

State of Wisconsin

DEPARTMENT OF EMPLOYMENT RELATIONS

- DIVISION OF MERIT RECRUITMENT AND SELECTION BULLETIN -

Date: September 17, 1998

Locator No.: MRS-191

**Subject: Clarification of Reinstatement
Eligibility**

This bulletin replaces MRS-85 issued July 18, 1988, which is obsolete and should be destroyed.

The following guidelines are provided for agencies making reinstatement eligibility determinations. The appropriate statutes or administrative rules should also be reviewed when using these guidelines.

1. A person who has held a position and obtained permanent status in class must separate from a position without any delinquency or misconduct, including "just cause," to be eligible for reinstatement. [See s. 230.31 (1), Wis. Stats.; ss. ER-MRS 16.035(1), and ER-MRS 16.04.1(1), Wis. Adm. Code]
2. A person separating while serving any type of probationary period must do so without any delinquency or misconduct to be eligible for reinstatement. [See s. 230.31(2), Wis. Stats.; ss. ER-MRS 16.04(2), and ER 16.035(1), Wis. Adm. Code]
3. A person separating from a position while serving an original probationary period and moving to a position in a lower classification should be considered to have received a new original appointment, not a demotion or reinstatement, but may be eligible for reinstatement based on the first appointment. [See s. ER-MRS 17.02(1), Wis. Adm. Code and 2., above]
4. A person separating from any position due to poor work performance shall be eligible for reinstatement provided the poor work performance does not equate to delinquency or misconduct. Poor work performance that may equate to delinquency or misconduct involves willful neglect, insubordination, negligence, or other similar types of conduct. [See s. 230.31(1), Wis. Stats.; ss. ER-MRS 16.035(1), and ER-MRS 16.04(2), Wis. Adm. Code]
5. All of the above guidelines apply whether the separation is voluntary or involuntary.

The period for reinstatement increased from three to five years effective July 5, 1998, under a recently enacted law change. The increase is **prospective only**, applying exclusively to situations in which reinstatement eligibility was established **on or after** July 5, 1998. The new law applies only to reinstatement eligibility granted under the Wisconsin Statutes or the Administrative Code. The new law does not apply to any reinstatement that is specifically granted otherwise under the provisions of a collective bargaining agreement. The Administrative Code is currently being revised to reflect the new five year reinstatement period.

If you have any questions or concerns, please contact Denny Huett at (608) 266-7296 or dhuett@mail.state.wi.us.

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