



Human Resources Department

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To: Finance Committee

From: Harper Donahue IV, Human Resources Director
Norman Davis, Director, Department of Civil Rights
Michael May, City Attorney
Patricia Lauten, Deputy City Attorney
Michael Lipski, HR Services Manager

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At the March 12, 2018 Finance Committee meeting, while considering Legistar File #50724, recreation of the Equal Opportunities Manager in CG 18, R15 (incumbent Byron Bishop), the Committee requested a response to Mr. Bishop's written appeal of his position study classification.

History Of The AA And EO Manager Positions

Prior to 2006, the City of Madison had an Affirmative Action Department and an Equal Opportunities Commission, each functioning as independent agencies with Department Heads in CG21 serving as appointing authorities, with budgetary responsibility and authority. The Affirmative Action Director was in CG21, Range 17, and the Equal Opportunities Commission Director was in CG21, Range 15. When the Department of Civil Rights was formed in 2006, a new Civil Rights Director was created in CG21, Range 18, who had agency head responsibilities over both the Affirmative Action and Equal Opportunities functions. The Affirmative Action Director and EOC Director classifications were eliminated, and new section managers were created within the Department of Civil Rights. At that time, Compensation and Safety Manager Larry Oaks wrote a memo, which was approved by the Personnel Board and adopted by the Common Council, recommending creation of the Affirmative Action Manager and Equal Opportunities Manager, both in CG18, Range 13. He concluded that the placement in range 13 "...provides a one range differential relative to other administrative unit managers (e.g., Accountant 4)."

Division Head v. Division Manager

Part of the argument advanced in Mr. Bishop's appeal is premised on his belief he is a division head. As he writes in his appeal, "[b]y ordinance ALONE, my position as DIVISION HEAD, is classified higher than the HR Services Manager." *Bishop Appeal, page 2, emphasis in original.* Bishop claims that because §39.01(3) MGO refers to the "Equal Opportunity *Division Head*" that the word "Division" in the title elevates his position to CG 21 "Division Head" status¹. His statements that Mike Lipski "downgraded my position to be lower than his own" and that Harper Donahue was using §3.54(9) "to justify[] his class/comp 18/15 position" is premised on this mistaken belief. *Bishop Appeal, pages 2 and 4, respectively.*

Department/Division Heads at the City of Madison are listed in the Madison General Ordinances at §3.54(9)². At pages 4 and 5 of his appeal, Mr. Bishop points out that the ordinance states, "there is created a plan for the annual evaluation and adjustment of compensation of *certain managerial employees.*" Mr. Bishop takes the language "of certain managerial employees" to mean that there are other "managerial classifications at that level" including his. *Bishop Appeal, page 4.* Another word for "certain" is "some" so the ordinance could have easily read "of some managerial employees." Mr. Bishop is correct that there are other managerial positions. Compensation Group 18 contains "some" managerial and supervisory employees. Compensation Group 44 (for transit) also contains "some" managerial and supervisory employees. However, he is incorrect in assuming there are other CG 21 employees who are not listed in §3.54(9). That is not the case.

The ordinance language is clear that "managerial employees" applies to the positions listed in §3.54(9)(b) and that those positions are referred to as "Department Head" and "Division Head." *See §3.54(9)(c).* Positions in these categories have their own compensation group (21) and an employment contract outlining their duties, responsibilities, compensation and other benefits. The Common Council approves their employment contract. *See §3.54(9)(f).* Compensation Group 21 employees have a specific mechanism for performance reviews and salary increases pursuant to §3.54(9)(c). Department/Division Heads differ from regular City civil service employees in terms of their employment contract (which may or may not be renewed), performance reviews and compensation. Terms of employment for Department/Division Heads will follow the statutory scheme of §3.54(9) while terms of employment for other managerial employees who are not Department/Division Heads will follow the City's civil service system.

¹ When the OCA revised the ordinances to add the new Department of Civil Rights Director the Affirmative Action Division Head was changed to Affirmative Action Division Manager but the Equal Opportunity Division Head title missed being changed to Division Manager. Section 39.01(3) was corrected this year to reflect the correct title of Equal Opportunity Division Manager. *See Legistar file #49933 passed January 16, 2018.*

² While the positions of Police Chief and Fire Chief are listed in §3.54(9)(b) these positions are appointed through the City's Police and Fire Commission pursuant to Wis. Stat. §62.13.

The phrase “Department/Division Head” has a specific meaning. When the phrase is used, it refers only to those employees who have a CG 21 contract and fall under the provisions of §3.54(9) MGO. Undoubtedly, individuals at the City use the phrases “department head” and “division head” loosely without regard to the legal meaning ascribed to the phrases in the Madison General Ordinances. However, these imperfect references do not convert the individuals who hold those positions to “Department/Division Heads” under §3.54(9) MGO. The term “Department/Division Head” is a term of art in our ordinances and designates those individuals whose employment is governed by an employment contract rather than the City’s civil service system.

The Position Study Process:

Mr. Bishop writes at page 9 of his appeal, “I am alleging that the City of Madison HR, has no standardized policy/process/procedures governing the misclassification, reclassification or promotional process other than the completely subjective one being used now.” He does not go into any detail as to *how or what* about the process is subjective so, unfortunately, we cannot directly address the issue. However, we can provide an overview of the position study process.

The City’s Personnel Rules control the policy and procedure for position studies in the City of Madison. Chapter 4 of the Personnel Rules describes when classifications and positions can be moved within the City’s Classification and Compensation Plans, and the criteria that are reviewed when considering a change. The Personnel Rules are recommended by the Personnel Board and adopted by the Common Council, most recently in January 2018 (see Exhibit A, attached). According to the Personnel Rules, the Human Resources Director or designee develops and maintains the City’s Classification and Compensation plans. The Human Resources Director’s designee is HR Services Manager Mike Lipski.

If there are changes to the duties and responsibilities of a particular position, a job analysis may be conducted to determine if the position is appropriately classified. There is also language in Chapter 4 of the Personnel Rules that allows for positions to be moved even if there is no change in the duties and responsibilities (pages 7-8). However, the process for reviewing a position in those circumstances remains the same. When there is no change in the duties and responsibilities of a position, the Rules allow that a classification may be moved for the following reasons:

- The existing classification(s) is/are inappropriately compensated;
- An error was made in the original placement of a classification within the Classification Plan;

- The classification specification no longer accurately identified the required knowledge, skills, abilities, and/or special requirements necessary for a position;
- The establishment of career ladders;
- The inclusion and/or exclusion of positions;
- To address issues with retention of employees or movement between classifications.

With regards Ms. Jones' and Mr. Bishop's studies, it was determined there was no significant change in the duties and responsibilities of the positions. However, because the comparable positions used in 2006 had since moved up, it was appropriate for these positions to move up so the positions are appropriately compensated based on those former comparables. Specifically, as noted above, in 2006, Mr. Oaks compared the AA Manager and EO Manager classifications to the Accountant 4 classification. In 2015, the Accountant 4 classification was recreated as a Principal Accountant in CG18, R14, so moving these managers to Range 15 preserves that one range difference. In May 2013, the Common Council approved the movement of the Risk Manager classification from Range 12 to Range 15 based on an error in classification, so movements of this type have occurred in the past.

The process for analyzing a position study is outlined in the City's Personnel Rules (Exh. A, pages 9-14). Either the Department Head or the employee can request a position study. In this case, the Department Head, Norman Davis, requested position studies for Mr. Bishop and Ms. Jones. To begin the study, the Department Head submits the current position description along with the updated position description showing the new duties and responsibilities along with a classification change worksheet. A position study focuses on the position and not the individual holding the position. The Personnel Rules specifically state:

Factors such as the employee's current pay rate, length of service, special training not related to the position, longevity, or performance are not factors that should affect judgments about the classification of the position. [The] quantity of work performed is not a factor unless the quantity is such that it affects the complexity or responsibility level of the position³.

Once a study is received, Mr. Lipski assigns the study to the HR Analyst assigned to that agency. Then, the first step of the position study is to determine the actual

³ The City hires employees to perform the job tasks for their position. We expect employees to perform those tasks at a competent level. The fact a person is a good performer or an outstanding performer does not entitle them to a higher classification. Similarly, an employee who participates in outside activities in the community or holds a degree that is not required for their position does not receive a higher classification because of those activities or degree.

essential duties and responsibilities assigned to the position. The HR Analyst obtains this information by first meeting with the supervisor to confirm the information that is submitted with the study, and then the incumbent(s). If there are discrepancies between what the supervisor claims and employee claims are the job responsibilities, the HR Department will work to resolve the discrepancies before proceeding with the study. It is not possible to continue the study process without a clear job description and understanding of what job responsibilities the position requires.

The next step is to determine the appropriate classification. Typically, this task is accomplished by comparing positions currently in the same classification and salary range along with other positions in proposed or related classifications. The Personnel Rules outline 17 categories for consideration including technical or specialized knowledge, supervisory or managerial responsibility, budgetary authority, policy development, and compensation level of the position as compared to the relevant labor market (Exh. A, pages 10-11). For purposes of the relevant labor market, the City utilizes outside comparators like the State of Wisconsin since the State is a competitor for talent and publicizes their salaries online so the information is easily obtainable. Occasionally, the City uses Milwaukee as a comparable. However, the first step is to compare the position with similar positions in the City. The external comparables are generally used when there are a lack of comparables internally or if there are questions about employee retention.

HR looks at other internal positions performing similar work first because the City's entire compensation system is based on these comparables. If a classification moves, it may have an impact on a number of other classifications, which perform similar work. It is a frequent topic of conversation with the Analysts when reviewing appropriate placement as to what other classifications will be impacted by this move. This is why the position study memos discuss which classifications were used as comparables. If we looked at external positions before looking at our internal comparables, it could have a significant ripple effect on the entire compensation system. In fact, the reason external comparables are last is that they are only reviewed if we cannot make an appropriate comparison to internal classifications. An added benefit to this method is to ensure classifications performing similar work are compensated in a similar manner. This actually helps prevent discrimination within the compensation plan as comparisons are based on duties performed, and not incumbents.

Third, the position study would determine the nature of the changes that occurred to the identified position duties and responsibilities. Here, HR looks at significant changes to the position including whether they are logical and/or gradual changes. At the end of the study, HR recommends that the position is placed within the classification and salary range that best reflects the majority of the duties performed by the position. The HR Analyst will draft a memo with the ultimate recommendation, which is reviewed by Mr. Lipski. Occasionally, the HR Analyst and

Mr. Lipski will disagree on placement. When that happens, there is a discussion with both parties “making a case” for their respective positions.

If there is still a disagreement about the final placement, the HR Director will be involved in resolving the dispute. Otherwise, Mr. Lipski will work with the Analyst to put the memo in final form before it is shared with the supervisor. Normally, the memo is shared with the supervisor prior to the affected employee to ensure that the supervisor is comfortable with the recommendation. This allows the supervisor the opportunity to provide any additional information that may not have been considered or addressed appropriately in the memo (similar to the conversations with Ms. Reyes in 2016 regarding the AA Manager job study – page 7 of this memo). Once the supervisor approves the memo, either the supervisor or HR will share the memo with the affected employee(s).

If the conclusion is that the position or classification should be placed in a different salary range, a resolution will be prepared by HR for approval by the Personnel Board, Finance Committee, and Common Council. The Personnel Board’s responsibility is to review whether the classification recommendation is appropriate based on the comparables outlined in the memo. Generally, the Finance Committee is responsible to ensure that the fiscal impact of the change fits within the overall City operating budget. The Common Council then reviews and either adopts or rejects the recommendations of the Personnel Board and Finance Committee.

Under the Personnel Rules, the employee has the right to request a review of HR’s decision. Although HR processes approximately 60 position studies a year, this right to request review is exercised approximately once a year. The first step to the appeal process is a thorough review by the HR Director, who will then issue a written response to the request. In most cases, an employee will request review because HR is not recommending a change to the salary range. Because no change is requested, the employee has to let HR know whether s/he wishes to pursue the appeal further, otherwise the item would not be placed on the Personnel Board agenda for consideration.

There have been three cases since 2009, when the appeal process was created, where HR recommended a change in salary range and the employee appealed, claiming that it should be a different (generally higher) range. In these cases, because the Personnel Board is a public meeting, it is important that the relevant appeal documents are attached since the incumbents could show up and speak to the item. It would not be appropriate for the Personnel Board (or other public body) to be unaware of the situation, since the Personnel Rules call for them to be the next level of review. In 2010, the Assessment Aides in the Assessor’s Office appealed the HR recommendation. The April, 2010 Personnel Board agenda shows that the original appeal document and the HR Director’s response was attached in Legistar. In 2012, the Housing Site Managers appealed the HR recommendation placing them in a

higher salary range. In this case, the appeal by the Site Managers occurred through a direct meeting with the HR Director and no written document was submitted.⁴ However, again, the HR Director response was attached to the October 31, 2012 Personnel Board agenda. Finally, in this case, while the original appeal was discussed with the HR Director in a meeting, the Director requested that any additional information be submitted in writing. Similar to 2010, these documents and the HR Director response have been attached to the Personnel Board agenda for consideration.

The following is an overview of the process outlined above:

- A study is submitted to HR, either by a supervisor or directly from an employee.
- Mr. Lipski assigns the study to an HR Analyst.
- The Analyst meets with the supervisor to discuss the work currently performed.
- The Analyst assesses what changes occurred to the position from the time it was last studied or from the time the employee started in the position.
- The Analyst meets with the employee to review changed duties and assignments.
- The Analyst may go on field trips or a ride along to view the work performed.
- The Analyst reviews other comparable studies or positions.
- The Analyst then meets with Mr. Lipski to discuss the study.
- The Analyst then presents a draft memo for Mr. Lipski's review and approval.
- After Mr. Lipski approves the final memo, the memo is shared with the Department.
- HR prepares the appropriate resolution for consideration by the Personnel Board, Finance Committee, and Common Council.

Human Resources studied the Affirmative Action Manager classification in November 2015. At that time, HR concluded there was no change in the duties and responsibilities of the position that would require a placement in a different salary range. HR discussed its conclusion with Interim DCR Director Gloria Reyes in January 2016. However, before HR issued a final memo, there were conversations to ensure HR received all information necessary to make its final conclusion. These discussions continued until the time incumbent Norman Davis was promoted to DCR Director in July 2016. At that time, Ms. Reyes indicated to HR that the study should be withdrawn since Mr. Davis was now in a position to reshape the classification and determine how that classification should function within the overall structure of

⁴ While the Personnel Rules indicate an appeal should be made in writing, HR has accommodated employees who wish to appeal in any format, including through an in-person meeting.

DCR.⁵ Mr. Davis requested that HR fill the Affirmative Action Manager position in September 2016. At that time, no request was made to study the Affirmative Action Manager salary range prior to filling the position.

On or about August 18, 2017, HR received a position study request from the Department of Civil Rights to study the Affirmative Action Manager and Equal Opportunities Manager classifications. That study, and HR's recommendation is the one on the current Finance Committee agenda.

Response To Specific Issues Raised In Mr. Bishop's Appeal:

Most of the appeal fails to raise issues directly related to the position study process as outlined in this memo. While Mr. Bishop asks various questions about the composition of CG21 and his position as a Division Manager, these questions do not relate to the position study process or the reasons outlined in the October 12, 2017 HR memo. The issues that do have relevance are discussed below.

Mr. Lipski was opposed to positions being at his level, CG18, Range 17 (Appeal, pages 2, 9).

This allegation is completely false. Mr. Lipski started working for the City in 2008, and has had responsibility for the City's position study process since that time. Initially, Mr. Lipski was hired as the Compensation and Benefits Manager in CG18, Range 15, and was promoted to HR Services Manager, in CG18, Range 17 in March 2012. While in Range 15, Mr. Lipski recommended the creation of the classification of Deputy City Attorney in CG18, Range 22 in 2009, and the reclassification of the Fire Marshal from Range 15 to Range 16 in 2010. Also in 2010, Mr. Lipski recommended that the Housing Operations Program Manager be recreated from CG21, Range 17 to CG18, Range 17, and that the Water Utility Financial Manager classification be recreated in CG18, Range 15. In March 2012, prior to being promoted to Range 17, Mr. Lipski recommended that the Assistant Parks Superintendent be created in CG18, Range 16. Finally, in 2015, the new classification of Assistant Parking Utility Manager was created in CG18, Range 17. These recommendations are either at Mr. Lipski's range or one to two levels *higher* than Mr. Lipski's range. Although Mr. Bishop makes this statement he fails to support it with any examples.

Mr. Bishop sought to have his position classified at CG18, R21 (Appeal, page 1).

In his appeal, Mr. Bishop indicates that he initially wanted his position classified in CG18, R21, and Mr. Davis agreed to it. However, because the HR Services Manager was resistant to this placement, "...the HR Analyst presented what was deemed a

⁵ There had been conversations about whether the Department of Civil Rights should restructure and create a deputy position. These conversations were still ongoing at the time Mr. Davis was promoted.

logical and pleasing compromise to the HR services Manager by recommending a class/comp group 18/15 for the misclassification and an 18/17 for a reclassification.” It should be noted that the DCR Director, Mr. Davis, is in CG21, R18, and CG21 salary ranges are the same as in CG18. As such, Mr. Bishop’s initial request, which he contends was agreed to by Mr. Davis, would place him in a salary range *3 ranges higher* than the person he reports to. This is not a logical placement and nowhere in the City (or anywhere else, for that matter) do subordinates occupy a salary range significantly higher than the person who supervises them.⁶ Further, the allegation that the HR Analyst presented a “compromise” whereby Mr. Bishop would be placed in Range 17 is false. While unable to comment on what communication occurred between the Analyst and Mr. Bishop, the HR Analyst never presented any draft memo recommending that Mr. Bishop be placed in a range other than CG18, Range 15. While there was conversation over the appropriate theory for the placement, there was no discussion of placement in any other range between the HR Services Manager and Analyst.

We categorically reject the implicit claim of Mr. Bishop that he somehow was treated improperly because the City would not pay him more than his direct supervisor, who is a Department Head.

Mike Lipski and Harper Donahue disregarded his “review packet” (Appeal pages 1, 8 and 10 (#5)).

Mr. Bishop discussed a packet of information he presented in support of his requested CG 18/21 classification. These materials consisted of *LinkedIn* salary searches under the heading “Division Manager” in industries such as Energy & Mining, Manufacturing, Health Care, Retail and Public Administration for cities like San Francisco, New York, Chicago and Dallas/Fort Worth. As stated earlier in this memo, the City’s comparators are other government employers in and around Madison or Milwaukee – not private sector industries. Further, it is well known that salaries in San Francisco, New York, Chicago and Dallas/Fort Worth are considerably higher than Madison because the cost of living in these cities is also considerably higher.

He also included printouts from *Salary.com* for a Government Affairs Manager in Chicago, a Department Manager in Michigan, Government Affairs Manager openings for companies such as AstraZeneca (pharmaceutical company), Federal Home Loan Bank of Dallas, and Spectrum (entertainment and media industry) to name a few. He also reached out to the cities of Seattle, San Diego, the states of Tennessee and Michigan as well as the federal Office of Personnel Management. At page 10 of his appeal, Mr. Bishop mentions a “Division General Manager” position via an Internet search on *Payscale.com* that showed a salary that would be within a CG 21/18

⁶ Because of longevity incentives, there are a few situations where subordinates may be paid more than their supervisor but their actual Range is still lower than the supervisor.

position. None of these searches yielded a list of job duties, so it is impossible to determine whether the positions are truly comparable.

There were no comparator positions for Dane County, Milwaukee, other cities in Wisconsin or the State of Wisconsin in the packet.

Mr. Bishop's packet also included the salary of Anthony Brown who held the position of Equal Opportunity Commission Director prior to 2006. As stated above, this position was abolished in 2006 so it no longer exists as a relevant comparator. Mr. Bishop extrapolated that Mr. Brown's salary would increase annually at the rate of 4% from 2004 to 2017 to come up with a suggested salary of \$203,083. The authors of this memo are CG 21 and CG 18 employees. None of us recall yearly salary increases of 4%, and no one in the City is paid a salary even close to \$203,083 annually.

Mr. Bishop also provided a list of what he considered to be additional duties and responsibilities. However, a review of this list revealed work that is covered by his existing classification, including establishing and maintaining community relationships, developing and delivering trainings, and successfully processing EO cases. Since this is work already associated with his classification, it does not become justification for a change in salary range.

Mr. Bishop concludes at page 10 of his appeal that because HR did not consider his "packet" that the "process is not a fair one." He seems to feel his "proof" in doing this research gives him credibility and that HR should be investigated because they ignored the packet. The information presented in the packet was of no use to HR because the "comparator" positions were jobs in the private sector, a City job that no longer existed, salary increases that don't exist, positions in cities, towns and states that have double or triple the population of Madison and a higher cost of living, as well as a list of accomplishments consistent with the work already assigned to his classification.

My Position Is A Misclassified Position (Appeal pages 1 and 9).

Throughout his appeal, Mr. Bishop refers to his study as a misclassification/reclassification. He argues at page 1 of his appeal that he should receive a CG 18/15 "misclassification" and then a CG 18/17 for the "reclassification." However, it is unclear what he believes is the "misclassification." At page 1 of his appeal, he calls the 2006 creation of the Department of Civil Rights, with the Affirmative Action and Equal Opportunity Divisions, a "long-standing error" and says his position study was turned in for review in an effort to "rectify" the error. If the "misclassification" relates to his belief he is a Division Head (it's not clear) that issue is addressed earlier in the memo. If the misclassification relates to the 2006 restructuring of the Department of Civil Rights, that issue cannot be addressed by this position study. The entire Department would have to be studied, the structure

for the Department determined and only then could positions be studied for appropriate classification. The DCR Director did not request this type of study. Finally, the memo prepared by HR specifically states in the opening paragraph that while the study was initially requested to determine if an error in classification was made, "After reviewing the materials and other comparable positions, I conclude that the positions were appropriately classified back in 2006."

Chief Development Officer (Appeal, page 9)

As part of his argument that his position is misclassified, Mr. Bishop mentions a title change to Chief Development Officer, which is not a significant consideration in the position study process. HR does not evaluate positions on title alone. Rather, as explained throughout this memo, the process outlined in the Personnel Rules requires the job study to be focused on work-related factors, and the duties and responsibilities of a classification. In fact, HR is not opposed to employees using working titles for their positions if the working title better reflects the nature of the work. For example, in the Finance Department, the Data Projects Coordinator is actually classified as an Administrative Analyst 4, because the nature of the work lines up with that classification, but the title does a better job of describing the actual position. In this case, Mr. Bishop oversees the Equal Opportunities unit within the Department of Civil Rights, and Ms. Jones oversees the Affirmative Action unit, so there was no need to change the classification titles.

Footnote (Appeal, page 2)

The position study memo discussed the appropriate placement of the Equal Opportunity Manager and Affirmative Action Manager in CG18, R15. One reason outlined in the memo was that other agency heads in CG21, R18 (similar to the DCR Director) have their next level of management in Range 15. The footnote, quoted below, explained the one exception to this structure.

The Housing Operations Program Manager classification is in Range 17, but this position was formerly a CG21 Division Head that was moved into the Civil Service in 2010. However, as noted in the memo when the position was created, "Under the new structure, the CDA Executive Director will serve as appointing authority for the CDA Division, including housing operations. However, the CDA Executive Director will have other responsibilities relating to the functioning of the CDA and other projects managed by the CDA not directly related to housing operations." This is different from the Civil Rights Director, whose main responsibility, as outlined in the class specification is "...leading, managing, coordinating, and evaluating the staff, programs, and services of the Department of Civil Rights."

Because it was an exception to the overall proposition, it was appropriate to discuss in a footnote and not in the main text of the memo.

Specific Allegations (Appeal page 9, ##s 1-4)

At page 9 of his appeal, Mr. Bishop lists four (4) allegations (allegation #5 is addressed at pages 9-10 of this memo).

1. I am alleging that the City of Madison HR, has no standardized policy/process/procedures governing the misclassification, reclassification or promotional process other than the completely subjective one being used now.

Response: As discussed above, the City's Personnel Rules contain specific guidelines for performing studies. Input is solicited from the employee and the employee's supervisor. The Personnel Rules list the permissible categories to be considered and those categories that should not be considered. The position is compared with similar positions City-wide to ensure consistency in classification and salary. Other than his disappointment in not receiving a higher classification, Mr. Bishop gives no example of what he feels is subjective about the process.⁷

2. I am alleging that the City of Madison HR, has only one (subjective person), that makes most, if not all, of the decisions for misclassification, reclassification and promotions.

Response: It is not unusual for the City to delegate authority for a program to a Department Head who may then designate an individual to administer the program. The HR Director is charged with administering the City's compensation plan and, appropriately, delegated that authority to the HR Services Manager. However, as outlined above, more than one person is involved in the process. The HR Analyst is involved and writes the initial classification recommendation based on their study. The HR Services Manager is involved as well as the HR Director. Before the study is finalized the employee's supervisor is involved. The study then goes to the Personnel Board, the Finance Committee and the Common Council. The affected employee has appeal rights to have the study reviewed by the Personnel Board. The memo the HR Analyst writes must address the reasons why the position/classification is being reviewed, the reasons for the ultimate recommendation, and comparable classifications that were considered, and provide these explanations and justifications for the recommendation to the Personnel Board. There is no one person who makes all decisions.

3. I am alleging that the City of Madison HR, is inconsistent in its decisions of misclassifications, reclassifications and promotions; because of the lack of policy, procedure, practices and established patterns that are historically not consistent, as well as, the lack of having consistent procedures causes rules and practices to be

⁷ It should be noted that there is an entire page on EmployeeNet, accessible by all employees and the public, explaining this process: <http://www.cityofmadison.com/employeenet/policies-procedures/reclassification-process>

applied unevenly. In addition, there are conflicting: Ordinances, Inter-Department Memos and HR Rules where all three do not match – as it related to my position and/or title.

Response: Although it appears Mr. Bishop may have had something in mind when he wrote this, he does not share any specific information regarding what inconsistencies he is referring to in this allegation thereby making a response impossible. His allegation that there are conflicting ordinances, if he was referring to §39.01(3) MGO is correct. A mistake was made when the ordinance was revised after the 2006 restructuring of the Department of Civil Rights. The Affirmative Action title was changed from Division Head to Division Manager. However, that title correction was not made for the Equal Opportunity Division Manager position resulting in the title of Equal Opportunity Division Head appearing in the ordinance. The mistake has been corrected. We note that the position Mr. Bishop applied for, and currently holds, was titled “Equal Opportunity Division Manager.”

4. I am alleging that the City of Madison HR Service Manager, is using the authority that should be owned by the Personnel Board as a controlled subjective process for misclassification, reclassification and promotions. I am also alleging that the City of Madison HR service Manager has misused this control abusively as a tool to manipulate the Classification/Comp level in comparison to his own level as a means to depress Women and People of Color in the misclassification, reclassification and promotional process.

a. **Note:** For the record, on its face, a Division Head appears to be a higher class/comp than an HR Services Manager. And 18/17 is the level of the HR Services manager who has been making all of the class/comp/misclass/reclass decisions for the city within the last 5-7 years.

Response: Mr. Bishop makes some very disturbing allegations generally and personally against the HR Services Manager. We would have expected Mr. Bishop to support these serious charges with substantially more than just putting incendiary words together. He makes serious allegations with no opportunity for the City, HR, or the HR Services Manager to defend themselves. If his charge is that the HR Services Manager “abusively” manipulated the system to classify a “Division Head” at a lower level we have already settled that issue – Mr. Bishop is not a division head. If Mr. Bishop is contending that the HR Services Manager did not want to see anyone classified at or above his level, that issue has also been addressed in this memo. If Mr. Bishop meant something else, then he should support his charge and give the people involved the opportunity to defend themselves or he should withdraw the charge.

Role of The Common Council

In the Personnel Rules, under the appeal process, it specifically states that the employee may appear before the Personnel Board to discuss an appeal, and, "...the Board may choose to uphold the Human Resource Director's decision or may send the matter back for further study, **with instructions as to what needs to be looked at further.**" [Emphasis added] As noted elsewhere in this memo, the Finance Committee is generally tasked with reviewing the financial implications of a study, and the Common Council can either adopt or deny the recommendations, or refer back to either the Finance Committee or the Personnel Board. While the Personnel Rules do not specify the role of the Common Council, it is advised that if the Council were to refer the matter back that it do so with specific instructions as to what they want the Personnel Board or Finance Committee to do with the item. Otherwise, the Personnel Board or Finance Committee will have the item before them again, without instruction as to what they are to do with it, and will likely make the same recommendations in the absence of clear direction from the Common Council.

DCR Response: Improper Joining Of Pending Position Study And Critique Of The Reclassification Process

Despite critiques of the process voiced by Mr. Bishop during the study of his position, I strongly recommended to him to separate those concerns from the study that was in process. I expressed the fact that an attempt to audit the process mid-study could cloud the work to be done by HR. I assured Mr. Bishop that the City has mechanisms in place to audit and improve its processes, should improvements be necessary. There are at least three (3) ongoing initiatives through which the reclassification process and other HR functions may be evaluated:

1. Chapter 39 of Madison General Ordinances, as a part of the Citywide Affirmative Action Program, instructs DCR and HR to work collaboratively in the areas of Recruitment, Testing, Selection, and Placement, and Education and Training.
2. In October of 2017, DCR and HR jointly hosted an analysis of HR practices and processes, including review by national and regional human resources experts. The outcomes of the analysis identify a number of opportunities for collaborative improvements.
3. The Leadership Team for the Performance Excellence system currently under development by the City is staffed by the DCR Director and HR Director with an objective of ensuring that the City align its overall goals and values.

Mr. Bishop questioning the process in his appeal does not equate to wrongdoing on behalf of HR. Although the position study process is quite open in terms of what arguments employees are allowed to submit for consideration, it was unfair and over-reaching of Mr. Bishop to attribute ill will to any member of the HR team. Regardless of his ambition to secure proper compensation for his work, the accusations and faults he attributes to the HR Services Manager are unwarranted in the position study process and should have been excluded from consideration related to compensation. The DCR Director was not a party to the appeal to the HR Director. However, I believe that Mr. Bishop relied on erroneous and inapplicable information in submitting his appeal that distorted his expectations regarding the process. I understand that the position study process employed by HR is different than the processes employed by the State of Wisconsin and much different than private sector methodologies. Misaligned expectations and an initial dissatisfaction with the outcome seem to drive some of the insults and arguments in the appeal. No clear data has been provided to suggest that this process has a negative impact on women and people of color.

Mr. Bishop has accepted the Comp Group 18/Range 15 classification and apologized to HR for the offenses caused. He understands that he cannot attempt to audit the process and justify a higher compensation for himself in the same effort. He recognizes that the City has mechanisms in place to improve any processes that need improving and that any analyses of those sorts are to be done outside of a specific position study.

Conclusion

Mr. Bishop felt his review packet supported a reclassification to CG 18/21. As discussed, the information in the packet was not relevant to either his position or his salary and cannot be used to support a reclassification to CG 18/21. Mr. Bishop next argues that he should be at CG 18/15 for the misclassification. While it is not clear exactly what he thinks is the misclassification, it appears to be tied to his interpretation of §3.54(9) and §39.01(3) MGO that he is a Division Head. Because he is not a Division Head, there is no misclassification to a CG 18/15. After the misclassification, Mr. Bishop argues he should then be reclassified to an 18/17 – a jump of 4 ranges. The HR memo on the reclassification outlines with specificity why a 4-range jump is not supported and why the position should be reclassified as a CG 18/15.

It is important to remember that the only reason these appeals are being discussed is because HR is recommending that the classifications receive a salary *increase*. The appeal alleges discrimination in the position study process – without any specific factual allegations to support this claim -- yet HR is recommending a 2-range increase for each classification in which both incumbents are persons of color and one of them is female.



Personnel Rules

City of Madison, Wisconsin

Updated January, 2018



Contents

- 1. Introduction..... 1
- 2. Personnel Board..... 1
 - A. Composition..... 1
 - B. Appointment and Term 1
 - C. Duties 2
 - D. Appeals 2
 - E. Quorum 2
- 3. Appointment to Positions in City Government..... 2
 - A. Budgetary Requirements..... 2
 - 1. Double-Fill..... 2
 - 2. Under-Fill or Lateral-Fill 2
 - 3. Over-Fill..... 3
 - B. Types of Positions..... 3
 - 1. Permanent Position 3
 - 2. Limited Term Position (LTE) 3
 - 3. Hourly Position 3
 - 4. Seasonal Position 4
 - 5. Stagehand Position..... 4
 - C. Types of Appointments..... 4
 - 1. Civil Service or Permanent Appointment 4
 - 2. Non-Civil Service Appointment 4
 - 3. Limited Term Appointment 4
 - 4. Emergency Appointment 4
 - 5. Provisional Appointment 4
 - 6. Acting Appointment..... 5
 - 7. Hourly/Seasonal Appointment..... 5
 - 8. Stagehand Appointment..... 5
 - 9. Exceptions..... 5
- 4. Classification Policies and Procedures 6
 - A. Policy 6
 - B. Procedures..... 6
 - 1. Initial Classification 6
 - 2. Development and Maintenance of the Classification and Compensation Plans..... 7
 - 3. Position Studies..... 9
 - 4. Trainee Designation 14
- 5. Selection Policies and Procedures 15
 - A. Classification Review 15
 - B. Recruitment..... 16
 - 1. Policy 16
 - 2. Procedures..... 16
 - C. Screening for Minimum Qualifications 18
 - D. Examination 19
 - 1. Types of Examination 19

- 2. Examination Results19
- 3. Security19
- 4. Accommodations19
- 5. Veterans Preference Points19
- 6. Seniority Points.....20
- 7. Contracted Services20
- 8. Grievance Procedure20
- E. Eligible Lists20
- F. Insufficient Number of Qualified Applicants21
- G. Referral21
 - 1. Original Referral21
 - 2. Referral of Additional Names21
- H. Interviews.....22
- I. Selection of Candidate22
 - 1. Reference Check22
 - 2. Criminal Background Check.....22
- J. Appointment Procedure22
- K. Applicant’s Right to Contest Exclusion from the Selection Process23
- L. Compensation23
 - 1. Initial Placement23
 - 2. Advancement23
 - 3. Hourly/Seasonal Employee Compensation.....23
 - 4. LTE, Emergency, and/or Provisional Appointments24
- M. Disqualification.....24
- 6. Probation and Trial Period24
 - A. Probation Period.....24
 - B. Trial Period25
- 7. Demotion, Transfer, Promotion, Reinstatement, and Placement.....26
 - A. Demotion.....26
 - 1. Voluntary Demotion26
 - 2. Involuntary Demotion27
 - 3. Competitive Demotion.....27
 - 4. Exclusions.....28
 - B. Transfer28
 - 1. Voluntary Transfer28
 - 2. Involuntary Transfer28
 - 3. Competitive Transfer29
 - 4. Exclusions29
 - C. Promotion.....29
 - D. Reinstatement.....30
 - E. Placement.....30
- 8. Layoff and Recall.....31
 - A. Layoff.....31
 - 1. Minimum Qualifications31
 - 2. Time Limits.....31
 - 3. Salary Placement.....32

4. Employees in a Classification Series32

5. Probationary and Temporary Employees.....32

6. Reduction in Pay or Position.....32

B. Recall33

1. Change of Address.....33

2. Acceptance or Rejection33

3. Seniority33

4. Sick Leave.....33

5. Salary Placement.....33

C. Review34

9. Discipline, safety concerns, and appeals.....34

A. Authority34

1. Discipline34

2. Safety Concerns34

B. Appeal.....35

1. Notification35

2. Written Reply.....35

3. Appeal35

4. Selection of an Appeal Examiner36

5. Hearing.....36

6. Personnel Board Action37

7. Personnel Board Decision.....37

C. Appeal Examiner38

1. Examiner List.....38

2. Compensation38

D. Exceptions.....38

10. Resignation38

A. Notice.....38

B. Non-Permanent Employees39

11. Review of the Rules39

12. Glossary of Human Resources Terms.....40

1. INTRODUCTION

These rules are provided as the general guide to the administration of the City of Madison's Civil Service System.

The rules contained herein are developed by the Human Resources Director or designee, in cooperation with employee representatives, reviewed and recommended by the Personnel Board and approved by the Common Council. The provisions of all rules must be consistent with the provisions of the Madison General Ordinances (MGO). The rules pertain to the following matters:

1. The classification of all positions in the Civil Service on the basis of duties and qualifications.
2. The selection, employment, training, probation, promotion, suspension, demotion, layoff, and discharge of all persons in the civil service.
3. The establishment of standards for and the holding of examinations to test the relative capacity and fitness of persons to discharge the duties of the position to which appointments are sought.
4. The nature, use, and duration of eligible lists.
5. Rules for the conduct of disciplinary hearings by an Appeal Examiner and the conduct of appeals by the Personnel Board.

Where there exists a conflict between these Personnel Rules and the terms and conditions of any duly authorized labor contract or the Employee Benefits Handbook for General Municipal Employees, the terms of the labor contract or the Employee Benefits Handbook for General Municipal Employees control.

2. PERSONNEL BOARD

A. Composition

The Personnel Board consists of five (5) members appointed by the Mayor, subject to confirmation by a majority of the members of the Common Council. No person appointed to the Board may hold any office or employment in City government. Members of the Board must be qualified electors of the City of Madison and serve without compensation. The members of the Board are also individuals who understand the need for and have knowledge of the merit system, and include at least one (1) member who is a representative of organized labor, provided that the representative of organized labor is not directly affiliated with any labor organization which has a contract with the City.

B. Appointment and Term

Members of the Board serve three (3)-year terms so that each year, there is a potential vacancy on the Board. Upon expiration of the term, the Mayor may reappoint a Personnel Board member subject to confirmation by a majority of the members of the Common Council. The Board elects a member to serve as Chair of

the Board who is a voting member of the Board in all matters. If the Chair is absent for a meeting, the Board will appoint a member to fill in as Acting Chair for the duration of the meeting. Vacancies are filled by appointment in the original manner for the unexpired term. Each member of the Board serves until a successor is appointed and confirmed.

C. Duties

The Personnel Board is authorized by the Madison General Ordinance to review and recommend rules for administration of the City of Madison Civil Service System.

D. Appeals

The Board hears appeals in any matter authorized pursuant to these Rules in accordance with the appeal procedures set forth herein; provided, however, that there shall be no appeal to the Board in any matter which is grieved or grievable under the Employee Benefits Handbook for General Municipal Employees or a labor agreement with the City.

E. Quorum

In dealing with matters relating to items 1-4 in the Introduction above, a three-person panel of the Board will be considered a quorum for decision-making purposes. However, if the issue concerns an appeal of a disciplinary hearing or changes to these Rules, a full Board must be present to make decisions. A full Board is defined as all sitting members of the Board at a given point in time.

3. APPOINTMENT TO POSITIONS IN CITY GOVERNMENT

A. Budgetary Requirements

Appointments to permanent or limited-term positions generally require the existence of a budgeted, vacant position except under the provisions defined below:

1. Double-Fill

A double-fill occurs when two persons are appointed to one permanent, budgeted position. The Human Resources Director, with the approval of the Mayor, and of the Common Council if the term of appointment is more than thirty (30) days, is authorized to double-fill any position.

2. Under-Fill or Lateral-Fill

An under-fill occurs when a person is appointed to a position in a classification with a salary range maximum lower than the classification authorized in the budget. A lateral-fill occurs when a person is appointed to

difficulties, it may establish temporary exceptions, provided that such exceptions shall be based on the principles of merit. Repeated exceptions will cause the Board to review whether these rules need to be changed to adapt to changed circumstances.

4. CLASSIFICATION POLICIES AND PROCEDURES

The classification process is the method by which positions in City government are studied and, based on that study, assigned to classifications and salary ranges within the City's Classification and Compensation Plans. The classification process generally includes job analysis that leads to initial classification of a position, maintenance of the Classification and Compensation Plans, classification studies/surveys, position studies and trainee designations. The Human Resources Department will be responsible for maintaining the Classification and Compensation Plans in accordance with the policy and procedures outlined below.

A. Policy

1. The City recognizes the importance of a well-maintained Classification Plan and Compensation Plan in attracting the best qualified candidates for employment.
2. The City understands that without a well-defined method for classifying positions and moving positions and/or classifications within the Classification and/or Compensation Plans, retention of talented employees may be negatively impacted.
3. To this end, the City recognizes the importance of accurately describing the essential functions of a position for the following reasons:
 - a. This allows for appropriate classification based on other positions within the same and other classifications that have similar duties or level of responsibility;
 - b. This allows the City to compare its positions with positions of a similar nature internally, with other public sector employers, and/or with employers in other industries to ensure wages are appropriate;
 - c. This allows the City to recruit qualified candidates for employment as the City will continue to remain competitive with its wages;
 - d. Focusing on appropriate and consistent methods for classifying and assigning positions to salary ranges will increase current employee retention as employees will understand that the City strives to remain competitive with other employers.

B. Procedures

1. Initial Classification

Based upon a comprehensive job analysis of duties and responsibilities, as well as required knowledge, skills, abilities, educational requirements, training requirements, necessary experience, and special qualifications,

each position is assigned to a classification. If an appropriate classification does not exist within the Classification Plan, the Human Resources Director or designee will create a new classification, notify the employee/association representatives, where applicable, and submit it for Board recommendation and final approval by the Common Council. The title of a classification shall be the official title for every position allocated to that classification.

2. Development and Maintenance of the Classification and Compensation Plans

The Classification and Compensation Plans shall be developed and maintained by the Human Resources Director or designee with the recommendation of the Board and final approval by the Common Council. Each permanent classification will have a classification specification detailing the general duties and responsibilities performed by the position or positions within the classification, as well as the knowledge, skills, abilities, training requirements, and special qualifications necessary to perform the duties of the position. A classification or group of classifications shall be allocated to an appropriate salary range within the Compensation Plan. Recommendations on revisions to the plan shall be formulated by the Human Resources Director or designee and submitted for Board consideration and Common Council approval.

- a. *Classification Specification Modification:* In instances where a classification specification is not adequately descriptive of the current duties and responsibilities or the knowledge, skills, and abilities or training requirements of a position, the classification specification may be modified by the Human Resources Director or designee without Personnel Board or Common Council approval.
- b. *Classification Study/Survey:* The Human Resources Director or designee may initiate a study or survey of an existing classification or a group of classifications to determine whether said classifications are assigned to the appropriate salary range in the Compensation Plan. The study may include an analysis of positions in the classification(s), comparison of existing levels of essential duties and responsibilities, internal comparison of wages, external wage surveys, or other means necessary to determine appropriate placement within the Compensation Plan.
- c. *Classification Plan Modifications:* Modifications to the current Classification Plan may occur for the following reasons:
 - i. The essential duties and responsibilities of the position or positions within the classification(s) have undergone significant material changes;
 - ii. The existing classification(s) is/are inappropriately compensated;

- iii. An error was made in the original placement of a classification within the Classification Plan;
 - iv. The classification specification no longer accurately identifies the required knowledge, skills, abilities, and/or special qualifications necessary for a position;
 - v. The establishment of career ladders;
 - vi. The inclusion and/or exclusion of positions;
 - vii. To address issues with retention of employees or movement between classifications.
- d. *Salary Adjustments after Modification:* Modifications resulting in a change to the Classification Plan for filled positions may result in the following salary adjustments in the following situations:
- i. *Reassignment of a classification to a higher salary range where duties and responsibilities have undergone significant material changes:* If the incumbent(s) meet(s) the minimum necessary qualifications for the new classification, the incumbent(s) will be reallocated to the new classification and will not be required to serve a trial period. The current incumbent(s) may be placed at the step in the salary schedule closest to the incumbent(s) salary prior to the movement, but not exceeding the maximum of the new salary range, and that, where possible, ensures at least a 5% increase in pay, and a new anniversary date shall be established. The increase will be retroactive to the first pay period following receipt of the study in Human Resources. The incumbent(s) shall move to the next higher step, where applicable, following six (6) months of service, and annually thereafter until the maximum step is reached.
If the incumbent(s) do/does not meet the minimum necessary qualifications for the new classification, the incumbent(s) will have six (6) months in which to obtain the qualifications or the incumbent(s) will be subject to the layoff procedures in the applicable labor contract or as described herein.
 - ii. *Reassignment of a classification to a higher salary range where the duties and responsibilities have not undergone a substantial material change:* Incumbents in the respective positions shall retain the same salary step and anniversary date in the new range. The increase will be retroactive to the first pay period following receipt of the study in Human Resources.
 - iii. *Reassignment of a classification to a lower salary range:* When an incumbent's salary is greater than the maximum of the new salary range, the salary shall be "red circled." When an incumbent's salary is less than or equal to the maximum of the new salary range, the incumbent will be placed at the

step closest to his/her current salary, but without loss of pay, and with no change in anniversary date.

- e. *Personnel Board Action:* Modification resulting in a change to the Classification Plan (e.g.: a change in salary range, classification title change, etc.) shall be recommended by the Human Resources Director or designee to seek approval by the Board and Common Council. Department heads and affected employees will be informed of any action resulting in a change to the Classification Plan, including the reason for such change, prior to the change being presented to the Personnel Board.

3. Position Studies

When there are changes in the duties and responsibilities of an existing position, a job analysis may be conducted to determine if the position is classified appropriately.

- a. *Submitting a Study Request:* A study request may be submitted to the Human Resources Director or designee in one of the following ways:
 - i. The first-line supervisor or above may request that a position be studied for appropriate classification. The minimum required documentation includes:
 - (a) the position description that the employee(s) have been working under, signed and dated by the supervisor and employee(s);
 - (b) an updated position description reflecting the new position duties/responsibilities, signed and dated by the supervisor and employee(s); and
 - (c) Classification Change Worksheet.
 - ii. If the incumbent of a position requests, in writing, that her/his supervisor review the level of the position and the supervisor takes no action within 30 calendar days or denies the request, the incumbent may request that the position be studied for appropriate classification. The minimum required documentation includes:
 - (a) the position description that the employee(s) have been working under, signed and dated by the supervisor and employee(s);
 - (b) an updated position description reflecting the new position duties/responsibilities, signed and dated by the supervisor and employee(s); and
 - (c) Classification Change Worksheet, including the date upon which the employee(s) requested that the supervisor review the level of the position.

- b. If a position has been studied within the previous three (3) years, unless there has been a significant material change in the position's duties and responsibilities, the study request may be denied.
- c. *Human Resources Analysis of the Study Request:* Once a study request is received, the Human Resources Department will conduct a job analysis to determine the position's appropriate classification. Although the outcome of a study request may affect an employee's salary, it is important to remember that the position, and not the employee, is being studied. ***Factors such as the employee's current pay rate, length of service, special training not related to the position, longevity, or performance are not factors that should affect judgments about the classification of the position.*** Similarly, quantity of work performed is not a factor unless the quantity is such that it affects the complexity or responsibility level of the position. Study of a position by the Human Resources Director or designee will include these steps:
 - i. *Determine the actual essential duties and responsibilities currently assigned to the position.* This should be accomplished by first ensuring that the updated position description accurately reflects the position's duties and responsibilities. This will often require a meeting with the supervisor(s) and affected employee(s). If discrepancies exist, the Human Resources Director or designee will resolve these discrepancies prior to accepting the final updated position description.
 - ii. *Determine the appropriate classification.* Positions routinely require performance of duties that are also performed by employees in different classifications in different salary ranges. In order to determine the appropriate classification, the duties and responsibilities of the position under review will be compared to the positions currently included in the same classification and salary range as well as other positions in proposed or related classifications and salary ranges. Considerations include but are not limited to:
 - (a) Technical knowledge;
 - (b) Specialized knowledge;
 - (c) Specialized training related to the position;
 - (d) Supervisory responsibility;
 - (e) Managerial responsibility;
 - (f) Budgetary authority;
 - (g) Programmatic authority;
 - (h) Decisional impact;
 - (i) Policy development;
 - (j) Policy interpretation;
 - (k) Autonomy;
 - (l) Required level of education;

- (m) Required licenses/certifications;
 - (n) Required years of experience;
 - (o) Physical and mental demands of the position;
 - (p) Physical environment in which the position functions, including any hazardous conditions present;
 - (q) Compensation level of the position as compared to the relevant labor market.
- iii. *Determine the nature of the changes that have occurred in the position duties and responsibilities:* Changes in the essential duties and responsibilities of a position may result in reclassification or reallocation to a higher or lower salary range, a change in classification title only, or may result in no change at all. In order for changes to affect the level of the classification, the changes must be significant in relation to the current classification. Once it has been determined that changes have occurred and the changes are significant in relation to the classification, the following questions must be answered:
- (a) *Were the changes logical?* Logical changes are changes that are reasonably related to the previous duties or responsibilities of the position when the position was initially classified. A change that would affect the union representation status of a position will not be considered logical.
 - (b) *Were the changes gradual?* Gradual changes occur over a period of time greater than six months, represent less than one quarter of the duties of a position, and generally have been documented by updated position descriptions. Changes that occur abruptly as a result of reorganization, changes in equipment, or reassignment, and which represent more than one quarter of the essential duties associated with a position are not considered gradual.
- iv. *Determine the appropriate action (reclassification or reallocation):* Once the classification study is complete, the position is placed within the classification and salary range that best reflects the majority of the duties performed by the position. It is then necessary to determine what happens to the incumbent if the position is encumbered. This is done using the determination of whether the changes to a position were logical and/or gradual.
- (a) *Logical and gradual:* If the changes in the duties and responsibilities were both logical and gradual, the position should be reclassified. Whenever a position

- is reclassified, the incumbent is reallocated to the new classification.
- (b) *Logical not gradual*: If the changes in the duties and responsibilities were logical but fail to meet the criteria for gradual, the position should be reclassified. In this situation the incumbent is reallocated to the new classification unless:
 - i. The incumbent has not obtained the specified training, education, and/or experience required by the classification. In this case, the position will not be immediately reclassified. Rather, the incumbent will be given six (6) months to achieve the minimum necessary qualifications for the new classification. If the incumbent does so, the position will be reclassified at that time, and the incumbent will be reallocated to the new classification. If the incumbent fails to achieve the minimum necessary qualifications in six (6) months, absent extenuating circumstances, the position will be reclassified and filled in a competitive process and the incumbent will be subject to the layoff procedures in the applicable labor contract or as described in Chapter 8 of this document.
 - ii. The incumbent has not performed the assigned duties and responsibilities for at least six (6) months. In this case, the study will be postponed until the incumbent has performed the new duties and responsibilities for at least six (6) months in order to ensure that the changes are permanent.
 - iii. The position is posted and filled through a competitive process.
 - (c) *Not logical*: If changes in the position fail to meet the criteria for logical change, a new position is created and the position should be reallocated and posted and filled in a competitive process. The incumbent will have the opportunity to apply for the new position. If the incumbent fails to be selected for the new position, the incumbent will be subject to the layoff procedures in the applicable labor contract or as described herein at the time the new position is filled.
 - d. *Position Study Outcomes*: Position studies may result in a change in classification title, compensation group and/or salary range, or no change at all.

- i. *Approval:* Where the Human Resources Department has determined that reclassification or reallocation is appropriate, or a position's classification title should be changed, the Human Resources Director or designee shall submit a report outlining the reasons why a change is necessary to the Board for approval, and a copy of the report will be sent to the supervisor and employee affected by the change. The Board may approve or deny the recommendation. If the Board approves the recommendation, it will be forwarded to the Common Council for final approval. If the Board denies the recommendation, it may be returned to the Human Resources Department for further study or may be forwarded to the Common Council for a final determination.
- ii. *Denial:* Where the Human Resources Department has determined that reclassification or reallocation is not appropriate, the Human Resources Director or designee shall notify the requesting supervisor and incumbent of the reasons for the denial in writing.
- iii. *Request for Review:* Employees shall have the right to request review of the decision to either reclassify a position or deny it as the result of a study request. When deciding whether to request review of a decision, it is important to note that once the Board has taken action on a request to reclassify a position, an employee may no longer file a request to review the decision. Employees should inform the Human Resources Director of the intent to file a request for review as soon as possible in order to prevent Board action from occurring until after the review has been appropriately considered.
Initially, employees may request, in writing within ten (10) business days from the date of the final report from Human Resources, that the Human Resources Director review the decision. The employee request should include the reason(s) why the employee thinks the determination was made in error. The Human Resources Director will then have ten (10) business days from the date the request was received to respond to the employee in writing. The Human Resources Director shall indicate whether the initial decision is upheld, overturned, or sent back for further study. The Human Resources Director may choose to include a report justifying the decision or may rely on the reasons previously given to the employee.
If the employee is challenging Human Resources denial of a possible reclassification/reallocation, and is not satisfied with the response from the Human Resources Director, the

employee will have the right to appear before the Board. At that time, the Board may choose to uphold the Human Resources Director's decision or may send the matter back for further study, with instructions as to what needs to be looked at further. If the Board upholds the Human Resources Director's decision, the employee has no further right to review.

If the employee is challenging a position reclassification/reallocation, and the employee is not satisfied with the response from the Human Resources Director, the employee may appear before the Board, Board of Estimates, and/or the Common Council as appropriate.

- e. *Salary upon Reallocation:* When the incumbent is reallocated into the position after a reclassification, the following salary adjustments shall apply:
 - i. *Salary upon reallocation to a higher classification:* The current incumbent shall be placed at the step in the salary schedule closest to the incumbent(s) salary prior to the movement, but not exceeding the maximum of the new salary range, and that, where possible, ensures at least a 5% increase in pay. The increase will be retroactive to the first pay period following receipt of the study in Human Resources. A new anniversary date shall be established and the incumbent shall move to the next highest step, where applicable, following six (6) months of service, and annually thereafter until the maximum step is reached.
 - ii. *Salary upon reallocation to a lower classification:* Where the salary of the current incumbent is greater than the maximum of the new range, the salary shall be red circled and no increase shall be authorized until the maximum of the new range exceeds the incumbent's current salary. If the incumbent's current salary is less than or equal to the maximum of the new range, the incumbent will be placed in the step equal to or closest to the incumbent's current salary within the new range without loss of pay. In either case, the incumbent's anniversary date will not be changed.

4. Trainee Designation

- a. *Authorization:* The Human Resources Director may authorize the use of a Trainee designation in the following situations:
 - i. When after a reasonable effort at recruitment the City is unable to recruit candidates with the necessary training and experience for a City position, applicants with less than the required experience and training may be hired as a Trainee.
 - ii. When a sufficient number of current City employees who have the potential to succeed in the position as determined