



Legislation Text

File #: 13504, Version: 1

**Fiscal Note**

No fiscal impact is anticipated from this ordinance change.

**Title**

Amending Section 3.53(16)(b) of the Madison General Ordinances by clarifying various deadlines for actions concerning appeals of personnel actions for non-represented employees.

**Body**

DRAFTER'S ANALYSIS: This amendment is designed to clarify various deadlines for actions concerning appeals of personnel actions for non-represented employees. \*\*\*\*\*

The Common Council of the City of Madison do hereby ordain as follows:

Subdivision (b) entitled "Appeals" of Subsection (16) entitled "Removals, Suspensions, Discharges, Reductions, Dismissals, Layoffs, Resignations and Procedure for Appeal" of Section 3.53 entitled "Civil Service System" of the Madison General Ordinances is amended to read as follows:

"(b) Appeals.

1. Any permanent employee who has completed his or her probationary period shall receive a written statement of the reason for any such action taken against him or her, a copy of which shall be supplied by the disciplining or discharging person to the Human Resources Director, not later than three (3) calendar days after the effective date of such action. The employee shall have ten (10) calendar days from the date of the presentation of such statement to file a written reply thereto with the Human Resources Director as an answer or protest to the taking of such action. Any employee against whom such action has been taken and who has filed a written answer or protest, may, within three (3) calendar days after filing such answer or protest, file a written notice with the Human Resources Director requesting a review of such action. The Human Resources Director shall, without delay, file a copy of said reasons, the answer or protest of the employee and the notice requesting review, together with such other information as may be provided for in the rules and regulations, with the Personnel Board, for its information.
2. Within ten (10) calendar days of the receipt of the notice, the Human Resources Director shall schedule a conference for the selection of an Appeal Examiner by the parties. At this and all subsequent proceedings, the affected employee may be represented by counsel and the appointing authority, division or department head, shall be represented by the City Attorney or his assistant. An Appeal Examiner may be agreed upon by the parties. If no agreement is reached, the Human Resources Director shall, by lot, select five (5) names from the Appeal Examiner panel. The parties shall alternately eliminate names until the Appeal Examiner is selected. The flip of a coin shall determine which party is to eliminate the first name. The Human Resources Director shall immediately contact the selected person to ascertain the person's availability and willingness to undertake the hearing and shall notify the parties of acceptance. In the event of non-acceptance, the selection process will be repeated until an Appeal Examiner is selected.
3. The Human Resources Director shall transmit all documents to the Appeal Examiner within five (5) calendar days of acceptance of the hearing. As soon as is practicable thereafter, the Appeal Examiner shall schedule dates and proceed with the hearing. All hearings shall be held in a public building. The Appeal Examiner shall have the authority to administer oaths and to issue subpoenas at the request of the parties and shall be responsible for the fair and orderly conduct of the hearing and the preservation of the record. All testimony shall be taken under oath and

shall be recorded stenographically or by a recording machine under the supervision and control of the Appeal Examiner. The City shall have the burden of proof to substantiate and justify the action taken against the employee by the preponderance of the evidence. The Appeal Examiner shall submit his or her determination affirming or reversing the action with the reasons therefore in writing to the Human Resources Director within thirty (30) calendar days of the close of the hearing or the submission of the parties' briefs, if any, whichever is later, and the Human Resources Director shall immediately mail in the normal course of business a copy of the determination and reasons therefore to the last known address of each of the parties.

4. Within fourteen (14) calendar days of such mailing, either party may file with the Human Resources Director a written notice of appeal of the Appeal Examiner's determination to the Personnel Board. Any such appeal shall be on the written record, the preparation of which shall be the responsibility of the party seeking the appeal. The appealing party shall supply a copy of the written record to the other party without charge. The written record shall be filed with the Human Resources Director within twenty (20) calendar days of the notice of appeal unless such time is extended by the Personnel Board. The Personnel Board shall receive no further evidence on the matter but may request additional briefs of the parties.

5. Within sixty (60) calendar days of the receipt of the written record, the Personnel Board shall make and file its Decision and its reasons therefore with the Human Resources Director who within five (5) calendar days thereafter shall mail in the normal course of business a copy of the decision and reasons therefore to the last known address of each of the parties. The Appeal Examiner's determination shall be affirmed if it is supported by the credible evidence in the record. If the determination is found not to be so supported by a majority of the Board, the Board may reverse the determination or modify it to serve the best interest of the City service. Either party may within thirty (30) calendar days of the mailing of the Board's decision commence judicial action to review the decision of the Board, after which time the decision shall become final."