

**DRAFT MINUTES
MERIT SYSTEM BOARD MEETING
August 16, 2022**

MEMBERS PRESENT

Linee Ferguson
Tara Francois
Jack Milligan

MEMBERS ABSENT

OTHERS PRESENT

Tracy Hurt– Secretary to the Board
Teri Overbey – Human Resources
Tina Rogers – Human Resources

The Merit System Board Meeting was held in Personnel Conference Room #2 at 20 E. Main Street, Suite 130, and called to order at 2:58p.m. by Board Secretary Tracy Hurt.

Introductions were made and the first order of business was to elect a new chairperson to replace Teri Hines, whose term ended in June 2022.

Jack Milligan motioned to nominate Linee Ferguson as Board Chair. Tara Francois seconded the motion and Linee accepted the nomination.

Teri Overbey, HR Director gave an overview of the Personnel Rules revision process.

The next item of business was to review the proposed rules revisions and proposed changes. Teri reviewed the following revisions:

Section #	Section Title	Proposed Revision
110	Definitions - At-Will Employee	Adding grant funded to the types of at-will employees that do not require City Manager approval to dismiss.
110	Definitions - Pre-Deprivation Hearing	Change hearing requirements from sixteen hours to twenty hours for a pre-deprivation hearing.

*The Board asked why the rules would not say “two working days” instead of listing the actual hours. Teri noted that she would review to see if days may be exchanged for the hours terminology or if there are specific considerations tied to the hour language.

140	Equal Employment Policy Statement	Adding pregnancy to the list of items that the city does not discriminate on the basis of.
150.A	Personnel Records - Content	Removing the requirement for Written Counseling to be in the Personnel File as it is non-disciplinary action.
210.E, E.3	Pre-Employment Requirements	Designate that driving records checks are only run if driving is required for the position.
220.D.2	Duration on Lists	Allowing lists to be shorter than six months. Designating when a list is extended, it is not to exceed the duration of the original list.
240.B	Employment Lists	Combining Promotion Lists/Reinstatement Lists/Recruitment Summary Lists to be forwarded at the same time.

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240.E	Examinations	Remove. Internal process through Public Records.
320.H.4	Demotion	<p>Clarifying that an employee demoted for failing to meet the requirements of the position shall be demoted to the formerly held position if existing and vacant OR to a vacant position for which the employee meets the minimum qualifications within the employee's department.</p> <p>Correcting reference to H1, not G1.</p> <p>Deleting being placed on an employment list for a classification for which the employee is eligible.</p>
320.I.1.c, I.2	Shift Differential	<p>Allows certain classifications to receive shift differential for shifts that start on or after 10:00 a.m. and before midnight. Premium is paid for work performed between 3:30 p.m. and 8:00 a.m.</p> <p>Deleting the statement that shift differential is paid for flex time. The city does not pay shift differential for time not worked.</p>
330.B	Performance Increases and Decreases	<p>Eligibility for PT Benefited, grant-funded, or project-funded employee that moves into a classified position within the same department after 1 year with successful performance appraisal to continue on Common Review Date and not be placed on initial regular probation.</p> <p>If PT Benefited, grant-funded, or project funded employee moves into a classified position within a different department, the employee will serve a six-month initial regular probation.</p> <p>If the movement to classified occurs prior to one year, the employee will serve a 12-month initial regular probation.</p>
330.F	Exceptional Performance Recognition Award	Cleaning up verbiage from last Personnel Rules Change with incomplete sentence.
350.A.2	Overtime Eligibility	Clarifying that employees who regularly work more than forty (40) hours per week need not use accrued leave for occasional absences of 4 hours or less in a workday with supervisory approval.
350.B	Overtime Schedules	For the purposes of calculating overtime, adding Authorized Director's Time as paid time

		off categories that will not be considered time worked. Fire 12-hour shift: Adding the amount of hours Fire personnel working 12-hour shifts are eligible to receive overtime compensation.
410.B.1	Unexcused Absences	Removing Memorandum of Understanding as it is covered under Written Counseling.
421.A	Holidays	Adding Christmas Eve as a city holiday.

***The Board recommended adding “day” would make it clear that it is the entire Christmas Eve Day.**

421.D.2	Holidays - Employees Required to Work to Maintain City Services	Fire 12-hour shift: Adding the amount of hours Fire personnel working a 12- or 24-hour shift receive.
421.H	Holidays - Terminating Employment	Adding that an employee’s last day worked cannot be a holiday unless that is a regular scheduled workday.
422.B.1.c, 2.c, C	Vacation Time Accrual	Fire 12-hour shift: Adding the accrual rates, hours required to work to accrue vacation, and the maximum accumulation hours for Fire Personnel working a 12-hour shift.
423.B.1.c, 2.c	Sick Time Accrual	Fire 12-hour shift: Adding the accrual rates and hours required to work to accrue sick for Fire Personnel working a 12-hour shift.
423.C	Conversion of Sick Time to Vacation Time	Allowing employees with a balance of 480 sick hours to elect to convert 50% of newly accrued sick time hours to vacation time. Employees can convert 100% of the sick time hours accrued above 1040 hours to vacation time.
423.D	Payment at Retirement/Death	Fire 12-hour shift: Adding the amount of hours payable at retirement or death for Fire Personnel Working a 12-hour shift.
424.C	Bereavement - Amount of Time	Fire 12-hour shift: Adding the bereavement hours provided for Fire Personnel working a 12-hour shift.
430.A.3	Unpaid Time Off	Fire 12-hour shift: Adding the minimum number of hours a Fire Personnel working a 12-hour shift must work in order to receive accruals.

470.A, 470.B	Short-Term Disability	Adding eligibility for Part-Time Benefited employees.
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		Clarifying if an employee is not eligible for FMLA leave, the employee may be approved for leave as a reasonable accommodation.
495	Tuition Reimbursement	Deleting from the Personnel Rules as this is a benefit. The procedures of this program are in the Management Policy.
520.B	Work Period	Fire 12-hour shift: Defining the work period for Fire Personnel working a 12-hour shift.
530.F	Special Rating Periods	Deleting as there are no special rating period when there is a change in work performance or employment status.
540.B	Part-Time to Full-Time Employment Probation	Not requiring part-time benefited employees with a most recent successful performance appraisal to serve initial regular probation if they move to full-time status.
540.D. 3,4	Disciplinary Probation	Clarifying while on disciplinary probation, an employee will not be allowed to complete in any promotional testing but may apply and be considered for positions that would be a demotion or a lateral transfer to a position at the same pay range as the employee's current position with City Manager Designee approval. Clarifying when disciplinary probation ends, the employee is eligible for a step increase if they have a successful performance appraisal.
710	Definition	Removing intro statement - value and importance of full discussion and preserving good relations between management and employee. Adding definition of a grievance: A complaint filed by a classified employee alleging the employee has been harmed by misinterpretation or misapplication of a rule or procedure.
720. B	Non-Grievable Issues	Adding Disciplinary Actions. Refer to Chapter 8 - Corrective Action and Discipline - Appeals Sections. Adding Management Rights (moved from Section 720 C. Restrictions)

720. C	Restrictions	Moving section under Non-Grievable Issues
720. D	Eligibility	Removing section. Addressed in Definition
720. E	Submission of	Moving to new Section (730. Grievance

	Grievance	Process) which outlines grievance procedure.
720. F	Content	Moving to new Section (730. Grievance Process) which outlines grievance procedure. Adding link to new Employee Grievance Form.
720. G	Procedure	Moving to new Section (730. Grievance Process) which outlines grievance procedure.
730. A, B	Grievance Process	<p>Adding new Grievance Process section.</p> <p>Employees wishing to file a grievance shall complete and submit the Employee Grievance Form.</p> <p>Removing grievance process related to formal disciplinary matters (written reprimand, suspension, disciplinary probation, demotion). Moved to Chapter 8: Corrective Action and Discipline - Appeals Sections.</p> <p>Removing verbiage that refers to different routing process for sworn employees. All employees to follow the same submittal process for grievances. Form submitted to Dept Director with copy to HR Director. If subject of grievance is Dept Director, employee shall submit form to Assistant City Manager/Deputy City Manager (ACM/DCM). If ACM/DCM is subject of grievance, employee shall submit form to City Manager.</p> <p>Revising timeframe for City response to grievance from 15 days to 30 days. The deadline may be extended if more information is required or if other circumstances preclude a timely decision. City Manager decision is final. Removal of employee concurrence to extend this timeline.</p> <p>Removing referral to Personnel Appeals Board for suspension/demotions. Moved to Chapter 8: Corrective Action and Discipline - Appeals Sections.</p>

*The Board voiced concern that listing what a grievance is not could be interpreted as an all-inclusive list and an item that is not on the list would then be interpreted as grievable. The Board asked for an addition of language to clarify that the list is not "all inclusive".

820, 830	Suspension Demotion	Moving Sections 820 and 830 into one new section (Section 820. Discipline Against Classified (Not At-Will) Employees; Due Process.
820 A,	Written	A written reprimand, the lowest level of

<p>1, 2, 3 (New)</p>	<p>Reprimand</p>	<p>disciplinary corrective action, may be issued to an employee by the employee's Department Director or if the employee is the Department Director, by the applicable Assistant/Deputy City Manager.</p> <p>Employees are not entitled to a pre-deprivation hearing for a written reprimand.</p> <p>Appeals: Revising to have all formal disciplinary matters follow appeals process rather than grievance process.</p> <p>An employee may appeal a written reprimand by completing and submitting a Notice of Appeal of Written Reprimand form and submitting it to the Assistant/Deputy City Manager (ACM/DCM) in the employee's chain of command, with a copy to the Human Resources Director within 15 days. If ACM/DCM issued the written reprimand, employee shall submit form to City Manager.</p> <p>Revising timeframe for City response from 15 days to 30 days. The deadline may be extended if more information is required or if other circumstances preclude a timely decision. Decision of Assistant/Deputy City Manager (City Manager) is final. Removal of employee concurrence to extend this timeline.</p>
<p>820. B 1-7 (New)</p>	<p>Disciplinary Probation</p>	<p>An employee may be placed on disciplinary probation for a period of twelve (12) months by the employee's Department Director or Assistant/Deputy City Manager (or designated acting Department Director or Manager)</p> <p>Disciplinary probation without a pay reduction does not require a pre-deprivation hearing. Disciplinary probation with a 5% reduction in pay requires a pre-dep. Clarified delivery service of pre-dep notice - hand delivered and if unsuccessful, certified mail.</p> <p>Clarifying while on disciplinary probation, an employee will not be allowed to complete in any promotional testing but may apply and be considered for positions that would be a demotion or a lateral transfer to a position at the same pay range as the employee's current position with City Manager designee</p>

		<p>approval. (See also Section 540.D.3, 4)</p> <p>Appeals: Revising to have all formal disciplinary matters follow appeals process rather than grievance process. An employee may appeal disciplinary probation by completing and submitting a Notice of Appeal of Disciplinary Probation form and submitting it to the Assistant/Deputy City Manager in the employee's chain of command, with a copy to the Human Resources Director within 15 days. If ACM/DCM issued the disciplinary probation, employee shall submit form to City Manager.</p> <p>Revising timeframe for City response from 15 days to 30 days. The deadline may be extended if more information is required or if other circumstances preclude a timely decision. Decision of Assistant/Deputy City Manager (City Manager) is final. Removal of employee concurrence to extend this timeline.</p>
<p>820. C 1-6 (New)</p>	<p>Suspension</p>	<p>An employee may be suspended from his/her position by the employee's Department Director or if the employee is a Department Director, by the applicable Assistant/Deputy City Manager (or designated acting Department Director or Manager).</p> <p>Revising to change pre-dep requirement for sworn police employees vs. non-sworn. Employees, other than sworn police employees, served with a Notice of Intent to Discipline in which the recommended discipline is for more than 20 work hours shall have the right to a pre-deprivation hearing. Sworn police employees shall have the right to a pre-deprivation hearing for any suspension. Clarified delivery service of pre-dep notice - hand delivered and if unsuccessful, certified mail.</p> <p>Adding suspension must begin to be served within 90 days after Receipt of the Notice of Suspension.</p> <p>Appeals: Revising to have all formal disciplinary matters follow appeals process rather than grievance process.</p>

		<p>Sworn Police Department employees. A sworn member of the Police Department may appeal a suspension by submitting a Notice of Appeal of Suspension form to the City Manager with a copy to the Human Resources Director. Within 15 days after receipt of the Notice of Appeal of Suspension form, the City Manager will refer the case to the Personnel Appeals Board for a hearing.</p> <p>All other classified City employees. An employee may appeal a suspension by completing a Notice of Appeal of Suspension form and submitting it to the Assistant/Deputy City Manager in the employee's chain of command, with a copy to the Human Resources Director. If the manager that issued the suspension is the Assistant/Deputy City Manager, then the Notice of Appeal of Suspension must be submitted to the City Manager, with a copy to the Human Resources Director. Decision of Assistant/Deputy City Manager (City Manager) is final.</p> <p>Revising timeframe for City response from 15 days to 30 days. The deadline may be extended if more information is required or if other circumstances preclude a timely decision. Removal of employee concurrence to extend this timeline.</p>
<p>820. E 1-7 (New)</p>	<p>Demotion</p>	<p>An employee may be demoted from his/her position by the employee's Department Director or if the employee is the Department Director, by the applicable Assistant/Deputy City Manager (or designated acting Department Director or Manager).</p> <p>Employees served with a Notice of Intent to Discipline in which the recommended discipline is for a demotion shall have the right to a Pre-Deprivation Hearing.</p> <p>Appeals: Revising to have all formal disciplinary matters follow appeals process rather than grievance process.</p> <p>Sworn Police Department employees. A sworn member of the Police Department may appeal a demotion by submitting a Notice of Appeal of Demotion form to the City Manager with a copy to the Human Resources Director.</p>

		<p>Within 15 days after receipt of the Notice of Appeal of Demotion Form, the City Manager will refer the case to the Personnel Appeals Board for a hearing.</p> <p>All other classified City employees. An employee may appeal a demotion by completing a Notice of Appeal of Demotion form and submitting it to the City Manager with a copy to the Human Resources Director.</p> <p>Revising timeframe for City response from 15 days to 30 days. The deadline may be extended if more information is required or if other circumstances preclude a timely decision. Removal of employee concurrence to extend this timeline. The City Manager may also refer the matter to the Personnel Appeals Board for an advisory opinion before making a final decision. The City Manager decision is final.</p>
<p>820. F 1-4 (New)</p>	<p>Dismissal</p>	<p>An employee may be dismissed from his/her position by the employee's Department Director or if the employee is the Department Director, by the Assistant/Deputy City Manager (or designated acting Department Director or Manager).</p> <p>An employee served with a Notice of Intent to Dismiss shall have the right to a pre-deprivation hearing. Clarified delivery service of pre-dep notice - hand delivered and if unsuccessful, certified mail.</p> <p>Appeals: Sworn Police Department employees. A sworn member of the Police Department may appeal a dismissal by submitting a Notice of Appeal of Dismissal form to the City Manager with a copy to the Human Resources Director. Within 15 days after receipt of the Notice of Appeal of Demotion Form, the City Manager will refer the case to the Personnel Appeals Board for a hearing.</p> <p>All other classified City employees. An employee may appeal a dismissal by completing a Notice of Appeal of Dismissal form and submitting it to the City Manager with a copy to the Human Resources Director. The City Manager will refer the case to the Personnel Appeals Board for a hearing.</p>

		Revising timeframe for City response from 15 days to 30 days. The City Manager shall render a final decision in writing within 30 days after receipt of the Board's advisory opinion. The City Manager is final.
830	At-Will Employees	Protections and disciplinary information
840	Counting Time	If deadline falls on a Friday, Saturday or City holiday, then the deadline shall fall to the next City business day.
930	Dismissal	Moving Section to 820 E.

A motion was made by Board member Tara Francois to approve the proposed rule revisions to read as amended with incorporation of suggestions.

The motion was seconded by Board member Jack Milligan.

The Board voted as follows:
 Linee Ferguson – approve
 Jack Milligan – approve
 Tara Francois - approve

Board Chair Linee Ferguson moved to confirm and the meeting was adjourned at 4:25am.

**8/18/22 - Suggestion to change hours to days listed in Section 110 was withdrawn by Board based on additional clarification that hours more accurately allow uniformity Citywide.*

 Tracy Hurt, Board Secretary

 Date

Linee Ferguson

 Linee Ferguson, Board Chair

 Date

XC: Christopher J Brady, City Manager (IMMEDIATELY for next Council Agenda)
 e-mail to Jill Kotsur - City Manager's Office receives any rule changes, council report, and ordinance for Council Meeting
 Holly Nelson, City Clerk
 Merit System Board Members
 Personnel Staff (ONLY after Council Approval)
 Mayor's Office