Chapter Pers 17

DEMOTION

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Pers 17.01 Definition. A demotion is the movement of an employe with permanent status in one class to a position in another class that has a lower single rate or pay range maximum.

History: Cr. Register, October, 1972, No. 202, eff. 11-1-72.

Pers 17.02 Exclusions. (1) The appointment of an employe to a position in a lower classification while the employe is serving a probationary period on an original appointment shall be considered as a new original appointment.

(2) The appointment of an employe with former permanent status to a position in a lower classification following a break in service not covered by leave shall be considered as an original appointment except when such return shall be considered as a reinstatement. See Wis. Adm. Code chapter Pers 16.

(3) The reduction in the classification of a position held by an employe with permanent status that does not involve movement of the employe to a different position is considered a reallocation. See Wis. Adm. Code chapter Pers 3.

(4) The action by which a promoted employe is restored to his previous position and pay as provided in Wis. Adm. Code section Pers 14.03 (1) is not considered a demotion. See Wis. Adm. Code section Pers 16.03 (5) that defines such action as a mandatory reinstatement. Any such mandatorily reinstated employe who thereafter moves by promotion to a position with a higher pay rate or pay range maximum than the class reinstated to shall be required to serve a new probationary period.

(5) Pay reduction that does not involve a change in positions or class is not considered a demotion. See section 16.28 (1), Wis. Stats.

History: Cr. Register, October, 1972, No. 202, eff. 11-1-72; am. (4), Register, September, 1975, No. 237, eff. 10-1-75.

Pers 17.03 Report of appointing authority; approval by director. (1) All demotions shall be reported to the director in accordance with sections 16.04 (1) (d) and 16.28 (1) (b), Wis. Stats.

(2) Approval of the director is required to determine the eligibility of the employe to perform the duties of the position in the class to which he or she is demoted.

History: Cr. Register, October, 1972, No. 202, eff. 11-1-72.

Pers 17.04 Kinds of demotion; status and rights. (1) INVOLUNTARY DEMOTION FOR DISCIPLINARY PRUPOSES. An appointing authority may demote an employe for disciplinary purposes as provided in section 16.28 (1), Wis. Stats.

(a) The demotion may be made to any position within the department regardless of employing unit; and the employe may appeal the demotion as provided under Wis. Adm. Code chapter Pers 26.

(b) An employe demoted for disciplinary purposes does not retain permanent status in class previously acquired in the higher class of position, nor does he or she retain reinstatement eligibility to the higher class of position. The employe does acquire permanent status in class and tenure rights in the class of position to which he or she is demoted. No probationary period shall be required for an employe demoted for disciplinary purposes.

(2) INVOLUNTARY DEMOTION IN LIEU OF LAYOFF. An appointing authority may demote an employe in lieu of laying him or her off as provided under section 16.28 (2), Wis. Stats.

(a) The demotion may be made to any position of the employing unit; and the employe may appeal the demotion as provided under chapter Pers 26.

(b) An employe involuntarily demoted in lieu of layoff retains permanent status in class in the class of position from which he or she is demoted, and he or she immediately obtains permanent status in class in the class to which he or she is demoted.

(c) An employe demoted in lieu of layoff shall be placed on a mandatory reinstatement list for the classification and employing unit from which he or she was demoted in lieu of layoff. Such employe shall also be placed on the servicewide restoration register.

(3) VOLUNTARY DEMOTION WITHIN A DEPARTMENT. An employe may request and with approval of the appointing authority may accept a voluntary demotion within the department either to a position in the same employing unit, or to a position in a different employing unit. Acceptance of such voluntary demotion shall be furnished the director in writing by the employe.

(a) Tenure rights to the previously held position are not retained.

(b) If the demotion is to a position in the same employing unit, an employe retains permanent status in class previously acquired and a probationary period for employment in the lower class of position shall not be required. Such employe immediately attains permanent status in class in the class to which demoted.

(c) If the demotion is to a position in a different employing unit, the employe may be required to serve a probationary period at the discretion of the appointing authority. If during such period the services of the employe are found to be unsatisfactory, he or she may be separated without the right of appeal. If the employe is not required to serve a probationary period, he or she retains permanent status in class previously acquired and shall be immediately granted permanent status in class in the class to which demoted.

(d) For provisions relating to the return of an employe to his or her former class of position, see Wis. Adm. Code chapter Pers 16.

(4) VOLUNTARY DEMOTION WITHIN A DEPARTMENT IN LIEU OF LAYOFF. An employe may request and with approval of the appointing

authority may accept a voluntary demotion within the department in lieu of being laid off. Written acceptance of such demotion shall be furnished to the director.

(a) If the demotion is to a position in the same employing unit, an employe retains permanent status in class previously acquired and a probationary period for employment in the lower class of position shall not be required. Such employe immediately attains permanent status in class in the class to which demoted.

(b) If the demotion is to a position in a different employing unit, the employe may be required to serve a probationary period at the discretion of the appointing authority. If during such period the services of the employe are found to be unsatisfactory, he or she may be separated without the right of appeal. If the employe is not required to serve a probationary period, he or she shall be immediately granted permanent status in class in the class to which demoted.

(c) The employe shall be placed upon a mandatory restoration register for the previous class of position. Such register shall be used to fill any vacancies in the class in the employing unit from which he or she was laid off.

(d) The employe shall also be placed upon a servicewide restoration register for the class of position from which he or she was laid off.

(5) VOLUNTARY DEMOTION BETWEEN DEPARTMENTS. An employe may move to a position in a lower classification in a different department as a voluntary action either for personal reasons or in lieu of being laid off.

(a) The employe retains permanent status in class in the class from which he or she is demoted.

(b) In either case, the employe may be required to serve a probationary period at the discretion of the appointing authority, and if during this period the employe's services are found to be unsatisfactory, he or she may be separated without the right of appeal. If the employe is not required to serve a probationary period, he or she immediately obtains permanent status in class in the class to which he or she is demoted.

(c) For provisions relating to the return of an employe to his or her former class of position, see Wis. Adm. Code chapter Pers 16.

History: Cr. Register, October, 1972, No. 202, eff. 11-1-72.

Pers 17.05 Pay rate upon demotion. When an employe is demoted the rate paid may be at any rate within the pay range for the class to which he or she is demoted which is not greater than the last rate received immediately prior to their demotion unless demoted to a class with a single pay rate (which the incumbent shall be paid), subject to the following:

(1) Except as provided in subsection (3), in any demotion where an employe is not required to serve a probationary period he or she shall be paid not less than the permanent status in class minimum for the class to which they are demoted.

(2) Except as provided in subsection (3), in any demotion where an employe is required to serve a probationary period, completion of such probationary period shall not make the employe eligible to receive a pay increase as provided in Wis. Adm. Code section Pers 5.03 (1). However, upon completion of the probationary period the employe shall be paid not less than the permanent status in class minimum.

(3) For a demotion in lieu of layoff within a department, the employes shall retain their current rate of pay, except that if their pay rate is above the maximum of the pay range or pay rate for the class to which he or she is demoted, their rate shall be reduced to that pay rate or pay range maximum.

History: Cr. Register, October, 1972, No. 202, eff. 11-1-72.