

December 9, 2004

To the Honorable
The Committee on Finance and Personnel
Common Council
City of Milwaukee

Dear Committee Members: Re: Common Council File Number 041082

- Summary -

This report recommends amending the Salary Ordinance for cases involving demotions under the Management Pay Plan.

Background

Part II, Section 12. g of the Salary Ordinance documents that demotions of management employees are under the authority of and administered by the Department of Employee Relations. The current ordinance language, established in 1990, addresses three types of demotions:

- a) demotions attributable to the performance or the behavior of the manager: ineffective job performance or misconduct.
- b) demotions attributable to factors outside of the control of the manager: reorganization, reclassification, or policy level reassignment.
- c) demotions related to Career Changes: voluntary demotions to lower level positions and other demotions not related to layoff or less than satisfactory performance.

Since the implementation of this language, the Department of Employee relations has identified the need for clearer and consistent guidelines in the interpretation of such provisions. Specific areas that need to be addressed or clarified include:

- 1) Rate of pay following appointments of exempt employees to lower level management positions after expiration of exempt appointments in higher level position;
- 2) Rate of pay after a demotion stemming from a "policy level" reassignment;
- 3) Disparity between rate of pay after demotion in cases where individuals have had prior service in the grade to which they are being demoted and individuals with no prior service in such grade.

Analysis

Demotions Stemming from Expiration of Exempt Appointments

The current Salary Ordinance language does not specifically address provisions related to the determination of rates of pay for individuals accepting lower level positions following the expiration of an exempt appointment. DER has identified three types of transactions that stem from expiration of exempt appointments in the City:

Expiration of Exempt Appointment-Discharge- involuntary expiration of exempt appointment by the hiring authority for disciplinary reasons including unsatisfactory performance or misconduct. If such exempt employee is appointed to a lower level position, the provision applicable to demotions due to unsatisfactory performance or misconduct, whichever is appropriate, should apply.

Expiration of Exempt Appointment-Separation- involuntary expiration of exempt appointment for reasons related to reclassification, reassignments (or reappointment), reductions in workforce or the anticipation of such reduction. If exempt employee is appointed to lower level position under the aforementioned circumstances, the provision applicable to demotions due to factors outside of the control of the manager should apply.

Expiration of Exempt Appointment-Resignation – voluntary resignation by exempt employee due to career change. When exempt employee is appointed to a lower level, the provision applicable to demotions due to career changes should apply.

Policy Level Reassignments

The current language identifies a demotion resulting from a “policy level” reassignment as one that is attributable to factors outside of the control of the manager, such as reorganizations, reclassifications, and budget reductions. However, the language fails to identify the conditions under which such “policy level” reassignments are made. This creates the potential of misinterpretation of the intent of the language and the circumstances under which this provision should be used. Demotions attributable to factors outside of the control of the manager should be the least “punitive” to the employee who, through no fault of his/her own, is reclassified, reduced or reassigned to a lower level management position. It is our recommendation that the reference to “policy level” reassignment be deleted from the language.

Prior Service in a lower level management grade

The current Salary Ordinance language makes a distinction in the calculation of rates of pay after demotion stemming from ineffective job performance and career changes. The distinction provides for different methods in calculating the new rates after demotion on the basis of whether or not the demoted manager had prior service in the grade to which he/she will be demoted. This distinction has the potential of creating inequities when considering that two managers demoted for ineffective job performance may be placed at different rates of pay based on a factor that is irrelevant to the reasons for the demotion or the manager’s ability to succeed in the job.

Recommendations

The following table summarizes the full range of demotions that occur under the Management Pay Plan along with the respective salary changes that result based on the current language as well as the recommended language changes and the respective rationale for the same.

Type of Demotion	Reason	Prior Service in Lower level grade	Determination of rate after the Demotion (Current Language)
Demotions attributable to the performance or behavior of the manager	<i>Ineffective Job Performance</i>	Manager returns to lower level position previously held	Rate of the closest step in the lower level position paid prior to promotion This rate includes across-the-board adjustments granted during the interim. If the current rate is above the maximum of the lower grade, the manager will be paid the maximum.
		Manager has no prior service in the lower level grade.	Same relative step in the new grade as had been his/her location in the former grade.
Recommendation The rate of pay after the demotion will be the step in the lower level salary grade that is at least 3% below the current rate of pay without taking into consideration whether the employee has prior service in the grade into which the demotion is made. In addition to ease of administration, the proposed language is more equitable when considering that most demotions attributable to unsatisfactory performance are considered disciplinary actions and prior service in grade should not be relevant in determining the new rate of pay. Given that at least a 3% salary increase is granted upon promotion it seems reasonable to stipulate that the salary reduction associated with all demotions stemming from ineffective job performance should be at least 3% as well.			
	<i>Misconduct</i>	Not applicable	Same relative step in the new grade as had been the location in the prior grade.
Recommendation No change is recommended to the current language. The rate of pay will be the same relative step in the lower salary grade as had been the manager's location in the higher salary grade prior to demotion.			

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Demotions attributable to factors outside the control of the Manager	<i>Reorganization, Reclassification, and Policy Level Reassignment</i>		Employee continues to be paid the closest rate in the new grade as was received prior to the reorganization provided it falls within the salary grade for the new position. If the employee's pay rate is higher than the maximum of the new salary grade, the employee will receive the maximum of the new grade.
	<i>Reduction in Work Force</i>	Manager is assigned to a lower level position due to a reduction in work force or in anticipation of such a reduction.	Employee is paid the closest rate in the new grade as was received prior to the action. If the employee's rate is higher than the maximum of the new salary grade, the employee will receive the maximum rate of the new grade.
Recommendation All demotions attributable to factors outside of the control of the manager (reclassifications, reassignments, reductions in workforce or anticipation of such reductions) should create the least financial impact to the demoted manager. It is our recommendation that the existing language that allows the demoted manager to be paid at the step in the lower salary grade that is closest to the rate received prior to the demotion be retained. If the demoted manager's salary is higher than the maximum of the new salary grade, the employee will receive the maximum of the new salary grade. The reference to demotions attributable to "policy level" reassignments has been deleted.			
	<i>Career Changes</i> Manager accepts a demotion to lower level position previously held for the purpose of career enhancement or any other reason not related to layoff or less than satisfactory performance.	Manager accepts a demotion in a lower management pay plan salary grade previously held.	Manager receives the same step in the lower level grade as was paid prior to promotion. This rate shall include across-the-board adjustments granted during the interim as well as merit adjustments granted to the manager while serving in the higher level position. If the combination of adjustments places the manager above the maximum of the grade, the manager shall be paid at the maximum of new lower level grade.
		No prior service in the grade into which the demotion is made	Same relative step in the new grade as had been his or her location in the former grade.
Recommendation When a manager accepts a voluntary demotion to a lower level position for purposes of a career change, the rate of pay after the demotion will be the step in the lower level salary grade that is at least 3% below the rate of pay received prior to the demotion. Prior service in the grade to which the manager is voluntarily demoted should have no impact in the determination of the new rate. For purposes of career changes this determination should be consistently applied independent of prior service in such grade.			

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Salary Ordinance Changes (Effective Pay Period 1, 2005)

To implement these recommendations, it will be necessary to amend the Salary Ordinance as follows:

Under Section 12, eliminate Section “g” Demotions in its entirety, and replace with the following:

g. Demotions: Demotions of management employees are under the authority of and administered by the Department of Employee Relations. In instances where a management employee disagrees with the salary determination associated with a demotion, he or she may appeal to the Employee Relations Director. Managers, who are demoted for any of the reasons stated below, will retain their last salary anniversary date for pay progression purposes.

The placement of the manager’s salary in the new salary grade after the demotion will be determined as follows:

Type of Demotion	Reason for Demotion	Determination of Rate of Pay after Demotion
Involuntary demotion (disciplinary action issued by hiring authority)	Ineffective job performance (Includes Expiration of Exempt Appointment-Discharge)*	Step in the lower salary grade that is at least 3% below the rate of pay received in the higher salary grade prior to the demotion.
	Misconduct (Includes Expiration of Exempt Appointment-Discharge)*	Same relative step in the lower salary grade as had been the location in the higher level grade prior to the demotion.
Involuntary Demotion (due to factors outside the control of the manager)	Reclassification, reassignment, reduction in work force, or anticipation of such reduction. (Includes Expiration of Exempt Appointment-Separation)**	Step in the lower salary grade that is closest to rate of pay received prior to demotion without exceeding the prior rate or the maximum of the lower salary grade.
Voluntary Demotion	Career Change (Includes Expiration of Exempt Appointment-Resignation)***	Step in the lower salary grade that is at least 3% below the rate of pay received in the higher salary grade prior to the demotion.

* *Expiration of Exempt Appointment-Discharge*- involuntary expiration of exempt appointment by the hiring authority for disciplinary reasons including unsatisfactory performance or misconduct.

***Expiration of Exempt Appointment-Separation*- involuntary expiration of exempt appointment for reasons related to reclassification, reassignments, reductions in workforce or the anticipation of such reduction.

****Expiration of Exempt Appointment-Resignation* – voluntary resignation by exempt employee due to career change.

Sincerely,

Maria Monteagudo
Employee Relations Director