

**TITLE 4  
PERSONNEL**

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**CHAPTER 18  
CIVIL SERVICE ORDINANCE**

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*[18.36 - 18.99 reserved.]*

[**HISTORY:** Throughout chapter 18, “personnel manager” was changed to “employee relations manager”, “personnel division” was changed to “employee relations division” and “personnel committee” was changed to “committee”, OA 6, 2000-01, pub. 09/18/00; “employee ]

**18.01 TITLE.** This ordinance shall be known as the civil service ordinance and may be cited as such.

**18.02 AUTHORITY.** This ordinance is enacted under the authority granted by sections 59.03 and 59.52(8)(a), Wis. Stats., and acts amendatory thereto.

[**History:** am., OA 23, 1998-99, pub. 01/19 /99.]

**18.03 POLICY AND PURPOSE.** It is the policy and purpose of this ordinance to promote the recruitment and retention of a highly skilled and responsive workforce that delivers high quality services to Dane County residents, to promote full and open communication between the County and its employees, and to establish conditions of employment for County employees, including uniform provisions in respect to classification of positions and salary ranges, payroll certification, attendance, vacations, sick leave, competitive examinations, hours of work, tours of duty or assignments according to earned seniority, employee grievance procedure, disciplinary actions, layoffs and separations for just cause.

[**History:** am., OA 14, 2013-14, pub. 09/24/13.]

**18.04 DEFINITIONS.** The following words or phrases shall have the definitions indicated when used in this ordinance, except where expressly indicated to the contrary:

**(1) Affirmative action officer** shall mean the Director of the Tamara D. Grigsby Office for Equity and Inclusion or such other employee as the County Executive may designate.

**(2) Alternative selection** shall refer to an exceptional process used to restrict recruitment to persons with disabilities requiring significant employment accommodations as certified by the state division of vocational rehabilitation, socially or economically disadvantaged individuals eligible for specially funded programs.

**(3)** *Appointing authority* shall mean any county board, commission, committee, institution, agency, elected official, or department head that has been granted authority to hire employees in the county civil service.

**(4)** *Apprentice* means an employee who voluntarily seeks and accepts a position for which he or she must undergo specialized training in order to become fully qualified.

**(5)** *Apprenticeship period* means the interval from an employee's acceptance into the apprenticeship training program to the date of completion of training but in any event not longer than one year from the date of acceptance.

**(6)** *Apprenticeship training program* means the program created by s. 18.13.

**(7)** *Board* shall mean the Dane County Board of Supervisors.

**(8)** *Bone Marrow* has the meaning as set forth in Wis. Stat. Sec. 146.34(1)(a).

**(9)** *Classification* or *class* shall mean a grouping of all positions that are comparable in terms of duties, responsibilities and level of authority that carry the same official generic title, salary range and specifications.

**(10)** *Committee* shall mean the Personnel & Finance Committee exercising authority under section 7.14 of the County Board rules, unless the context clearly requires otherwise.

**(11)** *Demotion* shall mean the permanent movement of an employee from a position in a salary range to a position in a lower salary range, except where such movement occurs as a result of the reclassification or reallocation of the employee's position.

**(12)** *Department head*, for purposes of sections 18.05(1)(g) and 18.05(4) of this ordinance, shall mean a person appointed to a position identified as department head by the County Executive with County Board approval.

**(13)** *Discharge* shall mean the permanent termination of an employee from county civil service for just cause.

**(14)** *Division* shall mean the Employee Relations Division of the Dane County Department of Administration.

**(15)** *Domestic Partner definitions.*

**(a)** *Domestic Partner* shall mean two adults provided the adults sign and file an affidavit registering them as an alternative family and file same in the office of the Division indicating that:

1. They are in a relationship of mutual support, caring, and commitment; and
2. They are not married (unless they are married to each other) or legally separated and, if either party has been a party to an action or

proceedings for divorce or annulment, at least six (6) months have elapsed since the effective date of termination of that marriage; and

**3.** Neither Domestic Partner is currently registered with a different Domestic Partner and, if either partner has previously been registered as a Domestic Partner in an alternative family, at least six (6) months have elapsed since the effective date of termination of that registration; and

**4.** Both are eighteen (18) years of age or older; and

**5.** Both are competent to contract; and

**6.** They are occupying the same dwelling unit as a single, nonprofit housekeeping unit, whose relationship is of permanent and distinct domestic character and they share common cooking facilities; and

**7.** They are not in a relationship that is merely temporary, social, political, commercial, or economic in nature; and

**8.** Both agree to notify the Division of any change in the status of their alternative family relationship.

**(b)** *Dependents of Domestic Partners* shall mean one who lives with a registered alternative family and is:

**1.** A biological child of the Domestic Partner; or

**2.** A dependent as defined under IRS regulations; or

**3.** A ward of a Domestic Partner as determined in a guardianship proceeding; or

**4.** A person adopted by a Domestic Partner.

**(c)** *Mutual support* shall mean that the Domestic Partners contribute mutually to the maintenance and support of the alternative family throughout its existence.

**(16)** *Employee* shall mean any person holding a regular position identified as such in the county budget who performs service directly for the county at its direction and under its control. *Employee* does not include elected officials, limited term employees or persons who are performing services under contract to the County or a county agency. The fact that the funds out of which a person is paid may be subject to reimbursement out of federal or state programs shall not preclude such person from being an employee of the county for purposes of this ordinance.

**(17)** *Employee groups.* Employee group is defined as a group consisting of represented or non-represented employees identified in wage schedules adopted by the County Board as part of the Employee Benefit Handbook.

**(18) Employee group's representative.** Employee group's representative is defined as an organization or individual that represents a majority of employees within an employee group.

**(19) Handbook.** Handbook is defined as the Employee Benefit Handbook described in this chapter.

**(20) Human organ** has the meaning given for "vascularized organ" as set forth in Wis. Stat. Sec. 157.06(2)(zm).

**(21) Immediate family.** An employee's immediate family shall be the following relations of the employee, his/her spouse or his/her Domestic Partner: spouse, children, step-children, foster children, siblings, step-siblings, parents, step-parents, foster parents, grandchildren, grandparents, brother-in-law, sister-in-law, son-in-law and daughter-in-law. Also included are other relatives of the employee, spouse or Domestic Partner residing in the employee's household. Domestic Partner shall be defined as provided in chapter 18 of this ordinance.

**(22) Independent consultant.** Independent consultant shall be defined as a contracted standing advisor to the County, its employees and its interested stakeholders.

**(23) Interested Stakeholders.** Interested Stakeholders shall be defined as employees covered by the Employee Benefit Handbook, employee groups and their representatives engaged with the County in discussions regarding adoption, amendment or termination of provisions contained in this chapter, or the Employee Benefit Handbook.

**(24) Just cause** shall include, but not be limited to, insubordination, inefficiency, excessive unauthorized absences or tardiness, and violation of departmental rules or other validly established rules, statutes or ordinances, including this ordinance.

**(25) Lay off** shall mean the termination of an employee, either permanently or temporarily, for reasons of economy or efficiency.

**(26) Leave of absence** shall mean any approved absence from work as set forth in the Employee Benefit Handbook.

**(27) Limited term employee** shall mean a temporary employee, but shall not include a provisional appointee. A limited term employee is one who is hired by the County for a temporary period, for a season or for a limited period of time and through the Civil Service procedure to perform employee group work.

**(28) Longevity** shall mean the total length of continuous service by an employee as computed

for the purpose of determining employee fringe benefits and longevity pay. One-half longevity credit shall be earned for each biweekly payroll period in which a full-time employee works 40 or more hours. Regular part-time employees shall earn longevity credits on a pro rata basis. An employee who has been on a duly approved leave of absence shall retain all longevity earned before and after such leave but shall not earn longevity during the leave of absence. Longevity shall be earned during a military leave of absence in accordance with federal and state law.

**(29) Notice** shall mean written communication provided by mail or electronically to the Department of Administration.

**(30) Open recruitment** shall mean recruitment from both within and without Dane County service (employees and non-employees).

**(31) Person with a disability** means a person who:

**(a)** Has a physical or mental impairment that substantially limits one or more of the major life activities of the person; or

**(b)** Has a record of such an impairment; or

**(c)** Is regarded as having such an impairment.

**(32) Probation** shall mean the period immediately following an employee's appointment during which the employee's performance is to be closely scrutinized by the appointing authority to determine if the employee is suitable for permanent retention in the position into which he or she has been appointed.

**(33) Promotion** shall mean the permanent movement of an employee from a position in a salary range to a position in a higher salary range.

**(34) Promotional recruitment** shall mean recruitment from employees within Dane County service.

**(35) Provisional appointment** shall mean the appointment of a person to a position which is currently held by an employee who is on leave of absence of more than 60 days duration or who is away from work, due to illness or injury, for at least 30 days, and it can be reasonably expected that such employee will not return to work for an additional 30 days.

**(36) Reallocation** shall mean a change in salary range allocation for a position or classification based on reasons of internal and/or external equity.

**(37) Reclassification** shall mean a change in classification to which a position is assigned as a result of evaluation of the duties and responsibilities assigned to that position.

**(38)** *Salary range* shall mean the level within a classification salary plan to which a classification is allocated.

**(39)** *Salary schedule* shall mean the list of salary ranges for certain classifications in the classified service.

**(40)** *Salary step* shall mean the employee's position of advancement under the merit system within the salary range established for his or her position.

**(41)** *Seniority* shall mean the total length of continuous service by an employee as computed for the purpose of determining rights between two or more employees. One day of seniority shall be earned for each compensated day of full-time employment. Regular part-time employees shall earn seniority on a *pro rata* basis. An employee who has been on a duly approved leave of absence shall retain all seniority earned before and after such leave of absence but shall not earn seniority during such leave of absence. Seniority shall be earned during a military leave of absence in accordance with federal and state law. In the event that two or more employees have the same seniority, seniority of one against the other shall be determined by the employees drawing a lot or chance drawn at random.

**(42)** *Sexual harassment* shall mean sexual advances, physical contact or verbal or physical conduct of a sexual nature which has the purpose or effect of substantially interfering with an employee's work performance or of creating an intimidating, coercive, hostile or offensive environment. Conduct which shall be deemed sexual harassment shall include, but not be limited to, the repeated use or display of sexually explicit gestures, verbal comments, written matter or graphic materials in the work setting in the presence of another person or persons in circumstances in which such conduct is known or should be known to be offensive or unwelcome.

**(43)** *Sick leave* shall be defined as time off the job with pay because of illness, bodily injury, exposure to a contagious disease, attendance upon members of the immediate family, and shall include diagnostic treatment, dental procedures and opticians services when such services are performed by duly licensed practitioners.

**(44)** *Suspension* shall mean a temporary absence from work, without pay, at the direction of the appointing authority for just cause.

**(45)** *Transfer* shall mean the permanent movement of an employee from one job

classification to another in the same or another department or into another department in the same job classification, but all in the same salary range.

**(46)** *Unauthorized absence* shall mean any absence from work except sick leave, vacation, bereavement leave, holidays, temporary total disability under the worker's compensation act, and approved leaves of absence.

**(47)** *Veteran's preference* shall mean the additional points added to the test score of applicants for positions in the county service who meet the definition of veteran as set forth in s. 230.03(14), Wis. Stats.

**[History:** (8) am., Sub. 3 to OA 2, 1986-87, pub. 11/26/86; (5m) am., Sub. 1 to OA 8, 1989-90, pub. 07/18/89; (31) am., Sub. 4 to OA 15, 1991-92, pub. 02/03/92, eff. 03/04/92; (14m) cr., OA 14, 1993-94, pub. 11/05/93; (4) am., OA 4, 1995-96, pub. 06/06/95; (11) am., OA 43, 1994-95, pub. 06/30/95; (24m) cr., OA 27, 1996-97, pub. 10/29/96; (5m) am., OA 9, 1997-98, pub. 09/19/97; (31) am., OA 20, 1997-98, pub. 01/02/98, eff. 02/02/98; (1m), (1n) and (1p) cr., OA 23, 1998-99, pub. 01/19/99; (1a) cr., OA 17, 1999-2000, pub. 12/14/99; (24m) rep., Sub. 1 to OA 26, 2002-03, pub. 12/17/02; (1) and (4) am., OA 33, 2002-03, pub. 04/23/03; (7m) cr., OA 2, 2006-07, pub. 06/15/06; (17) am., OA 8, 2006-07, pub. 08/31/06; (2m) and (8m) cr., OA 54, 2009-10, pub. 03/30/10; 18.04 am. and renumbered, OA 14, 2013-14, pub. 09/24/13; (1) am., 2019 OA-7, pub. 09/24/19.]

## **18.05 EMPLOYEES COVERED BY THIS ORDINANCE.**

**(1)** All employees shall be selected and hold their positions under the terms specified in this ordinance, except the following:

**(a)** Three assistants and one Chief of Staff to the County Executive, who, regardless of working title, shall be the only staff authorized for the County Executive by the County Board under s. 59.031(3), Wis. Stats., and whose compensation shall be set in the annual budget, and who shall receive such county benefits as are provided by the County Executive;

**(b)** Faculty positions in the county agent's budget;

**(c)** Limited term employees;

**(d)** Those serving provisional appointments;

**(e)** Employees appointed pursuant to state and federally funded pilot or temporary programs, and employees serving in positions identified as project positions;

**(f)** A legislative lobbyist, who shall be appointed for a term not to exceed 3 years and whose conditions of appointment shall be as set forth in an employment contract;

**(g)** All persons appointed on or after the effective date of this amendment to positions identified under 18.04(12) as department heads, provided that sec. 18.05(4) shall apply to such appointments;

**(h)** Managerial-professional interns and staff attorneys, provided that the employment of any person in any such position shall not continue beyond 24 months from the date of first employment and provided further that such persons shall be employed at a rate of pay not to exceed the rate set forth in sec. 18.16(1); and

**(i)** All persons appointed to any position in the apprenticeship training program, provided that the merit selection procedures shall apply to such appointments and provided further that the exemption afforded by this paragraph shall apply only during the apprenticeship period.

**(j)** An Executive Deputy Airport Director, who shall be appointed for a term not to exceed five (5) years, and whose conditions of employment shall be set forth in a written employment contract.

**(2)** Notwithstanding the fact that the exceptions listed in sub. (1) above are excluded from tenure and selection standards and procedures stated in this ordinance, these positions will nevertheless be subject to the following sections of this ordinance: 18.06; 18.08(2)(f); 18.16, 18.18, 18.20, 18.21, 18.22, 18.29(5)(b)-(d) and 18.29(7).

**(a)** Notwithstanding their inclusion under sub. (1) hereof, the positions identified in paragraph (d) of sub. (1) shall be filled only on a merit selection basis.

**(3)** In addition to the provisions of this chapter referenced in sub. (2), the Board may direct that other provisions of this chapter may apply to any or all of the positions or classes of positions listed in sub. (1), provided that no such additional provision shall be construed to apply to any position or class of positions except by express statement adopted by the County Board which:

**(a)** sets forth the additional provisions; and  
**(b)** directly identifies the position or positions to which it applies.

**(4)** All appointments to positions identified as department heads shall be made pursuant to s. 59.17(2)(br) or s. 59.42, Wis. Stats. An appointment to a position identified as a department head shall require the confirmation of the board. It is the policy of the County Board that the recruitment announcement and affirmative action provisions of sections 18.09(1)(a) and 18.09(2) shall be taken into account by the members of the board when considering appointments, along with any other criteria that the members of the board may deem relevant. All terms and conditions of employment shall be set forth in a written employment agreement.

**(5)** Appointment to the position of Deputy Director of Administration shall be made pursuant to the merit selection procedures set forth in this ordinance. All terms and conditions of employment for each such position shall be set forth in a written employment contract. No such appointment shall be for a term in excess of five (5) years.

**(6)** The positions of Alliant Energy Center Assistant Center Manager – Sales and Marketing; Alliant Energy Center Assistant Center Manager – Event Services and Operations; Alliant Energy Center Assistant Center Manager – Business and Governmental Affairs; and Alliant Energy Center Senior Sales Manager, may become contract positions upon approval of the Alliant Energy Center Advisory Commission, the Public Works and Transportation Committee, and the Department of Administration. Appointment to these positions, shall be pursuant to the merit selection procedures set forth in this ordinance. All terms and conditions of employment for each position accepted as a contract position shall be set forth in a written employment contract. No such appointment shall be for a term in excess of five (5) years.

**(7)** A Juvenile Court Administrator shall be appointed by and serve at the pleasure of the Chief Juvenile Court Judge. All terms and conditions of employment for this position shall be set forth in a written employment contract. No such appointment shall be for a term in excess of five (5) years.

**(8)** Notwithstanding any language to the contrary in this ordinance or in any employment contract, any removal of the Public Safety Communications Manager during the term of his or her appointment shall be subject to the approval of the County Board of Supervisors.

**(9)** Notwithstanding inclusion of the Controller's position within another department, the Controller's appointment and removal shall be by the County Executive with the concurrence of the County Board.

**[History:** (1)(a) am., OA 10, 1986-87, adopted 08/07/86; (4) and (4)(a) cr., Sub. 4 to OA 11, 1986-87, pub. 12/27/86; (1)(g) am., OA 40, 1986-87, pub. 04/27/87; (1)(h) rep., OA 26, 1987-88, pub. 11/30/87; (5) renum. and (6) cr., OA 30, 1987-88, pub. 12/15/87; (1)(b) am., (1)(i) rep., and (1)(i) renum., by motion, pub. 02/13/89; (1)(k) and (n), and (4m) cr., Sub. 1 to OA 8, 1989-90, pub. 07/18/89; (1)(h) cr., OA 14, 1991-92, pub. 12/06/91; (1)(a) rep. and (2)(a) cr., Sub. 1 to OA 24, 1991-92, pub. 04/22/92; (1)(j) cr., OA 7, 1992-93, pub. 07/29/92; (1)(b), (2) and (3) am., OA 45, 1993-94, pub. 04/25/94; (1)(n) and (4m) am., OA 27, 1996-97, pub. 10/29/96; (1)(m) cr. and (4m)(a) am., OA 9, 1997-98, pub. 09/19/97; (1)(p) cr., OA 23, 1998-99, pub. 01/19/99; (1)(q) cr., OA 27, 1998-99, pub. 03/30/99; (1)(n) rep. and (4m) am.,

Sub. 1 to OA 26, 2002-03, pub. 12/17/02 (see non-code provision of that sub. for details on contract positions changed to managerial/professional positions.); (2) am., Sub. 1 to OA 36, 2002-03, pub. 06/20/03; (4m)(b) cr., Sub. 1 to OA 37, 2006-07, pub. 06/01/07; (1)(c) and (2)(a) am., OA 31, 2007-08, pub. 11/12/07; (4m)(r) cr., OA 50, 2007-08, pub. 04/10/08; (4m)(a) am., OA 53, 2009-10, pub. 03/19/10; (1)(q) repealed, OA 24, 2010-11, pub. 12/02/10; 18.05 am. and renumbered, OA 14, 2013-14, pub. 09/24/13; (4) am., 2018 OA-11, pub. 10/2/18; (1)(j) cr., 2018 OA-31, pub. 2/28/19; (1)(a) and (h) am., 2019 OA-9, pub. 08/23/19.]

#### **18.06 EMPLOYEES RIGHT TO SELF-ORGANIZATION.**

**(1)** Subject to state law, and pursuant to Wis. Stats. 111.70, all employees shall have the right of self-organization and the right to form, join or assist labor organizations to bargain collectively, through representatives of their own choosing and to engage in lawful, concerted activities for the purpose of collective bargaining or other mutual aid or protection, and such employees shall have the right to refrain from any and all such activities.

**(2)** To the extent that the collective bargaining process results in an agreement, the terms of which vary in whole or in part with the provisions of this ordinance, or the Employee Benefit Handbook, the wages and other subjects as allowed by law and specified in the collective bargaining agreement shall govern.

**(3)** All employees, within an employee group, shall also have the right, without interference, restraint, coercion or domination, of self organization and to form, join or assist in the creation and maintenance of one employee group's representative, that is not a labor organization and that does not collectively bargain, for the purpose of engaging, as interested stakeholders(s) and subject to the applicable provisions of this ordinance and the Employee Benefit Handbook, the County regarding the adoption, amendment or termination of the provisions contained in this chapter, or the Employee Benefit Handbook as it related to themselves or their employee group.

**(4)** All employees, within an employee group, shall also have the right to refrain from any and all such activities including the expectation of any aid, assistance or representation that an employee group's representative provides to its members.

**(5)** An employee group's representative shall annually, on or before the first day of May, provide card-signer evidence of majority representation status.

**(6)** An employee group's representative may grieve the location of a position or positions in an employee group.

**(7)** To the extent that the Employee Benefit Handbook contains provisions that are in conflict with the provisions of this ordinance, the provisions of this ordinance shall govern.

[History: 18.06 am., OA 14, 2013-14, pub. 09/24/13; (7) am., 2019 OA-9, pub. 08/23/19.]

#### **18.07 EMPLOYEE RELATIONS DIVISION.**

The Employee Relations Division of the Department of Administration shall be responsible for the administration of this ordinance.

[History: am., OA 14, 2013-14, pub. 09/24/13.]

#### **18.08 PERSONNEL AND FINANCE COMMITTEE.**

**(1) Composition.** The Committee shall be a standing committee of the Board as specified in chapter 7, county ordinances.

**(2) Powers and duties.** In addition to those powers and duties otherwise specified in this chapter or by board rules or resolutions, the Committee shall have the following powers or duties:

**(a)** Policy oversight of this ordinance, subject to County Board approval.

**(b)** To adopt rules and regulations for the administration of the civil service system, subject to the approval of the Board. All such rules and regulations when adopted and approved shall be incorporated within this civil service ordinance.

**(c)** To grant department heads the authority to employ persons above the minimum of the salary range when it is deemed advisable to do so, provided adequate funds are available in the department budget to cover the cost. Approvals are to be granted by the Committee on a case-by-case basis and shall be recorded in the minutes of the Committee.

**(d)** To act as bargaining agent with all labor organizations representing county employees and to appoint a bargaining team for the purpose of conducting negotiations.

**(e)** To prepare a proposed salary schedule for each bargaining unit and unrepresented employees and to submit the same to the board for approval.

**(f)** To make investigations regarding personnel matters upon its own initiative or upon the request of any employee, any officer of the county or any citizen.

[History: am., OA 14, 2013-14, pub. 09/24/13.]

**18.09 RECRUITMENT, EXAMINATION, CERTIFICATION AND JOB OPENING EXAMINATIONS.**

**(1) (a) Recruitment announcements.** Written public announcement shall be made for positions or classifications in the civil service system. Recruitment announcements shall clearly set forth the position or classification, pay range and such other information the Division deems relevant. Recruitment announcements shall be posted in public places selected by the Division; may be advertised in a newspaper of County-wide circulation, and shall be given to the state job service office. Recruitment announcements may be advertised in such professional or trade journals and publications as will attract qualified applicants. The Division shall use open or promotional recruitment on the basis of qualified applicant availability in county service, affirmative action objectives and agency objectives. Employees shall be permitted required time away from their job with pay for the purpose of taking County job opening examinations and interviews.

**(b)** If the County is in the process of merging a county department with a department of any other local governmental unit, and the employees of that governmental unit will become county employees upon completion of the merger, the employees of the other governmental unit may compete for openings to be filled by promotional recruitment within the civil service system on an equal basis as county employees.

**(2) Affirmative action program.** It shall be the policy of the County to make every effort to actively recruit applicants for positions at all levels in county employment from among under-represented groups according to their proportional makeup of the local labor market. In order to achieve this objective, the Division may use public announcement means in addition to those listed in subsection (1) which are reasonably designed to inform members of under-represented groups regarding prospective entrance examinations.

**(3) Application procedure.** An application form provided by the Division shall be completed by all applicants. The application shall require data concerning the applicant's education, training, experience, noncitizenship work visa status, residence and other pertinent information. No questions relating to political affiliation or religious faith shall be asked of any applicant or any other information prohibited by law.

**(4) Conduct and types of examinations.**

**(a) General civil service employees.** The Division shall plan and hold competitive examinations establishing lists of eligibles for the various classifications or positions within the civil service system except for those unskilled or low skilled classifications specified through the application of section 18.09(4)(b) of this ordinance. These examinations may be written, oral, performance or any combination of these methods. The Division shall determine, prior to the conduct of any tests, the kind of tests to be used and the relative weights to be assigned to each part of any examination, and shall be in charge of all aspects of preparing and scoring the examinations. The examinations may include consideration and rating of any or all such qualifications as education, training, experience, physical aptitude and skill, personality, mental fitness and any special aptitudes which are necessary, and all such examination methods shall bear a relationship to the job content of the classifications or positions being filled. When experience or formal academic training is included in the qualifications, equivalent training or experience, or both, may be substituted. The Division may fix the passing grade for any examination, or may designate what percentage of the competitors shall finally be placed on the eligibles list. Such determination shall be made before the examination in light of the number of candidates and the number of persons needed on the eligibles list for any class of positions.

**(5)** Whenever an employee becomes unable to perform his or her job due to physical or emotional disability that employee has the right to contact the ADA Coordinator and request a reasonable accommodation that would allow the employee to perform all the essential functions of his/her job. The reasonable accommodation process is governed by state and federal law and overseen by the Division. examinations and interviews.

**(a)** At the employee's request, a representative may receive any ADA-related notices and attend any meetings with the ADA Coordinator.

**(b)** If the ADA Team determines that there is no effective reasonable accommodation that would allow the employee to perform all the essential functions of his/her current job, then the County shall offer the employee "reassignment" as a reasonable accommodation.

1. The Division is responsible for working with the employee in the reassignment process.

2. "Reassignment" may only be to a current vacant position within the employee's employee group or bargaining unit or to a vacant position in

other employee groups, provided the employee meets all the minimum qualifications of the position and is able to perform all the essential functions of the new position with or without a reasonable accommodation. The vacant position may be a lateral move or a demotion position. "Reassignment" is never to a vacant promotion position.

**3.** Once the employee accepts the offer of reassignment, the employee will lose his/her right to return to his/her former position.

**4.** "Reassignment" does include an eighty four (84) day trial period. If the employee is not successful within the eighty four (84) day trial period, the employee may choose to be placed on leave of absence (if he/she qualifies for a leave) or a layoff (if he/she qualifies for a layoff) or a reassignment to another vacant position.

**(c)** Once the reasonable accommodation of "reassignment" is offered by the ADA Team, the County shall notify the relevant representative of the employee's right to reassignment. If the employee has not requested involvement with a representative as allowed under sub. (a) above, the County will only share the employee's confidential information with a representative as allowed under state and federal law.

**(6)** *Inspection of examination papers.* Examinees may be provided with information concerning the composition of the examination process and any weights given to each part of the examination. Examinees shall not be provided with copies of the exam booklets or scoring keys; identity of examination board members as they relate to their written comments; names and scores of other candidates; and answers to specific test items.

**(7)** *Veterans' preference.* A preference shall be given to those veterans and to those spouses of veterans specified in paragraphs (a) through (f) who gain eligibility on any eligibles list and who do not currently hold a permanent appointment or have mandatory restoration rights to a permanent appointment to any position. A preference means the following:

**(a)** For a veteran, that 10 points shall be added to his or her grade.

**(b)** For a disabled veteran, that 15 points shall be added to his or her grade.

**(c)** For a disabled veteran whose disability is at least 30%, that 20 points shall be added to his or her grade.

**(d)** For the spouse of a disabled veteran whose disability is at least 70%, that 10 points shall be added to his or her grade.

**(e)** For the unremarried spouse of a veteran who was killed in action, that 10 points shall be added to the spouse's grade.

**(f)** For the unremarried spouse of a veteran who died of a service-connected disability, that 10 points shall be added to the spouse's grade.

**(8)** An applicant for employment who is certified for a position after receiving a preference under sub. (7)(d), (e) or (f) and who is appointed to that position may not obtain a preference under sub. (7)(d), (e) or (f) for any other civil service position for which the applicant subsequently applies.

**(9)** The application of veterans' preference points shall not displace candidates who would otherwise be placed on a certification list. A veteran whose examination score with the addition of preference points is higher than the lowest score certified shall have his or her name added to the certification list.

**(10)** *Notification of final results.* All applicants competing in any examination shall be informed promptly whether they have passed or failed the examination and whether they have been placed on the eligibles list. Such notifications shall include the rank and grade of the applicants.

**(11)** *Eligibility lists.* **(a)** Eligibility lists shall be established consisting of the names of all persons who have taken an examination or examinations, ranked in the order of their scores on the examination(s). The Division shall, as soon as possible thereafter, notify applicants of their placement on the eligibles lists. The Division may terminate an existing eligibility list prior to its scheduled expiration by written decision. In establishing the early termination of an eligibility list, the Division shall take into account affirmative action objectives, the number of well-qualified candidates, projected future turnover in the classification, labor market considerations, the County's experience in previous recruitments for the same or similar vacancies, and budgetary constraints, together with such other factors as are labor market and job-related.

**(b)** In the event that a sufficient number of qualified applicants fail to apply (insufficient to provide a full certification as specified in section 18.09(13)(a) below) for an examination or to qualify after the examination, the Division may commence re-recruitment.

**(c)** An existing appropriate eligibility list for a class shall be used to fill all vacancies in the class, except that the Division may authorize new recruitment and examination to fill a specific vacancy when substantial differences in



geographic location, program emphasis or other recognized employment considerations could be expected to attract new applicants who may be better qualified for that vacancy.

**(12) Reemployment lists.** For each class of positions in the competitive civil service system, a list of former employees eligible for reemployment shall be maintained as follows:

**(a) Mandatory reemployment.** Employees shall be placed on the reemployment lists for their classification of employment prior to layoff or for other classifications that they qualify for that are equal to or below the pay range of their classification in the order of seniority. Retention on the reemployment list shall continue for twenty-four (24) months after the effective date of separation from service. Employees on the reemployment list shall be given preference over all new applicants or promotions for all positions for which they are interested, can qualify for and shall be reemployed in the order of their seniority. An appointing authority may reject such employees only by giving written notice of the reasons to the employee and the Division. Any employee so rejected shall have the right of appeal in the same manner as an employee terminated for just cause. Employees reappointed within the twenty-four (24) month period above shall return to County service at the same salary level or as nearly as possible to the dollar amount of their previous salary unless that amount exceeds the maximum or, where appropriate, the minimum of the range to which they are reappointed. Such employees shall also receive full credit for all prior service but shall not receive credit for the time they were separated from county service.

**(b) Permissive reemployment.** Employees who resign their position or are terminated for any other reason other than for just cause, and then seek reinstatement within one year from the effective date of their resignation, may, at their request, be placed on the appropriate reemployment list. Their rank and retention on the reemployment list is to be determined in the same manner as persons laid off, except that all persons laid off would be ahead of all who resigned. Persons reemployed under this provision shall be reemployed at the minimum of the range, shall not receive credit for prior service, and shall serve a probationary period per section 18.14(1) of this chapter. An appointing authority has full discretion in deciding whether or not to reemploy a person under this provision.

**(13) Major Restructuring.** The provisions of this section shall apply only to those managerial employees who have been laid off in the course of a major restructuring of a department or departments, designated as such by the County Board, and who are actively seeking full-time paid employment in their respective professions and who have not obtained or been offered other county employment.

**(a)** During the time an employee remains on the mandatory reemployment list, he or she may be provided, with the consent of the committee and County Executive, county paid health, life and dental insurance equal to the benefits provided active employees.

**(b)** Notwithstanding the expiration of an employee's placement on the mandatory reemployment list, the employee may be afforded, with the consent of the committee and County Executive, an extension, not to exceed an additional year, of county paid health, life and dental insurance equal to the benefits provided active employees.

**(14) Certification lists.** The filling of a vacancy in a position in the civil service system shall be initiated by the appointing authority who shall notify the Division in writing that a vacancy exists. The Division may review the duties of the position in which the vacancy occurs to determine whether the appointing authority has correctly indicated its classification. The Division shall make a certification list for all positions for which a vacancy exists. No person shall be appointed to a position in the civil service unless his or her name has been placed on a certification list for that position.

**(a)** Except as provided in paragraphs (c) and (d) each certification list shall contain the names of the highest qualified candidates for the position. For each open recruitment, the appointing authority shall receive an eight (8) candidate certification list. For each promotional recruitment, the appointing authority shall receive a four (4) candidate certification list. If more than one vacancy with the same job specifications exists in the same department, one additional name shall be certified for each additional vacancy. Persons who qualify for a certification list shall be placed on the list in rank order based upon their composite scores with the name of the highest scoring candidate appearing first provided that names obtained from the mandatory reemployment list shall all be at the first rank.

**(b)** If an eligibility list exists for a vacant position other than for one specified in par. (c) or (d) below, the Division shall certify from the eligibles list the names of the highest ranking persons who are willing to accept appointment. If two or more candidates are tied for the last rank to be certified, then all such additional candidates shall be placed on the certification list.

**(c)** If an eligibility list exists for a vacant entry level deputy sheriff position, the Division shall certify from the eligibility list the names of the twenty highest ranking persons who are willing to accept appointment, unless there are fewer than twenty qualified applicants. If two or more candidates are tied for the twentieth rank, then all such additional candidates may be placed on the certification list.

**(d)** If an eligibility list exists for a vacant entry level food service worker position, a certified nursing assistant position, or a social worker in child protective services, the Division shall certify from that list the names of the twenty highest ranking candidates or all persons on the list if there are fewer than twenty candidates. If two or more candidates are tied for the twentieth rank, then all such additional candidates shall also be placed on the certification list.

**(f)** If no reemployment or eligibility lists exist for a vacant position, the Division shall recruit for applicants for an examination.

**(g)** If there are less than the required number of persons on an eligibility list, the Division may certify those persons or may re-recruit. In the event of such re-recruitment, if examination of those applicants re-recruited cannot be under the same conditions as those originally recruited, certification shall be made both of the original qualified candidates and the candidates recruited subsequently who rank from their examination in accordance with section 18.09(14)(a) above. The Division may, for entry level deputy sheriff vacancies, add to any certification list the names of persons certified on the immediately preceding certification list.

**(h)** When a vacancy or vacancies exist within a job classification for which certification will be made and the job classification is within a federal equal employment opportunity commission (EEOC) job category for which it has been determined that one or more EEOC protected groups are under-represented or below parity in county employment as determined by their availability in the Dane County labor market and no such under-represented person(s) will be certified in accordance with sections

18.09(14)(a) and (b) of this ordinance, certification shall be expanded to include one candidate, if available on the eligibility list, from each of the so under-represented groups. However, certification shall not be expanded to include an under-represented person whose examination score is more than ten (10) points under the last ranking candidate to be certified pursuant to sections 18.09(14)(a) and (b) of this ordinance.

**(i)** In addition to any other certification procedures established in this ordinance, each certification list shall be expanded to include one person with a disability, provided:

**1.** No persons with disabilities are otherwise certified for the position; and

**2.** One or more persons with disabilities have applied for the position and have achieved a test score within ten (10) points of the lowest scoring certified applicant.

**(j)** The expanded certification provision of this ordinance shall not apply to persons who have received veterans' preference points as provided under section 18.09(7) of this ordinance.

**(15) Interviews and evaluation.** The appointing authority shall make every reasonable effort to interview and evaluate all persons certified. The appointing authority shall fill such positions from among those certified. If the appointing authority is unable to contact a certified candidate to arrange an interview, the certified candidate is unavailable for an interview or a certified candidate is removed from the eligibility list pursuant to section 18.09(11)(d), the appointing authority shall receive a replacement for such candidate on the certification list if so requested of the Division. Such replacement certifications shall follow the certification rule specified in section 18.09(14) of this ordinance.

**(16) Nepotism prohibited. (a)** No appointing authority, whether a department head or one authorized to make appointments by a department head, shall hire or promote any relative, domestic partner or roommate to any county position, permanent or temporary. Any appointment made in contravention of this section shall be void.

**(b)** Any employee who is supervised by a relative, domestic partner or roommate shall be transferred to a similar position, in the same pay range, as soon as such alternative opening is available. The Division is authorized to limit application of this provision to those circumstances where the employer's interests outweigh the adverse impact, if any, upon the affected employee. In so doing, the Division shall

examine all the facts pertinent to the matter and make his or her decision based on such facts and the relative interest of the employer and the affected employee. Factors important to the employee's interests include, but are not limited to, the impact of a change of work location, if any; impact of a change in hours of work, if any; and the employee's ability to perform duties of the new position. Factors important to the employer's interests include, but are not limited to, the impact of morale on other employees; favoritism or other unfair treatment; and the appearance of favoritism or unfair treatment. The Division shall file its written decision with the committee. An employee transferred under this section may appeal its application under his or her circumstances to the committee.

(c) As used in paragraphs (a) and (b) of this subsection, *relative* includes any person to whom an appointing authority is related as a parent, spouse, child, grandchild, grandparent, brother, sister, parent-in-law, grandparent-in-law, brother-in-law, sister-in-law, uncle, aunt, niece, nephew, fiancé or fiancée, or domestic partner, and *roommate* means any person with whom the appointing authority is residing or has resided on a continuing basis for 6 months or longer during the 12 month period preceding the date of employment.

**[History:** (7)(b) am., Sub. 4 to OA 15, 1991-92, pub. 02/03/92, eff. 03/04/92; (11) cr., Sub. 1 to OA 8, 1989-90, pub. 07/18/89; (11), (12) & (13) renum. as (12), (13) & (14) respectively and (9)(d) am., Sub. 1 to OA 25, 1986-87, pub. 01/16/87; (9)(a), (12)(b) and (d) am. and (12)(bm) cr., OA 9, 1991-92, pub. 08/30/91; (12)(b) am. and (12)(bn) cr., OA 4, 1993-94, pub. 09/18/93; (12)(f) rep., (12)(g) renum. as (f) and am., and (h) renum. as (g), OA 14, 1993-94, pub. 11/05/93; (4)(b), (9)(a) and (d) and (13) am., OA 37, 1994-95, pub. 04/05/95; (4)(a) and (b) am., and (12)(br) cr., OA 7, 1995-96, pub. 06/13/95; (9)(a), (12)(d) and (12)(e) am., OA 4, 1995-96, pub. 06/06/95; (7) am. and (7m) and (7q) cr., Sub. 1 to OA 9, 1995-96, pub. 10/10/95, eff. 11/01/95; (12)(a), (b) and (d) am., and (12)(bw) and (13)(a) cr., Sub. 1 to OA 24, 1995-96, pub. 11/27/95; (12)(a) and (b) am., (12)(bw) and (13)(a) rep., OA 6, 1997-98, pub. 08/15/97; (7) am., OA 20, 1997-98, pub. 01/02/98, eff. 02/02/98; (9)(a) and (12)(a) and (b) am. and (12)(bp) cr., OA 6, 2000-01, pub. 09/18/00; (1) am., Sub. 1 to OA 14, 2007-08, pub. 08/29/07; am. and renumb., OA 14, 2013-14, pub. 09/24/13; (3), (5), (11)(a), (12)(a), (13), and (14)(a) – (d) am., (5)(a) – (c) cr., (11)(d) and (14)(e) resc., 2019 OA-9, pub. 08/23/19.]

#### 18.10 CRIMINAL HISTORY DISCLOSURE.

(1) Any appointing authority may request disclosure of a conviction record and of pending criminal charges against an applicant for employment.

(2) An appointing authority may request the Sheriff to conduct a criminal background check

on an applicant's conviction record and history of pending charges.

(3) Subsections (1) and (2) shall not be construed to allow discrimination against an applicant on the basis of either arrest record or conviction record, and exceptions are permitted only to the extent expressly authorized by s. 111.335, Wis. Stats., and acts amendatory thereto.

**[History:** cr., OA 10, 1995-96, pub. 08/30/95; 18.092 renumb. as 18.10 and am., OA 14, 2013-14, pub. 09/24/13.]

#### 18.11 SHERIFF DEPARTMENT SOCIALLY AND ECONOMICALLY DISADVANTAGED HIRING PROGRAM.

(1) The County Board finds that the County hiring process for deputy sheriff often has an impact on the hiring of socially and economically disadvantaged individuals, and further, the County Board finds that other alternatives must be exercised to improve job opportunities as deputy sheriff for socially and economically disadvantaged individuals. The county board further finds that there is a need to recruit individuals who are socially and economically disadvantaged for careers in law enforcement with the Dane County Sheriff Department. Fulfilling this need will better integrate the sheriff department with the community by means of a more diverse work force.

(2) As used in this section, the following words have the meanings indicated:

(a) *Summer break* means any regularly scheduled summer interval between semesters of the school the eligible applicant is attending.

(b) *Eligible applicant* means a person who:

1. is socially and economically disadvantaged;
2. has cleared a background check by the sheriff department; and,
3. has been accepted into an accredited two or four year undergraduate program.

(c) *Socially disadvantaged individual* means a person whose disadvantageousness derives from his or her color, national origin, gender, disability, long-term residence in an environment isolated from the mainstream of American society, or other similar cause beyond the individual's control.

(d) *Economically disadvantaged individual* means a socially disadvantaged individual, as defined in sub. (c) above, whose ability to compete for employment has been impaired due to diminished past and present economic and employment opportunities.

(3) The Sheriff is authorized to hire as limited term employees eligible applicants during the summer break. As limited term employees, such persons shall not perform law enforcement work within the meaning of the existing labor agreement between Dane County and the Dane County Law Enforcement Officers Association.

(4) Providing that a deputy sheriff vacancy exists and there are no other employees or former employees with rights to the vacancy, the Sheriff is authorized to hire an eligible applicant as a deputy sheriff upon graduation and receipt of the appropriate degree.

(5) Any person hired under this section shall in all other ways be subject to this ordinance and to the labor agreement applicable to deputy sheriffs.

(6) The provisions of sec. 18.09 shall not apply to the hiring process established by this section.

(7) County general revenues shall not be used for the education of any eligible applicant.

[History: cr., Sub. 1 to OA 24, 1990-91, pub. 04/03/91; (2)(c) am., OA 14, 1993-94, pub. 11/05/93; 18.094 renumb. as 18.11 and am., OA 14, 2013-14, pub. 09/24/13.]

**18.12 TRANSFER INTO TENURED POSITIONS FOR CERTAIN PROJECT EMPLOYEES.**

Notwithstanding anything to the contrary in this ordinance, a person holding a project position may be placed in a tenured position without further competition if the person was hired under a competitive procedure for the project position which the appointing authority has determined is substantially similar to the tenured position or if the person has previously been competitively certified for a permanent position which the appointing authority has determined is substantially similar to the tenured position. The decision to make a placement under this section shall be in the sole discretion of the appointing authority and with the approval of the Division. No person holding a project position shall be deemed to have been granted any preference or right to any tenured position. The provisions of this section shall be subject to and qualified by conflicting provisions in any labor agreement.

[History: cr., OA 21, 1989-90, pub. 01/04/90; am., OA 37, 1994-95, pub. 04/05/95; am., OA 4, 1995-96, pub. 06/06/95; 18.095 renumb. as 18.12 and am., OA 14, 2013-14, pub. 09/24/13.]

**18.13 APPRENTICESHIP TRAINING PROGRAMS.**

(1) The County Board finds that it has become exceedingly difficult to recruit for and fill certain positions for which the demand for qualified personnel exceeds the available labor market, particularly for computer programming

and computer network engineering positions. The County Board also finds that it is feasible to train county employees who voluntarily seek such positions and who are also willing to reimburse the county's training costs in the event that the employee terminates county employment prior to the expiration of 36 months from the completion of the apprenticeship training program.

(2) The County Executive is hereby authorized to designate any unrepresented position as subject to the apprenticeship training program, provided, however, that the program shall not be applied to any occupation for which the State of Wisconsin requires an apprenticeship or a license.

(3) Notices of openings in the program shall be posted. Any employee may apply for an apprenticeship training program position. Applicants will be evaluated and placed on an eligibles list using merit recruitment procedures.

(4) By accepting an apprenticeship training program position an employee understands and agrees that there will be an apprenticeship period during which he or she may be terminated without cause and without recourse to the appeal procedures set forth in this chapter.

(a) An apprentice who is terminated during the apprenticeship period shall be entitled to placement on the mandatory reemployment list under s. 18.09(12)(a). For purposes of the apprenticeship training program, the "classification of employment prior to layoff" shall be the position and salary range held in the apprenticeship training program.

(5) An employee accepting a position in the apprenticeship training program shall retain the seniority and longevity credits he or she earned prior to acceptance into the program.

(6) An employee accepting a position in the apprenticeship training program shall execute a written agreement to reimburse the County its costs in the event the employee leaves county employment after completion of the apprenticeship but before the expiration of 36 months thereafter, such reimbursement to be pro-rated over the life of the obligation according to the following schedule:

(a) From the date of hire to the expiration of 12 months from the end of training, 100%;

(b) During the interval commencing from a date 12 months from the end of training to a date 24 months from the end of training, 67%;

(c) During the interval commencing from a date 24 months from the end of training to a date 36 months from the end of training, 33%;

(d) After a date 36 months from the end of training, no reimbursement is required.

[History: cr., OA 23, 1998-99, pub. 01/19/99; 18.097 renumb. as 18.13 and am., OA 14, 2013-14, pub. 09/24/13.]

**18.14 PROBATION. (1)** All newly hired employees shall be on probation. Those hired to positions allocated to the managerial salary schedule shall be on probation for one (1) year and such employees may, after serving their initial six months of employment, take accumulated vacation as well as receive salary step increases in accordance with section 18.25 of this chapter.

(2) All newly hired employees shall receive a performance evaluation during the sixty to ninety day time period of their probation. All promoted employees shall receive a performance evaluation during the thirty to sixty day time period of their trial period.

(3) Prior to expiration of the probation, the Division shall notify the appointing authority that a final decision on a permanent appointment for the probationer is imminent. The appointing authority shall then review the performance of the probationer and make his or her final decision regarding the permanent appointment prior to the end of the probation.

[History: 18.10 renumb. as 18.14 and am., OA 14, 2013-14, pub. 09/24/13; (1) am., 2018 OA-12, pub. 10/2/18; (1) am., 2019 OA-9, pub. 08/23/19.]

#### **18.15 LAYOFFS AND RECLASSIFICATIONS.**

(1) Whenever it becomes necessary, in the interest of economy or because the necessity for the position involved no longer exists, the Board may abolish any position in the civil service. Any employee holding such an abolished position shall be laid off and shall be placed on the mandatory reemployment list. The Board shall not, however, reduce the number of deputy sheriffs in full-time county employment to a number less than that required by the Wisconsin Statutes.

(2) Whenever a reduction in employees is required, employees in each class shall be laid off in inverse order based on seniority, except whenever necessary or appropriate to maintain affirmative action gains or assist in achieving affirmative action goals and timetables, the Committee may authorize layoffs out of line seniority in a class. The Equal Opportunity Commission shall be notified whenever a recommendation for any affirmative action

exemption pursuant to this subsection is made. The Equal Opportunity Commission, jointly with the Committee, shall establish and from time to time review guidelines for the granting of exemptions under this subsection.

(3) *Option of employee upon reclassification of jobs.* Whenever the duties of a position become changed so as to require a reclassification, the incumbent thereof may, at his or her option, remain in the reclassified position, be transferred to a vacant position in the original class, or be placed on the reemployment list for his or her original class while occupying the reclassified position.

(4) *Option of employee upon reallocation of job.* Whenever a position is reallocated to a lower pay range, the incumbent may, at his or her option, remain in the reallocated position or be placed on the permissive reemployment list for positions in the pay range to which his or her position was assigned prior to reallocation.

[History: (4) cr., OA 13, 1991-92, pub. 12/18/91; (2) am., OA 17, 1999-2000, pub. 12/14/99; 18.11 renumb. as 18.15 and am., OA 14, 2013-14, pub. 09/24/13.]

#### **18.16 NONTENURED APPOINTMENTS.**

(1) *Limited term employment. (a)* Whenever there is a need for a temporary employee, an appointing authority may appoint a qualified person for a limited term not exceeding 1200 hours per payroll year. Limited term employees may be paid at an hourly rate which is not less than the minimum hourly wage and not more than the minimum hourly rate specified for the classification of work which such employees are performing. If no comparable classification of work is specified in the duties classification plan, limited term employees may be paid an hourly rate which is not less than the minimum hourly wage and not more than the minimum of general salary range 8, or such greater amount as may be or has been established by the Board.

(b) The County Executive may authorize hiring above the minimum of the appropriate range when market conditions or candidate qualifications warrant such action.

(c) The selection of limited term employees shall be made only from:

1. certification lists of randomly selected applicants for LTE appointment,
2. currently maintained employment registers for permanent positions, or
3. when accomplished through union hiring halls, bench lists maintained by the union involved. The Division may authorize other

methods of selecting LTEs as appropriate considering departmental needs.

**(d)** No credit shall be allowed in the giving of examinations or computation of longevity or seniority for service rendered as a limited term employee.

**(e)** Limited term employees shall not be hired or retained to perform new functions or undertake new initiatives without express budget authorization or approval of the County Board.

**(f)** Limited term employees shall not be hired or retained in any managerial classification at range M-8 or above without express budget authorization or approval of the Personnel and Finance Committee, except in the following circumstances:

**1.** limited term employees may be hired in existing permanent managerial classifications in order to meet workload demands, except in classifications for which the ordinances expressly indicate the number of positions authorized;

**2.** limited term employees may be hired in existing permanent managerial classifications in order to temporarily fill existing permanent managerial positions when the incumbent is on leave or which are temporarily vacant.

**(g)** Limited term employees shall be on the payroll of and be funded by the department whose functions they are performing and in which the individual to whom they report is located.

**(2) Provisional appointments.** Provisional appointments shall be made in the same manner specified in section 18.09. Such employees shall be subject to and receive the benefit of the provisions of this ordinance, except that if the regular employee shall return to the position, the provisional employee shall be placed on the reemployment list in accordance with section 18.09(12)(a). However, if the regular employee terminates or if the provisional employee is intradepartmentally transferred to a vacancy within the same classification, the provisional employee shall assume regular civil service employment status.

**(3) Acting appointments.** An employee who is assigned by an appointing authority to a position classified in a higher pay range than his or her own position shall, after working forty (40) hours in the higher classified position, receive as additional compensation an amount equal to the amount he or she would have received in the event of a promotion to the position as specified in the Employee Benefit Handbook.

**[History:** (3) am., Sub. 1 to OA 33, 1986-87, pub. 02/16/87; (1) am., OA 39, 1993-94, pub. 03/14/94; (1)(e), (f) and (g) cr., OA 45, 1993-94, pub. 04/25/94; (2) am., OA 4, 1995-96, pub. 06/06/95; 18.12 renumb. as 18.16 and am., OA 14, 2013-14, pub. 09/24/13; (1)(f) am., 2019 OA-9, pub. 08/23/19.]

**18.17 SUSPENSION, MERIT STEP DENIALS, REDUCTIONS IN PAY, DEMOTIONS AND DISCHARGES.** It is the intention of the County Board of Supervisors and the Committee to secure a fair and effective means for discharging, suspending, denying merit steps, demoting or reducing the pay of employees for just cause.

**(1)** Upon establishment of just cause, an appointing authority may:

**(a)** Suspend an employee without pay for a period not to exceed 60 days, provided that employees who are exempt under the Fair Labor Standards Act may not be suspended without pay for less than a full work day unless for violations of safety rules of major significance.

**(b)** Suspend an employee with pay pending consummation of an investigation to determine the appropriate measure of discipline.

**(c)** Deny a merit step increase.

**(d)** Demote an employee.

**(e)** Reduce an employee's pay, provided that the pay of employees who are exempt under the Fair Labor Standards Act may not be reduced for periods of less than one full work day.

**(f)** Discharge an employee.

**(g)** Issue a written reprimand.

**(h)** All such action is subject to the right of appeal of the employee to the Commission in the manner set forth herein.

**(2)** Whenever an appointing authority decides to take action as provided in section 18.17(1), written notice of such action shall be mailed to the employee's last known address or given to the employee within two (2) working days of the action being taken. The notice shall set forth the provisions of subsections (3), (4) and (5) of this section, shall contain reasons for the action and shall serve as the formal complaint before the Commission in the event an appeal is taken.

**(3) Appeal by employee.****(a)** Any nonprobationary employee who has been disciplined as provided for in subsection (1) above, may, within ten (10) days of the earlier of actual receipt or mailing of the notice of such action, file a written demand for an appeal with the Commission. However, if an employee, or his or her authorized representative, bases his or her appeal upon language in a labor agreement or elects to challenge an appointing authority's decision through an alternate grievance procedure, such

employee may not, in addition, appeal that decision to the Commission. For purposes of this section, 'mailing' is accomplished as of the date an envelope containing the notice is deposited in the United States Postal Service mailbox, with first class postage prepaid and addressed to the affected employee at his or her last known address, or when an electronic transmission is made during business hours, or, in the case of electronic transmission after business hours, as of the beginning of the next business day.

**(b)** At the time of filing the notice of appeal, the employee shall file a written response to each of the reasons contained in the notice of disciplinary action and on which the disciplinary action is based. The written response must contain the employee's position on each of the reasons. Nothing in this subsection limits the discretion of the Commission, for good cause or when necessary to further the purpose of this ordinance, to allow amendment to the employee's written response.

**(c)** The Commission shall appoint a time and place for the hearing of an appeal, such time to be within twenty (20) days after the demand for appeal has been made. Within ten (10) days of the conclusion of the hearing, the Commission shall determine whether the action complained of was justified and may affirm or reverse the appointing authority's decision or take such other action as it deems appropriate. The decision of the Commission shall be final.

**(4)** *Filling vacancy during appeal.* During the period of suspension of an employee or pending final action on proceedings to review a suspension, demotion or dismissal of an employee, the vacancy created may be filled by the appointing authority only by provisional appointment, limited term appointment or by acting appointment in accordance with section 18.16(3) of this ordinance.

**[History:** (1)(c) and (4) cr., (2) and (3) am., and (5) and (6) renum., Sub. 3 to OA 2, 1986-87, pub. 11/26/86; (5) am., OA 4, 1995-96, pub. 06/06/95; (1)(a) and (e) am., OA 25, 1995-96, pub. 11/01/95; 18.13 renumb. as 18.17, am. and renumb., OA 14, 2013-14, pub. 09/24/13.]

### **18.18 ACTIVITY INCOMPATIBLE WITH PUBLIC SERVICE PROHIBITED.**

**(1)** No employee shall engage in political activity while on duty.

**(2)** *Fund raising drives.* No employee or group of employees shall solicit funds or other things of value from firms, persons or corporations, without first obtaining a written permit from the committee, except as otherwise expressly

allowed by this ordinance. An application for such permit shall be submitted to the committee at least thirty days prior to the time when solicitations will begin. The purpose of the solicitations and a general description of the persons, firms and corporations expected to be solicited shall be clearly stated in the application for a permit. A list of the public donors shall be furnished to the committee and shall be made a public record. A complete accounting of such funds so raised and of the expenditures shall be submitted to the committee.

**(3)** No employee shall cash checks from, borrow from or in any manner make personal use of any public funds under his or her control or in his or her possession, for any reason whatsoever. Disciplinary action taken as a result of a violation of this subsection shall in no manner limit an employee's liability under any other applicable criminal or civil statute.

**(4)** *Receipt of gifts or gratuities by employees prohibited.* **(a)** It shall be unlawful for any employee to receive or offer to receive, either directly or indirectly, any gift, gratuity or anything of value whatsoever which he or she is not authorized to receive from any person if such person:

**1.** Has or is seeking to obtain contractual or other business or financial relationships with Dane County; or

**2.** Conducts operations or activities which are regulated by Dane County; or

**3.** Has interests which may substantially be affected by governmental activities of Dane County.

**(b)** The receipt of or offer to receive any gift, gratuity or anything of value from a person stated in (a) above, is contrary to the public policy of Dane County, whether or not any actions of the employee are affected thereby.

**(5)** *Sexual Harassment prohibited.* No employee shall engage in the sexual harassment of any other person in the course of his or her employment.

**(6)** *Retaliation prohibited.* **(a)** No person subject to this ordinance may discharge, demote, reduce in pay, discipline or otherwise discriminate against or retaliate against any employee in the Dane County Civil Service in terms, conditions or privileges of employment because such employee has made a report of a violation by any other employee of this code of ordinances or any other provision of law, to any supervisor, appointing authority, member of the county board of supervisors, law enforcement official or any other authority.

(b) Any violation of this section shall, in the absence of mitigating circumstances, constitute a rebuttable presumption of just cause for discharge or other disciplinary action.

(c) As used in subsection (a) above *report* shall include any truthful statement, oral or written, made in good faith and with due regard for its accuracy, by any employee alleging activity or behavior by any other employee which reasonably may be considered to be unlawful or unethical under the code of ordinances or any other provision of law.

(d) This section shall not be construed to eliminate the protections available to employees under the civil service ordinance.

[History: (1)(a) and (b) rep., OA 53, 1987-88, pub. 05/28/88; (5) am., OA 4, 1995-96, pub. 06/06/95; 18.14 renumb. as 18.18 and am., OA 14, 2013-14, pub. 09/24/13.]

### 18.19 LOBBYING REGULATED.

(1) This section regulates lobbying activities before state and federal legislative bodies and before state and federal administrative agencies engaged in rulemaking activities.

(2) As used in this section the term *lobby* means to take a position for or against a legislative proposal or a proposed administrative rule. *Lobbying*, as used herein, does not include the exchange of information where no position for or against the legislative proposal or rule is taken.

(3) An employee who desires to engage in lobbying activities on county-paid time or to present his or her position on pending legislation or administrative rules as an official county position shall first have the position approved by the County Board, or in the case of emergency situations, by the committee designated by the County Board to act in such matters.

(4) In the absence of prior County Board or committee approval, as appropriate, an employee shall not represent his or her position on pending legislation or administrative rules as an official county position nor shall the employee make an appearance on county-paid time other than time compensated as vacation or holiday.

(5) If the employee, who is not presenting an official county position on pending legislation or administrative rules, engages in lobbying activities on county-paid time or if the employee's employment with the County is disclosed to or known by the legislative body or administrative agency, the employee shall also make either a written or oral disclaimer. If the employee presents his or her position in writing, the disclaimer shall be in writing and shall appear

boxed on the first page of the document. If a verbal position is taken, the disclaimer must precede the discussion. The disclaimer shall be substantially in the following form: "This position is not the official position of the County of Dane. It is the personal position of the speaker (or author, as appropriate)."

(6) The regulations established herein with respect to appearances before legislative and administrative bodies apply with equal force to personal contacts of any kind with individual members of such bodies when the purpose or one purpose of such contact is to present a position on pending legislation or administrative rules.

[History: cr., Sub. 1 to OA 53, 1987-88, pub. 05/28/88; 18.145 renumb. as 18.19 and am., OA 14, 2013-14, pub. 09/24/13.]

### 18.20 DISCRIMINATION PROHIBITED.

(1) No person in the county service or seeking appointment thereto shall be appointed, receive a reduction in pay or in any other way be favored or discriminated against because of political, labor union or religious affiliations or activities or because of sex, race, nationality, age, sexual preference, marital status, physical appearance or disability. This section shall not be deemed to prohibit the making of rational classifications based upon sex or disabilities when a bona fide job-related reason exists for the distinction, or to prohibit a validly established program of mandatory retirement.

(2) It shall be the duty of every supervisor of employees at all levels of county service to ensure that all employees under their supervision work in an environment free of sexual harassment as defined in section 18.04(42) of this ordinance.

[History: 18.15 am., OA 14, 1993-94, pub. 11/05/93; 18.15 renumb. as 18.20 and am., OA 14, 2013-14, pub. 09/24/13.]

**18.21 RECORDS ARE PUBLIC.** Records of the civil service system shall be open to public inspection by any citizen at reasonable hours and subject to reasonable supervision. However, individual personnel records shall be confidential as required by law including the names, scores and ranks of candidates for employment.

[History: 18.16 renumb. as 18.21 and am., OA 14, 2013-14, pub. 09/24/13.]

**18.22 WORK HOURS OF DUTY.** All employees are subject to call before any standing committee, agency or the County Board to give information as to their work, functions under their



control in the department and budgetary information. Regular hours of work for employees are further defined in the Employee Benefit Handbook.

[History: 18.17 renumb. as 18.22 and am., OA 14, 2013-14, pub. 09/24/13.]

### **18.23 CLASSIFICATION PLAN.**

**(1) Purpose.** The purpose of the plan shall be to supply an orderly and descriptive inventory of all positions in the civil service system, so as to achieve the following objectives:

**(a)** Improved recruiting through precise descriptions of civil service positions, accurate statements of the abilities and knowledge required for such positions and reasonable standards of fitness for entrance to competition for such positions.

**(b)** Equality of pay for positions with substantially similar duties, responsibilities or work difficulty, and fair salary differentials between positions of substantially different duties, responsibilities or work difficulty.

**(2) Maintenance of the classification plan.** The classification plan shall be maintained as follows:

**(a)** Whenever an appointing authority desires that a new position be established or the duties of an existing position be so changed that in effect a new position is created, the appointing authority shall report this fact to the Division. The Division shall investigate and recommend such changes to the committee if deemed advisable, including allocation of the position to its appropriate class subject to the approval of the Dane County Board.

**(b)** The Division may periodically make investigations of any or all positions and report its recommendations to the committee.

**(c)** Any employee may request the Division, in writing through his or her appointing authority, to review the classification of his or her position. If the Division deems the request meritorious, it shall make an investigation of the position and, if appropriate, recommend reclassification or reallocation of the position to the County Board through the committee.

**(e)** Individuals whose requests for reclassification or reallocation have been denied may appeal such denials to the County Executive who shall refer the same to the reclassification and reallocation appeals board for recommendation. The board shall make a recommendation to the County Executive on the disposition of any such appeal.

**(f)** The Division shall notify the appointing authority who shall approve or deny the next step in the range for each employee prior to the employee earning 19.5 longevity credits. If the performance of the employee has been satisfactory and the employee has demonstrated increased proficiency, the appointing authority shall approve the merit increase. If not, he or she shall deny the merit increase. The notification of approval or denial shall be sent to the Director of Administration and the employee not later than the last working day prior to the effective date of the merit increase. If the increase is denied, the employee so affected shall have a written statement of the reasons. The increase, however, may be granted by the appointing authority at the beginning of any biweekly payroll period during the year following a denial.

**(g)** Should the appointing authority deny a step increase, the employee may appeal to the Commission for a hearing. The Commission shall conduct a hearing as in cases of discipline of an employee. If the Commission determines the performance of the employee has been satisfactory, it may grant the increase retroactively to the date it would have been effective.

**(3) Reclassified and Reallocated positions.**

If an incumbent elects to stay in a reclassified or reallocated position, he or she shall be placed in the step in the new salary range that is nearest, but not less than, one step above the salary of the employee prior to the reclassification or reallocation. If the resulting increase is less than a full step in the new range, an additional step shall be granted and the resulting salary will not be in excess of the maximum of the range. A full step in the new range shall be computed by subtracting step A of the new range from step B of the new range. Notwithstanding the foregoing provision, the County Executive may authorize a higher salary range for a reallocated employee when exceptional internal or external equity reasons require it. If a position is reclassified or reallocated to a lower salary range and the incumbent elects to stay in the position, the salary range for the reclassified or reallocated position shall remain as it existed prior to reclassification or reallocation until the incumbent leaves the position or until such time as the incumbent declines an appointment to a position in a salary range equal to the salary range of his or her position prior to reclassification or reallocation. The merit date of the employee shall change to the effective date

of the reclassification or reallocation. The incumbent of a position reclassified or reallocated to a lower pay range shall be automatically certified for every opening for which he or she is qualified by the employment standards and for which the salary range is equal to or higher than the salary range of the position prior to reclassification or reallocation.

**(4) Limitation to Budgeted position. (a)** Unless expressly permitted otherwise by this chapter, an appointing authority shall not employ more than one person in a position authorized in the budget.

**(b)** Notwithstanding par. (a), in otherwise authorized job-sharing situations, an appointing authority may employ more than one employee in the position provided, however, the total number of hours worked during any one pay period by all employees job-sharing the position shall not exceed the number of hours assigned to the position by the budget.

**(c)** Notwithstanding par. (a), an appointing authority may employ two persons in the same position for such number of work days as may be authorized by the County Executive, for purposes of training a newly hired or promoted employee prior to the current incumbent's resignation, retirement or other termination. This provision is subject to sufficient funds available in the affected department's budget.

**(d)** Except as otherwise expressly provided for in this subsection, persons employed in excess of budgeted positions shall be limited term appointments only.

**(5) Demotion.** An employee who is demoted shall be placed at a step level of the salary range for the position to which he or she has been demoted which is nearest to the salary or step level he or she was at prior to the demotion, but not to exceed the maximum of the salary range of the position he or she has been demoted to.

**[History:** (3) am., OA 13, 1991-92, pub. 12/18/91; (2)(e) am., OA 4, 1995-96, pub. 06/06/95; (2)(d) am., (2)(e) and (2)(f) relettered as (f) and (g), and a new (e) cr., Sub. 1 to OA 12, 1995-96, pub. 10/17/95; (4) am., OA 6, 2000-01, pub. 09/18/00; (3) am., OA 24, 2002-03, pub. 12/17/02; (3) am., OA 8, 2006-07, pub. 08/31/06; 18.18 renumb. as 18.23 and am., OA 14, 2013-14, pub. 09/24/13; (3) am. 2019 OA-9, pub. 08/23/19; (2) am., 2019 OA-26, pub. 11/18/19.]

## **18.24 EMPLOYEE BENEFIT HANDBOOK.**

**(1) Purpose.** The County Executive and County Board have the responsibility and authority to establish the terms and conditions of employment for County employees. The purpose of the Employee Benefit Handbook ("Handbook")

is to establish the terms and conditions of employment for County employees.

**(2) Procedure.** The Employee Benefit Handbook shall be developed by the Division in accordance with the provisions of this section, subject to review and approval by the County Board of Supervisors. The County Executive through his or her designees and department heads is responsible for interpretation and implementation of the Employee Benefit Handbook, subject to the grievance procedures specified therein.

**(3) Notice.** The County shall provide fifteen (15) days advanced written notice to interested stakeholders of any proposed revision to the Employee Benefit Handbook.

**(4) Adoption – Annual Review.**

**(a)** At least annually, the Division shall seek policy guidance from the Committee regarding any adoption, amendment or termination of provisions in the Employee Benefit Handbook.

**(b)** At least annually and more frequently if requested, the Division shall meet with interested stakeholders to comprehensively review, discuss and obtain input concerning proposed changes to the Employee Benefit Handbook. Interested stakeholders shall be given the opportunity to provide verbal or written input.

**(c)** After receiving input from the Committee and interested stakeholders, the Division shall prepare a draft containing any proposed revisions and shall share the draft with interested stakeholders. Interested stakeholders shall have an opportunity to offer input concerning any pertinent issues.

**(d)** Proposed revisions shall be presented to the County Executive for review and advice. The County Executive or designee may meet with interested stakeholders to discuss proposed revisions.

**(e)** Following review and advice with interested stakeholders, the Division shall prepare a draft resolution authorizing any revisions and shall share the draft resolution with interested stakeholders.

**(f)** The Division or an interested stakeholder may engage the independent consultant to assist in recommending revisions to Employee Benefit Handbook provisions. The independent consultant shall have the authority to work with the Division and interested stakeholders, gather all pertinent information, and make final recommendations pursuant to the process set forth in the Employee Benefit Handbook.

**(g)** At the conclusion of steps (a-e) the Committee and Board shall vote on any such resolution as a whole. However, if any party has engaged the independent consultant under (f), the Committee and Board shall vote to accept, reject, or modify the final recommendations of the consultant. If the Committee votes to modify, the Board shall vote to accept, reject or modify the recommendation of the consultant only after a thirty (30) day notice to interested stakeholders.

**(h)** Pertinent written communication provided by the Division, interested stakeholders or the independent consultant under paragraphs (b), (c), (d), (e), (f) and (g) shall be posted to the Division’s website.

**(i)** Meetings under paragraphs (b), (c), (d), (f) and (g) under the Division and interested stakeholders shall be noticed and open to the public.

**(5) Exceptions.**

**(a)** The Director of Administration may make individual, temporary, or situation specific exceptions to Employee Benefit Handbook provisions after reasonable notice to, and, if requested, meeting with interested stakeholders.

**(b)** Exceptions to Employee Benefit Handbook provisions shall be documented by the Division.

**(c)** Upon request by the affected employee, or interested stakeholders, individual exceptions may be subject to the grievance procedures set forth in the Employee Benefit Handbook.

**(6) Effect on Other Rights and Duties.** Nothing in this section shall prevent the County or its Elected Officials from acting to fulfill any duties, responsibilities or deadlines imposed by law, including the powers and duties set forth in Wis. Stats. Chs. 66, 111, 118 and 119.

**(7) Effect on existing agreements.** No personnel policies of the Employee Benefit Handbook that are inconsistent with any collective bargaining agreement may take effect until after the expiration of the collective bargaining agreement.

[History: 18.24 cr., OA 14, 2013-14, pub. 09/24/13; (4)(g) am., (4)(h) and (i) cr., 2019 OA-9, pub. 08/23/19.]

**18.25 SALARY PLAN.**

**(1) Merit system.** The County shall develop a salary plan for all employees which shall be described in the Employee Benefit Handbook and other pay schedules.

**(a)** The Department of Administration shall publish the schedule of normal salary increments, longevity, and merit increases for employee groups in the Employee Benefit

Handbook. The first step in the salary range shall be the normal hiring rate, except the County Executive may authorize a higher starting wage when the prospective employee has exceptional qualifications or when effective recruitment requires payment above the minimum of the assigned salary range. For positions in the County Board office, the County Board Chair, with the approval of the Personnel & Finance Committee, may authorize a higher starting wage when the prospective employee has exceptional qualifications or when effective recruitment requires payment above the minimum of the assigned salary range.

**(b)** Upon earning the requisite number of longevity credits set forth in the salary schedule published by the Department of Administration and being certified for permanent employment by the appointing authority, the employee shall be advanced to the salary range step immediately above the step at which he or she was hired.

**(c)** Prior to each of the dates on which an employee will have accumulated the required number of longevity credits the employee relations division shall provide the appropriate appointing authority with notice of the employee’s eligibility for a merit increase. If the appointing authority determines that the performance of the employee has been satisfactory and that the employee has demonstrated increased proficiency, the employee shall be advanced one step on the assigned salary range. If the appointing authority does not so determine, the employee shall not receive the merit increase. The notification of approval or denial of the merit increase shall be sent to the Controller and the employee not later than the last working day prior to the date upon which the requisite longevity credits have been earned. If the increase is denied, the employee so affected shall, upon request, be given a written statement of the reasons. An employee who was denied the merit increase may nonetheless, upon the decision of the appointing authority, be granted the merit increase at the beginning of any biweekly payroll period thereafter.

**(d)** Should the appointing authority deny a step increase, the employee may appeal to the Commission. The Commission shall conduct a hearing as in cases of discipline of an employee. If the commission determines that the performance of the employee has been satisfactory and that the employee has demonstrated increased proficiency, it may grant the merit increase.

(e) If an appointing authority has failed to either approve or deny a merit increase, the employee may petition the Commission to order the appointing authority to take action on the merit increase. In the event a merit increase is approved by an appointing authority after a delay caused by neglect or oversight, the employee shall be granted the increase retroactive to the date on which the employee first became eligible for the raise.

(2) An employee who is transferred shall receive the same salary steps as though he or she had remained in the former position.

(3) An employee who is promoted shall be placed in the step in the new salary range that is nearest, but not less than, one step above the salary of the employee prior to the promotion. If the resulting increase is less than a full step in the new range, an additional step shall be granted and the resulting salary will not be in excess of the maximum of the range. A full step in the new range shall be computed by subtracting step A of the new range from step B of the new range. Notwithstanding the foregoing provision, the County Executive may authorize a higher salary range when the promoted employee has exceptional qualifications or when effective recruitment requires it. The employee's merit date will change to the date of the promotion. Upon satisfactory completion of the required longevity credits in the new position, the employee shall receive the next step in accordance with sub. (1) unless he or she is already at the maximum of the range. Remaining steps shall be granted or denied as outlined in sub. (1), with longevity credits for the purpose of determining eligibility for merit increases to be computed from the date of promotion.

(4)(a) *Supervisory and management exception.* Notwithstanding anything to the contrary in this chapter, an employee serving in a supervisory or management position shall be paid the greater of either the rate as provided in the managerial salary schedule or at a rate which is 105% of the pay that such employee would earn, if holding a position in the highest pay range he or she supervises or manages with the same number of accrued longevity credits.

(b) *Rate of pay.* When calculating the 105% rate of pay, overtime and differential pay earned by an individual in the supervised position are not included in determining the rate of pay.

[History: (4) cr., OA 8, 1992-93, pub. 07/29/92; (1) am., OA 4, 1995-96, pub. 06/06/95; (3) am., OA 8, 2006-07, pub. 08/31/06; 18.19 renumb. as 18.25 and am., OA 14, 2013-14, pub. 09/24/13; (1)(a) am., Sub. 1 to 2014 OA-063, pub.

02/03/15; (1)(b) and (c), (3), and (4) am., 2019 OA-9, pub. 08/23/19.]

**18.26 EMPLOYEE RETENTION PROGRAM.**

[intro.] The County Board finds that situations arise where exceptional county employees are offered employment opportunities elsewhere at higher salaries. In some of these situations the employee may elect to remain employed with the County if offered more rapid advancement on the County's salary schedule. The offer of such advancement is consistent with provisions in the civil service ordinance for starting employment for accomplished applicants at a salary step above the minimum.

(1) In exceptional cases where a highly valued employee has been offered a higher paying position elsewhere, the County Executive may, at the request of the employee's department head, authorize accelerated advancement on the employee's salary schedule.

(2) Upon receiving authorization from the County Executive under sub. (1), the department head shall give notice of the Executive's authorization to the Committee and the standing committee having supervisory or oversight authority over the affected department.

(3) Accelerated advancement on the salary schedule as authorized by the County Executive shall be implemented unless, within 45 days of receiving notice of the Executive's action, either committee referenced in sub. (2) passes a motion disapproving the action.

[History: cr., OA 33, 2002-03, pub. 04/23/03; 18.191 renumb. as 18.26 and am., OA 14, 2013-14, pub. 09/24/13.]

**18.27 MANAGEMENT SALARY EQUITY FUND.**

(1) Subject to funding in the adopted annual county budgets, a management salary equity fund is established. The fund may be used to pay salary and related fringe benefit costs resulting from salary equity awards to employees not represented by employee group representation. Salary equity awards include any salary adjustment required under section 18.25(4) of this ordinance or a salary change associated with an approved reallocation of a position to a higher pay range to address market place salary requirements or internal inequities in the management pay plan.

(2)(a) The Controller may authorize expenditures from the management salary equity fund to implement the provisions of sections 18.25(4) or 18.26 of this ordinance upon a determination that the budget of the affected

department would otherwise be insufficient to accomplish the action authorized by the ordinance.

**(b)** The Controller shall authorize other expenditures from the fund where specifically approved by the County Board and County Executive through resolution approving reallocations.

**[History:** 18.192 cr., OA 8, 1992-93, pub. 07/29/92; (2)(a) am., OA 33, 2002-03, pub. 04/23/03; 18.192 renumb. as 18.27 and am., OA 14, 2013-14, pub. 09/24/13; (1) and (2)(a) am., 2019 OA-9, pub. 08/23/19.]

**18.28 EMPLOYEE PERFORMANCE AND DEVELOPMENT ACTIVITIES.**

**(1)** *Performance evaluations.* The Committee shall establish a system of employee performance evaluations to be conducted by appointing authorities for use in considering salary advancements, promotions, transfers, demotions, training or retraining or other employee development activities and other personnel actions. These performance evaluations shall be part of the personnel record of the employee and shall be conducted at least annually for each employee who has completed his or her probation.

**(2)** *Employee training.* The Division shall initiate and cooperate with the appointing authorities in the development of programs of employee training which will increase the skill of employees in performing their present work and assuming more responsible tasks. The Division shall also cooperate with the educational agencies of Madison in the development of training courses available to employees. The utilization of such opportunities by the employee and any course records shall be recorded in the personnel record of the employee.

**[History:** 18.20 renumb. as 18.28 and am., OA 14, 2013-14, pub. 09/24/13.]

**18.29 ATTENDANCE AND LEAVE REGULATIONS.**

The Division, in cooperation with appointing authorities, shall prepare and maintain rules relating to the absence of employees from duty. Appointing authorities shall furnish any reasonable information regarding sick leave, vacation, holidays and overtime as the Controller may request.

**(1)** *Paid leave.* Vacation, holiday, sick leave and other forms of paid leave shall be administered in accordance with policies established by the County Board.

**(2)** *Leave of absence without pay.*

**(a)** The appointing authority may grant leave of absence requests to a managerial/confidential

employee, sheriff office deputy, sergeant, or lieutenant that do not exceed 30 days. For leave of absence requests that exceed 30 days in length, upon recommendation of the appointing authority, the Division may grant to an employee who falls into one of the aforementioned categories a leave of absence without pay for a period not to exceed one year. Such an employee shall be entitled to return to the position he or she left before the end of the leave by giving 14 days notice. In making application, the employee shall submit a written application stating the reason for requesting a leave of absence. The Division may require the employee to submit a doctor's statement if the leave is requested for health reasons.

**(b)** On request of a managerial/confidential employee, sheriff office deputy, sergeant, or lieutenant and with written approval of the appointing authority, the Division may grant a leave of absence of up to one year to an employee who accepts either a non-civil service or provisional appointment or a promotion, demotion or transfer to another position within county government, on such terms as are specified in sub. (a).

**(c)** Only when the Board elects or appoints a county employee specified in sub. (a) to fill the unexpired term of an elected official may the committee grant a leave for a period in excess of one year, but in no case shall a leave be granted beyond the length of the unexpired term.

**(d)** If an appointing authority refuses to recommend or the Division refuses to grant a requested leave of absence the employee may appeal to the committee.

**(e)** No appointing authority shall allow an employee specified in sub. (a) to be absent for more than 30 days of a calendar year, in addition to sick leave, vacation, holidays, overtime or temporary disability under the Worker's Compensation Act without the approval of the Division or the Committee.

**(f)** Any employee specified in sub. (a) who is discharged or voluntarily separated from county employment while on a leave of absence granted under this section shall also lose all rights to return to the position for which the leave is granted, provided that in the case of a discharge from a nontenured position, the appointing authority who approved the leave may permit the employee to return to the tenured position if he or she determines that the grounds for the discharge do not constitute just cause. An employee who is suspended from one position while on leave from another position shall not

have the right to return to either position until such time as the suspension is fully served.

**(g)** No employee specified in sub. (a) may be granted a leave of absence for medical reasons in accordance with sections (a), (c) or (e) above until such employee has exhausted all accrued sick leave remaining in that employee's account.

**(3) Family medical leave. (a)** An employee shall be entitled to unpaid leave for a total of 26 workweeks during any 12 month period for any of the following:

1. because of the birth of a child of the employee and in order to care for such child.

2. because of the placement of a child with the employee for adoption.

**(b)** An employee shall not be required to exhaust paid leave before taking unpaid family medical leave.

**(c)** Employees shall continue to receive paid health and dental insurance for the duration of their leave.

**(4) Donor leave of absence. (a)** The Division may grant a paid leave of absence of 5 workdays to any employee who requests a leave of absence to serve as a bone marrow donor, if the employee provides the appointing authority with written verification that the employee is to serve as a bone marrow donor.

**(b)** The Division may grant a paid leave of absence of 30 workdays to any employee who requests a leave of absence to serve as a human organ donor if the employee provides the appointing authority with written verification that the employee is to serve as a human organ donor.

**(c)** An employee who is granted a leave of absence under this subsection shall remain on paid status without interruption during the leave of absence. The leave of absence shall count against the employee's annual entitlement under the federal and state Family and Medical Leave Acts. If additional time off from work in excess of that authorized by sub. (a) or (b) is needed, the employee will be required to utilize accrued leave.

**(5) Military leave of absence. (a)** A leave of absence shall be automatically granted to employees who are drafted, called to active duty or enlist in the United States Armed Forces. All such employees shall be entitled to re-employment as specified in 38 USC § 4312 and Wis. Stats. ss. 321.64 and 321.65.

**(b)** Effective June 1, 2015, if the wages paid by the armed forces of the United States to any employee who is ordered to active duty for any period of service described in 38 USC §

4312(c)(1)-(4), is less than the salary paid by the County to said employee, the County shall reimburse the employee the difference between the wages paid by the armed forces and the salary paid by the County.

**(c)** Upon the written request of any employee ordered to active duty for any period of service described in 38 USC § 4312(c)(1)-(4), the County shall continue to pay health, dental, and life insurance premiums on behalf of any employee, at the rate which would be in effect for the employee had he or she not been ordered to active duty.

**(d)** Effective January 1, 2003, the County shall annually provide up to 30 days paid military leave to all employees. Paid military leave may be requested for periods of active duty (including training) under Title 10 or Title 32, United States Code, or for state active duty performed at the request of the Governor. The employee must provide proof of performance of said duty, such as a leave and earnings statement, and said duty must be a minimum of three consecutive days in length.

**(6) Domestic partnership leave.** Employees who have registered a domestic partnership relationship with the County by signing an affidavit of domestic partnership, are eligible to take leave comparable to the family and medical leave available to County employees under state and federal law to care for their domestic partner or a dependent child of their domestic partner.

**(7) Salary deductions.** When it is necessary to make a deduction from salary or wages for time lost, the deduction shall be equal to the number of hours missed multiplied by the hourly rate, including any longevity pay.

**(8) Worker's compensation.** In the event that an employee of Dane County is injured while at work and as a consequence of said injury receives worker's compensation disability pay, said employee shall continue to be paid at the same rate and on the same basis as he or she was paid prior to such injury. This provision is subject to the following restrictions:

**(a)** Full pay to an employee under the provisions of this ordinance shall become due only while disability pay is being received under the worker's compensation act and shall be paid for a period not to exceed 180 calendar days in the aggregate during the time when worker's compensation disability pay is being received.

**(b)** In the event that a worker's compensation claim is contested, full pay by the county shall be held up until the claim is settled or an award is made by the department of industry, labor and

human relations, at which time the employee shall be entitled to receive the settlement in a lump sum not exceeding said employee's full salary or wages for 180 calendar days.

**(c)** During the period when an employee is entitled to full pay under the provisions of this section, there shall be no deduction from sick leave allowance, overtime allowance or vacation credits of such employee. The employee shall not earn sick leave, holiday, longevity or vacation credits during periods of disability under the worker's compensation act beyond the initial 180 calendar day period.

**(9)** *Compensatory time and overtime regulations.* Unless otherwise specified by federal or state law, the following shall govern the accrual and compensation of overtime earned in the county service.

**(a)** The standard number of hours per week of employment for the different classes of County employees shall be established periodically by the Board.

**(b)** All employees of the County shall, whenever necessary for the welfare of the County, perform such services in addition to the standard hours fixed by the Board as shall be required by the approving authority or other superior officer.

**(c)** For those employees who are paid overtime, each appointing authority shall keep a record of overtime necessarily incurred for the good of the service and shall report biweekly to the Controller on forms prescribed by the Controller.

**(d)** No record shall be kept or report made of less than 15 minutes of overtime worked by an employee in a single day.

**(e)** The appointing authority shall determine whether the overtime was necessarily incurred for the good of the service. If any employee is dissatisfied with the appointing authority's decision, he or she may request a hearing before the Commission. The decision of the Commission shall be final.

**(f)** Those managerial employees who are not entitled by law or labor agreement to be paid overtime shall have, as a condition of their employment, a job to perform and they shall be allowed to establish their working hours accordingly, with the approval of the appointing authority, which shall average on an annual basis 40 hours per week. However, time and one-half payment for hours worked over forty per week and for hours worked on holidays is authorized for employees employed in registered nursing classifications at the hospital and home.

**(10)** *Jury duty.*

**(a)** An employee called for jury duty may use his or her vacation, holiday and overtime credits during such time as he or she is serving on a jury. In this case, the employee receives normal pay and in addition is allowed to retain the amounts received for jury service.

**(b)** For such time as an employee is serving on a jury and is not using vacation or holiday or overtime credits, he or she shall, nevertheless, remain on the payroll and receive the difference between his or her regular salary and the amount received for jury service. The appointing authority shall have the right to determine whether an employee shall return to work during any period of time when the employee is not actually serving on a jury.

**(11)** *Separation from County services.* On the next regular pay day after the effective date of the discharge, layoff, resignation, or death an employee shall be paid the regular salary, vacation, holiday and overtime accumulated through such date of discharge, layoff, resignation, or death.

**(12)** A resignation shall be binding three (3) days after its receipt by the appointing authority or designee, and the employee shall not thereafter have the privilege to withdraw the resignation except by consent of the appointing authority.

**(13)** *Services as election official.*

**(a)** A managerial/confidential employee appointed to serve as an election official may use his or her vacation, holiday and overtime credits during the period of time he or she would have been scheduled to work and serves as an election official. In such case, the managerial/confidential employee receives normal pay and in addition is allowed to retain any compensation received for serving as an election official.

**(b)** For such time as a managerial/confidential employee is serving as an election official during the 24 hour period of an election day, and is not using vacation or holiday or overtime credits, he or she shall remain on the payroll and receive the difference between his or her regular salary and the amount received for serving as an election official.

**(c)** A managerial/confidential employee who serves as an election official shall provide the appointing authority with at least 7 days' notice of anticipated service as an election official.

**[History:** (8) cr., Sub. 3 to OA 2, 1986-87, pub. 11/26/86; (2)(b) am., OA 40, 1986-87, pub. 04/27/87; (2)(am) and (2)(e) cr., and (2)(e), (3), (4), (5), (6), (7) and (8) renum., Sub. 5 to OA 27, 1989-90, pub. 07/03/90; (3)(c) cr., OA 29, 1990-91,

pub. 01/03/91; 18.21 am., OA 4, 1995-96, pub. 06/06/95; (3) am., OA 30, 2001-02, pub. 02/21/02, eff. 02/22/02; (10) cr., OA 38, 2001-02, pub. 04/16/02, eff. 04/17/02; (3)(b) and (c) am. and (3)(d) cr., Sub. 1 to OA 36, 2002-03, pub. 06/20/03; (3)(d) am., OA 13, 2003-04, pub. 09/12/03; (4) through (10) renum., respectively, as (5) through (11) and a new (4) cr., OA 2, 2006-07, pub. 06/15/06; (3)(b) and (c) am., OA 9, 2007-08, pub. 08/29/07; (2m) cr., Sub. 1 to OA 19, 2007-08, pub. 11/02/07, expires 11/03/09; exp. date of (2m) rescinded, OA 23, 2009-10, pub. 10/15/09; (2n) cr., OA 54, 2009-10, pub. 03/30/10; 18.21 renumb. as 18.29, am. and renumb., OA 14, 2013-14, pub. 09/24/13; (5) am., 2014 OA-073, pub. 04/28/15; (2), (9)(f), and (13) am., 2019 OA-9, pub. 08/23/19.]

### **18.30 INCLUSION OF COUNTY PERSONNEL UNDER THE WISCONSIN PUBLIC EMPLOYEES RETIREMENT FUND.**

(1) Pursuant to chapter 41, Wis. Stats., all eligible County personnel shall be included in the public employees retirement fund in accordance with the terms of that chapter and the election made by the County to participate effective January 1, 1946.

(2) The County shall pay the employee contribution to the fund, at a rate not to exceed six percent.

[History: (2) am., OA 40, 1986-87, pub. 04/27/87; 18.22 renumb. as 18.30 and am., OA 14, 2013-14, pub. 09/24/13.]

**18.31 CERTIFICATION OF PAYROLLS.** The County Clerk shall approve the payment of salaries after he or she has checked the payrolls against the salary schedule. He or she shall require a certificate on all payrolls from the appointing authority that all persons named therein have complied with the regulations governing uniform hours of work, holidays and leaves of absence.

[History: 18.23 renumb. as 18.31 and am., OA 14, 2013-14, pub. 09/24/13.]

[History: Former section 18.31, Definitions, rescinded in its entirety, OA 14, 2013-14, pub. 09/24/13.]

### **18.32 MEETINGS OF THE COMMITTEE.**

Regular meetings of the Committee, in its civil service policy oversight capacity, shall be held at least once a month at such times as designated by the Committee. Special meetings may be called by the chair or by any two members of the Committee.

[History: 18.24 renumb. as 18.33 and am., OA 14, 2013-14, pub. 09/24/13.]

### **18.33 ALTERNATIVE SELECTION.**

(1) The County Board of Supervisors recognizes that some persons are at a disadvantage in obtaining employment because of a disability or social or economic

disadvantage. This has diminished the ability of these affected groups of people from obtaining relevant experience in jobs that they might otherwise be able to perform. The Board further recognizes that the concept of *alternative selection* is a useful measure where members of an affected group or persons with disabilities are not able to perform all the tasks of a particular job but when the job itself can economically and effectively be restructured to allow the hiring of such persons. Persons so hired will gain needed work experience and self-confidence to advance to other jobs. The Board further recognizes that traditional methods of employee selection, especially written and multiple choice tests, often have a disparate impact upon affected groups or persons with disabilities and, in addition, cannot always be validated for job-relatedness. The concept of alternative selection can be a viable alternative to traditional testing and certification procedures.

(2) *Recommendation.* (a) In making a decision to recommend or not recommend the use of alternative selection in filling a position, the Affirmative Action Officer shall take into consideration the numbers of socially and economically disadvantaged individuals and persons with disabilities presently occupying other positions in the classification, the ability of the department involved to restructure the positions to allow filling the position under this section, the potential costs to the County in filling the position under this section, the recommendation of the department head or his or her agent, and intent of federal or state funded programs requiring alternative selection.

(b) Alternative selection shall not be used unless the Affirmative Action Officer, in conjunction with the Committee, determines its applicability might be useful, economically feasible, socially desirable or in the best interest of the County.

(3) *Annual review.* The Committee shall annually review the hires made under this section to ensure that this section is being administered properly and that this section is not being used as a means of avoiding the merit system.

[History: (1), (2) and (3) am., OA 14, 1993-94, pub. 11/05/93; 18.30 renumb. as 18.33 and am., OA 14, 2013-14, pub. 09/24/13.]



**18.34 POLICY ON PAYMENT OF JUDGMENTS TAKEN AGAINST NON-EMPLOYED DEPUTY SHERIFFS.** [intro.] This section is intended to implement the requirements of s. 895.46(1)(d), Wis. Stats.

(1) This section applies only to persons whom the Sheriff appoints as deputy sheriffs but who are not employed by the County of Dane.

(2) The County of Dane will provide a defense and pay any judgment only in civil cases where the non-employee officer:

(a) is a duly qualified elector and resident of the State of Wisconsin;

(b) is currently certified as a law enforcement officer by the Wisconsin Law Enforcement Training and Standards Board;

(c) acts within the scope of his or her authority and within the laws of the State of Wisconsin and the United States;

(d) acts in conformity with the policies of the sheriff's office governing use of force, use of firearms and vehicle pursuits;

(e) complies with the policies of the sheriff's office relating to part-time employment as a law enforcement officer outside the officer's regular employing jurisdiction; and

(f) at the time of the incident complained of, was employed as a law enforcement officer by the State of Wisconsin or by a city, village or town located wholly or partly within Dane County.

(3) Notwithstanding the above, no coverage will be provided under this section to any law enforcement officer:

(a) who at the time of the incident complained of was acting, directly or indirectly, as a law enforcement officer for or on behalf of his or her regular employing agency;

(b) who at the time of the incident complained of was acting pursuant to the request of the state or a city, village or town, whether located in Dane County or outside Dane County;

(c) whose act or failure to act occurred outside the boundaries of Dane County unless the officer's act or failure to act was part of a fresh pursuit, under s. 175.40(2), Wis. Stats., which began in Dane County and is otherwise eligible for coverage under this section; or

(d) whose wrongful act was willful or deliberate.

(4) Coverage under this section does not apply to the extent that the officer or his or her employer has insurance which also provides coverage for the act complained of.

(5) The County reserves the right to determine in its sole discretion, after consultation with the sheriff, whether the person seeking coverage under this section was performing an act growing out of or occurring in the course of the discharge of his or her duties.

(6) Failure by the officer or his or her employer to give written notice to the County Clerk of an action or special proceeding commenced against the defendant officer as soon as reasonably possible is a bar to coverage under this section.

(7) Coverage under this section shall not be afforded to any officer to whom the county offers legal counsel when the offer is refused by the officer.

(8) If the officer refuses to cooperate in the defense of the litigation, the officer is not eligible for any coverage under this section.

(9) The county reserves the right to enter into any settlement or compromise of any claim or legal action against any person afforded coverage under this section, without the consent of the person.

[History: cr., OA 22, 1998-99, pub. 01/19/99; (2)(d) am., OA 32, 2002-03, pub. 04/23/03; 18.91 renumb. as 18.34 and am., OA 14, 2013-14, pub. 09/24/13.]

**18.35 SEVERABILITY OF ORDINANCE PROVISIONS.** Should any section, clause or provisions of this ordinance be declared by the courts to be invalid, the same shall not affect the validity of the ordinance as a whole or any part thereof, other than the part declared to be invalid.

[History: 18.35 cr., OA 14, 2013-14, pub. 09/24/13.]

*[18.36 - 18.99 reserved.]*

**END OF CHAPTER**