

TO: Personnel Board

FROM: Susan J. Gafner, Human Resources

DATE: December 4, 2017

SUBJECT: Paralegal/Mediator 1-2

The 2018 Operating Budget amendments, approved by the Common Council during the budget process, included a new position of Paralegal/Mediator as part of the Department of Civil Rights (DCR) operating budget. DCR is requesting this brand new position of Paralegal/Mediator to assist with case processing in the Equal Opportunities Division, specifically related to case processing at the pre-hearing and hearing level. There is no current classification which describes this work. Based on the position description submitted (attached), a review of comparable positions in the City's classification plan, and discussions with Norman Davis, DCR Director, Patricia Lauten, Deputy City Attorney and Byron Bishop, Equal Opportunities Division Manager, it is recommended that a new classification series of Paralegal/Mediator 1-2 be established in CG 18, R05 and CG 18, R07, and the new position identified in the 2018 budget be created as a Paralegal/Mediator 2 in CG18, R07 in the DCR operating budget.

The Equal Opportunities Division (EO Division) within DCR is responsible for investigating claims of discrimination as it relates to federal and state law as well as Madison General Ordinances (MGOs). The EO Division has a contract with the Federal Equal Employment Opportunities Commission to conduct initial investigations and make determinations as to whether a complainant has a case. DCR receives money from the EEOC for case processing. Currently, the EO Division has 3 Investigator/ Conciliators who investigate cases. If a case is deemed to have potential merit, federal and state cases are returned to their agencies for further processing. However, cases that involve a violation of the MGOs are turned over for hearing by the Hearing Examiner, who also works in DCR. Before hearing, the parties are required to go through a process of conciliation to try and work out a resolution. This conciliation work, is alternated between the Investigator/Conciliator positions. To avoid conflict, the mediation portion is conducted by an investigator not involved directly with the case. The current mediation process can take up to one week. Over time, this has created an extensive backlog. In addition, the Hearing Examiner has had difficulty keeping up with the increased volume of cases that have been rising sharply since 2014. The Hearing Examiner not only conducts a hearing on the merits of the case, but is currently responsible for conducting his own legal research and writing up the final determination. This can be a lengthy process.

Creating a new series of Paralegal/Mediator 1-2 will allow the Equal Opportunities Division to function at a higher level, specifically with regard to increased case productivity which will have a positive impact on the Department of Civil Rights as a whole and allow them to provide better services to the City of Madison community. The new Paralegal/Mediator 1 position description identifies

...provides paralegal assistance to attorneys and the department in the preparation and handling of civil rights discrimination cases for resolution or hearing by conducting research and gathering evidence, organizing and evaluating that information, recommending courses of action and preparing legal documents as necessary for legal actions; drafts civil rights discrimination non-probable cause decisions, as well as other pleadings and correspondence related to civil rights discrimination cases; evaluates and monitors the status of cases and ensures appropriate action is taken to comply with strict commission rule/city ordinance deadlines.

The Paralegal/Mediator 2 would perform similar duties at a higher level, with greater independence and discretion in decision-making. This position would allow the mediation function to be completely removed from the investigation function, a recommendation that has been advanced by the Office of the City Attorney. It would also allow for cases to be turned around more quickly, keeping DCR in compliance with its contracts with the EEOC and State of Wisconsin. In addition, this position would be able to provide legal research assistance to the Hearing Examiner. The addition of this position would free up the Investigator/Conciliators to conduct investigations more quickly, and would allow the Hearing Examiner to turn out decisions faster. Finally, having one person solely focused on mediation/conciliation could lead to better outcomes as the person will be specialized in this unique skill set.

The responsibilities of this position compare favorably to other positions in CG 18, R05 and CG18, R07, specifically the Litigation Assistant 1 and 2 within the City Attorney's Office. The General Responsibilities of the Litigation Assistant 1, CG17, R16 (equal to CG18, R04) and 2 (CG18, R07) state the following:

Litigation Assistant 1-

...responsible paralegal work within the City. Work involves assigned research into legal issues concerning the City of Madison, the creation of routine legal documents and memoranda, coordination of discovery and witness selection for ordinance enforcement, assisting in the administration of the City's Personal Property Tax Collection and in processing bankruptcy claims. Under the general supervision of the City Attorney and/or other legal staff, work is performed independently within pre-established parameters.

Litigation Assistant 2-

...varied, responsible and skilled paralegal work within the City Attorney's Office. Work involves research into legal issues concerning the City of Madison, supporting litigation efforts through the drafting of legal documents, collecting relevant case information, administering the personal property tax collection program, conducting investigations, and performing other paralegal support work as assigned. Under the general supervision of the City Attorney and/or other legal staff, work is performed independently.

Although there are differences in terms of specific responsibilities and focus, all three classifications have responsibility within their respective areas for:

- Community Issues;
- Research and assessment of trends and initiatives;
- Preparing and presenting reports and oral presentations to high level staff and officials;
- Investigatory principles (Drafting Decisions);
- Interpretation and application of complex rules, regulations, guidelines and laws;
- Independent judgment;

The Litigation Assistant 1 functions similar to a traditional paralegal, in that the position conducts legal research, prepares legal documents, and assists the professional attorneys. Unlike the Litigation Assistant 1 though, the Paralegal/Mediator will have additional responsibility for mediating case disputes to try and reach a resolution. This will require the incumbent to remain neutral to parties and assist in resolving disputes, facilitate discussion and guide the parties toward a mutually acceptable agreement. This additional component justifies placement of the Paralegal/Mediator 1 at a range higher than the Litigation Assistant 1. The Litigation Assistant 2 identifies higher level work including conducting investigations. This is more on par with the full range of responsibilities for the Paralegal/Mediator 2 classification. Because of this expanded

need, I recommend that a new classification series of Paralegal/Mediator 1-2 be created in the CG18, R05 and CG18, R07. In addition, I recommend that the position of Paralegal/Mediator identified in the 2018 operating budget for DCR be recreated as a Paralegal/Mediator 2 in the DCR Operating Budget.

We have prepared the necessary Resolution to implement this recommendation.

Editor's Note:

Compensation Group/Range	2017 Annual Minimum (Step 1)	2017 Annual Maximum (Step 5)	2017 Annual Maximum +12% longevity
18/05	\$55,549	\$64,394	\$72,121
18/07	\$59,271	\$70,213	\$78,638

cc: Norman Davis-Director of Civil Rights
Byron Bishop-Equal Opportunities Division Manager