

## §7051. General provisions

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

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

[RR 2023, c. 1, Pt. B, §19 (COR); RR 2023, c. 1, Pt. B, §50 (AFF).]

**2. Discrimination prohibited.** In carrying out this chapter, discrimination may not be made on account of political or religious opinions or affiliations or because of actual or perceived race, color, sex, sexual orientation, gender identity, physical or mental disability, religion, ancestry or national origin, age or familial status, unless based upon a bona fide occupational qualification.

[PL 2021, c. 553, §11 (AMD).]

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

[RR 2023, c. 1, Pt. B, §20 (COR); RR 2023, c. 1, Pt. B, §50 (AFF).]

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

A. [PL 2001, c. 662, §1 (RP).]

B. [PL 2001, c. 662, §2 (RP).]

C. [PL 2001, c. 662, §2 (RP).]

D. [PL 2001, c. 662, §3 (RP).]

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

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

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

A. An employee during the probationary period must be reviewed at the end of the employee's 3rd month of employment by the employee's supervisor. The supervisor and the employee shall

mutually discuss the job tasks and the performance of the employee, including any necessary improvements. [PL 2021, c. 601, §1 (AMD).]

B. An employee during the probationary period must be included in the payroll of the department in which the employee has been hired at the time of the commencement of the employee's duties. An employee during the probationary period must be compensated in the same manner as a permanent full-time employee, as long as the employee has been hired in accordance with all applicable laws and procedures. [PL 2021, c. 601, §1 (AMD).]

C. During the probationary period, an employee is not entitled to a pre-disciplinary hearing and may be dismissed, suspended or otherwise disciplined without cause. Dismissal, suspension or any other disciplinary action against an employee during the probationary period is not subject to the grievance and arbitration provision of the collective bargaining agreement. [PL 2021, c. 601, §1 (NEW).]

[RR 2023, c. 1, Pt. B, §21 (COR); RR 2023, c. 1, Pt. B, §50 (AFF).]

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

A. The officer may make a provisional appointment to fill a technical or professional position that requires a specialized knowledge or training to carry out the duties of the position and that cannot be filled from the eligible register. [RR 2023, c. 1, Pt. B, §22 (COR); RR 2023, c. 1, Pt. B, §50 (AFF).]

B. The officer shall establish a policy to protect persons in temporary positions from remaining in a temporary position for an unreasonable period of time that may not exceed one year except that an extension may be granted to an individual by the officer when unusual circumstances warrant that extension. [RR 2023, c. 1, Pt. B, §22 (COR); RR 2023, c. 1, Pt. B, §50 (AFF).]

C. The officer may authorize, without requiring competitive tests, the appointment of unskilled laborers or persons engaged in custodial and domestic work in state institutions or departments. [RR 2023, c. 1, Pt. B, §22 (COR); RR 2023, c. 1, Pt. B, §50 (AFF).]

[RR 2023, c. 1, Pt. B, §22 (COR); RR 2023, c. 1, Pt. B, §50 (AFF).]

**7. Dismissal and disciplinary action.** Except as provided in subsection 5, an appointing authority may dismiss, suspend or otherwise discipline an employee in the classified service for cause. This right is subject to the right of appeal and arbitration of grievances set forth in the applicable labor contract, in sections 7081 to 7084 or by civil service rule; and sections 7081 to 7084 apply to any employee who has satisfactorily completed an initial probationary period. This subsection does not apply to unclassified employees listed in section 931, nor does this subsection in any way limit the collective bargaining rights of classified and unclassified employees. This subsection does not apply to an employee appointed to a major policy-influencing position listed in sections 932 to 953.

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

[PL 2021, c. 601, §2 (AMD).]

## SECTION HISTORY

PL 1985, c. 785, §B38 (NEW). PL 1987, c. 9, §3 (AMD). PL 1987, c. 240, §3 (AMD). PL 1987, c. 402, §A55 (AMD). PL 1989, c. 443, §11 (AMD). PL 1995, c. 560, §K82 (AMD). PL 1995, c. 560, §K83 (AFF). PL 1999, c. 668, §15 (AMD). PL 2001, c. 354, §3 (AMD). PL 2001, c. 662, §§1-3 (AMD). PL 2003, c. 20, §OO2 (AMD). PL 2003, c. 20, §OO4 (AFF). PL 2003, c. 689, §B6 (REV). PL 2007, c. 466, Pt. A, §15 (AMD). PL 2009, c. 415, Pt. A, §4 (AMD). PL 2015, c. 442, §2 (AMD). PL 2021, c. 553, §11 (AMD). PL 2021, c. 601, §§1, 2 (AMD). RR 2023, c. 1, Pt. B, §§19-22 (COR). RR 2023, c. 1, Pt. B, §50 (AFF).

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