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COUNTY OF DANE

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To: Personnel and Finance Committee Members

From: Nick Bubb
Assistant Director

Subject: Ombuds Committee Report

The first draft of the Ombuds 2024 annual report was presented at the February 25, 2025 Ombuds Oversight Committee. At that meeting, a number of concerns were raised with the report as presented. While the report has since seen some modifications, it does not address a number of the concerns raised during that committee hearing. For your information, I have summarized those concerns below.

Perceptions of Retaliation

In Section 4 – “Systemic Trends, Perception and Proving Retaliation” of the report, the Ombuds discusses perceptions of retaliation. The Ombuds writes, “The very fact that the administration is the one to hear the retaliation complaints, when they would be then held responsible for resolving the problem and hold the liability of admitting retaliation, is inherently biased. This system is predisposed to leave individuals raising concerns ousted and unsupported and has created greater distrust and power imbalance in the workforce of and between administration and has increased the fear of retaliation to a detrimental point.”

It is unclear how the Ombuds reached this understanding with the small scope of individuals with whom the Ombuds interacted. Dane County has nearly 3,000 employees and during 2024, the Ombuds office had only 28 unique visitors. The experience of these employees, shared with the Ombuds Office, constitutes less than 1% of the County workforce. It is hard to see how one could come to a definitive conclusion as to what the entire workforce perceives from the limited sample size and the limited interaction with the Ombuds office is not sufficient to establish the evaluation that “the fear of retaliation” has increased “to a detrimental point.”

Additionally, there is no explanation on how Ombuds office collected the information to support the assessment that “the fear of retaliation” has increased “to a detrimental point.” The Ombuds office by nature is an informal resource for employees and does not seek to verify whether the information being shared is accurate. As such, there’s no process for validating the information shared, or confirming a shared perspective of an employee’s working unit, department, or the county as a whole

Further, the assessment of the system for handling claims of retaliation is being made without any investigation of the current process. In the report, the Ombuds does not describe the current process for handling claims of retaliation and that process is not even evaluated for potential improvements.

Finally, in making this judgement about the way the County handles claims of retaliation, the Ombuds completely ignores the County's strong interest in being fair. The County has an interest in avoiding outside litigation and maintaining its reputation as an employer. The County has adopted Ordinances that strictly prohibit retaliation and the county rigorously investigates retaliation claims. These strong incentives provide an important counter balance and that perspective is absent from the Ombud's evaluation of the current system.

Recommendations around the Grievance Process

The County has established a Grievance Process under the Employee Benefit Handbook for all employees to resolve differences over 1) an interpretation or application of the Employee Benefit Handbook, 2) any matter where an Employee, Group of Employees, or the Employee Group's Representative maintain that any of their rights and privileges under the Employee Benefit Handbook have been impaired, 3) any matter involving employee terminations, discipline, or workplace safety, and 4) a dispute over the location of a position in any employee group, or the placement of a position in the managerial classification, rather than in an employee group.

The Grievance Process has served relevant parties well over a number of years and is a critical part of the Employee Benefit Handbook. Both the County and interested stakeholders continue to have discussions regarding this process during the Annual Review of the Employee Benefit Handbook. The process is so important that the County Board declared this provision an essential part of the Employee Benefit Handbook and protected changes to the process in 2022 Ordinance Amendment 59.

The Ombuds recommends that the "Grievance processes move into a sliding scale accountability system." It is hard to understand what is meant by this recommendation or how this would work in practice, especially as it relates to discipline. Disciplinary matters are one of the four areas of grievances and the County uses a progressive disciplinary policy to correct employee behavior and ensure compliance with Civil Service rules. As an example, civil service work rules prohibit employees from perpetrating fraud and engaging in sexual harassment and the county uses discipline, up to an including termination, to address these incidents. With a "sliding scale system" it is not explained how the County would effectuate discipline on these matters. Using a "sliding scale system" could hinder the County's ability to curtail prohibited behavior, including fraud and sexual harassment. Further, there could be significant legal liability incurred by the County if moved to a shared model that hindered its ability to curtail negative behaviors.

The Department is unclear on how the Ombuds developed recommendations with respect to the Grievance Process. During the February 25, 2025, hearing, the Ombuds stated that she had not been a part of any Grievance Hearing and did not share how these findings were reached. It was unclear if this recommendation was based on the Ombud's work or is based only on the suggestion of a small number of individuals who utilized the office.

Recommendations around Communications

The Ombuds writes, "The Ombuds would suggest a more concerted effort from leadership and Administration to communicate out recent events at the County and updates to policy. This could be an employee newsletter, a blog, town halls, or another form of mass communication that would allow more regular check ins and opportunities for employees to provide feedback in anonymous surveys."

During the hearing, the Ombuds was informed that the County has engaged in several efforts to increase communication with the workforce. Those methods include: an "All Things Dane" blog, a News from the DOA Director webpage, regularly shared newsletters from the Employee Relations department, and biweekly check-ins between the Department of Administration and Employee Group leaders. Beyond these initiatives, the County continues to explore additional ways to increase communication to the workforce. These practices and ideas are not reflected in the current report.