

Wisconsin Human Resources Handbook

Chapter 226

Temporary and Acting Assignments

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Sec. 226.010 Introduction

The purpose of this chapter is to provide clarification and guidance on the differences between and the uses of temporary assignments and acting assignments. Temporary assignments and acting assignments are management tools available to redistribute duties of a vacant position(s) in the agency on a temporary basis. Temporary assignments also may be made in response to temporary increases in workloads other than those caused by a vacancy.

Sec. 226.020 Statutory and Rule Authority

1. “An appointing authority shall: . . . (b) Appoint persons to or remove persons from the classified service, discipline employees, designate their titles, assign their duties and fix their compensation . . .” s. 230.06(1)(b), Wis. Stats.
2. “Incumbents of filled positions which will be reallocated under s. ER 3.01(2)(f) or reclassified may not be regraded: (b) Until the incumbent has performed the permanently assigned duties and responsibilities for a minimum of 6 months. The 6 month period may include a portion of a trial or probationary period.” s. ER 3.015(3), Wis. Adm. Code.
3. “When a position is vacant and the needs of the service require the performance of the duties of that position, a permanent employee may be temporarily assigned to perform those duties. When the employee intends to compete for the vacant position, the appointing authority will ensure an exceptional competitive advantage is not afforded for the position by virtue of the acting assignment.” s. ER-MRS 32.01, Wis. Adm. Code.
4. “The appointing authority shall submit a written request to make acting assignments which exceed 60 calendar days in length to the director for approval. This request shall state the anticipated duration of the acting assignment and provide such additional information as the director requires. Acting assignments not to exceed 60 calendar days shall be made at the discretion of the appointing authority.” s. ER-MRS 32.02, Wis. Adm. Code.
5. “The acting assignment shall not exceed a total of 6 months, except . . . If the appointing authority is unable to make a permanent appointment to that position within that 6-month period, a written request for approval to extend the acting assignment shall be submitted to the director . . .” s. ER-MRS 32.03, Wis. Adm. Code.

6. “The appointing authority shall give written notice to the employee of the acting assignment. This letter of notification shall identify the nature of the duties to be assigned, the planned duration and other conditions of the acting assignment, including the fact that no adjustment in pay shall be made. The appointing authority shall place a copy of the notice in the employee’s personnel file.” s. ER-MRS 32.04, Wis. Adm. Code.

Sec. 226.030 Definitions

1. **Acting assignment:** “When a position is vacant and the needs of the service require the performance of the duties of that position, a permanent employee may be temporarily assigned to perform those duties.” s. ER-MRS 32.01, Wis. Adm. Code. An acting assignment is considered a special type of temporary assignment where the intention is to formally assign the responsibilities to an employee as an interim measure while the agency is taking active steps to fill a vacancy.
2. **Appointing authority:** “. . . [T]he chief administrative officer of an agency unless another person is authorized to appoint subordinate staff in the agency by the constitution or statutes.” s. 230.03(4), Wis. Stats.
3. **Director:** The director of the Bureau of Merit Recruitment and Selection (BMRS) within the Department of Administration, Division of Personnel Management.
4. **Reclassification:** The assignment of a filled position to a different class based upon a logical and gradual change to the duties or responsibilities of a position or the attainment of specified education or experience by the incumbent such that the duties performed are better described by a new classification title. See s. ER3.01 (3), Wis. Adm. Code and [Chapter 370](#) of the *Wisconsin Human Resources Handbook* for information on Reclassification.
5. **Temporary assignment:** When the workload is such that the needs of the service require the performance of those duties by permanent employees temporarily assigned to perform those duties. Temporary assignments should not be confused with Limited Term Employment or appointments to project positions. See [Chapter 224](#) of the *Wisconsin Human Resources Handbook* for information on Limited Term Employment and [Chapter 228](#) of the *Wisconsin Human Resources Handbook* for information on Project Appointments.

Sec. 226.040 Temporary Assignments

A temporary assignment is a management tool acknowledged in s. 111.91(1)(a), Wis. Stats., with the assignment of work established in s. 230.06(1)(b), Wis. Stats.; and the recognition of permanent assignments in s. ER 3.015(3)(b), Wis. Adm. Code. The information below pertains to non-career executive temporary assignments.

Temporary assignments are made at the discretion of the agency appointing authority and do not require BMRS notification or authorization. However, BMRS is available for consultation as needed. While agencies have considerable flexibility in making temporary assignments, general parameters for those assignments are as follows:

- Employees should not receive new position descriptions for temporary assignments.
- Temporary assignments are usually less than six months in duration and should be documented in a letter to the employee. (See Attachment #1.)
- The letter to the employee will include:
 - The temporary duties being assigned.
 - The start and end dates for the performance of such duties.
 - The performance of temporary duties will not serve as the basis for reclassification or other changes in the employee’s permanent classification.
 - The rate of pay will not be changed as a result of the temporary assignment.
 - The headquarter city of the employee will not be changed as a result of the temporary assignment.
 - If the temporary functions will be assigned to a position on a permanent basis, then the position may need to be filled by competition, in accordance with civil services rules.

In a few limited instances, such as those necessitated by budget cuts, budget freezes or particular business needs, temporary assignments may last longer than six months. However, it is important that agencies closely monitor the use of temporary assignments and assign duties to positions on a permanent basis as appropriate. If a position is authorized and the duties of that position need to be performed on an ongoing basis, it should be filled. If it is determined that a position will never be filled, the duties of that position should be permanently assigned to another position.

There is no absolute limit on the duration of a temporary assignment. However, as the duration of the temporary assignment continues, the employee may develop a claim for a different classification. Previous State Personnel Commission decisions have stated, “Work performed on a temporary basis does not qualify a position for reclassification unless the work has been performed for a number of years and the timing of future changes cannot be predicted with any degree of certainty.” *Miller v. DH&SS & DER*, 91-0129-PC, 5/1/92 and *Gutierrez v. DOT & DER*, 96-0096-PC, 4/1/97.

Note: Agencies are reminded to note that temporary assignments which exceed one year, any reimbursements (e.g., travel expenses) made throughout the term of the temporary assignment are considered taxable income.

Sec. 226.050 Acting Assignments

An acting assignment is considered a special type of temporary assignment. Chapter ER-MRS 32, Wis. Adm. Code, permits a permanent employee to be temporarily assigned duties of a vacant position where the needs of the service require that they be performed. The intention of an acting assignment is to formally assign the responsibilities to an employee as an interim measure while the agency is taking active steps to fill a vacancy. If the agency is not taking active steps to fill the vacancy, an acting assignment may not be used. Though the assignment of responsibilities must be done formally, employees shall not receive new positions descriptions for acting assignments.

An employee must be assigned at least 50 percent of the duties of the vacant position, or must be officially designated and announced as being assigned the duties on an acting basis before the action can be considered as an acting assignment. An acting assignment can involve performing duties of a vacant position at either a higher or lower level than that currently performed by the employee. The appointing authority should stay informed as to whether the employee intends to apply for the vacancy. If the employee will be competing for the vacant position, care should be taken to ensure that the employee is not provided with exceptional competitive advantage by virtue of the acting assignment. This may require a different employee, one who is not competing for the position, to be given the acting assignment.

Employees represented by a bargaining unit may not be given an acting assignment with duties that would constitute an exclusion for confidential, management or supervisory reasons. The assignment of such duties to a represented employee would jeopardize the integrity of the union and management relationship.

However, nonrepresented employees may be assigned represented duties. Careful consideration should be taken before making such acting assignments. When making an acting assignment to a supervisory or managerial position careful consideration of the process to fill the permanent position will also be given. No employee should be given an exceptional competitive advantage to a higher-level position by virtue of an acting assignment.

Appointing authorities should ensure FLSA compliance if an employee is performing nonexempt work for a majority of the time during a workweek.

Sec. 226.060 Procedures—Acting Assignments Up to 60 Days

Appointing authorities may, at their discretion, make acting assignments for a period not to exceed 60 calendar days.

1. The appointing authority will give written notice of the acting assignment to the employee. Such notice identifies the nature of the duties, the planned duration and any other conditions of the acting assignment, including the fact that no adjustment in pay will be made. (See Attachment #2.)
2. A copy of the notice will be placed in the employee's personnel file.
3. If it appears that the staffing activities to fill the permanent vacancy are taking longer than expected and the acting assignment will exceed 60 days, the appointing authority should follow the instructions in section 226.070 of this handbook chapter to request an extension of the acting assignment.

Sec. 226.070 Procedures—Acting Assignments Exceeding 60 Days

Acting assignments may exceed 60 calendar days in length with the approval of the BMRS director.

1. At least one week prior to the desired start date (or prior to the last week of an Acting Assignment as described in section 226.050 of this handbook chapter), the appointing authority will submit a written request to the BMRS Director for approval of an acting assignment expected to exceed 60 calendar days. The request should indicate the anticipated length of assignment (not to exceed six months), duties to be performed, the justification for the acting assignment, a description of the steps being taken to fill the position on a permanent basis, and the name, classification and qualifications of the employee to be assigned.
2. Upon receipt of approval, the appointing authority will give written notice of the acting assignment to the employee. Such notice identifies the nature of the duties, the planned duration and any other conditions of the acting assignment, including the fact that no adjustment in pay will be made. (See Attachment #2.)
3. A copy of the notice will be placed in the employee's personnel file.
4. If there are extenuating circumstances, an appointing authority may submit a written request to the BMRS Director to extend an acting assignment beyond six months. The request for extension should provide a justification for the extension and indicate the expected date by which a permanent appointment will be made. Approval of any such extension by the BMRS Director is required.

Sec. 226.080 Administrative Information

This chapter was published in May 2012 to replace Bulletin P-91 issued June 4, 1981, which is now obsolete and can be discarded.

In July 2016, Chapter 226 underwent a review and update pursuant to changes introduced by 2015 Wisconsin Act 55 and by 2015 Wisconsin Act 150. In July 2015, the Office of State Employment Relations was eliminated, and the functions were transferred into the newly created Department of Administration, Division of Personnel Management. This chapter was updated to reflect the changes in terminology that resulted from the organizational restructuring.

In August 2018, this chapter was updated to reflect the changes to Chapter ER-MRS 32 Wisconsin Administrative Code. The time allowed for acting assignments without BMRS Director approval changed from 45 days to 60 days.

Attachment #1

Sample of Temporary Assignment Letter

[date]

[name]

[address]

Dear [name]:

In accordance with the authority provided under s. 230.06(1)(b), Wis. Stats., I am hereby notifying you that [in addition to your current duties as **current job title**] I am assigning the following duties to you on a temporary basis:

[list major job duties]

This temporary assignment will become effective [date] and will end [date].

This temporary assignment will not result in an increase to your pay rate and will not serve as the basis for a reclassification or any other changes to the current permanent classification of your position. If the temporary functions will be assigned to a position on a permanent basis, then the position will be filled by competition, in accordance with civil services rules.

Thank you for assuming these additional responsibilities.

Sincerely,

[name]

[title]

cc: Personnel File

Attachment #2

Sample of Acting Assignment Letter

[date]

[name]

[address]

Dear [name]:

In accordance with the authority provided under s. ER-MRS 32.02, Wis. Admin. Code, I am hereby notifying you that [in addition to your current duties as **current job title**] I am designating you to serve as Acting [**job title**].

This acting assignment will become effective [date] and will last for a period of approximately [#] days. As Acting [**job title**], you will be responsible for [**list major job duties**].

This acting assignment will not affect your pay rate or your permanent classification or lead to a higher classification level for your position. If the temporary functions will be assigned to a position on a permanent basis, then the position will be filled by competition, in accordance with civil services rules.

Thank you for assuming these additional responsibilities.

Sincerely,

[Name]

[Title]

cc: Personnel File