

TO: Personnel Board

FROM: Mike Lipski
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SUBJECT: Updated Personnel Rules

The Personnel Rules is the document which outline 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(4) of the MGO. The existing Personnel Rules underwent a major rewrite in 2009, with updates in 2011 approved by Council as a result of Act 10 and the requirement to add an appeal process for safety concerns to the Rules

There are a few reasons for the current revisions to the Rules. First, with the elimination of collective bargaining agreements for General Municipal Employees, certain items needed to be added to the Rules to preserve the rights of employees. For instance, this update includes seniority points for General Municipal Employees when posting for jobs, which was previously covered under their respective contracts. Also, the updated Rules include a just cause standard for the City when issuing discipline. Second, Madison General Ordinance (MGO) 3.53 creates the Personnel Board and charges the Board with development and administration of the civil service system, encapsulated in the Personnel Rules. However, much of the rest of 3.53 includes information found in the Personnel Rules. Instead of having multiple documents with similar information, the goal is to eliminate much of the duplicity in 3.53 and have the Personnel Rules formally defined as the civil service system, reviewed and adopted by Council at least every 5 years. The Rules would carry the force of an ordinance, similar to how collective-bargaining agreements are adopted by Council as an ordinance. A few items that were in MGO 3.53 but not in the Rules have now been included in the Rules. Third, minor updates to the language in the Rules is needed to be consistent with HR's on-line application system. Finally, other items are being recommended to improve the civil service system. This memo will outline the revisions to the Rules by chapter, with the justification for each change.

Chapter 1: Introduction

Adding that the rules are developed with the cooperation of employee representatives, referring to the representatives of the General Municipal Employees who will no longer be covered by collective bargaining agreements.

Adding the term Layoff to what the Rules cover.

Similar to the labor contracts, if there is a conflict between the Personnel Rules and the Employee Benefits Handbook for General Municipal Employees, the terms of the Handbook will control.

Chapter 2: Personnel Board

Clarifying that if a matter is subject to the new grievance procedure for General Municipal Employees, there is no appeal under these Personnel Rules.

Chapter 3: Appointments to City Government

In A.2., defining the concept of a lateral-fill. Current Rules allow the City to under-fill a position with any position in a lower salary range, or over-fill a position with any position in a higher salary. The concept of a lateral-fill is that the City can fill a budgeted position with another position in the same salary range. Similar to an under-fill, a lateral-fill would not require any Council authorization as it is budget-neutral. This has been done in practice, but should be clarified in the Personnel Rules.

In B.1., adding language from MGO 3.53(19) that permanent full-time employees may not hold another City position without Mayoral approval.

In B.3. and 4., breaking out the definition of an hourly and a seasonal employee to be consistent with provisions of the Affordable Care Act.

In C.2., clarifying that certain Non-Civil Service Appointments not controlled by the City, such as those made by the Police and Fire Commission, may not use the selection process outlined in these Rules.

In C.3. and 5., changes are being proposed to the Limited Term and Provisional Appointments. Currently, a Limited Term Appointment is defined in 2 ways, the first being an appointment during the leave of absence of a permanent employee without using a selection process. However, the definition of Provisional Appointment already incorporates language that it is made without using a selection process. This change would eliminate the first type of Limited Term Appointment and add that a Provisional Appointment can be made during the leave of absence of a permanent employee. The impact is that an appointment during the leave of absence of a permanent employee would require Council review for appointments lasting longer than 6 months. A Limited Term Appointment may still be made to a limited term position using a selection process, and we are recommending a change to clarify that the limited term position should be budgeted.

Chapter 4: Classification Policies and Procedures

In B.1., the HR Department will notify employee representatives when creating new classifications in one of their covered compensation groups.

In B.2., the Rules clarify that all permanent classifications will require a class specification, but not necessarily hourly classifications, as departments have more flexibility regarding filling hourly positions.

In B.2.(d), and B.3.(e)(i), recommending that when a position or classification is moved to a higher salary range through the position study process, the incumbent receives an increase of at least 5%, where possible, not to exceed the maximum of the salary range. This is to provide equity with employees who promote through a competitive process, as defined in Chapter 7.C.

In B.3.(c)(iv), clarifying that if changes to a position are logical but not gradual, a department would have the option of posting the new position and filling it through competition instead of waiting for six months before having the position studied.

In B.4, Trainee Designation, permitting the HR Director to consider a trainee position in order to meet diversity goals.

Chapter 5: Selection Policies and Procedures

Throughout Chapter 5, language is being edited to conform to the City's NEOGOV on-line hiring system. For instance, references to Certification Hiring Requests, certs, certification, etc. are being removed and/or replaced with currently used terms such as eligible lists, referral, referred lists, etc. In addition, language is clarified that notices provided by HR throughout the hiring process will be done via email. Applicant communication with HR is also allowable through email.

In B.1.(a), indicating that the City will balance its interests in promoting from within and attracting the best qualified applicants when deciding how a position will be posted.

In B.1.(c), the Rules define how positions may be posted. Two changes are being made to this section. First, if the City intends to post a non-entry level position that is part of the General Municipal Employee group open competitive, the City will confer with the employee association representative when making this decision. Second, with the elimination of collective bargaining agreements for General Municipal Employees, the option to post a position to a specific compensation group or groups, or any combination of the types of posting, is being added to the Rules.

In B.2.(b), eliminating the requirement that a job announcement indicate the length of probation. This has not been done in practice. The Rules also clarify that Alders will receive notification of job openings via email, consistent with the language in MGO 3.53(11)(a), (b), and (c).

B.2.(g) is a new section regarding posting rights of hourly employees. The first paragraph is being recommended to afford those employees who work for the City as Interns, especially through the City's AASPIRE program, greater ability to obtain permanent employment with the City. Not only should this increase the opportunity for those whom the City invests time and training in to obtain employment with the City, but it should also help the City's diversity goals. The second paragraph confirms language from the existing Local 60 General contract but extends posting rights for hourly and seasonal employees for up to 6 months following the completion of their employment with the City for positions that are otherwise limited to City employees.

B.2.(h) incorporates language from MGO 3.53(7)(b).

C adds a paragraph confirming the City's practice of using random selection in recruitments which attract a large number of applicants.

D.6 is a new paragraph incorporating the practice of using seniority points for General Municipal Employees, which was formerly found in the collective-bargaining agreements.

D.8 is a new paragraph allowing certain parts of the hiring process to be subject to the new grievance process for General Municipal Employees, specifically as it relates to whether a position was posted properly (was it posted on City bulletin boards?) and whether General Municipal Employees had points properly added to their score. Other items relative to this process are not subject to grievance.

G.1 includes new language regarding referral of candidates for interview. Under the old Rules and Ordinance, departments received 4 ranks of candidates for each vacancy, except if a position was determined by the Department of Civil Rights to be in a job family that is underutilized for women or minorities. If the position is underutilized, 8 ranks are referred for the vacancy. We are recommending a change that for initial referral, 6 ranks be referred, and if the position is in a job family that is underutilized, an additional 4 ranks be referred. This will help the City meet diversity goals by allowing a department to see a larger group of candidates per vacancy, regardless of whether the position is in a job family that is formally declared to be underutilized. By adding a larger number of candidates initially, this change still increases the number of ranks in an underutilized situation by 2 to a total of 10 ranks, versus 8 ranks under the current rules.

In G.2, if the HR Director refuses to refer additional names upon request of the Appointing Authority, after the initial candidates are rejected, the HR Director will consult with employee representatives as to the reason, if it is a position that would be filled by a General Municipal Employee.

H clarifies for departments that when a candidate is referred, the candidate has 5 days to contact the department to schedule an interview. There have been cases where a department has asked to conduct interviews in shorter than the 5 day window. The response from HR has always been that it is permissible if the department can contact everyone and the candidates are agreeable. However, it is never permissible to disqualify a candidate who cannot interview in less than the 5 day window. There must be an opportunity for candidates to interview after the 5th day. The new language makes this practice clear.

I.2. has been updated regarding criminal background checks. Because the City has eliminated the question regarding convictions from the application, the language regarding whether the applicant was honest in the process is no longer applicable. In addition, the language clarifies that a conviction that is substantially related will only remove the candidate from consideration for that specific position, and not for overall City employment.

K allows an employee representative to lodge an appeal of a General Municipal Employee who is excluded from a selection process. However, the applicant must submit any additional

information for consideration. It would not be proper to allow the representative to submit this information because the application process requires the applicant to attest to the truth of any such information.

L.3. clarifies that hourly and seasonal employees receive pay increases that apply to the salary schedule as a whole.

M is updated to allow the HR Director to eliminate from consideration in a selection process former City employees who have been terminated or resigned in lieu of termination, pursuant to the provisions of APM 2-20.

Chapter 6: Probation and Trial Period

A. Probation Period language clarifies that employees in CG15, formerly represented by Local 236, cannot have their 12 month probation period extended, consistent with language from the collective-bargaining agreement.

B. Trial Period language is changed because the trail period language is not identified in the job announcement. See 5B.2(b) above. Similar language is also included that employees in CG15 cannot have a trial period extended.

Chapter 7: Demotion, Transfer, Promotion, Reinstatement, and Placement

Minor technical edits.

B.1. Transfer language is updated to permit a Limited Term Employee to laterally transfer into a permanent position in the same classification only with approval of the HR Director and the Appointing Authority. The Limited Term Employee was already selected through a civil service selection process so this does not otherwise circumvent the Rules. See the definition of Limited Term Appointment in Chapter 3. This does allow the Limited Term Employee to move into a permanent position and avoid the threat of the potential end of the limited term assignment.

Chapter 8: Layoff and Recall

Paragraph A includes a new provision allowing the HR Director to allow highly-specialized positions in CG18 and 44 to be exempt from layoff. Highly specialized is defined as follows: “A position that requires specific specialized skills, knowledge, training and education that cannot be readily or easily trained to other city staff within the department without a decrease or compromise in city services.” This is recommended because in certain broad classifications, the least senior employee may be in a particular position that is still needed by the City, and it would not be possible to move other employees into the position to cover the work. For example, within Information Technology, most employees are in the broad Management Information Specialist series. If IT were to lay off an MIS1, IT would identify a particular area where the layoff would occur. However, if the least senior MIS1 was not in that area, this could cause issues. MIS1s at the help desk may not be able to easily slide over to cover for an MIS1 who is a programmer, or vice versa. Similarly, in Engineering, the various Engineers have their specialties such that the

least senior Engineer 1 may be in a position that Engineering cannot afford to lose. This recommended language would allow the HR Director to evaluate department needs to determine which position would be appropriate for layoff.

Chapter 9: Discipline

Language is added in this chapter confirming that the City will adhere to the just cause principles when issuing discipline, and that an arbitrator will evaluate discipline according to the standards of just cause. This language was contained in the collective bargaining agreements for General Municipal Employees and is now being incorporated here because discipline of General Municipal Employees will now fall under the Personnel Rules in the absence of collective bargaining agreements. Language is also added that if a General Municipal Employee is being disciplined, the employee representative may file any appeal and may represent the employee throughout this process.

Under B.1. Notification, the word “permanent” is eliminated, indicating that all employees who are off probation should receive written notice of any discipline. In addition, if a disciplined employee is a General Municipal Employee, the employee is responsible for making sure any representative is given copies of the discipline. HR is not in a position to know any longer who are members of any association that are entitled to representation. However, HR will notify employee representatives of any notice of a pre-determination hearing so the representatives can determine whether they should reach out to the employee for the purpose of representation.

Chapter 10: Resignation

No changes.

Chapter 11: Review of the Rules

No changes.

Chapter 12: Glossary of Human Resources Terms

Updated definitions consistent with the changes outlined above.