

UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

MICHAEL L. SHAKMAN and PAUL)
M. LURIE, ET AL.,)

Plaintiffs,)

vs.)

THE DEMOCRATIC ORGANIZATION)
OF COOK COUNTY, ET AL.,)

Defendants.)

No. 69 C 2145

Honorable Nicholas J. Bua

THE REVISED PLAN OF COMPLIANCE
OF THE CLERK OF THE CIRCUIT COURT OF COOK COUNTY

Morgan M. Finley, Clerk of the Circuit Court of Cook County, Illinois, adopts the following Plan of Compliance in order to ensure (1) protection of individuals' constitutional rights to freedom of speech and to vote and (2) sound governmental management to implement policies mandated by the electorate. The Clerk's Plan of Compliance follows creation of the Clerk's Career Service in 1979 for the same purposes, a merit employment system which has successfully achieved those purposes.

The Plan of Compliance is intended to implement the April 4, 1983 Judgment entered in the case of Shakman v. Democratic Organization of Cook County, No. 69 C 2145, in the

United States District Court for the Northern District of Illinois, Eastern Division (the "Shakman Case"). This Plan of Compliance shall in no way alter or supersede any of the terms and conditions of the April 4, 1983 Judgment.

Policy Concerning Hiring or Firing Employees

Hiring or firing of employees shall not be conditioned, based or affected by any political reason or factor, including political affiliation, political support or activity, political financial contributions, promises of political support, activity or financial contributions, or such prospective employee's political sponsorship or recommendation, except for certain "Exempt Positions." Such Exempt Positions are those as to which political affiliation or activity are appropriate requirements for the effective performance of those positions. Exempt Positions are enumerated on the attached list, although the list of Exempt Positions may change from time to time pursuant to the Judgment of April 4, 1983. It should be noted that any job-related skill and experience, whenever such are bona-fide occupational qualifications, may be taken into account in hiring, promotion, or transfer of employees regardless of the setting from which the job-related skill or experience results.

The term "employees" does not include consultants or independent contractors. Retention of consultants or independent contractors is not governed by this Plan.

Instruction of Employees and Monitoring

Copies of this Plan of Compliance will be given to each Associate Clerk of the Court, the director of the Clerk's Career Service, and each other person who has responsibility for hiring of employees. They shall be instructed in writing to follow this Plan in selecting employees for the Clerk of the Court. The Associate Clerk for personnel shall monitor compliance with this Plan and report on compliance to the Clerk each calendar quarter.

Changes in Hiring Methods

The Clerk may change the hiring methods set forth in this Plan in any way which is consistent with the orders entered by the Court in the Shakman Case. Notice of such change will be filed with the Court in the Shakman Case at least fourteen days before the change is implemented, with notice of the filing to be provided to plaintiffs' attorneys at the same time.

Notice of Job Availability

When any employee position becomes open, the preferred method to fill such position is by transfer or promotion of a present employee. If a sufficiently qualified employee is not available so that transfer or promotion cannot be utilized to fill the position, hiring of employees for non-exempt positions shall be as follows:

- (1) Entry-level positions: These positions shall be filled from the highest ranking applicants on each job related examination given through the Clerk's Career Service, as described in Exhibit A to this revised Plan and as further testified about to this Court by the Associate Clerk, Mr. Deuel. Any person seeking such a position shall be given a job application. Persons will be examined for bona-fide occupational qualifications in the order in which the applications are submitted. A continuously open waiting list shall be maintained for persons awaiting examination. Notice of the availability of such job applications and those procedures shall be prominently and continuously posted at each location where persons may make application for employment with the Clerk of the Court. The notice shall include the nature of the entry-level jobs, the qualifications for such positions, the pay, and the method for obtaining and submitting the job application.
- (2) Summer positions: For summer positions which are of a limited duration in order to temporarily replace employees on vacation, applicants will be selected on the basis of job related criteria, including experience, skills, education and charac-

ter, as well as the date of the application. The Clerk of the Court will formulate in writing and maintain for public examination the particular job-related criteria which shall be used to select persons for these positions from among the various applicants. Notice of the availability of such job applications and those procedures shall be prominently and continuously posted at each location where persons may make application for employment with the Clerk of the Court. The notice shall include the nature of the summer position, the qualifications for such positions, the pay, and the method for obtaining and submitting the job application.

- (3) All other positions: Hiring shall be based on job related criteria, including experience, skills, education, and character, as well as the date of the application. The Clerk of the Court will formulate in writing and maintain for public examination the particular job-related criteria which shall be used to select persons for these positions from among the various applicants. At least fourteen days before the last date for submission of a job application, notice of the availability of the job shall be given as follows. The notice shall include a description of the nature of the job, the qualifications, the pay, and the method for obtaining and submitting a job application. The notice shall be prominently posted for inspection by the general public at each place where persons may make application for employment with the Clerk of the Court, with a copy available free of charge to each person who requests a copy in person.
- (4) List of jobs: A list of all such job opportunities (updated on a monthly basis) shall be mailed each month to each person who requests such mailing within a period of three

months and pays a reasonable fee not in excess of the costs of such mailing.

- (5) Emergency hiring: If the hiring procedure as set forth above cannot be followed due to an emergency, hiring may be done without prior public notice. Except pursuant to prior approval of the Court in the Shakman Case, no more than ten such hirings may occur during any year. Should such hiring occur, it will be reported to the Court as part of the quarterly affidavits of compliance described below. Any such report will include the reasons why it was an emergency situation, including why it was not possible to have arranged for hiring with prior notice.
- (6) Notice by newspaper publication: Once each calendar quarter, notice by newspaper publication shall be given prominently in the "help wanted" section of a Chicago daily newspaper having a circulation of more than 200,000. The notice shall include information on the existence and availability of entry-level, summer, and other positions, and the existence and availability of the list of such jobs (including how and where to inspect the list or request a copy by mail).

Notice to Employees

A copy of the April 4, 1983 Judgment and notice will be delivered to each employee within thirty days after Court approval of this Plan.

Posting of Judgment

A copy of the April 4, 1983 Judgment, notice, and this Plan will be prominently posted at each location where job applications may be obtained or submitted. This posting shall be accompanied by an additional notice stating that copies of the April 4, 1983 Judgment, notice, and this Plan will be available for anyone so requesting.

Affidavits of Compliance

The Clerk of the Court shall file with the Court an affidavit showing compliance with this Plan. Affidavits will be filed prior to the last day of each calendar quarter for the period since the last date covered by the most recent affidavit. These quarterly affidavits shall list the name and position of all persons hired since the most recent such affidavit. The affidavits shall also disclose the name and party position of every person, reasonably known to the Clerk of the Circuit Court to be a political party official, employee or agent, who has directly or indirectly recommended or sponsored the employee* for employment by the Clerk. Nothing

* Except for Exempt Positions where no such disclosure is required.

in this paragraph shall require any person to make any inquiry as to any person's political affiliation.

Annual Reports

Prior to March 1 of the year in each of the years 1984 through 1993, a verified report will be filed, with copies to all parties to the April 4, 1983, Judgment, detailing all steps taken in the preceding year to implement the Plan of Compliance and otherwise to comply with the April 4, 1983, Judgment and also stating all changes in methods of hiring persons for employment by the Clerk of the Court made since the last date covered either initially or by the last such report.

Termination

This Plan terminates on April 4, 1993.

Effective Date

This Plan shall become effective on Feb. 15,

1984.

Morgan M. Finley

Morgan M. Finley
Clerk of the Circuit Court of
Cook County

Jerome H. Torshen
Mark K. Schoenfield
JEROME H. TORSHEN, LTD.
39 South LaSalle Street
Suite 1400
Chicago, Illinois 60603
372-9282

List of Exempt Positions

FUNCTIONAL TITLE

1	Secretary to the Clerk
2	Ast. Secretary to the Clerk
3	Associate Clerk-Personnel
4	Secretary to the Assoc. Clerk - Personnel
5	Payroll Director
6	Personnel Director
7	Merit System Director
8	Associate Clerk - Operations
9	Secretary to the Assoc. Clerk - Operations
10	Associate Clerk - Information
11	Secretary to the Assoc. Clerk - Information
12	Director of Management Engineering
13	Director of Financial Control
14	Secretary to the Director of Financial Control
15	Ast. Director of Financial Control
16	Director of Management Information
17	Secretary to the Director of Management Information
18	Director of Adm. Services
19	Secretary to the Director of Adm. Services
20	Director of Warehousing
21	Director of Investigations
22-32	Investigator (11 positions)

33 Chief Deputy Clerk - Chancery & Divorce
34 Secretary to the Chief Deputy Clerk Chan. & Di
35 Deputy Chief Clerk - Chan. & Div.
36 Chief Deputy Clerk - County Division
37 Secretary to the Chief Clerk - County Division
38 Deputy Chief Clerk - County Division
39 Chief Deputy Clerk - Law Division
40 Secretary to the Chief Deputy Clerk - Law
41 Division
42 Deputy Chief Clerk - Law Division
43 Chief Deputy Clerk - Criminal Division
44 Secretary to the Chief Deputy - Criminal Divisio
45 Deputy Chief Clerk - Criminal Div. Adm.
46 Deputy Chief Clerk - Criminal Div. Appeals
47 Chief Deputy Clerk - Juvenile Div.
48 Secretary to the Chief Deputy - Juvenile Divisio
49 Deputy Chief Clerk - Juvenile Division
50 Chief Deputy Clerk - Probate
51 Secretary to the Chief Deputy - Probate Division
52 Deputy Chief Clerk - Probate Division
53 Chief Deputy Clerk - 1st Dist. Civil
54 Secretary to the Chief Clerk - 1st Dist. Civil
55 Deputy Chief Clerk - 1st Dist. Civil
Director of Filing - 1st Dist. Civil

56 Director of Records - 1st Dist. Civil
57 Chief Deputy Clerk - 1st Dist. Criminal
58 Secretary to the Chief Deputy - 1st Dist. Criminal
59 Deputy Chief Clerk - 1st Dist. Criminal
60 Director of Filing & Records - 1st Dist. Criminal
61 Chief Deputy Clerk - 1st Dist. Traffic
62 Secretary to the Chief Deputy - 1st Dist. Traffic
63 Deputy Chief Clerk - 1st Dist. Traffic
64 Director of Records and Filing - 1st Dist.
Traffic
65 Chief Deputy Clerk - Child Support
66 Secretary to the Chief Deputy - Child Support
67 Asst. Chief Deputy Clerk - Child Support
68 Chief Deputy Clerk - Suburban Dists.
69 Asst. Chief Deputy Clerk - Suburban Dists.
70 Secretary to the Chief Deputy - Suburban Dist.
71-75 Deputy Clerk Sub. Dist. 2-6 (5 positions)
76-80 Ast. Deputy Clerk Sub. Dist. 2-6 (5 positions)

PERSONNEL DIVISION

GENERAL REGULATION

1. The Clerk of the Circuit Court of Cook County adopts this General Regulation for the Personnel Division pursuant to his power to make reasonable rules and regulations governing the operation of his office. The Clerk has determined that there is a need in the operation of the office of the Clerk, to provide more professional and more qualified employees, selected on the basis of merit. It is the purpose of this General Regulation to implement a system which will provide for professional and progressive merit selection and insure flexible career service within the Clerk's office.

2. Definitions:

(a) Clerk shall mean the Clerk of the Circuit Court of Cook County.

(b) Office shall mean the office of the Clerk.

(c) Division shall mean the personnel division of the office.

(d) Clerk's Career Service shall mean those positions which must be filled by merit selection pursuant to this General Regulation.

3. There is hereby established a staff division of the office which shall be known as the personnel division.

The Personnel Manager shall be the head of the division and shall be appointed by the Clerk and shall serve at the pleasure of the Clerk. The Personnel Manager shall be responsible for the general management and control of the division in a manner consistent with the ordinances of the county, the laws of the state and all other applicable laws, and the rules of the office and division. Subject to the control and direction of the Clerk, the Personnel Manager shall have the power and duty to:

- (a) Encourage and exercise leadership in the development of effective personnel administration within the several departments in the office, and to make available the facilities of the division to this end.
- (b) Advise the Clerk on utilization of employees.
- (c) Foster and develop programs for the improvement of employee effectiveness including but not limited to position classification, recruitment, selection, promotion, performance ratings, probationary periods, training, safety and health.
- (d) Coordinate hiring and promotional policies to insure compliance with relevant state and federal laws governing equal employment opportunity.
- (e) Investigate from time to time the operation and effect of this General Regulation and of the rules made hereunder and report his findings and recommendations to the Clerk.
- (f) Establish and maintain records of all employees in the office, in which there shall be set forth as to each employee the class title, pay, status, and other relevant data.

- (g) Make an annual report to the Clerk regarding the work of the division.
- (h) Certify that persons named on every payroll have been appointed and employed in accordance with the provisions of this General Regulation and the rules adopted hereunder.
- (i) Apply and carry out this General Regulation and the rules hereunder and perform any other lawful acts which may be necessary to desirable to carry out the purposes and provisions of this General Regulation.

4. The Clerk's Career Service shall include all positions in the office except the following:

- (a) The Clerk.
- (b) Heads of staff divisions, administrative officers and directors reporting directly to the Clerk, and associate clerks.
- (c) Employees whose work is seasonal and does not exceed 180 days in any calendar year.
- (d) A private secretary for the Clerk.
- (e) Administrative assistants to the Clerk.
- (f) Any additional positions exempted pursuant to rule of the division upon recommendation of a division head and after comment and recommendation by the Personnel Manager and the approval of the Clerk. These additional exemptions should be based on the needs for flexibility in appointment to positions which (i) involve the determination of policy, or (ii) are required to insure the implementation of policy, or (iii) are necessary in order to maintain confidentiality, or (iv) are administratively necessary in order to effect a program including, but not limited to, such programs as student work experience programs, trainee programs, federal public service employment programs, and any other programs, which, because of the program requirements, cannot be subject to the Clerk's career service requirements.

5. The Clerk, acting independently or on the advice of the Personnel Manager, shall issue personnel rules and regulations. The rules shall provide:

- (a) For the preparation, maintenance and revision of a position classification plan for all positions in the Clerk's career service, based upon similarity of duties performed and responsibilities assigned, so that the same qualifications may reasonably be required for all positions in the same class.
- (b) For the recruitment and selection of persons in the Clerk's career service on the basis of their relative fitness.
- (c) For the establishment of eligible lists for appointment. Eligible lists shall be determined by selection procedures and examinations designed to determine the ability of the applicant to perform the job applied for. These examinations may establish a ranking of candidates according to relative fitness or minimum competence to perform the job. Where rankings are used, the Personnel Manager may substitute rankings such as excellent, well-qualified and qualified for numerical ratings and establish eligible lists accordingly. Rankings will be used only where the personnel manager has evidence that higher examination scores accurately predict a higher probability of job success or higher quality job performance. The rules may provide for lists by area or location, by division or department, for removal of those not available for or refusing employment, for minimum and maximum duration of such lists, and for other provisions necessary to provide rapid and satisfactory service to the operating agencies. The rules may authorize removal of eligibles from lists if those eligibles fail to furnish evidence of availability upon forms sent to them by the Personnel Manager.

- (d) For the certification to the Clerk of the names (i) of the five highest persons available on the appropriate eligible list to fill each vacancy, (ii) from the highest ranking group if the list is by rankings instead of numerical ratings, or (iii) of those persons deemed qualified if the examination determined only minimum competence.
- (e) For promotions which shall give appropriate consideration to the applicant's qualifications, record of performance and ability. Promotions will be based on recommendations made by supervisors and department heads and shall include a review of the employee's semi-annual Evaluation Reports. The recommendations shall be directed to and subject to the review of the Personnel Manager. When more than one employee is considered to be eligible for a single vacancy, a ranking shall be created based on the following factors: the cumulative weight of the semi-annual reviews; the departmental head's recommendation and a personal interview conducted by the Personnel Manager. The ranking shall be presented to the Review Board, which shall consist of the Payroll Director, Budget Director and an Associate Clerk of the Circuit Court, for its consideration and posted in a prominent place in the Clerk's office. After 5 days, it shall be forwarded to the Clerk for his action. An employee who wishes to contest a ranking as posted may make application to the Review Board within five days of the date the ranking list is posted. The Personnel Manager will inform employees ranked in such a manner in writing, in addition to posting the ranking list.
- (f) For probationary periods after initial merit appointment not to exceed one year.
- (g) For emergency employment for not more than 90 days with the consent of the Clerk and for provisional employment. Emergency employment shall be used only in situations where unforeseen events create a need for a temporary increase in personnel. Provisional employment may be used to fill regular career service positions when no appropriate eligible list is available. No provisional appointment shall continue longer than nine months, nor shall successive provisional appointments be allowed except during the first two years after the effective date of this General

Regulation. Provisional or emergency appointees to positions within the career service shall not be promoted to permanent status without completing normal entrance requirements, including examination and any probationary periods required for that position.

- (h) For keeping performance records of all Clerk's career service employees which shall be considered in determining salary increments or increases for meritorious services, in promotions, in reinstatements, and in discharges and transfers.
- (i) For keeping any records necessary to determine the impact of selection procedures on significant racial, ethnic and sexual groups and to determine the validity of any selection procedure as a measure or predictor of job performance.
- (j) For lay-offs because of lack of funds or work, or abolition of a position, or material change in duties or organization, and for reemployment of employees so laid off.
- (k) For establishing a plan to resolve employee grievances and complaints.
- (l) For establishing disciplinary measures such as suspension, demotion in rank or grade, or discharge. These measures shall, to the extent appropriate to the severity of the disciplinary measure, provide for presentation of charges, hearing rights, and appeals for all employees in the career service, consistent with the requirements of due process of law.
- (m) For developing and operating programs to improve work effectiveness, including training, education, safety, health, welfare, counseling, recreation and employee relations.
- (n) For such other policies and administrative regulations, not inconsistent with this General Regulation as may be proper and necessary for its enforcement and to accomplish the goals of a merit system of employment.

6. (a) Under the regulations prescribed by the Clerk, employees in the career service who have completed the prescribed probationary period for their positions may, during the term of the Clerk under whom they were appointed, be discharged, suspended for a period of more than thirty (30) days, or reduced in grade or subjected to any other disciplinary action only for the following reasons:

- (i) discourtesy to the public (which may be confirmed by an immediate supervisor's report of four such instances within any one year period or any other pattern of discourteous conduct);
- (ii) excessive absenteeism or tardiness;
- (iii) incompetent performance of his required duties;
- (iv) insubordination;
- (v) conflict of interest;
- (vi) or any other reason which will promote the efficiency of the Clerk's office.

Nothing in this section shall limit the power of the Clerk to lay-off any employee because of lack of funds or work, abolition of a position, or for material change in duties or organization.

(b) The Review Board shall conduct a hearing on all charges brought against non-probationary career service employee by proper authority for purposes of discharge, demotion, or suspension for a period of more than thirty days. The Clerk shall provide by rule for review by the Review Board or a member thereof

of suspensions not exceeding thirty days. All proceedings before the Review Board or a member thereof shall be recorded manually or by appropriate mechanical device. The findings and recommendation of a member of the Board shall be certified to the Board, which may accept or reject the findings and recommendation or may require further hearings before the Board. After the Board considers the findings and recommendations of its member, or after a hearing by the Review Board, it shall certify the findings and recommendation to the Personnel Manager who shall then notify the Clerk for his review.

Nothing in this section limits the power of the Clerk to suspend a subordinate for a reasonable period not exceeding thirty-days pursuant to the rules of the Clerk's office.

7. No person shall discriminate against any employee or applicant for employment because of race, creed, color, sex or national origin.

8. (a) No person shall directly or indirectly coerce, attempt to coerce or command any employee in the Clerk's career service to pay, lend or contribute anything of value to a party, committee, organization, agency, or person for political purposes. No employee in the Clerk's career service may use his or her official authority or influence in the career service for the purpose of affecting or interfering with the result of an election or nomination for a political office. Nothing herein contained shall affect the right of the employee to hold membership in, and support, in any manner which the employee deems appropriate, a political party or candidate, to vote as he chooses, to express his opinions on all political subjects and candidates, to maintain political neutrality, and to attend political meetings. Nothing herein shall permit an employee to engage in partisan political activities during the employee's hours of employment.

- (b) No person shall make any false statement, certification, mark, rating or report with regard to any test, certification or appointment made under any provision of this General Regulation or in any manner commit or attempt to commit any fraud, or prevent the impartial execution of this general regulation and any rules issued thereunder.
 - (c) No person shall, directly or indirectly, give, render, pay, offer, solicit, or accept any money, service or other valuable consideration for any appointment, proposed appointment, promotion to, or any advantage in a position in the Clerk's career service.
 - (d) No employee of the division, examiner, or other person shall defeat, deceive or obstruct any person in his right to examination, eligibility, certification or appointment under this General Regulation, or furnish to any person any special or secret information for the purpose of affecting the rights of any person with respect to employment in the Clerk's career service.
 - (e) Violation of any of the sub-paragraphs of this section shall be grounds for termination of employment in the office.
9. (a) Those employees currently holding positions in the Clerk's Career Service who have previously qualified for their positions through a merit selection procedure shall continue in their positions without further examination. Any remaining probationary period must be completed as if it were prescribed by these rules. If no probationary period was previously prescribed, the Personnel Manager, with the Clerk's approval, may prescribe a probationary period of up to one year from the date on which the employee was appointed.
- (b) Those employees currently holding positions not exempted from the Clerk's career service who have not previously qualified by merit selection will serve a one year probationary period. During that time, each employee

will be evaluated by his or her supervisor within six months from the date of this General Regulation and, again, no later than fifteen days prior to the expiration or the probationary period. The evaluation will be made in a manner prescribed by the division.

In the event an employee is found not qualified to retain his or her position, the employee will have the right, within ten days, to an appeal before the Review Board.

10. The division, with the approval of the Clerk, may enter into reciprocal agreements, upon such terms as may be agreed upon, for the use of equipment, materials, facilities, and services with any public agency or body for purposes deemed beneficial to the Clerk's career service. The division may cooperate with other governmental agencies charged with public personnel administration in conducting personnel tests, classification of positions, recruiting personnel and training personnel.

11. If any provision, clause, sentence, paragraph, section or part of this General Regulation shall, for any reason, be adjudged by a court of competent jurisdiction to be unconstitutional or invalid, said judgment shall not affect, impair or invalidate the remainder of this General Regulation.

It is hereby declared to be the intent of the Clerk that this General Regulation would have been adopted had such unconstitutional or invalid provision, clause, sentence, paragraph, section or part thereof not been included.