



OFFICE OF CORPORATION COUNSEL

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MARGARET C. DAUN
Corporation Counsel

PAUL D. KUGLITSCH
ANNE B. KEARNEY
Deputy Corporation Counsel

TIMOTHY R. KARASKIEWICZ
ALAN M. POLAN
KATHRYN M. WEST
DALE R. NIKOLAY
SCOTT F. BROWN
TEDIA R. GAMINO
MARYNELL REGAN
DAVID N. FARWELL
Assistant Corporation Counsel

TO: Eddie Cullen, Chair, Personnel Committee

FROM: Paul Kuglitsch, Deputy Corporation Counsel ^{PK}
Margo Franklin, Employee Relations Director

CC: County Clerk George L. Christenson (c/o Shanin Brown)
Theodore Lipscomb, Sr., Chairman, Board of Supervisors
Kelly Bablitch, Chief of Staff, Board of Supervisors
County Executive Chris Abele
Raisa Koltun, Chief of Staff, County Executive

DATE: January 23, 2019

RE: File No. 19-164: Corrective Action Policy

The Office of Corporation Counsel and Human Resources have been asked to prepare this report outlining Milwaukee County's corrective action policy.

Under the provisions of 2011 Wisconsin Act 10 ("Act 10"), local governmental units are required to have a grievance procedure addressing (1.) employee terminations, (2.) employee discipline, and (3) workplace safety. Wis. Stat. § 66.0509(1m)(c). Act 10 further provided that "[i]f an employee of a local governmental is covered by a civil service system on June 29, 2011, and if that system contains provisions that address [such grievable events], the provisions that apply to the employee under his or her existing civil service system continue to apply to the employee." Wis. Stat. § 66.0509(1m)(e).

In Milwaukee County, grievances related to employee terminations and discipline are controlled by a civil service system under Chapter 63, Wis. Stats.¹ See Wis. Stat. §§ 63.10, 63.12. Grievances related to workplace safety are controlled by a local grievance procedure under Section 17.207 of the Milwaukee County Code of General Ordinances ("MCO").² Both systems were in place prior to June 29, 2011.

¹ Terminations and discipline of County law enforcement officers are also controlled by Wis. Stat. § 59.52(8), and public safety collective bargaining agreements may address other discipline not appealable under Wis. Stat. § 63.10.

² An informational report describing Milwaukee County's grievance procedure was submitted concurrently under File No. 19-147.

Per MCO § 33.01(1), the Milwaukee County Personnel Review Board (“PRB”) is the body empowered to hear and decide cases of non-BHD employee terminations and discipline pursuant to Wis. Stat. § 63.10(1), and to hear and decide non-BHD employee grievances pursuant to MCO § 17.207. Since the enactment of 2013 Wisconsin Act 203, the Civil Service Commission (“CSC”) hears these cases for BHD employees.

Employee Terminations and Discipline Under Wis. Stat. § 63.10

Wisconsin Stat. § 63.10 controls the termination and discipline of classified employees within the County’s civil service system.³ By statute, classified employees facing demotion, termination, suspensions greater than 10 days, or a second suspension within a 6-month time-period are entitled to a hearing before the PRB or CSC. MCO § 33.01(1); Wis. Stat. § 63.10(1). At the hearing, the department is required to show cause for the recommended employment action. The PRB or CSC must then determine whether the charges are well founded and to take such action by way of suspension, demotion, discharge or reinstatement as they deem appropriate under the circumstances.

Other Corrective Action

Besides the above, all county employees (classified and unclassified) can be subject to other corrective action. As noted in both the General Milwaukee County and BHD Milwaukee County Employee Handbooks, corrective action is a process of communicating with employees to improve unacceptable behavior or performance, documenting those discussions, and giving employees a reasonable opportunity to demonstrate improvement.

Corrective action may be taken when:

- An employee is not meeting the requirements of the job
- The performance evaluation process, coaching and counseling have not resulted in changing and correcting the employee’s performance or behavior
- A serious workplace rule violation or misconduct occurs

Corrective action may include the following:

- Counseling
- First warning
- Final warning

At each step in the process, employees are notified of the work-related issues and encouraged to improve their performance. Also, a performance improvement plan may be implemented in conjunction with any of these steps. Last, there may be instances in which one or more steps may be skipped due to the seriousness of the misconduct or rules violation. The above-referenced examples of corrective action cannot be appealed to the PRB or CSC.

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³ Probationary employees and employees in the unclassified service are not entitled to these protections.