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GREG BROCKMEYER
DIRECTOR OF ADMINISTRATION

April 15, 2020

TO: Brian Standing, Vice President / Chief Steward
Dane County Professional Employees Local 1871

FROM: Greg Brockmeyer
Director of Administration

RE: Decision on Step 3 Grievance of Elimination of EGR Email Distribution Lists

This grievance contests the decision to prohibit EGR access to and use of county employee email distribution lists. Allowance of the EGRs' use of county distribution lists was discontinued based on the civil service uniformity standard and the opinion of the Office of Corporation Counsel on what that standard requires. For the reasons set forth below, the Step 3 grievance is hereby denied.

The grievance argues that the County needs to provide EGRs access and the right to use county email distribution lists comprised of those employees who pay dues for membership in the Employee Group association ("EGA"). I disagree. The County's obligations are to treat comparable categories of employees uniformly and to maintain a viewpoint-neutral position on EGA membership. See Wis. Stat. § 59.52(8) and DCO §§ 18.03, 18.06(3) and (4). Allowing the EGRs to use the county email system to communicate with only those employees in their groups who pay dues conflicts with both these obligations. Within the county system, those employees who elect not to pay dues are in the same category as the EGA members. The County defines this group as "Interested Stakeholders." Both groups are subject to and receive the protections of the Employee Benefit Handbook (EBH). Neither the EGA nor the non-EGA employees have the right to use county email distribution lists for non-county business. Thus, the County's email/distribution lists policy is treating all employees in this category the same.

The grievance takes issue with the fact that email lists for management and other "unrepresented employees" continue to be maintained. It characterizes this fact as a form of discrimination. What the grievance fails to recognize is that these groups are not comparators to the Interested Stakeholders. They constitute different categories of employees. What these groups have in common that set them apart from Interested Stakeholders is the fact that they are not subject to and do not receive the benefits of the EBH. Further, there are county business reasons to maintain these distribution lists, such as coordinating management on county practices. There is no county business reason to maintain distribution lists distinguishing between dues- and non-dues-paying Interested Stakeholders.

Nor does the EGRs' use of the county distribution lists constitute reasonable use of the county electronic mail system under the terms of the EBH and the APM Policy on Proper Use of Computer Equipment and Connectivity. The Policy determines what constitutes reasonable use. The Policy provides that use of Dane County equipment and systems is to be limited to conducting county business. (Policy § 3.1) The grievance comments that EGRs have used the county system to send emails that are "all directly related to work-related activities of the EGR itself." Work-related activities are limited to those that are done by an employee to fulfill their job description and participation in civil service activities. The EGRs' activities, other than paid civil service activities, do not constitute county business.

The Policy does allow for use of the email system for occasional and limited personal use. (Policy § 3.2) The distribution of emails to large groups of employees, no matter how infrequent, for a purpose other than county business, does not fit within this exception. Occasional use of the email system to schedule time for a group to meet outside of the workplace is acceptable.

The grievance argues that the change in practice violates the existing benefits clause of the EBH. It is questionable that use of the county email system for non-county business constitutes a condition of employment. More to the point, the existing benefits clause does not and cannot preserve benefits that violate the law. This limit is inherent in all county activities and is incorporated in the ordinances. See DCO §§ 18.06(7) and 18.24(6).

Finally, the grievance maintains that this change in practice violates the EBH section entitled "Employee Group Representation and Work Related Associations." I do not agree. The grievance argues that it has used the email lists to post notices and "to communicate with its members about work-related activities of the EGRs," and that elimination of the lists frustrates stewards' ability to post notices, process grievances or participate in discussions related to personnel relations. As noted, EGR activities that are work-related are limited to those that are paid civil service activities, such as participation in the EBH review and grievance and committee processes. Work-related activities do not include Employee Group representational activities that fall outside of those processes. There is no reason the EGRs need use of county email distribution lists to engage in those processes. To the extent EGRs are reporting to the EGA membership about civil service developments, that is an EGA membership service, not a civil service activity per se. Thus, those communications are not work-related.

If you have any questions, you may contact me at (608) 266-4519.