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# Emergency Rules

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**Title 1—OFFICE OF ADMINISTRATION  
Division 20—Personnel Advisory Board and  
Division of Personnel  
Chapter 3—Personnel Selection, Appointment,  
Evaluation and Separation**

**EMERGENCY AMENDMENT**

**1 CSR 20-3.010 Examinations.** The board is deleting sections (1)–(8), (12), and (14) and amending and renumbering existing sections (9)–(11) and (13).

*PURPOSE:* This amendment revises this rule pursuant to changes to Chapter 36, RSMo made by Senate Bill 1007 (2018).

*EMERGENCY STATEMENT:* This emergency amendment incorporates and implements changes to the law effected by Senate Bill 1007 (2018), effective August 28, 2018. Emergency amendment of this rule is necessary to preserve the compelling governmental interest of successfully implementing the changes to Chapter 36, RSMo made by Senate Bill 1007 (2018) across the departments and agencies of the executive branch of Missouri state government. Provisions of the existing rule are inconsistent with the provisions of Chapter 36, RSMo, effective August 28, 2018, and must be amended to avoid confusion or improper application, avoid potential liabilities, and ensure consistent implementation of Senate Bill 1007 (2018). A proposed amendment which covers the same material will be filed at a later date to be published in the *Missouri Register*. The scope of this emergency amendment is limited to the circumstances creating the emergency and complies with the protections extended in the *Missouri and United States Constitutions*. The Personnel Advisory Board believes this emergency amendment is fair to all interested persons and parties under the circumstances. This emergency amendment was filed August 17, 2018, becomes effective August 28, 2018, and expires February 28, 2019.

*[(1) Conduct of Examinations.* The director from time-to-time shall conduct open competitive examinations and promotional examinations as the director considers necessary for the purpose of establishing registers of eligibles and promotional registers. The examinations shall be of such character as to determine the relative qualifications, fitness, and ability of the persons tested to perform the duties of the class of position for which a register is to be established. Persons with disabilities shall be examined in such a manner as the director determines necessary to fairly test their ability to perform the duties of the class of positions or the position involved.

*(2) Examinations shall be announced under the following conditions:*

*(A) Public Notice.* The director shall give public notice of each open competitive examination and promotional examination sufficiently in advance of that examination and sufficiently widespread in scope to afford persons who are interested in participating in the examination a reasonable opportunity to apply. The time elapsing between the official announcement of an examination and the holding of an examination shall be not less than two (2) calendar weeks, except that a lesser period of advance notice may be permissible under the regulations when the examination is conducted under the provisions of section 36.320(3), RSMo, or when needs of the service pursuant to subsection 1 of section 36.260, RSMo, require special notices;

*(B) Content of Announcements.* Each official notice of an examination shall state the title, duties, pay, and qualifications of positions for which the examination is to be held;

*the time, place, and manner of making application for admission to the examination; and any other information which the director considers pertinent and useful; and*

*(C) Distribution of Announcements.* The official announcement of an examination shall consist of the posting of an official notice on a public bulletin board maintained either in or near the office of the Division of Personnel. Announcements also shall be distributed to and shall be posted by appointing authorities in institutions, agencies, and divisions of the service where positions in the class(es) involved occur. Announcements of open competitive examinations for other positions also will be sent to appointing authorities for the information of employees, the general public, or both. The official announcement of an examination will be given distribution necessary to inform qualified persons that the examination is being given. The director may use any means that the director considers necessary to inform qualified persons about the examination. These include, but are not limited to, paid advertisement in newspapers, periodicals, electronic media, and announcements to educational institutions. The director may also publish a periodic bulletin containing information about examinations to be sent to subscribers at a price approximating the cost of publication. The director and the staff of the division will consult with representatives of appointing authorities to design announcement distribution and other informational techniques best suited to cooperate with and coordinate the recruitment and public awareness efforts of appointing authorities.

*(3) Eligibility to Compete in Examinations.* The standards of education and experience established in the classification plan for each class shall constitute the entrance requirements for admission to the examination for the positions classified. Appropriate standards for admission will be established for positions within broadbanded management classes. Admission to examinations shall be open to all persons who possess the qualifications and who may be lawfully appointed to a position in the class for which a register is to be established.

*(A) Open Competitive Examinations.* Open competitive examinations shall be open to all persons who possess the qualifications and who may be lawfully appointed to a position for which the register is to be established.

*(B) Promotional Examinations.* Promotional examinations shall be open to all regular employees who meet the requirements described in subsection (3)(A), except that an appointing authority may request that a promotional examination be limited to employees already employed within the department or division of service involved and the director may approve the request if s/he finds that the needs of the state service will be served.

*(4) Application and admission to examinations shall be subject to the following conditions:*

*(A) Application shall be made on paper or electronic forms prescribed by the director. Those forms shall require information covering experience, training, and other pertinent information as may be requested on the examination announcements. To be accepted for review, applications must be submitted to the division no later than the closing date specified in the announcements. Applications shall be signed in writing or electronically submitted by the applicants and the truth of all statements contained in the application is certified by the written signature or electronic submission; and*

*(B) Persons who submit applications on or before the last date for filing and whose applications clearly show that the*

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applicants meet the requirements for admission to the examination as specified in the official announcement shall be admitted to compete in the examination for which they applied. Each applicant whose application has been accepted for any examination shall be notified of the date, time, and place of examination, and that notice shall be authorization to take the examination.

(5) *Disqualification of Applicants.* The director may reject the application of any person for admission to examination, strike the name of any person from a register, refuse to certify the name of any person, or withdraw the certification of a person if the director finds that the person lacks any of the qualifications; or has been convicted of a crime which brings into question the qualifications of that person; or has been dismissed from the public service for delinquency; or has made a false statement of a material fact; or has practiced or attempted to practice any fraud or deception in application or examination or in attempting to secure appointment. Whenever the director disqualifies an applicant, the director shall furnish the applicant a notice of disqualification. In the case of disqualification, an appeal may be taken to the Administrative Hearing Commission.

(6) *Postponement or Cancellation.* In the event a sufficient number of qualified candidates has not made application for an examination, either open competitive or promotional, the director may postpone the last filing date and the date of the examination or cancel the examination and, in these cases, shall make suitable notice.

(7) *The character of examinations is governed by the following provisions:*

(A) *Competitive Examinations.* All competitive examinations for positions in the classified service shall be of such character as to determine the relative qualifications, fitness, and ability of persons tested to perform the duties of the class of positions for which a register is to be established. The various parts of the examinations may be written, oral, physical, or an evaluation of experience and training, a demonstration of skill or any combination of those types. The examinations may take into consideration factors including training, experience, aptitude, capacity, knowledge, health, physical fitness, and other qualifications as, in the judgment of the director, enter into the determination of the relative fitness of the applicants. No question shall be framed as to elicit information concerning the political or religious opinions or affiliations of the applicant. The examination and selection procedures for promotion shall take into consideration demonstrated capacity, and quality and length of service to the extent determined appropriate by the director;

(B) *Noncompetitive Examinations.* Noncompetitive examinations provided for by the law and these rules shall be administered under the conditions and following procedures as are prescribed by the director:

1. When an intern or trainee or participant in special state or federal training, rehabilitation, or employment programs has successfully completed a period of training or internship of sufficient length to demonstrate job competence in the position involved, an appointing authority may request authorization to appoint that individual to a permanent position in the appropriate class subject to passing a noncompetitive qualifying examination. The director shall require proof of successful completion of an appropriate training or internship program as deemed necessary and is authorized to approve or disapprove programs for purposes of this rule based on duration and training content. Upon

approval of the request of an appointing authority, the director shall provide for noncompetitive examination providing the individual possesses the qualifications required for admission to the examination for the class of positions involved. Noncompetitive original appointment following successful completion of the examination will then be allowed;

2. After consultation with appointing authorities, the Personnel Advisory Board may waive competitive examinations for classes or positions for which it determines that competitive examinations are not practicable or that the supply of qualified applicants is generally insufficient to justify competitive examinations and provide meaningful competition in the selection of employees. A request that competitive examination be waived for a particular class or position may be made to the board by the director or an appointing authority. The board will evaluate requests, taking into consideration such criteria as actual or projected number or qualifications of available eligibles in a specific geographic location, qualifications and special requirements of a specific position, or other factors as may be determined by the board. The board shall review determinations pursuant to this provision at least annually. Upon waiving such examinations, the director will, within the parameters established by the board and consistent with information supplied by the appointing authority, determine what kind of appointment procedure is appropriate, what kind of registers or other mechanisms will be used, what evidence of qualifications will be accepted, and when and how that evidence will be presented to the Division of Personnel;

3. An appointing authority may request the approval of the director to promote regular employees on the basis of a qualifying noncompetitive examination. Such noncompetitive promotions may be approved in, but are not necessarily limited to, situations in which the promotion represents a normal progression to the next higher level within an established occupational job series, or where the director determines that an employee has been an assistant, understudy, or trainee for the position involved or otherwise has had such specific experience or training that a noncompetitive promotion to the position in question is in the best interests of the state service; and

4. Appointing authorities may request board approval to conduct alternative promotional procedures for positions and classes in their divisions of service. The request must be in writing and must outline in detail the procedures demonstrating how employees will be notified of the procedures, how the procedures are in keeping with merit principles, and the provisions by which employees can comment on the procedures. After initial presentation to the board, the proposed procedures will be made available to employees of the affected divisions of service and employees will be given an opportunity to comment. The procedures will not go into effect until the board has determined that employees have had a reasonable opportunity to respond. The Division of Personnel will, on request, work with each agency to develop standards and provide assessment services or other needed assistance. Upon approval by the board the appointing authority shall be responsible to conduct promotional procedures in accordance with the board's approval and without favoritism, prejudice, or discrimination. The board may withdraw approval if it finds this responsibility has not been met;

(C) *Special Examination Procedure.* For positions involving unskilled or semiskilled labor or domestic, attendant, custodial, or comparable work, when the character or place of the work makes it impracticable to supply the needs of the service by appointments made in accordance with the procedures prescribed in other provisions of these rules, the director, after

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consultation with the board and appointing authorities, shall authorize the use of other procedures as s/he determines to be appropriate in order to meet the needs of the service, while assuring the selection of those employees on the basis of merit and fitness. Procedures may include the testing of applicants and maintenance of registers of eligibles by localities; the testing of applicants singly or in groups, at periodic intervals, at the place of employment or elsewhere, after such notice as the director considers adequate; the registration of applicants who pass a noncompetitive examination or submit satisfactory evidence of their qualifications, and appointment of registered applicants; or any variation or combination of these procedures or other suitable methods. Tests given, certification and registration of eligibles, and appointments made in accordance with these provisions shall conform with, and utilize, such methods, forms, and techniques as the director may require. When the director finds noncompetitive registration and selection procedures to be appropriate, s/he is authorized to delegate to each appointing authority the responsibility for noncompetitive registration and for selection and appointment of registered applicants. When delegation is made, the director shall establish the necessary procedures, guidelines, and standards for appointing authorities and shall require reports and perform audits as deemed necessary to insure compliance with these guidelines and standards (see section 32.210, RSMo); and

(D) *Open Continuous Test.* In circumstances where there is a continuous need for substantial numbers of eligibles for a certain class of positions, the director, after first establishing this register, may replenish the register from time-to-time by inserting the names of additional eligibles who are found to be qualified on the basis of determinations similar to those used as the basis for establishing the original register. The closing date for any such test may be indefinite and applicants may be continuously tested in a manner and at times and places as the director may provide. An applicant may not reapply and compete in the same test again for a period of three (3) months following the date of the examination. The closing date for any open continuous test may be set at any time by the director, but notice of this action shall be posted in accordance with subsection (2)(C), at least five (5) days prior to the effective date of the action (see section 36.320, RSMo).

(8) *Administration of Examinations.* Examinations shall be held at the times and places as, in the judgment of the director, most nearly meet the convenience of applicants, practicability of administration and the needs of the service. The examinations shall be conducted under conditions prescribed by the director and by persons designated by the director. When an appointing authority finds that recruitment for positions otherwise difficult to fill with competent employees may be enhanced by local administration of merit examinations, an agency subject to these rules may submit a written request to the personnel director for authority to administer examinations. If the director finds that circumstances justify delegation of authority and that the agency involved has the resources to provide professional examination administration services and appropriate test security, the director may approve that request. In the event of approval, the director shall establish the necessary standards, guidelines, and instructions for test administration and security and shall audit examination programs at least annually. The director may withdraw approval for test administration by an agency for a class(es) and shall notify the appointing authority accordingly.

(9) *Rating of examinations shall be subject to the following provisions:*

(A) *Method of Rating.* Sound measurement techniques and procedures shall be used in rating the results of tests and determining the relative ranking of candidates. The director will, in consultation with appointing authorities, keep these techniques and procedures current with evolving standards. In all examinations the minimum rating by which eligibility may be achieved shall be established by the director. The minimum rating also shall apply to the ratings of any part of the test. Candidates shall be required to attain at least a minimum rating on each part of the test in order to receive a passing grade or for participation in subsequent parts of the examination. The final earned rating of the competitor shall be determined by combining the earned rating on each part of the examination in accordance with the weights established by the director for each part. The director may announce in advance of the establishment of an eligible register, the maximum number of competitors who shall have their names placed on the register. Under this procedure, those considered as having passed or as being permitted to take the remainder of the examination shall be the set number of candidates scoring highest in the examination or part of the examinations;

(B) *Rating Training and Experience.* Where a rating of training and experience forms a part of the examination, the director shall develop those procedures for the evaluation of these factors as will serve to assist in the selection of qualified candidates. These procedures shall give due regard to the quality, recency and amount of experience and to the pertinency and amount of training. Any person who has been honorably discharged from the armed forces of the United States shall receive appropriate credit for any training or experience gained in military service in any examination given for the purpose of establishing a register of eligibles or a promotional register when training or experience is related to the duties of the class of positions for which the examination is given; and]

[(C)](1) *Verification of Qualifications.* [The] **In any competitive examination**, the director, appointing authorities, or both, may verify statements contained in the application of an applicant either before or after employment. [If, after a register is established, information which materially affects the rating of experience and training or qualifications of the applicant is discovered, the director shall make a new rating of the applicant's examination and make the necessary adjustment in registers. The director promptly shall notify the applicant of any change made in the applicant's rating and the reasons.] If a verification of the qualifications of an applicant should reveal any material misrepresentation of employment qualifications and related information as described in the application for examination or attachments, this shall be cause for removal from the register(s) involved, from **current and future** employment, or both, as provided elsewhere in these rules.

[(10)](2) *Veterans' Preference.* In any competitive examination [given] for the purpose of establishing a register of eligibles, veterans, disabled veterans, surviving spouses, and spouses of disabled veterans shall be given preference in appointment and examination as provided by law.

[(A) *Amount of Preference.* A veteran or a veteran's surviving spouse whose name appears on a register of eligibles and who shall have made a passing grade shall have five (5) points added to his/her final grade, and the rank of that person on the register shall be determined on the basis of this augmented grade. The spouse of a disabled veteran whose name appears on a register of eligibles and who shall have

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made a passing grade shall have five (5) points added to his/her final grade, and his/her rank on the register shall be determined on the basis of this augmented grade. This preference shall be given only in the event that the veteran is not already employed in the state service and that the disability renders him/her unqualified for entrance into the state service. A disabled veteran whose name appears on a register of eligibles and who shall have made a passing grade shall have ten (10) points added to his/her final grade, and the rank of that person on the register shall be determined on the basis of this augmented grade.]

[(B)](A) Proof of Eligibility. Proof of eligibility for veterans' preference shall be provided by applicants in the form of their discharge papers, a [certified copy, photostatic] copy of their discharge papers, or other satisfactory evidence of honorable service. Applicants also shall submit on a form as may be required by the director, proof of disability certified by the appropriate federal agency responsible for the administration of veterans' affairs. Any papers submitted to establish proof of service of disability, upon request, shall be returned to veterans.

[(11)](3) Parental Preference. In any competitive examination [given] for the purpose of establishing a register of eligibles, a parental preference shall be given to persons who were previously employed by the state but terminated such employment to care for young children. This preference shall be given only for persons who were full-time homemakers and caretakers of children under the age of ten (10) and were not otherwise gainfully employed for a period of at least two (2) years.

[(A) Amount of Preference. If the name of a person eligible for a parental preference appears on a register of eligibles who made a passing grade, such person shall have five (5) points added to the final grade, and the rank of such person on the register shall be determined on the basis of this augmented grade.]

[(B)](A) Proof of Eligibility. Proof of eligibility for parental preference shall be provided by applicants on a preference claim form and, upon request, other evidence such as birth certificates, income tax returns, or other documents may be required by the director.

[(12) Notification of Examination Results. Each person who takes an examination shall be given written notice as to whether s/he passed or failed the examination and the notice shall include the final passing grade with which his/her name has been placed on the register. Each person competing in an examination shall be entitled to inspect his/her rating and examination papers within thirty (30) days after the mailing of notification of examination results, but examination papers shall not be open to the general public. This inspection shall be permitted only during regular business hours and at the office of the Division of Personnel.]

[(13)](4) Error in [Rating] Examination. A manifest error in [rating] an examination which affects the [relative ranking] appointment of persons [in the examination] shall be corrected if called to the attention of the director within thirty (30) days after the establishment of the register, but this correction shall not invalidate any appointments previously made from this register unless it is established that the error was made in bad faith and with intent to deprive the person of [certification] consideration.

[(14) Appeals From Rating. Any competitor may appeal to the director for reconsideration of his/her rating in any examination as provided in 1 CSR 20-4.010(1)(B).]

AUTHORITY: sections 36.060 and 36.070, RSMo Supp. [2010 and

section 36.070, RSMo 2000] 2018. Original rule filed July 9, 1947, effective July 19, 1947. For intervening history, please consult the Code of State Regulations. Emergency amendment filed Aug. 17, 2018, effective Aug. 28, 2018, expires Feb. 28, 2019. An emergency amendment covering this same material will be published in the October 1, 2018, issue of the Missouri Register. A proposed amendment covering this same material will be filed at a later date to be published in the Missouri Register.