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3 **2019 OA-009**

4 AMENDING CHAPTER 18 OF THE DANE COUNTY CODE OF ORDINANCES,
5 REGARDING UPDATES TO THE CIVIL SERVICE ORDINANCE

6 The County Board of Supervisors of the County of Dane does ordain as follows:
7

8 ARTICLE 1. Unless otherwise expressly stated herein, all references to section
9 and chapter numbers are to those of the Dane County Code of Ordinances.

10
11 ARTICLE 2. Section 18.04(1) is amended to read as follows:

12 (1) *Affirmative action officer* shall mean the Director of the Office of equal
13 opportunity for Equity and Inclusion or such other employee as the County
14 Executive may designate.

15
16 ARTICLE 3. Section 18.05(1)(a) is amended to read as follows:

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

23
24 ARTICLE 4. Section 18.05(1)(h) is amended to read as follows:

25 (1)(h) Managerial-professional interns and LTE staff attorneys, provided that the
26 employment of any person in any such position shall not continue beyond 24
27 months from the date of first employment and provided further that such persons
28 shall be employed at a rate of pay not to exceed the rate set forth in sec.
29 18.16(1); and

30
31 ARTICLE 5. Section 18.06(7) is amended to read as follows:

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

35
36 ARTICLE 6. Section 18.09(3) is amended to read as follows:

37 (3) *Application procedure*. An application form provided by the Division shall be
38 ~~filled out~~ completed by all applicants. ~~Such form~~ The application shall require data
39 concerning the applicant's education, training, experience, noncitizenship work
40 visa status, residence and other pertinent information. No questions relating to
41 political affiliation or religious faith shall be asked of any applicant or any other
42 information prohibited by law.
43

44 ARTICLE 7. Section 18.09(5) is amended to read as follows:

45 (5) Whenever an employee becomes unable to perform his or her job due to
46 physical or emotional disability ~~or other causes, such employee shall be~~
47 ~~transferred or demoted to a vacant position that such employee can perform~~
48 ~~without competition. Actions taken under this section are not removed from the~~
49 ~~possible application of section 18.18 of this chapter. that employee has the right~~
50 ~~to contact the ADA Coordinator and request a reasonable accommodation that~~
51 ~~would allow the employee to perform all the essential functions of his/her job.~~
52 The reasonable accommodation process is governed by state and federal law
53 and overseen by the Division.

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

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

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

62 2. "Reassignment" may only be to a current vacant position within the employee's
63 employee group or bargaining unit or to a vacant position in other employee
64 groups, provided the employee meets all the minimum qualifications of the
65 position and is able to perform all the essential functions of the new position with
66 or without a reasonable accommodation. The vacant position may be a lateral
67 move or a demotion position. "Reassignment" is never to a vacant promotion
68 position.

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

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

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

82
83 ARTICLE 8. Section 18.09(11)(a) is amended to read as follows:

84 (11)(a) Eligibility lists shall be established consisting of the names of all persons
85 who have taken an examination or examinations, ranked in the order of their
86 scores on the examination(s). The Division shall, as soon as possible thereafter,

87 notify applicants of their placement on the eligibles lists. ~~Prior to recruitment, the~~
88 ~~Division shall specify in writing the length of time an eligibility list shall remain in~~
89 ~~effect.~~ The Division may terminate an existing eligibility list prior to its scheduled
90 expiration by written decision. In establishing the ~~duration or~~ early termination of
91 an eligibility list, the Division shall take into account affirmative action objectives,
92 the number of well-qualified candidates, projected future turnover in the
93 classification, labor market considerations, the County's experience in previous
94 recruitments for the same or similar vacancies, and budgetary constraints,
95 together with such other factors as are labor market and job-related.

96
97 ARTICLE 9. Section 18.09(11)(d) is deleted in its entirety:

98 ~~(d) The Division may remove a person from an eligibles list if that person, for job~~
99 ~~related reasons, has no likelihood of being appointed.~~

100
101 ARTICLE 10. Section 18.09(12)(a) is amended to read as follows:

102 (12)(a) *Mandatory reemployment.* Employees ~~laid-off~~ shall be placed on the
103 reemployment lists for their classification of employment prior to layoff or for
104 other classifications that they qualify for that are equal to or below the pay range
105 of their classification in the order of seniority. Retention on the reemployment list
106 shall continue for ~~one year~~ twenty-four (24) months after the effective date of
107 separation from service. Employees on the reemployment list shall be given
108 preference over all new applicants or promotions for all positions for which they
109 are interested, can qualify for and shall be reemployed in the order of their
110 seniority. An appointing authority may reject such employees only by giving
111 written notice of the reasons to the employee and the Division. Any employee so
112 rejected shall have the right of appeal in the same manner as an employee
113 terminated for just cause. Employees reappointed within the ~~12~~ twenty-four (24)
114 month period above shall return to County service at the same salary level or as
115 nearly as possible to the dollar amount of their previous salary unless that
116 amount exceeds the maximum or, where appropriate, the minimum of the range
117 to which they are reappointed. Such employees shall also receive full credit for
118 all prior service but shall not receive credit for the time they were separated from
119 county service.

120
121 ARTICLE 11. Section 18.09(13) is amended to read as follows:

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

131 ARTICLE 12. Section 18.09(14)(a) is amended to read as follows:
132 (a) Except as provided in paragraphs (c) and (d) each certification list shall
133 contain the names of the highest qualified candidates for the position. For each
134 open recruitment, t~~The appointing authority shall specify in advance of~~
135 ~~recruitment whether he or she desires a five candidate or a ten candidate~~
136 ~~certification list~~ receive an eight (8) candidate certification list. For each
137 promotional recruitment, the appointing authority shall receive a four (4)
138 candidate certification list. If more than one vacancy with the same job
139 specifications exists in the same department, one additional name shall be
140 certified for each additional vacancy. Persons who qualify for a certification list
141 shall be placed on the list in rank order based upon their composite scores with
142 the name of the highest scoring candidate appearing first provided that names
143 obtained from the mandatory reemployment list shall all be at the first rank.

144
145 ARTICLE 13. Section 18.09(14)(b) is amended to read as follows:
146 (b) If an eligibility list exists for a vacant position other than for one specified in
147 par. (c) or (d) below, the Division shall certify from the eligibles list the names of
148 the highest ranking persons who are willing to accept appointment. If two or more
149 candidates are tied for the last rank to be certified ~~or if more than the required~~
150 ~~number of candidates rank within five points of the top ranked candidate~~, then all
151 such additional candidates shall be placed on the certification list.

152
153 ARTICLE 14. Section 18.09(14)(c) is amended to read as follows:
154 (c) If an eligibility list exists for a vacant entry level deputy sheriff position, the
155 Division shall certify from the eligibility list the names of the twenty highest
156 ranking persons who are willing to accept appointment, unless there are fewer
157 than twenty qualified applicants. If two or more candidates are tied for the
158 twentieth rank ~~or if more than twenty candidates rank within five points of the top~~
159 ~~ranking eligible~~, then all such additional candidates may be placed on the
160 certification list.

161
162 ARTICLE 15. Section 18.09(14)(d) is amended to read as follows:
163 (d) If an eligibility list exists for a vacant entry level food service worker position, a
164 certified nursing assistant position, or a social worker in child protective services,
165 or a vacant attendant position, the Division shall certify from that list the names of
166 the twenty highest ranking candidates or all persons on the list if there are fewer
167 than twenty candidates. If two or more candidates are tied for the twentieth rank
168 ~~or if more than twenty candidates rank within five points of the top ranking~~
169 ~~candidate~~, then all such additional candidates shall also be placed on the
170 certification list.

171
172 ARTICLE 16. Section 18.09(14)(e) is deleted in its entirety:
173 ~~(e) During the recruitment for a position which tends to have a large number of~~
174 ~~vacancies over relatively short periods of time, the Division may elect to certify~~

175 ~~from the eligibility list the names of not more than the twenty highest ranking~~
176 ~~candidates. If two or more candidates are tied for the last rank certified or if more~~
177 ~~than the number of candidates selected for certification have final scores within~~
178 ~~five points of the top ranking candidate, the Division shall place the names of all~~
179 ~~such additional candidates on the certification list.~~

180
181 ARTICLE 17. Section 18.14(1) is amended to read as follows:

182 (1) All newly hired employees shall be on probation. ~~for a period of time as~~
183 ~~specified in the Employee Benefit Handbook.~~ Those hired to positions allocated
184 to the managerial salary schedule shall be on probation for one (1) year and such
185 employees may, after serving their initial six months of employment, take
186 accumulated vacation as well as receive salary step increases in accordance
187 with section 18.25 of this chapter.

188
189 ARTICLE 18. Section 18.16(1)(f) is amended to read as follows:

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

- 194 1. limited term employees may be hired in existing permanent
195 managerial/~~professional~~ classifications in order to meet workload demands,
196 except in classifications for which the ordinances expressly indicate the number
197 of positions authorized;
- 198 2. limited term employees may be hired in existing permanent
199 managerial/~~professional~~ classifications in order to temporarily fill existing
200 permanent managerial/~~professional~~ positions when the incumbent is on leave or
201 which are temporarily vacant.

202
203 ARTICLE 19. Section 18.23(3) is amended to read as follows:

204 (3) *Reclassified and Reallocated positions.* ~~If, under sec. 18.15(3) or (4), an~~
205 ~~incumbent elects to stay in a reclassified or reallocated position, he or she shall~~
206 ~~be advanced not less than one (1) step upon such reclassification or reallocation,~~
207 ~~which shall not be below the first step of the salary range of the new~~
208 ~~classification. placed in the step in the new salary range that is nearest, but not~~
209 ~~less than, one step above the salary of the employee prior to the reclassification~~
210 ~~or reallocation. If the resulting increase is less than a full step in the new range,~~
211 ~~an additional step shall be granted and the resulting salary will not be in excess~~
212 ~~of the maximum of the range. A full step in the new range shall be computed by~~
213 ~~subtracting step A of the new range from step B of the new range.~~
214 ~~Notwithstanding the foregoing provision, the County Executive may authorize a~~
215 ~~higher salary range for a reallocated employee when exceptional internal or~~
216 ~~external equity reasons require it.~~ If a position is reclassified or reallocated to a
217 lower salary range and the incumbent elects to stay in the position, the salary
218 range for the reclassified or reallocated position shall remain as it existed prior to

219 reclassification or reallocation until the incumbent leaves the position or until
220 such time as the incumbent declines an appointment to a position in a salary
221 range equal to the salary range of his or her position prior to reclassification or
222 reallocation. The merit date of the employee shall change to the effective date of
223 the reclassification or reallocation. The incumbent of a position reclassified or
224 reallocated to a lower pay range shall be automatically certified for every opening
225 for which he or she is qualified by the employment standards and for which the
226 salary range is equal to or higher than the salary range of the position prior to
227 reclassification or reallocation.

228
229 ARTICLE 20. Section 18.24(4)(g) is amended and (h) and (i) are created to read
230 as follows:

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

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

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

243
244 ARTICLE 21. Section 18.25(1)(b) is amended to read as follows:

245 (1)(b) Upon earning ~~6.5~~ the requisite number of longevity credits set forth in the
246 salary schedule published by the Department of Administration and being
247 certified for permanent employment by the appointing authority, the employee
248 shall be advanced to the salary range step immediately above the step at which
249 he or she was hired.

250
251 ARTICLE 22. Section 18.25(1)(c) is amended to read as follows:

252 (1)(c) Prior to each of the dates on which an employee will have accumulated
253 ~~19.5, 32.5 and 45.5~~ the required number of longevity credits, the employee
254 relations division shall provide the appropriate appointing authority with notice of
255 the employee's eligibility for a merit increase. If the appointing authority
256 determines that the performance of the employee has been satisfactory and that
257 the employee has demonstrated increased proficiency, the employee shall be
258 advanced one step on the assigned salary range. If the appointing authority
259 does not so determine, the employee shall not receive the merit increase. The
260 notification of approval or denial of the merit increase shall be sent to the
261 Controller and the employee not later than the last working day prior to the date
262 upon which the requisite longevity credits have been earned. If the increase is

263 denied, the employee so affected shall, upon request, be given a written
264 statement of the reasons. An employee who was denied the merit increase may
265 nonetheless, upon the decision of the appointing authority, be granted the merit
266 increase at the beginning of any biweekly payroll period thereafter.

267

268 ARTICLE 23. Section 18.25(3) is amended to read as follows:

269 (3) An employee who is promoted shall be placed in the step in the new salary
270 range that is nearest, but not less than, one step above the salary of the
271 employee prior to the promotion. If the resulting increase is less than a full step
272 in the new range, an additional step shall be granted and the resulting salary will
273 not be in excess of the maximum of the range. A full step in the new range shall
274 be computed by subtracting step A of the new range from step B of the new
275 range. Notwithstanding the foregoing provision, the County Executive may
276 authorize a higher salary range when the promoted employee has exceptional
277 qualifications or when effective recruitment requires it. The employee's merit
278 date will change to the date of the promotion. Upon satisfactory completion of
279 6.5the required longevity credits in the new position, the employee shall receive
280 the next step in accordance with sub. (1) unless he or she is already at the
281 maximum of the range. Remaining steps shall be granted or denied as outlined
282 in sub. (1), with longevity credits for the purpose of determining eligibility for merit
283 increases to be computed from the date of promotion.

284

285 ARTICLE 24. Section 18.25(4) is amended to read as follows:

286 (4)(a) *Supervisory and management exception.* Notwithstanding anything to the
287 contrary in this chapter, an employee serving in a supervisory or management
288 position shall be paid the greater of either the rate as provided in the managerial
289 salary schedule or at a rate which is 105% of the pay that ~~the such~~ employee
290 would earn, ~~with equal longevity credits but excluding overtime earned by a~~
291 ~~member of an employee group~~, if holding a position in the highest pay range he
292 or she supervises or manages with the same number of accrued longevity
293 credits. or, in the alternative, the rate as provided in the managerial and
294 professional salary schedule, whichever is greater.
295 (b) Rate of pay. When calculating the 105% rate of pay, overtime and differential
296 pay earned by an individual in the supervised position are not included in
297 determining the rate of pay.

298

299 ARTICLE 25. Section 18.27 is amended to read as follows:

300 18.27 ~~PROFESSIONAL AND~~ MANAGEMENT SALARY EQUITY FUND.

301 (1) Subject to funding in the adopted annual county budgets, a ~~professional and~~
302 management salary equity fund is established. The fund may be used to pay
303 salary and related fringe benefit costs resulting from salary equity awards to
304 employees not represented by employee group representation. Salary equity
305 awards include any salary adjustment required under section 18.25(4) of this
306 ordinance or a salary change associated with an approved reallocation of a

307 position to a higher pay range to address market place salary requirements or
308 internal inequities in the management pay plan.

309 (2)(a) The Controller may authorize expenditures from the professional and
310 management salary equity fund to implement the provisions of sections 18.25(4)
311 or 18.26 of this ordinance upon a determination that the budget of the affected
312 department would otherwise be insufficient to accomplish the action authorized
313 by the ordinance.

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

317

318 ARTICLE 26. Section 18.29(2) is amended to read as follows:

319 (2) *Leave of absence without pay.* ~~The County shall provide leave to employees~~
320 ~~as defined in the Employee Benefit Handbook.~~

321 (a) The appointing authority may grant leave of absence requests to a
322 managerial/confidential employee, sheriff department deputy, sergeant, or
323 lieutenant that do not exceed 30 days. For leave of absence requests that
324 exceed 30 days in length, upon recommendation of the appointing authority, the
325 Division may grant to an employee who falls into one of the aforementioned
326 categories a leave of absence without pay for a period not to exceed one year.
327 ~~An~~ Such an employee shall be entitled to return to the position he or she left
328 before the end of the leave by giving 14 days notice. In making application, the
329 employee shall submit a written application stating the reason for requesting a
330 leave of absence. The Division may require the employee to submit a doctor's
331 statement if the leave is requested for health reasons.

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

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

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

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

348 (f) Any employee specified in sub. (a) who is discharged or voluntarily separated
349 from county employment while on a leave of absence granted under this section
350 shall also lose all rights to return to the position for which the leave is granted,

351 provided that in the case of a discharge from a nontenured position, the
352 appointing authority who approved the leave may permit the employee to return
353 to the tenured position if he or she determines that the grounds for the discharge
354 do not constitute just cause. An employee who is suspended from one position
355 while on leave from another position shall not have the right to return to either
356 position until such time as the suspension is fully served.

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

361

362 ARTICLE 27. Section 18.29(9)(f) is amended to read as follows:

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

371

372 ARTICLE 28. Section 18.29(13) is amended to read as follows:

373 (13) *Services as election official.*

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

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

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

388

389 *[EXPLANATION: This amendment updates various provisions in Chapter 18 to*
390 *reflect current practice, and modifies other provisions to create additional*
391 *recruitment and retention incentives.]*