Updates to the 2019 – 2021 Commissioner’s Plan

In General

- Replaces gender-specific pronouns with inclusive language throughout.
- Terminology change, from “Agreement” to “Plan” throughout.

Chapter 1 – Coverage

- Clarifies that unless otherwise specified, the Plan is effective the date of approval by the LCC or ratification by the legislature, whichever comes first.

Chapter 2 – Hours of Work and Overtime

- No Changes

Chapter 3 – Holidays

No Changes

Chapter 4 – Vacation Leave

- No Changes

Chapter 5 – Sick Leave

- Modifications to mirror statutory provisions on required and permitted Sick Leave usage.

Chapter 6 – Other Leaves of Absence

- Adds preliminary definition of “permanent status” employee to distinguish from employees in a probationary, unclassified, temporary, emergency, or provisional appointment.
- Clarifies that determining eligibility for FMLA leave (for purposes of Paid Parental Leave) will count all time with any agency or entity in the State of Minnesota
- Adds Tribal Voting to paid voting time leave section
- Clarifies Commissioner’s discretion to excuse employees with pay during an emergency
- Clarifies Athletic Leave is at the Appointing Authority’s discretion
- Restricts blood donation leave, as per M.S. 43A.187 to locations away from the workplace; for no more than 3 hours in a 12-month period; and with a 14-day notice requirement
- Limits unpaid medical leave to employees with permanent status; clarifies Appointing Authority discretion; adds requirement that employee must return for 6 months before being eligible for an additional 1 year of medical leave
- Limits 6-month unpaid parenting leave to employees with permanent status; clarifies that an employee must return for 6 months before becoming entitled to additional leave for a subsequent qualifying event
- Removed political office leave as a mandatory leave type, as not required by statute
- Provides examples of discretionary personal leave that may be available to non-permanent status employees
- Adds section to reference other Statutory leaves not specifically referenced in the Plan.
Chapter 7 – Probationary Period

- Eliminated language that written notice of an extension of probation is required prior to the end of the probationary period
- Confirms extending probation is not subject to the dispute resolution procedure of Chapter 12
- In Attainment of Permanent Status, changes from passive (will be certified unless otherwise notified) to active requirement. New language:

  An employee shall attain permanent status if the Appointing Authority certifies in writing that the employee has successfully completed the probationary period.

- Clarifies that probationary appointments may be terminated at any time; adds requirement to notify manager of non-certification in writing; confirms non-certification is not subject to the dispute resolution procedure.
- Limits return rights for non-certified employee with return rights to a prior classified position in cases where non-certification was for misconduct or delinquency
- For employees who are non-certified in a new position, and who have not yet completed probation in a prior position, the prior agency has discretion to permit the employee to return so long as the non-certification was for reasons other than misconduct or delinquency. In situations where an employee returns to complete probation in a prior position, the probationary period resumes at the point it was interrupted if it is the same position the manager left; if returned to different, vacant position, the probationary period begins anew.

Chapter 8 – Employee Development and Career Advancement

- Changed “Mobility” to “Interchange” to comply with statutory language and forthcoming Administrative Procedures (non-substantive change)

Chapter 9 – Limited Interruptions for Work and Permanent Non-disciplinary Separations

- Clarified that termination of an unclassified, temporary, emergency, or provisional appointment does not constitute a demotion or discharge

Chapter 10 – Seniority, Layoff, and Recall

- Eliminates agency discretion to offer layoff rights for employees in a probationary status except in an emergency; limits voluntary requests to reduce work hours in lieu of layoff to permanent managers
- Clarification that when emergency layoff has ended, clarification that permanent employees are recalled to old position; probationary / unclassified employees placed on emergency layoff may or may not be recalled and Appointing Authority may terminate appointment
- Limits return rights to permanent, classified medical specialist

Chapter 11 – Disciplinary Action

- Adds preliminary definition of “permanent status” employee to distinguish from employees in a probationary or unclassified appointment.
• Clarification that non-certification and termination of non-permanent status appointments is not discipline
• Provides that employees may have a co-worker present during some investigatory interviews
• Clarifies how FLSA impacts what may be imposed in an unpaid suspension for exempt employees
• Provides more definition around must be included in notice for suspension and other disciplinary actions
• Replaces “right” with “option,” as appropriate
• Clarifies that employees cannot simultaneously appeal discharge through both the Plan and the statutory process set forth in 43A.33

Chapter 12 – Resolution of Disputes

• Adds preliminary definition of “permanent status” employee to distinguish from employees in a probationary or unclassified appointment.
• Clarification that non-certification and termination of non-permanent status appointments is not discipline
• Eliminated section for disciplinary appeals other than discharge
• Clarifies which dispute resolution steps are available for which types of discipline
• Clarifies an employee may pursue either an appeal of discipline or discharge in the Plan, or an appeal pursuant to M.S. 43A.33 subd. 3, but not both

Chapter 13 – Insurance

• Insertion of provision providing that after July 1, 2021, the Commissioner’s plan automatically adopts insurance benefits as collectively bargained by the State and AFSCME or MAPE provided at least one of the contracts has been approved:

... After July 1, 2021, the provisions of this Chapter are superseded and replaced by insurance benefits as collectively bargained between the State and participating labor unions and approved for at least one collective bargaining agreement, by either the Subcommittee on Employee Relations (SER) or the full legislature.

• Updates to cost of benefits table
• Introduction of $70 first dollar credit to individual deductible conditional upon qualifying activities in State of Wellbeing program beginning in 2021.
• Limits $250 contribution to Post Retirement Health Care benefit to managers who separate from state service for reasons other than termination or discharge.
• Clarification that an individual may only be covered under one life coverage policy
• Adds negotiated provision on vision coverage

Chapter 14 – Salary Administration

• 2.25% general adjustment increase on July 1, 2019; 2.5% general adjustment increase on July 1, 2020.
• Removes provision that those above the range receive general adjustment increase in 2020
• Distinguishes how to handle delayed increases for budget reasons vs performance reasons
• Adds Equity Adjustment language:
  
  Upon request of the Appointing Authority, MMB may make equity adjustments and advance incumbents within a range, and/or provide a one-time lump sum of no more than $2,500 to a manager at the top of their salary range, to maintain internal equity.

  o Only those with documented “satisfactory” or better performance are eligible for an equity adjustment.

  o Any request for an adjustment under this section must include an explanation of the inequity, and documentation to support an equity adjustment for an incumbent.

  o This provision is not subject to the dispute resolution process.

• Amends pay for Examination Monitors to $10.40 per hour or minimum wage, whichever is higher
• $15 per hour minimum rate of pay for most employees
• Describes how to handle delayed increases for budget reasons vs performance reasons
• Addition of discretionary Referral Incentive for Hard to Fill positions
• Amends Achievement Award language to match amounts negotiated for represented supervisors
• Adds provision for Equity Adjustment:
  
  Upon request of the Appointing Authority, MMB may make equity adjustments and advance incumbents within a range, and/or provide a one-time lump sum of no more than $2,500 to a manager at the top of their salary range, to maintain internal equity.

  o Only those with documented “satisfactory” or better performance are eligible for an equity adjustment.

  o Any request for an adjustment under this section must include an explanation of the inequity, and documentation to support an equity adjustment for an incumbent.

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• Clarify process of determining rates of pay upon voluntary demotion or demotion for cause
• Defines low-cost implementation process for determining salary upon range reassignment
• Distinguishes how pay is treated if an employee returns to prior class upon non-certification into new class.
• Addition of discretionary Student Loan Reimbursement

Chapter 15 – Expense Reimbursement

• Eliminates lunch reimbursement unless the employee is away from home overnight
• Reference to IRS high cost localities for higher reimbursement rates rather than list of identified cities / localities
• Eliminates reimbursement for personal phone calls and baggage handling fees
Chapter 16 – Relocation Expenses
No changes.

Chapter 17 – Housing
No changes.

Chapter 18 – Manager Safety
• Clarify joint responsibility of MMB and Admin to maintain effective health and safety programs.
• Eliminates provision that allows pregnant women to refuse to use a computer.

Chapter 19 – Workers’ Compensation; Injured on Duty Pay
• Increased IOD pay to 300 (from 240)
• Expands permissible use of IOD pay to circumstances when an employee must leave a shift to travel to an emergency room

Chapter 20 – Americans with Disabilities Act
• Changes obligation to provide reasonable accommodation from Employer to Appointing Authority; clarifies that accommodations cannot impose an undue hardship.
• Clarifies duty for reasonable accommodation does not require modification to essential duties

Chapter 21 – Early Retirement Incentives
No changes.

Grids and Appendixes
• In Definitions section, adds section for “non-certification” and “probationary appointment”; adds additional detail to definition of “permanent status,” clarifies definition of ‘confidential employee.’
• Eliminate “monthly” column for wages, to improve accessibility for screen readers
• Adds grids to main / ITS grids to leave room for possible future range reassignments
• Changed Phased Retirement from Pilot to permanent program with no sunset date
• In Appendix for State Patrol supervisors, adds shift differential provision of $70.00 per month
• In Appendix for DNR Enforcement supervisors, clarification of overtime rate provisions; adds shift differential provision of $70.00 per month; eliminates reimbursement for telephone bill
• Clarifies language for C-700