

TO: Personnel Board
FROM: Tameaka Bryant, Employee and Labor Relations Specialist
DATE: January 5, 2022
SUBJECT: Update to Personnel Rules - Reinstatement and Furlough Policy

The Personnel Rules is the document which outlines the Civil Service procedures for the City of Madison. They cover everything from filling positions, reclassifying positions, movement of existing City employees to different positions either through demotion, transfer, or promotion, layoffs, and discipline of non-represented employees. The authority for the Personnel Rules is found in Chapter 3.53(3) of the MGO.

We are recommending two changes to the Personnel Rules one to Chapter 7 of the Personnel Rules, regarding Reinstatement Language. The second change we are recommending is adding a section to Chapter 8 creating a Furlough Policy. The following changes are not anticipated to have a fiscal impact.

Currently Chapter 7 Section D. states that only non-represented positions are eligible for reinstatement. Through the Meet and Confer process the Employee Associations have agreed to expand the reinstatement language to include general municipal employees and we would like the Personnel Rules to be updated to include this change. The benefit of this change is with the current competitive labor market it will be easier to recruit employees that may have gone elsewhere and wish to come back to the City without a loss of benefits. The agreed upon language we are putting in the Personnel Rules includes:

The former incumbent of a permanent non-represented position, or general municipal employee position may apply for reinstatement to their former position within one (1) year of the date of their resignation from City employment. The position must be a vacancy currently authorized to be filled, and the former incumbent must compete for the vacant position in accordance with the selection process outlined in Chapter 5, as well as passed their initial probationary period. In cases of reinstatement:

1. The employee shall not serve another probation period.
2. All rights and benefits in effect as of the date of their resignation shall be restored, with benefits adjusted to reflect the absence from City employment. Except for any internal seniority that relates to time off requests and shift picks.
3. Salary shall be set at the step in the range the employee had achieved prior to leaving City service. If applicable, the first step increase will occur 12 months after the date of reinstatement.

January 5, 2021, a resolution passed that required creation of a Furlough Policy. Through the Meet and Confer process the City came to agreement with the Labor Coalition on this policy. Given that the Personnel Rules contain layoff policy and processes, furlough language is most appropriately contained in the Personnel Rules. We are proposing adding to Chapter 8 a Section C that would describe the Furlough Policy, and amending the title of Chapter 8 from "Layoff and Recall" to "Layoff, Recall and Furlough." We are also proposing renumbering the Review Section to Section D.

The City worked with the Coalition of Employee Groups on the above mentioned changes throughout 2021 and 2022. The agreed upon language we are putting in the Personnel Rules includes:

Furlough Procedures

City ordinances, resolutions, the Personnel Rules and employee Handbooks establish procedure for layoff. In lieu of layoffs that are consistent with such ordinances, resolutions, Personnel Rules and employee Handbooks, the City may seek to furlough employees.

The employee representatives (association) and the City's Human Resources Director or designee shall meet and confer before any furlough plan is implemented by the City. As a result of meeting and conferring, the Associations and City may agree to propose to the Common Council an agreed furlough plan, but agreement is not required prior to implementation by the Common Council unless an ordinance or resolution requires agreement. Any proposed furlough plan shall comply with the criteria and employee protections listed in the procedures listed below and be consistent with any applicable ordinance(s) or resolution(s) governing the furlough process. Prior to implementation, any proposed furlough plan will be analyzed using one of the City's racial equity and social justice analysis tools and the results must be available to the Council at the time that it considers the proposed furlough plan. Modifications to this process must be approved by the Personnel Board, Finance Committee, and the Committee on Employee Relations after a meet and confer process.

Furlough Plan Criteria

Definition: A furlough is unpaid time away from work, in half-day or one-day increments based on the number of hours in the employee's regular workweek. A furlough differs from a layoff in that a furlough is unpaid time away from work for a defined period of time, after which, employees are entitled to return to their position. The maximum number of furlough days for any employee in any calendar year shall be five (5) days, unless the City and Association agree to a greater number within a single year, which shall not exceed ten (10) days.

Selection of Furlough Days: Citywide furloughs may be implemented on a specific schedule or implemented as citywide shut-down days, where all non-emergency services of the City are closed. Whether to implement citywide shut-down days will be discussed as part of the meet and confer process. Individual employees will be offered the opportunity to choose the schedule for their furlough days to the greatest extent possible. Citywide furlough days do not preclude the ability of employees to preselect furlough days with the agreement of their supervisor as described in the section "Work Schedules and Hours of Work," below.

Impact on Wages: No furloughed City employee will be allowed to use paid leave to avoid the unpaid furlough day. At their option, employees shall be permitted to spread the impact of furlough days across multiple pay periods and still use the time off consecutively.

Impact on Benefit Status: Benefits that may be impacted by furloughs include WRS contributions and service time, sick leave accrual, wage insurance premiums, and deferred compensation contributions based on a percentage of wages. Furlough days will have no impact on vacation accrual dates or employee seniority. Furlough days will have no impact on an employee's date of service with the City.

Work Schedules and Hours of Work: Employee work schedules and hours of work will be altered to reflect the furlough days in either half-day or full-day increments. Employees will receive any

required notice of such schedule change, consistent with any provisions of employee Handbooks relating to scheduling. In no case will employees be given less than thirty (30) calendar days' notice before any furloughs. Supervisors are encouraged to work with employees to schedule furlough days at a mutually agreeable time so that employees may preselect furlough days, except when citywide shut-down day(s) have been agreed through this process, employees shall be furloughed on the shut-down day except emergency or necessary personnel.

Employees shall not perform any work while on furlough, and employee workloads or time period needed to complete work will be adjusted in accordance with the time they are furloughed.

Impact on Leaves and Leave Status: If an employee is on leave that either removes them from the workforce or is of an intermittent nature, furlough days will still be assigned upon return to active status if the employee returns within the calendar year. Exceptions to this may be made on a case-by-case basis by the Human Resources Director, if such employees have absence without pay, which precludes implementation of furlough days (e.g., Disability Layoff).

Recordkeeping and Payroll: Each department will record the assigned furlough days for departmental records. Furlough days will be entered into MUNIS as Furlough AWOP.

General Considerations

FLSA Requirements: Accurate time records will be kept for all employees during any week in which furlough days are assigned. Employees will be directed to perform no work during designated furlough days (or half-days). Exempt employees are directed not to work more than the standard number of hours for their workweek (38.75, 40 hours in a week, etc.) with a furlough day.

Disciplinary Suspensions: No employee will be allowed to use unpaid suspensions as a substitute for assigned furlough days.

On-Call or Stand by status: Employees on either on-call or stand by status who are required to report on a furlough day will be paid in accordance with applicable City ordinances and Handbook provisions. Employees will be paid for actual hours worked. Any hours spent in furlough will count toward the assigned furlough, and the number of hours worked will be reassigned as furlough required hours on an alternate day.

Call-Ins: If an employee is called in to work on an assigned furlough day, they will be paid in accordance with applicable City ordinances and Handbook provisions.

Probationary Period/Trial Period: Probationary and trial periods will not be extended as a result of any furlough days served during the probationary or trial period.

The City worked with the Coalition of Employee Groups on the above mentioned changes, and the necessary resolution has been drafted.