

Chapter Pers 20

EMPLOYE TRAINING AND DEVELOPMENT

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|------------|---|------------|--|
| Pers 20.01 | Definition of state training programs | Pers 20.06 | Pay, status and rights of an employe with permanent status in class appointed as trainee |
| Pers 20.02 | Training policy | | |
| Pers 20.03 | Use of trainees | | |
| Pers 20.04 | Trainee pay range, general | Pers 20.07 | Approval and reporting |
| Pers 20.05 | Pay, status and rights of trainee on original appointment | Pers 20.08 | Performance development |

Pers 20.01 Definition of state training programs. State training programs include all formal and informal, off-the-job and on-the-job developmental activities and devices that are conducted as part of, or associated with state employment, which increase the knowledge, skill and general competency of employes, and which aid in establishing favorable employe attitudes and work habits.

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

Pers 20.02 Training policy. Recognizing that training is an integral part of the management process, the director, in order to implement the state training policy as set forth in section 16.33 (1), Wis. Stats., shall assist operating agencies by promoting, formulating, conducting, coordinating and assisting in state training programs to the end that transaction of the state's business will be performed effectively, efficiently, and with the greatest economy to the state through satisfied employes.

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

Pers 20.03 Use of trainees. The director may authorize the use of trainees when:

- (1) Qualified applicants are not available for the objective level, or
- (2) Filling the position as a trainee will be more appropriate than appointment at the objective level, or
- (3) Special conditions exist as part of the provisions for the use of gifts, grants, bequests, or other devices from individuals, partnerships, associations, corporations, or governmental jurisdictions for providing employes with the training or experience or both to meet the qualifications of the objective level.

History: Cr. Register, October, 1972, No. 202, eff. 11-1-72; am. (2) (b) and (4) (a), Register, September, 1975, No. 237, eff. 10-1-75; r. and recr. (1) to (5), renum. (6) to be Pers 20.07, Register, December, 1976, No. 252, eff. 1-1-77.

Pers 20.04 Trainee pay range, general. The pay range for trainee positions shall be subject to the approval of the director.

(1) **MINIMUM.** The minimum of such range shall be comparable to the minimum pay of classifications having similar qualifications within the most appropriate pay schedule.

(2) **MAXIMUM.** The maximum of such range shall not exceed the minimum pay of the objective level for which the employe is trained,

Register, December, 1976, No. 252

except as provided for under Wis. Adm. Code section Pers 20.06 (1) (d).

(3) **RAISED RATE APPLICATION.** When a raised hiring rate as set forth in Wis. Adm. Code section Pers 5.02(1) (b) is approved for the objective level, the provisions of subsections (1) and (2) may be adjusted accordingly.

(4) **STARTING RATE; PROGRESSION.** The starting pay rate and pay increases during the training program shall be subject to the approval of the director. Appointment may be made at that point in the trainee pay range commensurate with previous training or experience or both, provided this possibility has been included in the recruitment announcement.

History: Cr. Register, December, 1976, No. 252, eff. 1-1-77.

Pers 20.05 Pay, status and rights of trainee on original appointment. This section applies to any person who does not have permanent status in class upon appointment as a trainee or at the objective level.

(1) **PAY ON APPOINTMENT AS TRAINEE.** The trainee's pay shall be consistent with Wis. Adm. Code section Pers 20.04 (4).

(2) **STATUS AND RIGHTS.** Pursuant to section 16.22 (5), Wis. Stats., the trainee shall serve a probationary period for the duration of the training program. A probationary period shall also be required under section 16.22 (1), Wis. Stats., for the objective level. At any time during either of these probationary periods the employe may be separated without the right of appeal at the discretion of the appointing authority. Upon successful completion of the training program the trainee shall be considered qualified at the objective level and shall assume the objective level class title.

(3) **PAY AT THE OBJECTIVE LEVEL.** Upon assuming the objective level the trainee's pay shall be at the minimum of the pay range for the objective level class, unless modified by Wis. Adm. Code section Pers 20.04 (3). Upon completion of the probationary period a pay increase under Wis. Adm. Code section Pers 5.03 (1) shall be granted.

History: Cr. Register, December, 1976, No. 252, eff. 1-1-77.

Pers 20.06 Pay, status and rights of an employe with permanent status in class appointed as trainee. This section applies to an employe who has permanent status in class when appointed as a trainee.

(1) **PAY ON APPOINTMENT AS TRAINEE.** (a) This subsection applies to the pay of an employe appointed to fill a vacancy in a trainee position either in the same agency or in a different agency. The term "step" as used in the subsection refers to the pay step amount in the pay range of the objective level class for which the employe is being trained.

(b) When the employe's present rate is more than one step below the minimum of the trainee pay range, the employe's present rate shall be increased to the minimum of the trainee pay range, or determined in accordance with Wis. Adm. Code section Pers 20.04 (4).

Register, December, 1976, No. 252

(c) The provisions of Wis. Adm. Code section Pers 20.04 (4) shall also apply to an employe whose present pay rate is less than one step below the minimum of the trainee pay range, is at or above such minimum but less than the minimum for the objective level class. However, application shall be limited to obtaining a pay rate not to exceed the minimum of the pay range for the objective level class.

(d) When the employe's present pay rate is less than one step below the minimum of the trainee pay range, is at or above such minimum but less than the minimum for the objective level class, is at or above the minimum of the pay range for the objective level class for which the employe is being trained, his or her present pay rate shall be increased by an amount equal to one step, provided that the action taken constitutes a promotion based on the pay range maximum of the objective level class for which the employe is being trained. In those cases where an employe is being trained for an objective level class which has the same or a lower pay range maximum than that assigned to the employe's current class, no pay increase shall be granted upon appointment to the trainee position. An employe's pay rate will not be reduced upon appointment to a trainee position, except when the employe's present rate of pay exceeds the maximum of the pay range for the objective level classification. In these cases, the employe's rate of pay will be reduced to the maximum of the pay range of the objective level classification.

(e) It is the intent of this section to provide incremental adjustments during the training program up to the minimum of the objective level class. No such incremental adjustments are provided above this rate during the training program.

(2) STATUS AND RIGHTS. (a) Pursuant to section 16.22 (5), Wis. Stats., the trainee shall serve a probationary period for the duration of the training program.

(b) An employe appointed to a trainee position in an agency other than the one in which he or she has permanent status in class may be separated without right of appeal at any time during the trainee probationary period at the discretion of the appointing authority.

(c) The appointment of an employe to a position in the same agency in which he or she has permanent status shall be deemed a change in job status under section 16.22 (1), Wis. Stats., and shall not affect the permanent status and rights previously acquired within the agency. At any time during the trainee probationary period the appointing authority may remove and restore the employe to his or her former position and pay rate without the right of appeal. Any other removal, suspension without pay, or discharge during the trainee probationary period shall be subject to section 16.28 (1), Wis. Stats.

(d) Upon successful completion of the training program the trainee shall be considered qualified at the objective level and assume the objective level class title. At such time a probationary period shall be required for the objective level classification depending upon whether the transaction under Wis. Adm. Code section Pers 20.06 (1) (d) is considered a promotion, demotion or transfer, and also whether such transaction is within the same employing unit, between employing units of the same agency, within the same agency or between different agencies. The status and rights of an employe during any such

probationary period in the objective level class shall be consistent with the treatment of an employe under similar circumstances under the provisions of Wis. Adm. Code chapters Pers 14, 15 and 17 for promotions, transfers and demotions respectively. As used in this paragraph, "similar circumstances" means that the employe's period of service as a trainee is not germane, and only the relationship of the employe's class in which he or she had permanent status to the objective level class for which he or she has been trained shall be considered.

(3) **PAY AT THE OBJECTIVE LEVEL.** (a) The appointment of a trainee to the objective level classification following completion of the training program shall not determine the pay rate in the objective level class. The transaction under Wis. Adm. Code section Pers 20.06 (1) (d) determines the rate of pay at the objective level, which is the highest of the following:

1. The minimum of the objective level class if required to serve a probationary period for which the employe shall receive a probationary increase.

2. The PSICM or job rate of the objective level class if no probationary period is required, or if a probationary period is required which does not provide a pay increase upon completion.

3. A previously earned rate within the range for the objective level class.

4. The previously determined rate within the range of the objective level class if the transaction under Wis. Adm. Code section Pers 20.06 (1) (d) was deemed a promotion.

(b) Subject to the pay range maximum a probationary increase shall be granted under paragraphs (a) 1. and (a) 4. upon successful completion of the probationary period.

History: Cr. Register, December, 1976, No. 252, eff. 1-1-77.

Pers 20.07 Approval and reporting. No person shall be appointed to a trainee position prior to approval of the written training program by the director. The written training agreement shall be submitted to the director at the time of appointment.

History: Renum. from Pers 20.03 (6), Register, December, 1976, No. 252, eff. 1-1-77.

Pers 20.08 Employee performance evaluation and development. In accordance with standards and procedures established by the director as provided under section 16.32(1), Wis. Stats., each appointing authority subject to the approval of the director shall establish an employe performance evaluation and development program directed at motivating and assisting state employes to furnish state services to the public as fairly, efficiently and effectively as possible. The program shall provide for a written performance evaluation to be developed and discussed by the appointing authority for and with each classified employe in a permanent position at least once each year.

History: Cr. Register, October, 1972, No. 202, eff. 11-1-72; r. and recr. Register, September, 1975, No. 237, eff. 10-1-75; renum. from Pers 20.04, Register, December, 1976, No. 252, eff. 1-1-77.

Register, December, 1976, No. 252

Pers 24.04 Acceptance of gifts or favors. (1) No person may offer or give to an employe or his immediate family, and no employe or his immediate family may solicit or receive anything of value from any person pursuant to an understanding that such employe's official actions or judgement would be influenced thereby, or appear to influence the manner in which he performs his work, makes his decisions or otherwise performs his duties.

(2) No employe who is assigned or acts as an official representative of the state in the presentation of papers, talks, demonstrations or making appearances shall solicit or accept fees, honoraria or reimbursement of expenses for personal gain. Any fees, honoraria or reimbursement of expenses which may be offered in connection therewith shall be paid to the employe's state employing department.

(3) Fees and honoraria paid for papers, talks, demonstrations or appearances made by an employe on his own time and not directly part of his official duties, shall not be a violation of this rule. Employes shall notify their appointing authority prior to accepting fees and honoraria for papers, talks, demonstrations, or appearances to insure no conflict of interest exists.

History: Cr. Register, March, 1974, No. 219, eff. 4-1-74; renum. from 24.03, Register, December, 1976, No. 252, eff. 1-1-77.

Pers 24.05 Use of confidential information. No employe may use confidential information gained in the course of or by reason of his public position or official activities other than in the discharge of his official duties.

History: Cr. Register, March, 1974, No. 219, eff. 4-1-74; renum. from 24.04, Register, December, 1976, No. 252, eff. 1-1-77.

Pers 24.06 Use of state property. No state employe shall use, or allow the use of, state property, including property leased by this state, for his private activities, except as provided by law, or for any use other than that which serves the public interest.

History: Cr. Register, March, 1974, No. 219, eff. 4-1-74; renum. from 24.05, Register, December, 1976, No. 252, eff. 1-1-77.

Pers 24.07 Conflict of interest. (1) No employe may use his public position to obtain financial gain for himself or his immediate family, or for any business with which he has a significant fiduciary relationship. Any salary or other compensation received by the employe from this state for his services does not constitute "financial gain" as the term is used in this rule.

(2) No employe may use his public position or influence to gain unlawful benefits, advantages or privileges for himself, for the members of his immediate family, or for any other person.

(3) No employe and no business with which he has a significant fiduciary relationship may enter into any contract with a department which is to be paid in whole or in part out of state funds unless the contract has been awarded through public notice, competitive bidding or any other process as provided for by law.

(4) No employe and no business in which an employe owns or controls, directly or indirectly, at least 10% interest may enter into a lease of real property with this state, except that the director upon

Register, December, 1976, No. 252

request may waive this rule where it is in the best interest of this state.

History: Cr. Register, March, 1974, No. 219, eff.4-1-74; renum. from 24.06, Register, December, 1976, No. 252, eff. 1-1-77.

Pers 24.08 Action to avoid possible conflict. (1) If, in the discharge of his official duties, an employe is required to take an action that is prohibited by this chapter, and would result in a conflict of interest, such employe shall:

(a) Not take such action.

(b) Prepare a written statement describing the matter requiring action or decision, and the nature of the possible conflict of interest with respect to such action or decision.

(c) Deliver copies of such statement to his appointing authority.

(2) If the employe has no immediate superior, he may seek advice from the director to remove himself from influence over actions and decisions on the matter in which the possible conflict exists.

(3) The appointing authority shall:

(a) Relieve the employe of the assignment and shall assign the matter to another qualified employe who does not have a conflict of interest.

(b) Prepare a memorandum of disqualification and forward such memorandum, together with a copy of the employe's statement received under subsection (1) (c) to the director. In all cases, the appointing authority shall furnish to the employe a copy of such memorandum.

(4) An appointing authority may, on his own motion or at the request of an employe, request an advisory opinion from the director on the application of this chapter to a given set of circumstances, real or probable.

(5) The director may or, if requested to do so under subsection (2) shall, review the employe's statement describing the matter requiring action or decision and the nature of his possible conflict of interest, and similarly review the appointing authority's memorandum of disqualification and advise the appointing authority. The director may, in the manner provided in section 11.06 (2), [19.46 (2)] Wis. Stats., request the ethics board to furnish written advice regarding the propriety of any matter brought to his attention under this chapter. Written advice issued by the director to the appointing authority, or to the employe, shall be confidential, except that it may be included in materials referred to the ethics board or the state personnel board or as may be subpoenaed by any court of record. No person except the employe who initially prepared the statement of his possible conflict of interest may make public the records pertaining thereto.

(6) The director may request an advisory opinion from the attorney general on the application of this chapter to a given set of circumstances, real or hypothetical.

History: Cr. Register, March, 1974, No. 219, eff. 4-1-74; renum. from 24.07, Register, December, 1976, No. 252, eff. 1-1-77.

Register, December, 1976, No. 252

Pers 24.09 Report of violation. (1) The director shall accept from any person a signed verified complaint in writing which shall state the name of the employe alleged to have committed a violation of this chapter and which shall set forth the particulars thereof.

(2) The director may make upon his own motion a verified complaint in writing.

(3) The director shall forward within 10 days a copy of the complaint to the employe who is accused and to the employe's appointing authority. Following the receipt of a verified complaint, the director may make preliminary investigations with respect to alleged violations of this chapter, or he may forward the verified complaint to the appointing authority for resolution. No preliminary investigation of the activities of an employe may be initiated unless such employe is notified in writing. The notice shall state the exact nature and purpose of the investigation, the individual's specific actions or activities to be investigated and a statement of such person's due process rights. Complaints where there are alleged criminal violations may be exempt from the procedures of this section and shall be subject to the normal investigatory procedures of the agency having jurisdiction.

(a) The director in connection with investigations and hearings conducted by him may issue subpoenas, administer oaths, take testimony and examine such public records as are required. All officers and other persons under civil service shall attend and testify when requested to do so by the director.

(b) If, after preliminary investigation, the director determines that no probable cause exists, he shall immediately send written notice of such determination to the accused, to the party who made the complaint and to the employe's appointing authority.

(c) If, after preliminary investigation, the director believes that probable cause exists for believing the allegations of the complaint, he shall conduct a hearing on the matter which shall be held not more than 30 days after such finding. The director shall give the accused at least 20 days' notice of the hearing date. Such hearings shall be at closed session unless the accused petitions for a hearing open to the public. The rules of criminal evidence shall apply to such hearings. All evidence, including certified copies of records and documents which the director considers, shall be fully offered and made part of the record in the case. Every party shall be afforded adequate opportunity to rebut or offer countervailing evidence.

(4) During all stages of any investigation or proceedings conducted under this chapter, the accused or any person whose activities are under investigation may be represented by counsel of his own choosing. Prior to any proceeding, the accused shall be permitted to challenge the sufficiency of any complaint brought against him. Exculpatory evidence of any nature discovered through any investigation or by any other means shall immediately be forwarded to the accused or his counsel. The accused or his representative shall have an adequate opportunity to examine all documents and records to be used at any proceeding at a reasonable time before the proceeding as well as during the proceeding, to bring witnesses, to establish all pertinent facts and circumstances, and to question or refute any

testimony or evidence, including opportunity to confront and cross-examine adverse witnesses.

(5) After the hearing the director shall, in written findings of fact and conclusions based thereon, make a determination whether or not probable cause exists concerning any misconduct by the accused constituting a violation of this chapter.

(a) If the director determines that no probable cause exists, he shall immediately send written notice of such determination to the accused and to the party who made the complaint.

(b) If the director finds probable cause of misconduct by the employe constituting a violation of this chapter, he shall submit such determination and copies of any records, reports and transcripts in his possession, together with any other relevant evidence to the appointing authority for disciplinary action as authorized by section 11.10 (2), [19.50 (2)] Wis. Stats.

(c) If the director finds probable cause exists for court action against an employe based on a violation of this chapter, he shall refer the matter for appropriate prosecution to the district attorney in whose jurisdiction the alleged violation occurred. In making such referral, the director shall supply the district attorney with a written statement of his determination, as well as such documents he decides to release under subsection (5) (b), but the director's statement of determination shall not be admissible as evidence in any court.

(6) The appointing authority may, upon receipt of the findings from the director, discipline the employe.

(a) If the employe is in the classified service, and not in a certified bargaining unit, the discipline shall be pursuant to section 16.28 (1) (a), Wis. Stats., for removal, suspension without pay, discharge or reduction in pay or position, or by written reprimand.

(b) If the employe is in the unclassified service the appointing authority shall censure, suspend or remove him from office or employment.

(c) Disciplinary actions affecting an employe who is in a certified bargaining unit shall be pursuant to the provisions of the labor agreement applicable to the employe.

(d) The appointing authority shall notify the director in writing of any disciplinary action taken under the provisions of this chapter.

(7) The director may issue enforceable orders to appointing authorities on all matters relating to the administration, enforcement and effect of this chapter. Any action brought against the appointing authority for failure to comply with the order of the director shall be brought and served within 60 days after the date on which the director's order was issued. Such orders may be appealed to the state personnel board.

(8) The director shall maintain a record of his investigations, inquiries and proceedings. Except for the determination provided in subsection (4), all records, transcripts of any investigations or inquiries of the director under this chapter shall be confidential.

(a) If the director finds probable cause for misconduct, he shall authorize the release to the district attorney or the attorney general of any information, records, complaints, documents, reports and transcripts in his possession if such release is material to any matter being investigated or prosecuted by the district attorney or the attorney general. The accused employe cited by the declaration of probable cause may request the director to withhold any information, records, documents, reports and transcripts that were placed before the director on behalf of the accused or as a part of his defense. The director shall grant such a request.

(b) No employe designated to assist the director and no prosecuting officer or employe may divulge any matter deemed confidential by the subsection.

(9) A permanent classified employe, not included in a certified bargaining unit, affected by an action taken under the provisions of this chapter shall have the right of appeal in accordance with chapter 16.05, Wis. Stats.

(10) An employe in the unclassified service, or in a limited term employment status, or who is serving a probationary or equivalent test of fitness period affected by an action taken under the provisions of this chapter shall have the right of appeal under chapter 227, Wis. Stats.

(11) An employe who is in a certified bargaining unit shall have the right of appeal under the provisions of the labor agreement applicable to him.

History: Cr. Register, March, 1974, No. 219, eff. 4-1-74; renum. from 24.08, Register, December, 1976, No. 252, eff. 1-1-77.

Pers 24.10 Action by appointing authorities. (1) With the prior approval of the director, an appointing authority may modify this chapter to permit the development of provisions unique to a particular department, office or position in conformity with chapter 11, [sections 19.41-19.50] Wis. Stats., and this chapter. Appointing authorities may, within 90 days from the effective date of this chapter, submit requested modifications to the director for his approval. Present department policies will remain in effect until approval is received from the director providing such policies are not in conflict with this chapter.

(2) Appointing authorities shall:

(a) Establish procedures for the review and disposition of cases received from the director.

(b) Establish and provide counseling services for employes who seek advice and guidance on questions involving conflict of interest.

(c) Direct the attention of all employes to their rights and obligations under this chapter.

(3) Appointing authorities may privately request, on forms prescribed by the director, from an employe a statement of economic information which is related to the position in which the employe is functioning, to carry out the provisions of these rules.

Register, December, 1976, No. 252

(4) Appointing authorities may, at the time of the appointment of any employe, require such employe to supply, on forms prescribed by the director, such financial information as may be relevant to the position in which the employe is to serve.

(5) All information furnished by the employe to his appointing authority under this rule shall be treated as confidential.

History: Cr. Register, March, 1974, No. 219, eff. 4-1-74; renum. from 24.09, Register, December, 1976, No. 252, eff. 1-1-77.