervisor at least ten working days before the effective date of the layoff and shall state the reason for the layoff. If the appointing authority fails to certify before the effective date thereof that the layoff was for reasons not reflecting discredit on the employee, it shall be deemed a dismissal and shall be subject to the rules regarding dismissal.

Subp. 4. **Layoff list.** The names of permanent or probationary employees laid off or demoted in lieu of layoff shall be placed in order of seniority on the layoff list for the class and the agency from which the layoff took place. The affected employees shall have their names placed also on the reemployment list for the class from which the layoff took place and any other class in which they have permanent or probationary status prior to layoff.

Names of laid off employees will remain on the layoff list for a minimum of one year and eligibility shall be extended to a period of time equal to the employee's previous service in the merit system not to exceed five years. The name of a laid off employee must be removed from the layoff list if the employee fails to accept a position in the former classification and county agency or if the employee is appointed to a permanent position in a class equal to or higher than the one from which the employee was laid off. In such cases, the employee's name must remain on the reemployment list for the class from which the employee was laid off.

Subp. 5. **Vacancy.** Whenever an appointing authority submits a requisition to fill a vacancy or a new position in the agency and a layoff list exists for that agency for the class in which the position to be filled is classified, the one name highest on the layoff list shall be certified to the agency for appointment.

Subp. 6. **Scope of rule.** The provisions of this part shall apply to all layoffs, except where otherwise provided in written contract between an agency and an exclusive bargaining representative or in county policy.

Statutory Authority: *MS s 144.071*

History: 16 SR 2054; 25 SR 487

4670.2940 [Repealed, 25 SR 487]

4670.2950 REINSTATEMENT OF FORMER PERMANENT EMPLOYEE.

Upon written request of an appointing authority to and with the approval of the supervisor, an employee who has successfully passed a merit examination and has

acquired permanent status in a class may be reinstated to a position in the same class in the public health merit system at any time within two years after the date of resignation in good standing. Under the same conditions a reinstatement may be made within a period of time, not to exceed five years, equivalent to the continuous period of the employee's service since January 1, 1971, in a local public health agency. Reinstatement shall be without benefit of previously acquired seniority. Upon approval of the supervisor, reinstatement may be made directly by an appointing authority, provided that there is a vacancy.

Statutory Authority: *MS s 144.071*

History: *17 SR 1279*

4670.2960 REINSTATEMENT OF FORMER PROBATIONARY EMPLOYEE.

Upon written request of an appointing authority and with the approval of the supervisor, a probationary employee who has resigned in good standing may be reinstated as a probationary employee to a position in the same class at any time within a year after the date of resignation.

Statutory Authority: *MS s 144.071*

4670.2970 [Repealed, 12 SR 458]

4670.2980 REEMPLOYMENT OF FORMER PERMANENT OR PROBATIONARY EMPLOYEES.

Former permanent or probationary merit system employees who voluntarily separate in good standing with a satisfactory or better separation rating may, upon request, have their names placed on a reemployment list for their last class of employment and for any other classes in which they possessed permanent status prior to separation. Requests must include which classes, locations, and employment conditions the former employee is willing to consider and must be submitted to the merit system within one year of separation. A person may remain on the reemployment list(s) for up to three years and must return to the merit system within four years of separation. Former employees reemployed under the provisions of this part must serve a new probationary period upon appointment.

Statutory Authority: *MS s 144.071*

4670.3000 [Repealed, 22 SR 45]

4670.3010 [Repealed, 22 SR 45]

4670.3020 [Repealed, 22 SR 45]

4670.3030 [Repealed, 22 SR 45]

4670.3040 [Repealed, 22 SR 45]

4670.3050 [Repealed, 22 SR 45]

4670.3060 [Repealed, 22 SR 45]

4670.3070 [Repealed, 22 SR 45]

4670.3080 [Repealed, 22 SR 45]

4670.3100 [Repealed, 25 SR 487]

4670.3200 EMPLOYEE TRAINING.

The supervisor shall cooperate with appointing authorities, employees, and others in fostering and aiding in programs of preservice training for and in-service training of

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employees, to the end that the quality of services rendered to the community may be raised and that employees may be aided to equip themselves for advancement.

Statutory Authority: *MS s 144.071*

4670.3300 OTHER EMPLOYMENT.

No employee shall hold other public office, except as provided in part 4670.0500, subpart 5, or have conflicting employment while in the employ of the appointing authority. Determination of conflicting employment shall be made by the appointing authority subject to the approval of the council.

Statutory Authority: *MS s 144.071*

4670.3400 [Repealed, 14 SR 1806]

4670.3410 [Repealed, 14 SR 1806]

4670.3420 [Repealed, 14 SR 1806]

4670.3430 [Repealed, 14 SR 1806]

4670.3440 [Repealed, 14 SR 1806]

4670.3450 [Repealed, 14 SR 1806]

4670.3460 [Repealed, 14 SR 1806]

APPEALS AND HEARINGS

4670.3500 APPEALS AND HEARINGS PROCEDURE.

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

Subp. 2. **Written notice.** A written notice of appeal, specifying the reason or reasons for the appeal, must be submitted to the supervisor within 30 days of the action appealed or within 30 days of the date notification of the action was mailed to the affected party, whichever is later.

Subp. 3. **Supervisor reply to the appeal.** Except for appeals under part 4670.3530, the supervisor shall reply to the appeal, interpreting the merit system rules and applicable law relative to the issues in the appeal. All affected parties will receive copies of the response.

Subp. 4. **Appeal from supervisor's resolution.** Any affected party who is dissatisfied with the supervisor's resolution may appeal that resolution and the appeal will be placed on the agenda of the next council meeting.

Subp. 5. **Limits on appeal.** Any permanent employee under a collective bargaining agreement who appeals a dismissal, suspension, or a reduction in pay or position under the provisions of a grievance procedure in the agreement may not subsequently appeal the same action to the council.

Subp. 6. **Decisions.** All decisions shall be given within a reasonable time following the hearing and shall be in writing. Copies shall be sent to all parties involved and the merit system supervisor when final decisions are made by the appointing authority.

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

Statutory Authority: *MS s 144.071*

4670.3510 APPEALS FROM SELECTION AND APPOINTMENT PROCEDURES.

Subpart 1. **Appeal of rejection.** Any applicant may appeal a rejection of his or her application based on qualifications or removal from a register for reasons specified in

part 4670.2000, subpart 4. The council shall review the reasonableness of such rejection or removal.

Subp. 2. **Appeal of examination.** Any applicant who has taken an examination may appeal for review of the rating procedures in any part of the examination. The council shall review the rating procedures to see that they have been applied equally and fairly to all applicants.

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

Subp. 4. **Readmission.** Admission to an examination, restoration to a register or correction of an examination rating resulting from an appeal shall not affect a certification or appointment that may have already been made.

Statutory Authority: *MS s 144.071*

4670.3520 APPEAL FROM ALLOCATION.

Any employee or appointing authority may appeal the allocation of a position. The council shall review all facts relating to the allocation and make a recommendation to the commissioner. The commissioner's decision shall be final.

Statutory Authority: *MS s 144.071*

4670.3530 APPEAL FROM DISMISSAL, SUSPENSION, OR DEMOTION.

Subpart 1. **Appealable actions.** Any permanent employee who has not appealed such action under the provisions of a grievance procedure contained in a collective bargaining agreement may appeal any dismissal, suspension of more than five consecutive working days or ten working days in a calendar year, or reduction in pay or position to the council. The council shall review the action for compliance with the procedural requirements of parts 4670.2900 to 4670.2980 and for whether the action was taken for just cause.

Subp. 2. **Hearing.** The supervisor shall make every effort to establish a hearing date within 30 days of receiving an appeal. If scheduling conflicts prevent that from occurring, the supervisor shall establish a hearing date as soon as reasonably possible, but no more than 90 days from the date that the appeal was received.

Subp. 3. **Recommendation.** After the hearing, the council shall make a recommendation to the appointing authority. Within 30 days of receiving the recommendation, the appointing authority shall make the final decision.

Subp. 4. **Veterans.** Any veteran covered under the provisions of Minnesota Statutes, section 197.46 shall not be removed except for incompetency or misconduct shown after a hearing upon due notice including written stated charges.

Statutory Authority: *MS s 144.071*

History: 25 SR 487

4670.3540 [Repealed, 23 SR 2404]

4670.3550 OTHER APPEALS.

Any employee or appointing authority affected by action taken in the administration of parts 4670.0100 to 4670.4240 may appeal the action. The council shall review the actions for compliance with the rules of the Minnesota merit system and applicable law and shall recommend to the commissioner remedial action which is warranted. The commissioner's action shall be final.

Statutory Authority: *MS s 144.071*

History: 23 SR 82

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INTERAGENCY OPERATIONS

4670.3600 PAYROLL REVIEW.

The commissioner shall adopt a plan providing for the review by the supervisor of the payrolls or certified listings of employees and current salaries. Such plans shall provide for a periodic review of the payrolls or certified listings of employees and current salaries for conformity with the provisions of parts 4670.0100 to 4670.4240.

Statutory Authority: *MS s 144.071*

History: 23 SR 82

4670.3700 RECORDS AND REPORTS.

The supervisor shall establish and maintain service records for each employee, showing name and classification, organizational unit, salary, changes in status, service ratings, and such other personnel information as may be considered pertinent. Every recommendation for a temporary or permanent change in the status of an employee shall be submitted by the appointing authority to the supervisor on forms prescribed by the supervisor.

Statutory Authority: *MS s 144.071*

History: 17 SR 1279

4670.3800 COOPERATION WITH MERIT SYSTEM AGENCIES.

The supervisor, with the approval of the commissioner, may cooperate with other state, federal, or local merit system agencies operating in conformity with the standards comparable to those contained in parts 4670.0100 to 4670.4240. With the approval of the commissioner, the supervisor may announce and administer joint examinations in conformity with the standards of parts 4670.0100 to 4670.4240, and the registers so established shall be given recognition under parts 4670.0100 to 4670.4240. When filling a vacant position, an appointing authority may request that the supervisor approve the transfer of a permanent employee from another merit system jurisdiction. If it is determined that both the classification level of the employee's position and the examination taken to obtain that position are comparable to those of the vacant position, the supervisor shall approve the transfer. All persons appointed under this part shall be required to serve a probationary period.

Statutory Authority: *MS s 144.071*

History: 23 SR 82; 23 SR 2404

4670.3900 [Repealed, 10 SR 1502]

4670.3910 [Repealed, 10 SR 1502]

4670.3920 [Repealed, 10 SR 1502]

4670.3930 [Repealed, 10 SR 1502]

4670.3940 [Repealed, 10 SR 1502]

4670.4000 [Repealed, 23 SR 82]

SALARY COMPUTATION

4670.4010 FULL-TIME AND PART-TIME EMPLOYMENT.

Subpart 1. **Prescribed rates.** All rates prescribed by parts 4670.4200 to 4670.4240 shall be standard rates for full-time employees except as otherwise negotiated for employees in a bargaining unit in an agency where there is an exclusive representative or under the provisions of part 4670.1310, item C. If employment in a position is on a part-time or intermittent basis, only the proportional part of the rate for the time

actually employed shall be paid. Such time may be paid on an hourly, working-day, or proportion of a month basis.

Subp. 2. **Agencies negotiating different salary schedules.** Those agencies with an exclusive representative who negotiate different salary schedules from those shown in parts 4670.4200 to 4670.4240 under the provisions of subpart 1 or those agencies operating under the provisions of part 4670.1310, item C, shall file within ten days after the signing of the contract such schedules with the supervisor.

Statutory Authority: *MS s 144.071*

History: *23 SR 82*

4670.4020 [Repealed, 23 SR 82]

4670.4030 PART PAYMENT FROM ANOTHER SOURCE.

When part of the compensation of a local public health employee regularly is paid from another source, such as federal, state, city, or county governmental departments, or from a different fund or account outside the control of the local public health authority, the total salary from all governmental sources combined shall not exceed the amount payable at the maximum rate for the class of position involved on the compensation plan adopted by the agency.

Statutory Authority: *MS s 144.071*

4670.4040 [Repealed, 23 SR 82]

4670.4050 [Repealed, 23 SR 82]

**APPOINTMENT, PROMOTIONS, DEMOTIONS,
TRANSFERS, AND REINSTATEMENTS**

4670.4100 APPOINTMENT.

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

An employee who is provisionally employed at a rate of pay higher than the minimum of the range prescribed for the class shall not be reduced in pay at the time of appointment from a register to the class.

Statutory Authority: *MS s 144.071*

History: *23 SR 82*

4670.4110 PROMOTIONS.

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

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

Statutory Authority: *MS s 144.071*

4670.4120 DEMOTIONS.

An employee who is demoted except in accordance with part 4670.0930 and whose salary is above the maximum rate for the lower class shall be reduced in salary to at least the maximum rate for the new class. If the former salary is within the salary range for the lower class, the same salary may be continued. An employee whose position is reclassified downward in accordance with part 4670.0930 and remains in the same

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position may retain the former salary if it is above the maximum salary rate for the lower class but shall be ineligible to receive any further increases except those subsequently provided in the new classification.

Statutory Authority: *MS s 144.071*

4670.4130 TRANSFERS.

An employee who is transferred may be paid the same salary that the employee received prior to transfer. If an employee's salary prior to transfer falls within the salary range of the class to which the employee is transferring, but is not on a salary step in that range, the employee's salary may be increased to the next higher step in the range. It shall not be decreased.

Statutory Authority: *MS s 144.071*

History: *17 SR 1279*

4670.4140 REINSTATEMENTS.

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

Statutory Authority: *MS s 144.071*

History: *17 SR 1279*

4670.4150 LOCAL PUBLIC HEALTH AGENCY RULES.

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

Statutory Authority: *MS s 144.071*

COMPENSATION PLANS

4670.4200 PUBLIC HEALTH COMPENSATION PLAN, 1990.

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

Statutory Authority: *MS s 144.071*

History: *8 SR 1346; 9 SR 1339; 10 SR 1502; 11 SR 1069; 12 SR 1335; 13 SR 1687; 14 SR 1806*

4670.4210 PROFESSIONAL AND ADMINISTRATIVE COMPENSATION PLAN, 2000.

Subpart 1. Plan.

	Minimum	Maximum
Assistant Director of Environmental Health	2792	4773
Director of Environmental Health	3195	5447
Director of Public Health Nursing	2792	4991
Public Health Educator	2237	4168
Public Health Nurse	2445	4168
Registered Nurse (A.A. Degree, 3 year Diploma, or B.S. Degree)	2342	3991
Sanitarian	2138	3813

Subp. 2. [Repealed, 15 SR 452]

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Subp. 3. [Repealed, 15 SR 452]

Statutory Authority: *MS s 144.071*

History: 8 SR 1346; 9 SR 1339; 10 SR 1502; 11 SR 1069; 12 SR 1335; 13 SR 1687; 14 SR 1806; 15 SR 452; 15 SR 1699; 16 SR 2054; 17 SR 1829; 18 SR 2277; 19 SR 2090; 20 SR 2592; 22 SR 45; 23 SR 82; 23 SR 2404; 25 SR 487

4670.4220 HEALTH SERVICES SUPPORT PERSONNEL COMPENSATION PLAN.

Subpart 1. **Plan.**

	Minimum	Maximum
Accounting Technician	1566	2559
Home Health Aide	1462	2389
Home Health Aide Coordinator	1716	2792
Inspector	1716	2792
Licensed Practical Nurse	1716	2792
Public Health Aide	1253	2237

Subp. 2. [Repealed, 15 SR 452]

Subp. 3. [Repealed, 15 SR 452]

Statutory Authority: *MS s 144.071*

History: 8 SR 1346; 9 SR 1339; 10 SR 1502; 11 SR 1069; 12 SR 1335; 13 SR 1687; 14 SR 1806; 15 SR 452; 15 SR 1699; 16 SR 2054; 17 SR 1829; 18 SR 2277; 19 SR 2090; 20 SR 2592; 22 SR 45; 23 SR 82; 23 SR 2404; 25 SR 487

4670.4230 CLERICAL COMPENSATION PLAN.

Subpart 1. **Plan.**

	Minimum	Maximum
Office Support Aide	1078	1911
Office Support Specialist	1278	2285
Office Support Specialist, Sr.	1566	2559

Subp. 2. [Repealed, 15 SR 452]

Subp. 3. [Repealed, 15 SR 452]

Statutory Authority: *MS s 144.071*

History: 8 SR 1346; 9 SR 1339; 10 SR 1502; 11 SR 1069; 12 SR 1335; 13 SR 1687; 14 SR 1806; 15 SR 452; 15 SR 1699; 16 SR 2054; 17 SR 1829; 18 SR 2277; 19 SR 2090; 20 SR 2592; 22 SR 45; 23 SR 82; 23 SR 2404; 25 SR 487

4670.4240 Subpart 1. [Repealed, 25 SR 487]

Subp. 2. [Repealed, 25 SR 487]

Subp. 3. [Repealed, 15 SR 452; 25 SR 487]

4670.4300 [Repealed, 23 SR 82]