

2021 ACT-018 Modifications to Employee Handbook

The following statements are facts and propositions that provide context and rationale for the Personnel and Finance Committee's policy guidance that follows.

- The County values the collaborative, democratic process of employee groups to represent employee interests and efficiently provide input into creating a respectful, productive work environment.
- 2011 Wis Act 10 effectively eliminated collective bargaining.
- 2012-2013 the County Executive "asked County staff to work with employees to design a new system of labor management relations that maintained employee engagement and involvement in the process, preserved the interactive relationship that the County has enjoyed with its employees, and continued the active involvement of the legislative and executive branches in discussing changes to wages and benefits." (August 15, 2013 memo to the County Board)
- In 2013 the County implemented the systems described above when it adopted the Employee Benefits Handbook (Res. 112, 13-14) and enacted respective changes to the Civil Service Ordinance, Ch. 18 (Ord. Amdt. 14, 13-14).
- In 2016 the County and Dane County Employee Associations jointly requested an advisory opinion from retired Judge Mary Ann Sumi regarding conflicting interpretations of 2011 WI Act 10.
- The County and Employee Associations agreed to follow Judge Sumi's opinion and the 2016 EBH incorporated changes she recommended. Recommended changes to Ch. 18 were adopted in 2018.
- Ch. 18.06 affirms employees right to self-organization and choose representatives to provide input in developing terms and conditions of employment and 18.04(18) defines Employee group's representative. As such, EGRs have bona fide additional representational duties that constitute county-related work.

Personnel & Finance Committee Policy Guidelines with Respect to EBH Modifications and Process:

- The March 29 Bellman Decision of the December 19, 2019 grievance regarding Employee Group Representatives' access to certain County e-mail address lists: While this is will not be before the committee unless the IHO decision is appealed, the committee finds the IHO's Analysis and Conclusions and ultimate Determination instructive for the County's consideration of other possible changes to either the EBH or Administrative Practices Manual (APM) relative to the November 13, 2019 Corporation Counsel Opinion, Legal Standards Governing Uniformity and Paid Time for Employee Work-Related Activities. In particular:
 - "Unelected County administrators, and the IHO, are bound to implement the enacted intentions of the elected authors of those ordinances," and therefore, provisions should

not be made to the APM to circumvent the process described in 18.24 that concludes with the legislative authority of the County Board.

- The IHO observed that “mailings consisted of messages related to employee wages, hours and benefits, and associated EGR activities.” Therefore, they were county-related work.
- “Both parties assert that the IHO must respect and apply the clear and unambiguous terms of the governing documents that are pertinent to the issues to be determined. The grievant's principle contention, with which the undersigned agrees, is that such plain language appears in {1} the Bulletin Boards section of the EBH where it provides for ‘reasonable use of the county electronic mail system’ ‘for the purposes of employee information dissemination by an Employee Group's Representative ... ‘,
- Given the premise that EGR representation is county-related work, it is appropriate that the EBH provides that “reasonable time spent in the conduct of Employee Group representational activity...shall not be deducted from the pay” so long as it does not interfere with such employees’ primary work responsibilities. Such a provision does not deny any other interested stakeholder from doing the same.
- Relative to the above situation where a modification was made to the APM rather than proposed for the EBH, when there is ambiguity or question to which document a revision may be warranted, err toward the EBH and adhere to the process provided in Ch. 18.24.
- Given that the 2016 EBH and later Ch. 18 amendments implemented the recommendations made by Judge Sumi, the recently requested opinion and subsequent proposed changes were unwarranted. The need for legal opinions should arise from questions and concerns advanced in the meet and confer process. If the parties reach an impasse on such issues, Ch. 18.24 provides that an Independent Consultant can be engaged “to assist in recommending revisions to Employee Benefit Handbook provisions.”
- Among the 2016 EBH changes were changes to implement Judge Sumi’s recommendation “that the Handbook develop a rule of general application for authorizing the use of paid time and resources.” Such changes included inclusive language so that all “interested stakeholders” are provided use of and access to County resources and therefore establishes uniform provisions.
- Denial of County resources for work-related purposes to EGRs is contrary to Ch. 18.06’s promise of employees’ right to self-organize as it would constitute interference or restraint toward that end.
- Likewise, instructions to managers to not meet with or communicate with EGRs who are entrusted and authorized to share the concerns and ideas of those they represent would be contrary to Ch. 18.06. Additionally, such instructions would be contrary to Ch. 18.03’s endeavor “to promote full and open communication between the County and its employees.”