

From: [Daun, Margaret](#)
To: [Daun, Margaret](#)
Cc: [Tidwall, Karen](#); [Brown, Scott](#)
Subject: Monday's Judiciary Committee Meeting - Executive's Powers
Date: Friday, May 6, 2022 9:28:18 AM
Attachments: [image001.png](#)
[2017 Trial court decision in Lipscomb v Abele.pdf](#)
[2018 Appeals court decision in Lipscomb v Abele.pdf](#)
[20-290 REPORT - OCC Opinion re Emergency Powers March 13 2020.pdf](#)
[21-961 REPORT - OCC Opinion re Emergency powers Sept 22 2021.pdf](#)
[17-274 REPORT.pdf](#)
[17-274 EXHIBITS \(61 pages\).pdf](#)
[17-275 CORRECTED MEMO.pdf](#)
[17-275 CORRECTED EXHIBITS.pdf](#)
[22-419 VETO MESSAGE.pdf](#)
[22-419 COUNTY BOARD ENGROSSED RESOLUTION.pdf](#)

Chairwoman, Members of the Judiciary Committee, and other Honorable Supervisors,

Whether the County Board overrides the Executive's veto of File 22-419 may be informed by whether the County Executive is empowered under state law to implement the rules at issue without Board approval (File and veto message attached). The Office of Corporation Counsel (OCC) was requested to provide a formal opinion in response to that question, among others. Yesterday, in advance of Monday's Judiciary meeting, the OCC conferred with Judiciary Chairman Clancy. At his suggestion, we write to provide a preliminary informal opinion ahead of Monday's discussion. The final formal opinion will be issued on May 19, one week before the full County Board meeting on May 26. This will provide ample time for review of the opinion and any special committee meetings that chairs may believe appropriate.

Conclusion

It is the opinion of the Office of Corporation Counsel that if challenged, a court would more likely than not conclude that the County Executive possesses the authority under state law to implement most, if not all of the currently applicable COVID-19 work rules and building safety rules, without review or approval of the County Board. Although there are counterarguments, which our formal opinion will explore more, we advise that a court would not likely set aside these rules. Ultimately, most separation of powers questions are grey areas, with arguments to be made on both sides of the question. As history has shown, legal actions to clarify these questions are costly and time-consuming, and often do not provide enduring clarity. *See, e.g., Lipscomb v. Abele*, 16-CV-2888 (Apr. 24, 2017), 2017-AP-1023 (Aug. 2, 2018) (attached).

That said, the County Board is not excluded from policymaking in this area and there are numerous options more likely to be upheld by a Court that do not involve editing or reviewing specific rules issued by the Executive. For example, a court is more likely to uphold an action by the Board to place a reasonable number of selected representatives on the workgroup. A court might also look more favorably upon higher level directives to the County Executive regarding thresholds for changes to rules or actions that does not replace the judgment of the subject matter experts that the Executive is relying upon. A court may also look more favorably upon efforts by the Board to articulate nonquantitative factors that should be taken into consideration by the workgroup, such as consistency in masking policy (i.e., fewer changes are better), reporting requirements, and the like.

Background

Exhibit 1

The County Executive submitted File 22-419 seeking the Board's approval of a broad framework for COVID-19 mitigation measures, using a disease activity levels assessed by an internal workgroup comprised of Dr. Ben Weston, the County's Chief Health Policy Officer, an OCC representative, a representative of the County Executive's Office, and departmental representatives as needed, to determine changes to particular rules. File 22-419 was then amended to require the County Executive to submit rules to the County Board for review. The County Executive subsequently vetoed File 22-419 (veto message attached). Whether to override that veto is a question now before the Judiciary Committee and the full Board.

As of April 1, the emergency declaration and all orders issued pursuant to that emergency declaration ended. File 22-419 and the corresponding veto message indicates that the County Executive will implement rules in his discretion that address workplace safety such as masking, telework, health screenings, vaccines, etc.) and facilities/building management (regarding masking, health screening, etc.). Since April 1, the OCC understands that the Executive has implemented and continues to enforce and amend such rules.

Analysis

At the outset and for clarity, please note that currently applicable COVID-19 rules are not based upon (and have nothing to do with) the County Executive's emergency powers. The Board indisputably possesses the power to review, cancel, amend, terminate, extend, etc. any emergency declaration or orders issued pursuant thereto. The OCC's analysis of emergency powers are attached and may also be accessed via Legistar in File Nos. 20-290 and 21-961.

Completely separate and apart from emergency powers, the County executive possess those powers conferred to him in state law and under traditional common law separation of powers principles. The OCC has previously opined upon separation of powers issues in writing and orally in many contexts, always beginning with the fundamental distinction that the County Executive controls day-to-day management and is responsible for executing policy, while the Board establishes policy. For example, please see attached analysis for Files 17-274 and 17-275 (also available on Legistar). The OCC also consistently emphasizes, as we do here, that there is no bright line between what is policy (legislative power) vs. day-to-day management (executive power). As noted above, for any given action or rule, arguments can be made on either side of the question.

When analyzing these questions, the OCC and courts must delve into complex, case-by-case, fact intensive analyses. *See, e.g., Lipscomb v. Abele* 16-CV-2888 (Apr. 24, 2017), 2017-AP-1023 (Aug. 2, 2018) (attached). The OCC and courts will consider the sorts of factors noted below, to analyze whether a given action (i.e., requiring masks to be worn by employees, requiring the public to wear masks) is day-to-day management, not subject to County Board approval or rejection, or a policy, that must be reviewed and voted upon by the County Board.

- a. What something is labeled does not decide the issue – whether something is called an AMOP, work rule, policy, framework, directive, process, etc. is not dispositive.
- b. What would a reasonable person say?
- c. What is required to determine or implement the action – does it require a detailed assessment of data or other analysis?
- d. How urgently needed is the action?

- e. Does the action require differentiation on per work unit, department, job class, or employee basis?
- f. Does the action require differentiation per building/facility?
- g. Does the action require or use expertise?
- h. Is the action a deviation from universal processes or policies?

Currently applicable COVID-19 rules may be grouped into two categories: (1) facility/building safety rules that apply to everyone; and (2) work rules that apply to County employees. In short, completely separate and apart from emergency powers, the County Executive has broad authority to control work rules and buildings under state statute and Acts 14, 55, and 203, which is not subject to Board review. The OCC reaches this conclusion for these reasons, among others:

- The legislature fairly plainly explicitly granted these powers by statute to the CEX, as noted above (we will analyze this in greater detail in the formal opinion).
 - In Milwaukee County, based on state statute and as expanded by Acts 14, 55, and 203, the County Executive has plenary authority over County buildings (except for those located on parkland). Exercise of this authority is not subject to review or approval by the County Board.
 - In Milwaukee County, based on state statute and as expanded by Acts 14, 55, and 203, workplace safety rules at this level of granularity are the purview of the County Executive, not subject to Board approval.
- Expertise is required to set rules;
- Expertise is required to change or eliminate rules;
- Differentiation is required among buildings, functions, employee departments;
- Employee-by-employee determinations are required for vaccine rule compliance, masking, etc.;
- Confusion would result if rules were subject to amendment, revocation, and change days or weeks after implementation;
- Confusion from near-term changes or revocations to rules could lead to decreased compliance;
- Confusion from near-term changes or revocations to rules could decrease trust in County government's ability to objectively craft rules, free from partisan rancor; and
- The Board lacks immunology/virology/public health expertise, as well as the data used to craft these detailed rules. The administration would, of course, provide data and information and testimony, but the administration's experts are reviewing data every day, conferring with state and national immunology and virology experts, and aggregating that knowledge and expertise to inform decision-making. The administration is also in a better position relative to legislators to coordinate efforts and collaborate with other local governments. A court may find it unreasonable and incompatible with the oversight and high-level policy making function of the Board to require – especially of part time legislators – to commit the capacity, time, and expertise required to issue and amend these rules as the situation evolves. Importantly, in his veto message, the County Executive stated that he would implement the rules recommended by the experts, including Dr. Ben Weston, “without alteration.”

Best regards,



Margaret C. Daun (*she/her*) | **Corporation Counsel**

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From the Chief Health Policy Advisor, Office of the County Executive, requesting adoption of a framework for an ongoing COVID-19 response within the organization of Milwaukee County, by recommending adoption of the following:

A SUBSTITUTE RESOLUTION

WHEREAS, in March of 2020, the World Health Organization declared the Novel Coronavirus Disease (COVID-19) a global pandemic and, on March 13, 2020, the County Executive declared a local public health emergency due to COVID-19; and

WHEREAS, through Administrative Orders based on the Declaration of Emergency, Milwaukee County has since implemented numerous mitigation measures intended to slow the spread of COVID-19 and protect employees, service users, and the public; and

WHEREAS, the Milwaukee County Board of Supervisors possesses the legal authority to affirm, modify, or terminate emergency orders issued by the County Executive pursuant to Wis. Stat. § 323.14(4)(b) which states:

“If, because of the emergency conditions, the governing body of the local unit of government is unable to meet promptly, the chief executive officer or acting chief executive officer of any local unit of government shall exercise by proclamation all of the powers conferred upon the governing body. . .that appear necessary and expedient. The proclamation shall be subject to ratification, alteration, modification, or repeal by the governing body as soon as that body can meet, but the subsequent action taken by the governing body shall not affect the prior validity of the proclamation.”

; and

WHEREAS, from the time the County Executive issued the COVID-19 Emergency Proclamation through the end of 2021, the Milwaukee County Board of Supervisors has met 33 times, demonstrating the ability to swiftly meet and act if needed; and

WHEREAS, the Milwaukee County Board of Supervisors, in File No. 21-918, voted to terminate the COVID-19 Emergency Proclamation, effective February 28, 2022; and

WHEREAS, the termination of the COVID-19 Emergency Proclamation was done with adequate lead time to allow the Office of the County Executive to issue a report outlining the Emergency Orders that have been ratified by the County Board and which ones needed approval to extend beyond February 28, 2022; and

46 WHEREAS, at its meeting on January 20, 2022, the Committee on Judiciary,
47 Safety and General Services reviewed a report requesting adoption of a framework for
48 an ongoing COVID-19 response within the organization of Milwaukee County, but the
49 report did not provide a list of specific Administrative Orders that need to be authorized
50 to extend beyond the February 28, 2022 deadline as agreed to in File No. 21-918; and
51

52 WHEREAS, the Committee on Judiciary, Safety and General Services voted to
53 lay this file over to the call of the chair so the deadline to terminate the COVID-19
54 Emergency Proclamation could be extended and policymakers could receive a
55 reconciliation of which orders are already authorized by the County Board, which ones
56 require authorization by the County Board to have effect beyond March 31, 2022, or
57 which Administrative Orders can be administered within the authorities granted to the
58 County Executive under County ordinances and State statutes; and
59

60 WHEREAS, on February 3, 2022, the Committee on Judiciary, Safety and
61 General Services held a special meeting to consider a substitute resolution to the file
62 submitted by the Office of the County Executive to extend the termination deadline of
63 the COVID-19 Emergency Proclamation to April 1, 2022 to allow the Office of the
64 County Executive adequate time to provide the requested information to the County
65 Board of Supervisors for review and consideration; and
66

67 WHEREAS, the Committee on Judiciary, Safety, and General Services, at its
68 special virtual meeting of February 3, 2022, recommended adoption of File No. 22-298
69 as substituted (vote 4-0); now, therefore,
70

71 BE IT RESOLVED, pursuant to Wis. Stat. § 323.14(4)(b), the Milwaukee County
72 Board of Supervisors ("County Board") hereby terminates the COVID-19 Emergency
73 Proclamation declared by the County Executive on March 13, 2020 and the termination
74 shall take effect on April 1, 2022, superseding the termination date in File No. 21-918;
75 and
76

77 BE IT FURTHER RESOLVED, any Administrative Orders intended to extend
78 beyond March 31, 2022 must be approved by the County Board to continue to have
79 effect beyond March 31, 2022, if not already expressly authorized by the County Board;
80 and
81

82 BE IT FURTHER RESOLVED, the March 1, 2022 termination date for the
83 COVID-19 Emergency Proclamation, per File No. 21-918, adopted November 4, 2021 is
84 hereby extended to April 1, 2022 to allow the Office of the County Executive to submit
85 an action report regarding which Administrative Orders have been ratified by the County
86 Board, which require approval of the County Board by March 31, 2022 to continue to
87 have effect beyond that date, and which Administrative Orders can be administered
88 within the authorities granted to the County Executive by County ordinances or State
89 laws.

90

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92 02/03/22

93 S:\Committees\2022\February\JSGS Special Meeting Feb 3\Resolution\22-298 COVID-19 Response Framework

94 Substitute Resolution no edits.docx



Milwaukee County

Signature Copy

Action Report: 22-298

File Number: 22-298

Report from the Chief Health Policy Advisor, Office of the County Executive, requesting adoption of a framework for an ongoing COVID-19 response within the organization of Milwaukee County. (01/20/22: Laid Over to the Call of the Chairperson)

The attached resolution or ordinance was adopted by the Milwaukee County Board of Supervisors on 2/3/2022 by the following vote:

Ayes: 17 Clancy, Coggs-Jones, Cullen, Czarnezki, Goodwin Sr., Haas, Johnson Jr., Logsdon, Martin, Rolland, Shea, Staskunas, Sumner, Taylor, Wasserman, Weishan Jr., and Nicholson

Excused: 1 Ortiz-Velez

Certification to County Marcelia Nicholson Date FEB 03 2022
Board Passage Marcelia Nicholson

Certification of County George Christenson Date FEB 03 2022
Board Passage George Christenson

I approve the attached David Crowley Date 2/25/22
resolution or ordinance.

Received by County George Christenson Date FEB 28 2022
Clerk's Office George Christenson

COUNTY OF MILWAUKEE
Inter-Office Communication

Date: February 18, 2022

To: Marcelia Nicholson, Chairwoman, Milwaukee County Board of Supervisors

From: The Office of the County Executive

Subject: Report from the Office of the County Executive, providing an information on current COVID-19 mitigation policies, and requesting adoption of a framework for mitigation measures for COVID-19 within the organization and facilities of Milwaukee County.

File Type: Action Report

REQUEST

Provide Supervisors with background information on currently operative Administrative Orders, and request adoption of a framework for mitigation measures for COVID-19 within the organization and facilities of Milwaukee County.

BACKGROUND

Throughout the pandemic, the goal of Milwaukee County’s COVID-19 pandemic management process has been to continue County government operations and critical services for its residents, while keeping its staff and participants, as well as the wider community, safe. Milwaukee County government has many public-facing operations, often interacts with particularly vulnerable individuals, and is responsible for several of the largest congregate facilities in the county. A comprehensive mitigation strategy is crucial to ensuring that Milwaukee County government can continue providing the critical services upon which many of our residents depend, while keeping employees and those service users as safe as possible from COVID-19.

Prior to the expiration of the Emergency Order, the following Administrative Orders are in place:

Milwaukee County COVID-19 Related Administrative Orders

Admin. Order Name	Last Updated	Purpose	Details	Approved by Board?	Future State
Vaccine Mandate for Milwaukee County Administrative order 21-3v3	1/18/2022	Details the County’s COVID-19 vaccination mandate for current and future employees Recently updated to mandate COVID-19 booster vaccinations for employees at its four high risk facilities	See the Comprehensive FAQ , updated 1/19/22	Yes – File No. 21-34, ‘By the Committee’ Resolution	Work rule – Human Resources
COVID-19 Public Health Emergency	7/15/2021	Defines circumstances when employees, contractors and	<ul style="list-style-type: none"> Visitor Health Screening 	No	Facilities rule – DAS-Facilities

Admin. Order Name	Last Updated	Purpose	Details	Approved by Board?	Future State
COVID-19 Health Screening Policies and Procedures Administrative Order 20-17v4		visitors should be screened for COVID-19 Symptoms, Confirmed Cases, and Exposures and establishes procedures for conducting such screening.	Questionnaire – typically posted at entrances <ul style="list-style-type: none"> • Screening Questionnaire – online • Health Screening FAQs 		
Universal Face Mask Policy and Procedures Administrative Order 20-14v8	1/7/2022	Outlines expectations for mask wearing for Milwaukee County employees, contractors, vendors, volunteers, service users, visitors, the general public, and all others entering or working in Milwaukee County facilities, grounds, or other places where County services are delivered.	Milwaukee County purchased KN95 masks in January, in the process of distributing them to employees, free-of-charge	No	Facilities rule – DAS-Facilities
In-Person Workers: Social Distancing and Symptomatic Employees and Contractors Administrative Order 20-4v1	3/16/2020	Provides guidelines for Social Distancing in the workplace and responding to symptomatic employees and contractors who have reported to work.		No	Facilities rule – DAS-Facilities
Procedures for Responding to Individuals with Confirmed Cases of, Symptoms of, or Exposure to COVID-19 Administrative Order 20-7v9	1/18/2022	Details for employees, and their supervisors how to respond to individuals with confirmed cases of COVID-19, with symptoms, and with exposure to COVID-19.	<ul style="list-style-type: none"> • Decision Tree: Exposure • Decision Tree: Symptoms • Decision Tree: Positive Test 	No	Work rule – Human Resources
Uses and Priority of Supply of Face Masks and Respirators	4/23/2020	Provides details for employee usage of face masks and respirators	Enacted early in pandemic, while PPE was scarce	No	Expire as an order, but maintain as a reference for employees on intranet
Telework Administrative Order 20-3v1	3/16/2020	Covers the definitions, expectations, guidelines, and procedures for employee teleworking		No	Replaced by Administrative Manual of Operating

Admin. Order Name	Last Updated	Purpose	Details	Approved by Board?	Future State
		during the public health emergency.			Procedures (AMOP), Chapter 02.20 Telework Policy
Expanded Paid Sick Leave Administrative Order 21-1v4	12/2/2021	Details the process for all Milwaukee County employees to receive an EPSL Bank with the designated number of hours based upon their employment status	Original EPSL bank mandated by act of Congress. Milwaukee County continued EPSL after Congressional mandate expired.	No	Scheduled to expire on March 31, 2022
Vaccin8: Milwaukee County Employee Vaccine Recognition Program Administrative Order 21-2v1	7/15/2021	COVID-19 vaccination recognition program for County employees	Vaccin8 program was incorporated into the Vaccine Mandate. The incentive ended on 12/31/21	No	Expired on 12/31/2021
Facility Capacity Limits Administrative Order 22-1	1/7/2022	Sets capacity limits to reflect the changing levels of disease in the community. Provides guidelines for indoor, outdoor, and rental spaces	Facility Capacity – By Risk Level & Type	No	Facilities Rule – DAS-Facilities
Service Risk Mitigation and Re-Opening Requirements Administrative Order 20-13v10	7/1/2021	Establishes the minimum requirements for operational risk mitigation and re-opening standards, as well as the governance for re-opening planning and service opening decisions. This order is subject to change as public health guidance evolves.		No	Facilities Rule – DAS-Facilities

COVID-19, remaining dynamic in nature, presents an ongoing challenge that requires an approach that can adapt with the changing nature of the virus. In light of this, the Administration respectfully requests approval of the following framework for an ongoing COVID-19 response within Milwaukee County government.

Under this proposed framework, the County will continue to inform its policies based on the Centers for Disease Control and Prevention (CDC) and the State of Wisconsin's Department of Health Services (DHS) guidance. The proposed framework will move the County from issuing Administrative Orders under the authority of an Executive Emergency Order, to creating policies that reside within the Departments responsible for their county-wide implementation (to include Human Resources, Facilities Management, and others – represented by the *Future State* column in the table above). The policies will be updated based on COVID-19 conditions in the community, with changes taking effect when conditions improve or deteriorate.

The trigger for policy changes will be a combination of an objective measure: the [State of Wisconsin Disease Activity Composite Measure](#) (further description in Appendix), and subjective measures: considerations of the Milwaukee County Chief Health Policy Advisor and other public health experts (intended to capture factors not immediately recognizable in pure data, such as the emergence of new variants, hospital capacity considerations, trends both in the U.S. and globally, and others). These measures are shown in greater detail in the table below.

To ensure alignment across mitigation policies, a central workgroup will be established by the Administration that will meet regularly. This group will consist of leaders from Departments charged with implementation of these policies, including Human Resources, the Office of Corporation Counsel, the Chief Health Policy Advisor, and the Office of the County Executive. A designee of that workgroup will report to the appropriate Standing Committee of the Milwaukee County Board of Supervisors on the current state of mitigation measures at the County. The proposed levels and the types of policy responses are highlighted in the table below. Departments will develop specific policies based on these high-level guidelines.

Policy Area	Low Activity	Medium Activity	High/Very High Activity <i>(Here as of 2/18/22)</i>	Critically High Activity <i>(Here as of 1/6/22)</i>
Telework	Depts encouraged to follow long-term teleworking policies	Depts encouraged to bring back some staff as needed	Staff who can telework encouraged to do so	Access to facilities for essential staff only
Masking	Masking for those with symptoms	At department discretion for vaccinated staff; masks mandatory for unvaccinated staff	Masking for all staff at all times when on-site and in public areas	Masking for all staff at all times when on-site and in public areas
Facility Capacity	100% Capacity	100% Capacity	Decrease capacity as able given department discretion	Minimize capacity levels as able based on critical needs
Health Screening at Facilities	Self-screening for symptoms encouraged	Self-screening for symptoms encouraged	All staff entering facilities take online health screening	All staff entering facilities take online health screening
Cleaning Standards	Daily cleaning regimen	Daily cleaning regimen	Enhanced cleaning regimen in high volume spaces	Enhanced cleaning regimen in high volume spaces

Figure 1: The four-level mitigation matrix with mitigation procedures based on Disease Activity Composite Measure

The adoption of this matrix allows the team to adjust mitigation policies swiftly as conditions change in the community. This approach, coupled with regular reporting to the County Board, should allow the County's response to align with best practices and to be timely and transparent.

The Administration respectfully requests adoption of the COVID-19 Mitigation Framework as presented above. We value the partnership of the Milwaukee County Board as we navigate the ongoing pandemic, and adoption of this plan will signify a united effort to obtain the best possible outcomes in the face of the most significant public health event in living memory. This framework will allow County government to continue providing critical services while, most importantly, ensuring to the greatest extent possible the health and

well-being of our employees and constituents.

Related file No's:

File Nos. [21-34](#), [20-449](#), [20-684](#), [20-799](#),
[21-197](#), [21-918](#), [21-970](#), [21-1115](#)

ALIGNMENT TO STRATEGIC PLAN

Mitigating the spread of COVID-19, and thus preventing further death and long-term negative health effects, is one of the most meaningful steps that Milwaukee County government can take in service of our Vision to become the healthiest county in Wisconsin. While we must still address the disparities and negative health outcomes that are the result of decades of policy choices, COVID-19 is a clear and present danger to the health and well-being of our constituents and employees. The proposed framework not only works to address the health aspects of our strategic plan, but also will ensure that Milwaukee County is able to continue the work that our departments are undertaking to advance our strategic plan and work towards our Vision by providing critical services to our residents.

FISCAL EFFECT

See attached fiscal note.

TERMS

N/A

VIRTUAL MEETING INVITES

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PREPARED BY:

Peter LaBonte, COVID-19 Policy Coordinator

APPROVED BY:

Mary Jo Meyers, Chief of Staff, Office of the County Executive

ATTACHMENTS:

cc: Kelly Bablitch, Chief of Staff, Milwaukee County Board of Supervisors
Janelle M. Jensen, Legislative Services Division Manager, Office of the County Clerk



**Milwaukee County COVID-19 Public Health Emergency
COVID-19 Health Screening Policies and Procedures
Administrative Order 20-17v4**

Version 1 Effective as of 12:01 a.m. on Monday, November 9, 2020

Version 2 Effective as of 12:01 a.m. on Wednesday, November 11, 2020

Version 3 Effective as of 12:01 a.m. on Tuesday, December 1, 2020

Version 4 Effective as of 12:01 a.m. on Thursday, July 15, 2021

COVID-19 Health Screening Policies and Procedures

The health of Milwaukee County employees, Contractors, and visitors is of vital concern and importance. Identifying cases of COVID-19 has been a challenge for individuals and institutions because of the difficulties in making testing easily and quickly available and because of the limits of testing to identify positive cases of COVID-19, particularly during the early stages of infection.¹ Thus, Symptoms and Exposures are often important indicators of possible cases of COVID-19. This Administrative Order (AO) defines circumstances when individuals should be screened for COVID-19 Symptoms and Exposures and establishes procedures for conducting such screening. Version 4 of this AO is effective as of 12:01 a.m. on Thursday, July 15, 2021, and replaces Version 3.

Version 4 revises temperature screening procedures at Milwaukee County facilities. While completing a Screening Questionnaire is still required for employees and visitors to ANY indoor County facility, temperature screening is only required for employees and visitors to High Risk or Congregate Living Facilities operated by Milwaukee County as well as for Persons in the Care or Custody of Milwaukee County. Note that fever, that is temperature of 100.4⁰F (38⁰C)² or higher, remains a Symptom Compatible with COVID-19, and employees and visitors should self-report any fever when completing the Screening Questionnaire. Updates to this AO are denoted in **red**.

Version 4 of this Administrative Order covers:

- [Definitions](#) of terms used in this Order.
- Employee and Contractor Daily [Health Screening and Response Requirements](#) for In-Person Workers.
- [Procedures for Completing the Screening Questionnaire, Temperature Check **when required**, and Verification Process](#).
- [Screening and signage requirements for Visitors](#) to indoor County facilities.
- Standards and procedures for [departments to screen Visitors](#).
- Screening requirements for [departments responsible for Individuals](#) in the Care or Custody of Milwaukee County.

Key dates associated with this order include:

- November 11, 2020: All departments to begin screening employees and Contractors reporting for in-person work using the Screening Questionnaire

¹ See <https://www.acpjournals.org/doi/10.7326/M20-1495>

² Note: Throughout this order, healthcare workers working in a medical setting should follow the CDC guidelines of fever being a temperature of 100.0⁰F or higher.

- November 16, 2020: All departments to notify the Re-Opening Steering Committee (ROSC) of plans to address employees without technology necessary to complete the Screening Questionnaire
- November 23, 2020: All departments to have implemented the Screening Tool for all employees and Contractors, save in exceptional cases identified to ROSC by 11/16/2020, and all departments to begin temperature screening for employees and Contractors reporting for in-person work.
- November 30, 2020: Public Safety Officers (PSOs) to begin screening all employees and Contractors for Symptoms, including fever, and for Exposure at the Courthouse Complex, Vel Phillips Juvenile Justice Center, and Zoofari using the Screening Tool and temperature screening.
- December 7, 2020, or as soon as possible: PSOs to begin screening all Visitors for Symptoms, including fever, and for Exposure at the Courthouse Complex, Vel Phillips Juvenile Justice Center, and Zoofari using the Visitor Questionnaire and temperature screening.
- December 7, 2020, or as soon as possible: All departments operating indoor locations without PSOs to begin Visitor screening (see Section IV for policy and procedures).
- December 7, 2020, or as soon as possible: All departments to post Visitor Questionnaire at all locations used by Visitors, regardless of length of visit.
- July 15, 2021: Temperature screening is only required for employees and visitors to High Risk or Congregate Living Facilities operated by Milwaukee County. These include the Criminal Justice Facility (CJF or jail), House of Correction (HOC), Behavioral Health Division (BHD) inpatient hospital, and Division of Youth and Family Services (DYFS) youth detention center. Temperature screening is also still required for Persons entering the Care or Custody of Milwaukee County.

If you have questions about this, or any other AO or policy, email: COVID-19@milwaukeecountywi.gov

I. Definitions

A. **Close Contact:**³ A person with Close Contact is someone who:

- Was within 6 feet of an infected person for a cumulative total of 15 minutes or more over a 24-hour period starting from 2 days before illness onset (or, for an asymptomatic infected person, 2 days prior to test specimen collection) until the time the infected person is isolated. This is the definition **regardless of whether face masks or personal protective equipment (PPE) were worn by any or all individuals**; and/or
- Provided care at home to an infected person; and/or
- Had direct physical contact with an infected person (touched, hugged, or kissed them); and/or
- Shared eating or drinking utensils with an infected person; and/or

³ For employees at work in a healthcare or medical setting, Close Contact does not qualify if the CDC-recommended PPE was used when job duties were performed.

- v. Got respiratory droplets (for example, was sneezed or coughed on) on them from an infected person.
- B. Confirmed Case of COVID-19:** A case of COVID-19 that has been confirmed through a positive test for COVID-19 or, in the absence of testing, has been confirmed by a medical professional as being a suspected case of COVID-19 based on symptoms.
- C. Contractor:** For the purpose of this order a Contractor is an individual working alongside County employees as part of the overall County workforce.
- D. Critical Infrastructure Worker:** The CDC defines a Critical Infrastructure Worker as one needed to deliver critical services, including law enforcement, transportation, 911 call center response, and others. See the [CDC guidelines](#)⁴ for a complete list. For this administrative order, department heads may consider essential workers under the umbrella of Critical Infrastructure Workers and follow relevant policies and procedures accordingly.
- E. Exposure to COVID-19 (Exposure):** Any form of Close Contact (see A. above) with an individual with a Confirmed Case of COVID-19 during the last 14 days.
- F. Green Status:** An individual who has no Symptoms (see N. below) and has had no Exposure (see E. above).
- G. High Risk or Congregate Living Facility:** Any facility operated by Milwaukee County that houses individuals for eight hours or longer, including the CJF, HOC, BHD inpatient hospital, and DYFS youth detention center.
- H. Person in Care or Custody:** Anyone who is legally under the care of Milwaukee County, including those in detention, in jail, or in a medical care facility, and for whom Milwaukee County has a custodial responsibility.
- I. Public Safety Officers (PSOs):** Security staff stationed at public entrances at the County Courthouse complex, the Vel Phillips Juvenile Justice Center, and Zoofari who screen individuals seeking entrance to the facilities.
- J. Red Status:** An individual who, at the time of screening, has at least one Symptom (see N. below) and/or has had Exposure (see E. above).
- K. Screening Questionnaire:** A survey designed to assess whether an individual has Symptoms or has had Exposure. The current version of the Screening Questionnaire is posted with Administrative Orders on the County's [website](#).
- L. Screening Questionnaire for Visitors (Visitor Questionnaire):** A modified version of the Screening Questionnaire used to screen Visitors to indoor County facilities. See Section IV.B for options on where to access and post required signage.
- M. Screening Tool:** An online tool that allows County employees and Contractors to access the Screening Questionnaire to self-assess for Symptoms and for Exposure. The Screening Tool may be accessed using any device that can connect to the Internet, including smart phones, personal computers, and tablets. The Screening Tool may be accessed at: <https://county.milwaukee.gov/EN/COVID-19/MKE-Health-Screen>
- N. Social Distancing:** Maintaining a distance of six feet or more between individuals.⁵

⁴ <https://www.cdc.gov/coronavirus/2019-ncov/community/critical-workers/implementing-safety-practices.html>

⁵ For more details, see Administrative Order 20-4 In-Person Workers: Social Distancing and Symptomatic Employees and Contractors.

O. Symptoms Compatible with COVID-19 (Symptoms): The following symptoms may be symptoms of COVID-19 if they are new or uncommon for an individual:

- i. Feverish or temperature of 100.4°F (38°C)⁶ or higher
- ii. Chills
- iii. Nausea or vomiting
- iv. Diarrhea
- v. New shortness of breath or difficulty breathing
- vi. New congestion or runny nose
- vii. New loss of taste or smell
- viii. New sore throat
- ix. New cough
- x. Headache that is new or different
- xi. Unexpected fatigue
- xii. Unexpected muscle or body ache

P. Visitor: Any individual seeking entry to a Milwaukee County facility, grounds, or workplace, excluding Milwaukee County employees, Contractors, and Persons in Care or Custody.

II. Employee and Contractor Daily Health Screening and Response Requirements

All employees and Contractors **must screen** for Symptoms and for Exposure **on each day they are working in-person**, and the screening must be completed before or upon entrance to the work site. In addition, employees at and visitors to High Risk or Congregate Living facilities must complete a temperature scan before or upon entrance to the work site. Only employees with Green Status may report for in-person work, and departments or PSOs must confirm each employee's Green Status prior to the employee starting work.⁷

In general, employees should complete their Health Questionnaire at home prior to reporting for in-person work to minimize the spread of COVID-19 in the workplace. The daily health screen should not be taken as medical advice; employees with questions about any symptoms they are experiencing should consult their medical provider.

A. Requirements for Employee and Contractor Daily Screening

This section establishes the screening requirements for employees, Contractors, departments, and facility managers. Procedures for how to complete and verify these requirements are detailed in the sections that follow.

- i. It is the responsibility of every employee to complete the Screening Questionnaire using the Screening Tool on each day they are working in person. The Screening Questionnaire should be completed at home, prior to reporting to the job site.⁸

⁶ Note: Throughout this order, healthcare workers working in a medical setting should follow the CDC guidelines of fever being a temperature of 100.0°F or higher.

⁷ Note that the one exception is for Critical Infrastructure Workers who screened RED due to Exposure and have been told by a manager to follow adapted quarantine procedures and report to work as long as they have no Symptoms Compatible with COVID-19 (See Administrative Order 20-7, Section V).

⁸ See Section III.A.ii for procedures when an employee may not have access to the Screening Tool.

- ii. It is the responsibility of employees who work in High Risk or Congregate Living Facilities to complete a temperature screen prior to starting their workday to verify that they do not have a fever (temperature of 100.4⁰F or 38⁰C or higher).
- iii. No later than November 11, 2020, prior to starting in-person work, all employees must be verified as Green Status based on the results of the Screening Questionnaire.
- iv. Employees who are teleworking are encouraged to monitor for Symptoms and Exposures but are not required to complete the Health Questionnaire or temperature screening unless their Department requires them to do so.
- v. Departments cannot set screening standards that are less restrictive than those outlined in this AO, but they may set standards that are more restrictive. For instance, they may require all employees to self-screen, rather only those who are reporting for in-person work, or they may set a lower standard for fever if advised by the CDC for their specific line of work. They may also continue temperature screening based on industry-specific recommendations.
- vi. Departments shall, at minimum, use the questions in the County's Screening Questionnaire without altering the wording. Any changes to the Screening Questionnaire will be made centrally based on input from public health experts.
- vii. The time employees spend completing the Screening Questionnaire, as well as the temperature screen, is **not** compensable time.

B. Responding to and Reporting Results of Health Questionnaire and Temperature Screenings

This section outlines the requirements for employees, Contractors, and managers for interpreting, and in the case of Red Status, responding to, the results of the health screening for employees who are reporting for in-person work.

- i. **Red Status Requirements:** If employees or Contractors screen as Red Status, that is, they ARE experiencing any one or more Symptoms and/or have had Exposure, they should:
 - a) Stay home or return home and not report for in-person work (Note: in the case of Exposure, this procedure may vary for Critical Infrastructure Workers; see Section II.B.i.d below).
 - b) Notify their manager immediately of their Red Status, using the department-approved notification system. Note that employees **are required** to report whether they are reporting Red Status for Symptoms and/or for Exposure, but they **do not** need to disclose the specific Symptom(s). Managers may ask follow-up questions about the nature of an Exposure to determine if it happened in the work setting to determine whether additional contact tracing among the workforce is necessary.
 - c) Work remotely, if possible.
 - d) Follow the instructions in AO 20-7: Procedures for Responding to Confirmed COVID-19 Cases, Symptomatic Individuals, and Exposed Individuals and Their Close Contacts. Individuals:
 - **With Symptoms** should follow Section III of AO 20-7.
 - **With Exposure** should follow the instructions in Section IV of AO 20-7. If the employee is a Critical Infrastructure Worker, the

individual's supervisor should also consider adapted procedures in Section V of AO 20-7. Employees **do not** make their own decisions about an adapted quarantine and should follow Section IV until notified otherwise by their supervisor.

- **With Symptoms AND Exposure:** This is a probable case of COVID-19, and employee should immediately seek out testing and follow the instructions in Section II of AO 20-7. If they test positive during their quarantine, they should continue following instructions in Section II. If they do not get tested or test negative, they should complete a full 14-day quarantine, regardless of whether they are a Critical Infrastructure Worker (AO 20-7, Section IV).
- ii. **Green Status Requirements:** If employees or Contractors are Green Status for Symptoms and for Exposure, they should report to work as scheduled.

III. Procedures for Completing the Screening Questionnaire, Temperature Screen, and Verification Process

Departments, divisions, or offices must verify each day that all employees scheduled to work in person have been screened for COVID-19 Symptoms and Exposures prior to employees starting in-person work duties. Departments may accomplish this screening, including verifying employee temperatures **when required**, in a variety of ways depending on the work location, available technology, and environmental or operational risk factors. In general, Departments should make every effort to ensure employees use the Screening Tool to help with data collection across the workforce and to support any centralized changes to the Health Questionnaire based on new CDC guidance or operational needs.

This section outlines options for departments to accomplish and verify the Green Statuses for in-person workers. Because the Screening Questionnaire and the temperature screening use different tools and will likely entail different processes, this section is separated into procedures for completing and verifying the Screening Questionnaire and procedures for completing and verifying the temperature screening.

A. Procedures for Completing and Verifying the Screening Questionnaire

This section provides procedures for completing the Screening Questionnaire based on whether the Screening Tool can be used by employees or whether technology barriers require a different system. Procedures will also vary by whether departments are located in facilities with PSOs at entrances or whether they are located in facilities without PSOs.

- i. **Completing the Screening Questionnaire Using the Screening Tool**
 - a) Employees may use work or personal devices connected to the Internet, including cell phones, tablets, or personal computers, to complete the Screening Questionnaire.⁹
 - b) The Screening Tool will display either Green Status or Red Status based

⁹ Note: Departments may choose to provide County cell phones to employees who do not have personal devices; in these cases, Departments should plan to cover the monthly cost of the device and may need to provide employee training in the use of such devices.

on the individual's reported Symptoms and Exposure.

- The Screening Tool will inform employees with Green Status to report to work as scheduled.
 - Employees with Red Status will be informed to stay home and contact their supervisor. The Screening Tool will also direct employees to AO 20-7 for specific instructions.
- c) The Screening Tool will create a daily employee status badge and time stamp based on the results of the employee self-assessment.
- If both Symptoms and Exposure are Green, then the status badge will be Green.
 - If either Symptoms or Exposure is Red, or if both Symptoms and Exposure are Red, then the status badge will be Red.
 - If the employee is a Critical Infrastructure Worker who has Exposure only (no Symptoms) and who has already been instructed to report to work under an adapted quarantine (Section V of AO 20-7), then the employee will be instructed to report to work.
 - If the employee or Contractor is Recovered from COVID-19 in the Past 90 Days and is Exposed to a Confirmed Case of COVID-19 (Section IV.C.i of AO 20-7), they will be instructed to report to work.
 - **The time stamp must be within the 12-hour period before the individual is presenting their status badge for verification to be valid for the employee's shift.** For example, an employee starting work on a Tuesday at 9 a.m. must have completed their Health Questionnaire and temperature screening after 9 p.m. on Monday. Employees are encouraged to take the Health Questionnaire and their temperature as close to the start of their shift as possible.
- d) No later than November 11, 2020, departments should have the necessary procedures in place to verify the Green Status of each employee scheduled to work in person prior to starting their shift.
- Employees working at locations with Public Safety Officers (PSOs) at entry (the Courthouse Complex, Vel Phillips Juvenile Justice Center, Zoofari) will display their status badge to the PSO along with their County ID. Employees with Green Status and a valid time stamp will proceed to the temperature screening. No additional verification by departments operating within these facilities is needed for employees able to display their Green Status to PSOs.¹⁰
 - Employees working at all other in-person locations shall verify their Green Status and time stamp as outlined in department procedures. This may include:
 - Employees showing their Green badge and time stamp to a department recorder located at the entrance to a facility or department suite, or

¹⁰ Note: If employees entering these facilities are using entrances not staffed by Public Safety Officers, departments will need to establish and enforce local verification protocol.

- Employees showing their Green badge and time stamp to a manager upon arrival, or
 - Employees certifying their status on a [log sheet](#) that is verified by a manager, or
 - Departments implementing supervisor reporting from the Screening Tool for immediate notification of Red Status for employees and for daily screening reports at the start of every shift (see (h) below).
- e) Departments with employees who report directly to a job site must ensure that manager reporting from the Screening Tool is implemented for immediate notification of Red Status for employees and for daily screening reports at the start of every shift (see (h) below).
- f) Departments are responsible for communicating notification policies for employees who screen as Red Status, including:
- Who to notify
 - How to notify (phone, email, text)
 - Time to notify (for example, no later than two hours before start of shift)
 - What to communicate (e.g., “I screened Red for Symptoms” or “I screened Red for Exposure”)
- g) Departments leaders and managers of Critical Infrastructure Workers must determine how they will apply a quarantine for employees who have had Exposure but have **no Symptoms** at the time of the screening (See Section V of AO 20-7 for adapted quarantine procedures). Asymptomatic Critical Infrastructure Workers screening Red for **Exposure** should **not** report to work unless they receive instructions to do so from a supervisor.
- h) IMSD and the Re-Opening Steering Committee (ROSC) will work with departments during the month of November to set up any manager reporting or notification needed. The Screening Tool will be able to send an automatic notification to designated recipients and can generate reports listing employees who have completed the Screening Questionnaire that day and their Red or Green Status for Symptoms and Exposure. Departments interested in these options should begin identifying their employee groups and points of contact immediately for efficient implementation and should email: COVID-19@milwaukeecountywi.gov.
- i) Supervisors of employees reporting Red Status will follow Manager Instructions in AO 20-7 for Individuals with Symptoms Compatible with COVID-19 (Section III) or for Individuals with Exposure (Section IV), depending on the status of the employee.

ii. **Procedures for Employee Screening Questionnaire When the Screening Tool Cannot be Accessed**

Departments should try to overcome any technology barriers employees face in using the Screening Tool, as the Screening Questionnaire is likely to be updated when CDC guidance changes. In addition, the Screening Tool allows the County to track

Symptoms and Exposures at the Department and Division level to inform risk mitigation strategies.

If significant technology barriers prevent an employee or employee group from using the Screening Tool by the 11/11/2020 deadline, department leaders may administer either verbal or hard-copy versions (see Administrative Order section of [website](#) for printable version) of the Health Questionnaire while they work to overcome technology barriers. Departments should plan to be using the Screening Tool by 11/23/2020 in all but exceptional cases.

If technology barriers are insurmountable for a given employee or employee group, the department should email the ROSC at COVID-19@milwaukeecountywi.gov with a comprehensive plan by 11/16/2020. This plan should include information about the nature of the barrier(s) and the proposed solution(s) for employees in their workforce who cannot use the Screening Tool. Possible alternatives could include setting up a Health Questionnaire kiosk at a designated location, managers verbally administering the Health Questionnaire to an employee, or similar. In general, the County does not support the distribution and collection of hard copy versions of the questionnaire or passive completion of the questionnaire by employees (e.g., having a sign with the questions that employees say they read and passed that day).

B. Temperature Screening Requirements and Procedures

Employees **who work in High Risk or Congregate Living Facilities** must confirm that they do not have a fever (temperature of 100.4°F or 38.0°C or higher¹¹) prior to working in person by taking or having their temperature taken. Departments have several options to verify employee temperatures, depending on the employee work location.

- i. **High Risk or Congregate Living Facilities with PSOs at entrances (CJF and DYFS youth detention center in the Vel Phillips Juvenile Justice Center)**
PSOs will oversee temperature screening of all employees and Contractors entering through public entrances using temperature kiosks. Departments located in these facilities do not need to make independent arrangements for temperature screening, as long as they instruct employees and Contractors to use public entrances when entering for the first time each day. If employees routinely use unstaffed entrances, then departments must make arrangements to verify employee temperature (see options in Section ii below).
 - a) Once employees and Contractors have shown the PSO at entry their Green Status badge and current time stamp, they will follow the PSO directions for temperature screening.
 - b) If their temperature registers below 100.4°F, they will be allowed entry to the facility.
 - c) If their temperature registers 100.4°F or higher, the PSO will conduct a secondary temperature screen using a handheld device. If the temperature

¹¹Note: Throughout this order, healthcare workers working in a medical setting should follow the CDC guidelines of fever being a temperature of 100.0°F or higher.

then registers below 100.4⁰F, they will be allowed entry. If the temperature continues to register 100.4⁰F or higher, they will be turned away and should return home, contact their supervisor, and follow the instructions in Administrative Order 20-7, Section III for Responding to Symptoms Compatible with COVID-19.

ii. **Departments located in facilities without PSOs at entrances may:**

- a) Request a touchless temperature screening kiosk be installed at or near entrances used by staff (email COVID-19@milwaukeecountywi.gov).
- b) Requisition and distribute individual digital thermometers for employees to self-screen at home (such as Medline Industries model MDS99902 available from Marketplace Central). Employees should take their temperature prior to completing the Health Questionnaire, and a “No” answer to the symptom question on having a fever will serve as the verification for the temperature screen for supervisors of these employees.
- c) Create a screening location where a member of the Department or Division management team screens employee temperatures at entry using a handheld infrared scanning thermometer (such as the IR forehead thermometer model JT-E0202 available from Marketplace Central). See Section III.B.iii below for specific screening procedures.
- d) Create a screening location where employees self-screen their temperatures upon entering the work site using a handheld infrared scanning thermometer. See Section III.B.iii below for specific screening procedures.

iii. Departments creating temperature screening locations, whether staffed by the department or self-service for employees, should follow these procedures:

- a) Employees and Contractors must be screened immediately upon arrival and, if possible, before entering the actual workspace.
- b) Temperature screening must be performed in a location that supports social distancing standards and protects employee privacy.
- c) Temperature screening should be performed by a supervisor or a third party to protect employee privacy, or employees may self-screen.
- d) Temperature screening should be performed using a touchless forehead / temporal artery thermometer (such as the IR forehead thermometer model JT-E0202 available from Marketplace Central). If other types of thermometers must be used, follow the manufacturer’s directions for disinfecting between uses;
- e) The individual conducting the temperature screen for another person should wear a face mask, gloves, and protective eyewear. The person being screened should wear a face mask.
- f) If employees are performing temperature self-screens using a handheld thermometer:
 - Employees must be trained in the use of the thermometer and on proper hygiene before, during, and after the self-screen.
 - A manager should be available nearby for questions and/or cases where employees have temperature of 100.4⁰F or higher.

- The department must ensure that hand sanitizer is available at the screening station, and employees should sanitize before and after using the thermometer. Departments should also provide supplies to allow employees to disinfect the thermometer between each use.
 - The department shall develop procedures by which employees report their temperature status as Red or Green using [a log](#) or otherwise reporting their status to the manager on duty or to the designated department recorder. If pens are provided, then some method for disinfecting the pens must also be provided.
- g) Regardless of who conducts temperature screening, departments should not record specific employee temperatures.
- iv. If an employee records Red Status (temperature of 100.4⁰F degrees or higher) then the employee should:
- a) Notify the manager on duty or follow department notification procedures, **and**
 - b) Return or stay home, **and**
 - c) Follow the instruction in Section III of AO 20-7.
- v. If an employee records temperature below 100.4⁰F and has Green Status for the Health Questionnaire, they should report to work.
- vi. Managers of employees reporting Red Status based on the temperature screen should follow Manager Instructions in Section III of AO 20-7.

IV. Screening and Signage Requirements for Visitors to Milwaukee County Facilities

Requirements for screening Visitors to Milwaukee County facilities vary by the location accessed by Visitors and by the expected length of the visit. Note that this section does not apply to Persons in Care or Custody (see Section VI).

A. Screening Requirements

Visitors will be required to answer the Visitor Questionnaire screening at the following locations:

- i. Locations with Public Safety Officers (PSOs) at public entry points, which include the Courthouse Complex, the Vel Phillips Juvenile Justice Center, and Zoofari.
- ii. Other indoor facilities or points of service where Visitors typically spend 15 minutes or more in a confined space with other people. Examples include:¹²
 - Client counseling sessions
 - Indoor food service areas
 - Community centers
 - Chalets at beer gardens or similar outdoor dining structures

Visitors will be required to complete a temperature screen prior to entering any High Risk or Congregate Living Facility. Temperature screening will be conducted by PSO at public entry

¹² Employees who must make home visits as part of the delivery of County services should view the visit as if it were taking place in an indoor County facility and should follow these requirements for using the Visitor Questionnaire and temperature screening.

points or by the staff of departments operating High Risk or Congregate Living Facilities, depending on facility staffing.

Visitor screening is **not** required for outdoor services or for services where Visitors spend less than 15 minutes in a confined space with other people. For example, Visitor screening is not required for people moving through an indoor cultural exhibit (e.g., the Domes, indoor Zoo exhibits), skating at an outdoor rink, or Visitors picking up or dropping off items. Visitor screenings will also not be required on buses operated by the Milwaukee County Transit System (MCTS). **Departments may elect to conduct screening for Visitors even if it is not required, but their policies may never be less strict than County policy.**

B. Signage Requirements

All entrances to indoor County facilities used by Visitors must display the Visitor Questionnaire in a **prominent location near the entrance to the facility or space**. For facilities managed by the Facilities Management Division (FMD), FMD staff will be responsible for placement and management of such signs. For all other locations, departments occupying the facilities will be responsible for the placement and management of signs. Various sign size options and how to order are below:

- **8.5x11” Visitor Questionnaire:** Best used in low-traffic visitor areas and/or smaller spaces. Can be printed locally using [this version](#)¹³ or can be ordered from HOC printing on MarketPlace Central under the item name, “COVID_Health_Checkpoint_8.5x11.jpg”
- **12x18” Visitor Questionnaire:** Best used in low- to medium-traffic visitor areas in small to medium-sized spaces. Can be ordered from HOC printing on MarketPlace Central under the item name, “COVID_Health_Checkpoint_12x18.jpg”
- **35x82” Visitor Questionnaire:** Large retractable banner best suited for high-traffic visitor areas and/or large spaces. Departments that would like a banner should send the total number they would like for the entire department to COVID-19@milwaukeecountwi.gov and distribution will be managed by the ROSC.

V. Procedures for Conducting Visitor Screening

Visitor screening at locations with PSOs at entries will be conducted by PSOs. Screening required at indoor facilities without PSOs at entries will be conducted by departments operating in such facilities. Note that this section does not apply to Persons in Care or Custody (see Section VI).

Note that in all cases, staff and Visitors must diligently follow the County’s Administrative Orders for Social Distancing¹⁴ and for Face Masks.¹⁵

A. Procedures for Facilities with PSOs at Entries (Courthouse Complex, Vel Phillips Juvenile Justice Center, Zoofari)

¹³ <https://county.milwaukee.gov/files/county/COVID-19/HealthScreeningCheckpointSign8.5x11.pdf>

¹⁴ See Administrative Order [20-4](#).

¹⁵ See Administrative Order [20-14](#).

- i. PSOs will be responsible for administering the Visitor Questionnaire to all Visitors **and for temperature screening Visitors seeking entrance to High Risk or Congregate Living Facilities (CJF and DYFS youth detention center located in Vel Phillips Juvenile Justice Center).**
- ii. The Visitor Questionnaire will be posted prominently at all Visitor entrances. PSOs will instruct Visitors to read the sign and will then ask Visitors if they answer YES to any of the questions on the Visitor Questionnaire.
 - a) If a Visitor answers YES to any question, the Visitor will be asked to leave.
 - b) If a Visitor answers NO to all questions, the Visitor will be allowed to proceed to the temperature screening location.
 - c) Visitors may also choose to complete the Screening Questionnaire using the online Screening Tool and may choose to show a Green Status badge on their phones in lieu of verbally answering the Visitor Questionnaire. The time stamp for the Questionnaire must be within the past 12 hours.
- iii. Once Visitors have successfully completed the Visitor Questionnaire, **those seeking entry to a High Risk or Congregate Living Facility** will proceed to the temperature screening station. They will follow the PSOs' instructions to have their temperature registered by the temperature kiosk.
 - a) Visitors whose temperature registers below 100.4⁰F will be allowed to proceed through the remainder of the security screening at the location.
 - b) Visitors whose temperature registers at 100.4⁰F or above may choose to be re-scanned.
 - The Visitor may have their temperature re-scanned at the temperature screening kiosk. If this second scan still registers at 100.4⁰F or higher, the PSO will then ask the Visitor to move to the secondary scanning location for screening conducted by a PSO using a handheld device.
 - If the secondary temperature screening registers a temperature below 100.4⁰F, the Visitor may proceed to the security screening.
 - If the secondary temperature screening registers at 100.4⁰F or higher, the PSO will ask the Visitor to leave the facility.
- iv. If any Visitor refuses to answer the Visitor Questionnaire or complete a temperature screen when screening is required, they will not be permitted to enter the facility.

B. Procedures for Indoor Facilities without PSOs at Entries

- i. Departments operating in other indoor facilities or delivering services at places where Visitors or service users typically spend 15 minutes or more in a confined space with other people are responsible for implementing Visitor screenings.
 - a) **Visitor Questionnaire:** The department must post the Visitor Questionnaire at the entrance to the facility or office suite and must have some means of asking Visitors if they answer YES to any question. Visitors who answer NO to all questions may proceed to temperature screening. Visitors who answer YES to any question must be asked to leave and, as appropriate, to reschedule their visit.

- Departments may have a staff member located at entrances to ask Visitors if they answered YES to any question on the posted Visitor Questionnaire.
 - Departments may ask Visitors to complete the Screening Questionnaire using the online Screening Tool and may admit those with a Green Status badge and current time stamp (within last 12 hours) on their device in lieu of answering the Visitor Questionnaire. If a department chooses this method, they may email a link for the Screening Questionnaire in advance to scheduled Visitors, or they may install a kiosk for Visitors to use. For help in securing a kiosk for the Screening questionnaire, please contact: COVID-19@milwaukeecountywi.gov
- b) **Temperature Screening:** Once Visitors have been successfully screened using the Visitor Questionnaire or the Screening Questionnaire, the department must then perform temperature screening **if the department operates a High Risk or Congregate Living Facility** using any of the methods outlines in Section III.B.iii above.
- If the Visitor has a temperature below 100.4⁰F, the Visitor may be admitted to the facility.
 - If the Visitor has a temperature of 100.4⁰F or higher, the Visitor must be asked to leave the facility.
- ii. If a Visitor refuses to answer the Visitor Questionnaire or complete a required temperature screen, they will not be permitted to enter the facility or grounds.

VI. Screening Requirements for Persons in Care or Custody

Any County unit with Persons in Care or Custody must be given a full health screening (Health Questionnaire and Temperature Screening) at the time of intake and before any transfer is made within the facility or to a new facility, at minimum. The Health Questionnaire may be administered verbally, in hard copy, or electronically, at the discretion of the department.

Departments must have protocols in place, in accordance with CDC and State guidelines for their industry, to inform procedures for quarantining and isolation of Persons in Care or Custody. The ROSC will work individually with departments operating congregate and long-term care facilities on such protocols.



**Milwaukee County COVID-19 Public Health Emergency
In-Person Workers: Social Distancing and Symptomatic Employees and
Contractors**

Administrative Order 20-4v1

Version 1 Issued and Effective as of 7:00 a.m. on Monday, March 16, 2020

COVID-19 Public Health Emergency, In-Person Workers: Social Distancing and Symptomatic Employees and Contractors Guidelines & Procedures.

Given Governor Ever's declaration of a public health emergency associated with COVID-19 on March 12, 2020, the County's principal goal is to protect the health of its employees and the public. The County recognizes that the populations it serves have essential needs that must be met even – or especially – during such an emergency.

This Administrative Order provides guidelines for Social Distancing in the workplace and responding to symptomatic employees and contractors who have reported to work. This policy is effective at 7:00 a.m. Monday, March 16, 2020.

If you have questions about this, or any other Administrative Order or policy, please email: COVID-19@milwaukeecountywi.gov

I. COVID-19 Social Distancing and Working Safely Guidelines & Procedures

During a pandemic, social distancing¹ is critical to preventing the spread of the disease among our employees and the people we serve. Teleworking is key to achieving social distancing, though it is not the only mechanism. This Administrative Order will cover expectations for employees who are **not** able to telework because of the nature of their work or an equipment barrier to teleworking.

A. Social Distancing Guidelines

County employees and contractors who cannot telework are encouraged to follow the below guidelines for social distancing:

- Always maintain 6 feet (2 meters) of distance between people, if possible. In other words, two people should be able to extend their arms and not reach each other.
- Clean and disinfect frequently (no less than daily) touched objects and surfaces using a regular household cleaning spray or disinfecting wipe.
- Avoid non-essential in-person meetings. If a meeting is necessary, it should be limited to no more than 10 in-person attendants. All meetings should be in a space large enough for participants to be 6 feet apart. If posted, follow the guidelines for maximum room occupancy on the door of the meeting space.
- In-person meeting participants should wash their hands before and after meetings.
- Avoid sharing personal equipment (e.g., keyboard, computer mouse, phone).

¹ **Social distancing** means remaining out of congregate settings, avoiding mass gatherings, and maintaining distance (approximately 6 feet) from others when possible. <https://www.cdc.gov/coronavirus/2019-ncov/php/risk-assessment.html>

B. Symptomatic Employees and Contractors Procedures

According to the Center for Disease Control (CDC), the following symptoms may appear 2-14 days after exposure:

- Fever
- Cough
- Shortness of breath

If an employee or contractor notices that a colleague is displaying any of these symptoms at work, a supervisor should be notified immediately. Supervisors may ask the employee or contractor about their symptoms. **Symptomatic employees or contractors can and should be sent home at the supervisor's discretion.**

If an employee or contractor has any of these symptoms, they should self-quarantine for 14 calendar days. If the employee can telework while self-quarantining, they should work with their manager to start teleworking. Municipal employees are also subject to Administrative Orders 20-1V-1, 20-2V-1 and 20-3v-1 and must follow the call-in policies of their respective departments/divisions.² The employee will have access to the Supplemental Paid Leave (SPL) Bank if they cannot telework while self-quarantining. The CDC website provides additional guidance for people experiencing symptoms.³

² Anytime an employee is missing work due to their own serious medical condition or the care of a family member's serious medical condition, they are directed to follow the procedures for requesting covered leave under the Family and Medical Leave Act (FMLA), by contacting Milwaukee County's FMLA administrator, FMLASource, at 1.877.GO2.FMLA or log on to www.fmlasource.com.

³ CDC, What to do if you are sick: <https://www.cdc.gov/coronavirus/2019-ncov/if-you-are-sick/steps-when-sick.html>



Milwaukee County COVID-19 Public Health Emergency Telework Administrative Order 20-3v1

Version 1 Issued and Effective as of 7:00 a.m. on Monday, March 16, 2020

COVID-19 Public Health Emergency: Teleworking Guidelines & Procedures

Given Governor Ever's declaration of a public health emergency associated with COVID-19 on March 12, 2020, the County's principal goal is to protect the health of its employees and the public. The County recognizes that the populations it serves have essential needs that must be met even – or especially – during such an emergency.

This memorandum includes a Telework Administrative Order regarding telework expectations, guidelines, and procedures during the public health emergency. This policy is effective at 7:00 a.m. Monday, March 16, 2020.

If you have questions about this, or any other Administrative Order or policy, please email: COVID-19@milwaukeecountywi.gov

I. COVID-19 Telework Guidelines & Procedures

During a pandemic, social distancing¹ is critical to preventing the spread of the disease among our employees and the people we serve. Teleworking is key to achieving social distancing, though it is not the only mechanism. This Administrative Order will cover definitions, expectations, guidelines, and procedures for teleworking during the public health emergency.

Teleworking is a cooperative arrangement based on the needs of the job and Milwaukee County. The following are the teleworking guidelines and approval procedures for employees during the COVID-19 Public Health Emergency.

A. Definitions & Designations

- **Telework-Able:** As determined by a department head, an employee or function that could reasonably meet operational and job needs from a remote location. “Telework-Able” status is determined by department leadership. Department leadership should undertake all reasonable efforts to make maximize employee telework capability, with the understanding that some services must be provided in person.
- **Telework-Ready:** As determined by a department head, an employee or function that has the necessary equipment to be performed from a remote location. Necessary equipment may include laptops, essential job software, cell phone, and internet access, as needed. “Telework-Ready” status is determined by department leadership.

¹ **Social distancing** means remaining out of congregate settings, avoiding mass gatherings, and maintaining distance (approximately 6 feet) from others when possible. <https://www.cdc.gov/coronavirus/2019-ncov/php/risk-assessment.html>

Department leadership should undertake all reasonable efforts to meet the equipment needs of functions and employees to move them from telework-able to telework-ready status as quickly as possible.

B. Expectations, Guidelines, and Procedures

Starting immediately, and until directed otherwise by the Milwaukee County Executive or a designee, the following expectations, guidelines, and procedures are in effect:

- Department heads or designee (including elected officials²) shall direct all Telework-Ready Employees to start teleworking as soon as possible. Telework-Ready status is determined by department heads and is designated in a department's COOP plan. Changes to Telework-Ready status can be made only at the discretion of departments heads or designees, or the Milwaukee County Executive Chief of Staff for administrative departments.
- Department heads or designees, County leaders, managers, and IMSD staff should work diligently to move people from Telework-Able to Telework-Ready status by addressing identified equipment barriers and working with their IMSD Business Development Analyst. If equipment supply is limited, leaders and IMSD have discretion to prioritize equipment issuance based on essential operational needs. Department heads or designees will use information from their COOP plan to inform IMSD of equipment needs for employees and functions. We ask for your patience as requests are processed as quickly as possible, given operational urgencies.
- Department heads or designees, County leaders, managers, and IMSD staff should work diligently to find ways to move functions to Telework-Ready status, understanding that this is not possible for many county functions and services.
- Employees should be flexible during an emergency so that we continue to provide essential County services while protecting their health, the health of their families, and the public's health.

In summary, the directive to telework is not optional. *See* n.2. However, the exact operationalization of the Telework Administrative Order 20-3v1 will require the department head or designee to make the following determinations:

1. Determine which employees are Telework-Able and Telework-Ready (this is NOT up to the employee, though may require input from the employee);
2. Work with IMSD Business Analysts to meet employees' equipment needs to get Telework-Able employees to Telework-Ready status; and
3. Have Telework-Ready employees start teleworking as soon as possible and in support of the department's COOP plan.

² Elected officials may determine whether they will telework in their sole discretion. Electeds may direct their appointees regarding whether appointees shall telework in their sole discretion. All other County employees are under the directive as articulated in this Administrative Order 20-3v1. Per an opinion issued by the Office of Corporation Counsel on March 13, 2020, the County Board may amend, rescind, or ratify this Administrative Order.

C. Preparing and Executing Telework

Teleworking is a new style of work for most individuals and teams at Milwaukee County and will require an adjustment in management styles, communication, and work culture. Every team will figure out what works best for them. To help support the transition, all employees who are Telework-Able, Telework-Ready, or who supervise staff who will be teleworking, can find a list of trainings and training aids on County Connect: <https://countyconnect.milwaukeecountywi.gov/MCINT/COVID-19/Telework>

As the emergency declaration progresses, more trainings, training aids, and FAQs will be added to the County Connect page to assist employees and supervisors with successfully working remotely.

D. Terms and Conditions of Teleworking

Under this Telework Administrative Order 20-3v1, employees are required to adhere to the following terms and conditions for continued employment and to remain in good-standing. All Telework Employees shall abide by the following telework rules:

- **Employees shall complete the LMS Mandatory Online Acknowledgement of the Telework Administrative Order.**
- Employees shall use Milwaukee County-issued laptops exclusively for all County-related work. **No personal computers may be used for County-related work.**
- Where no County-internet is available during telework, employees shall use their home or personal internet/Wi-Fi, if available.
- **Employees shall not use personal cell phones shall for County-related emails or texting. Employees may use personal cell phones for County-related phone calls if the employee does not have a County-issued cell phone.** If an employee has a County-issued cell phone, the employee may not use a personal cell phone for any County-related business.
- Demonstrate flexibility with the work schedule and tasks requested that may be outside of the norm. The public relies on County services to meet their health and financial needs and, as public servants, every effort must be made to keep services running. This means employees may have to use their home or personal internet/Wi-Fi, space in your house or apartment, and other accommodations that would not be asked of employees during non-emergency times. Or, for example, employees teleworking while providing dependent care may have responsibilities that affect availability; supervisors and teammates should be understanding and flexible to people's different needs during an emergency.
- Agree not to allow any individual residing with or visiting employee's home to access Milwaukee County-owned equipment, or any files, folders, email, and other confidential or sensitive data on any personally owned equipment.
- Notify a supervisor and IMSD Service Desk (imsdhelp@milwaukeecountywi.gov or 278-7888) in the event of equipment malfunction or theft, as soon as possible. If the malfunction or theft precludes employee from working on assignments, the employee should work with their supervisor and IMSD to identify an interim solution, as

possible, which may include working from a different location or device, or using the Supplemental Paid Leave (SPL) Bank hours.

- Consider their remote workspace an extension of their Milwaukee County workspace and all work-related injuries and illnesses must be reported to employee's supervisor immediately.
- Leave monitors, computers, or other non-portable equipment in the employee's County workplace.

Failure to abide by these terms and conditions may subject employee to disciplinary action, up to and including termination.

E. Equipment Care

- Teleworking employees must abide by Milwaukee County's policies covering information security and data privacy.
- Maintenance on Milwaukee County-owned equipment will be performed only by a Milwaukee County authorized technician.

F. IMSD Right to Monitoring, Employee No Expectation of Privacy and Information Security

Milwaukee County reserves the right to monitor any and all equipment on the Milwaukee County network, and the right to remove or disable the network connection should the equipment show the behavior of infection, indicators of compromise, or use in violation of the Milwaukee County Acceptable Use Policy.

G. Non-Reimbursable Non-Payable Expenses

- Costs related to remodeling and/or furnishing the telework workspace shall be non-reimbursable/non-payable by Milwaukee County.
- Normal household expenses such as heat and electricity shall be non-reimbursable/non-payable by Milwaukee County.
- Milwaukee County will not reimburse employee for any home or personal Wi-Fi/internet connectivity expenses.
- Maintenance/repair of all personally owned equipment shall be non-reimbursable/non-payable by Milwaukee County.



Administrative Manual of Operating Procedures

Procedure #: 02.20	Procedure Title: Telework Policy		Revision #: 1.1
Original Issue Date: 07/19/2021	Revised Issue Date: 01/10/2022	Next Review Date: 07/19/2023	Responsible Department: Human Resources
Statutory References: Wis. Stat. 63.08(1)(a) Wis. Stat. 19.21		Ordinance References: MCO 56.11 All County Ordinances	
Appendices: Appendix B – Telework Overview Presentation Appendix D – Ergonomic Workstation Setup		Forms: Form 02.20(a) – Telework Agreement Template Form 02.20(b) – Telework Decision-Making Guide Form 02.20(c) – Optional Telework Daily Log Template	

1. OBJECTIVE:

The purpose of this policy is to provide guidance and clarity for implementing telework options as a longstanding operational strategy that advances strategic efforts and Milwaukee County’s ability to offer great public services.

****Note – as of January 2022, all employees who can work remotely must continue to do so, and at some future date, the County Executive will announce an effective date for the County Telework Policy in which Departments will set Telework Policies according to the guidance outlined below.***

2. DEFINITIONS:

- A. Alternate Work Location. A location, other than the employee's Central Workplace, where official County business is performed. The most common alternate work location is the residence of an employee.
- B. Central Workplace. A County-owned or operated facility where employees are assigned to work during business hours.
- C. Shared Workspace. A County-owned or operated workstation within a Central Workplace that is shared by multiple people, but is used on an individual basis.
- D. Telework. An arrangement in which employee splits time between their Central Workplace and Alternate Work Location or works full-time from an Alternate Work Location, as arranged with department leaders. This need not be a static proportion of splitting time, as work or personal needs over a given time period may change and would therefore change how time is split.

3. OVERVIEW:

A. Background

At the onset of the COVID-19 pandemic in 2020 the Milwaukee County workforce took drastic measures to innovate and adapt services to fill critical gaps for residents, while acclimating to Administrative Orders setting new telework expectations. While the pandemic posed enormous risks to the community, it also presented opportunities to reevaluate policies and practices. This Telework Policy represents an innovative step forward in advancing County strategic goals and departmental operations, in a way that better serves constituents and employees.

B. Strategic Alignment

- i. Creating Intentional Inclusion: Telework arrangements allow employees to work safely in ways that promote productivity and efficiency. In a competitive market for talent, telework arrangements will help distinguish Milwaukee County as an innovative employer of choice within the region.

- a. *Promote diversity and inclusivity (Milwaukee County Strategic Plan 1A & 1B).* Telework options remove barriers to job seekers and employees if jobs are less dependent on location and transportation. A greater diversity of individuals will have access to opportunities within Milwaukee County, bolstering a more equitable distribution of wealth in the region.
 - b. *Build and foster a culture of trust, autonomy, and productivity (Milwaukee County Strategic Plan 1B & 3C).* Individual employees understand when, where, and how they work at their best. As an equity practice, Milwaukee County acknowledges this and will promote telework options as a way to meet employee needs, as appropriate. This will help increase job engagement and satisfaction, while promoting a managerial focus on productivity and outcome-based performance management.
 - c. *Promote a healthy work-life balance (Milwaukee County Strategic Plan 1A & 1B).* When employees maintain a healthy balance of work and personal commitments, they are more focused, creative, efficient, and productive. This can be a necessity for a diverse workforce, juggling personal and social needs.
- ii. Bridge the Gap: Refining service delivery is explicit in Milwaukee County's strategic plan and can continue to be elevated as employees access virtual and collaborative tools to move quickly on solutions that better serve and meet the needs of the community.
 - a. *Break down silos (Milwaukee County Strategic Plan 2B).* Embracing video conferencing to lower barriers for communication is a sustainable practice for the County. Collaborative technology tools like Microsoft Teams allow employees to be active collaborators from any location and minimizes time lost for travel across County locations.
 - b. *Engage in new ways (Milwaukee County Strategic Plan 2A).* When operations allow, County employees are encouraged to innovate service delivery to better connect with constituents. Telework creates flexible options for the workforce and can promote this kind of ingenuity through the use of technology.
 - iii. Invest in Equity: With expenditures that increase faster than revenues each year, our ability to invest in upstream solutions is challenged. However, strategically implementing telework options creates a new opportunity to review our infrastructure investments.
 - a. *Optimize office space (Milwaukee County Strategic Plan 3B).* As institutions experienced nationwide, the physical local government footprint may be reduced without diminishing service quality. Cost savings from reducing office space could go toward community-facing services. The return on that investment will improve the fiscal health of Milwaukee County now and in the future.

4. POLICY:


A. Expectations

The Telework Policy is intended to provide a framework for Milwaukee County leaders and managers to establish functional and efficient work arrangements that support departmental and County goals. County leaders and managers should leverage telework options to meet employee needs and support their ability to provide great public service to internal and external customers.

****Note – as of January 2022, all employees who can work remotely must continue to do so, and at some future date, the County Executive will announce an effective date for the County Telework Policy in which Departments will set Telework Policies according to the guidance***

outlined below.


i. **Department Work Rules**

- a. Milwaukee County leaders are expected to use this policy as a foundational guide to modify and/or create department work rules and procedures to incorporate telework options within 60 days of the adoption and revision of this policy.
- b. Work rule expectations should reflect the telework options and processes that best meet the needs of department operations and employees.
- c. Items designated with a  symbol should be represented in updated work rules.

ii. **Department Telework Decision-Making**


- a. Department Directors or their delegate(s) hold final telework decision-making authority.
- b. Departments will determine the decision-making roles of Department Directors, division leaders, and managers using this Telework Policy.
- c. Telework is not an employee right nor is it a guarantee. Telework options may not be available to all positions. Telework approval may change at any time when doing so is in the best interest of Milwaukee County, business operations, and high-quality service delivery.

iii. **Telework Arrangements**

- a. Successful implementation of telework options will look different for each department.
- b. Department decision-makers should use the [Telework Agreement Template](#) to detail position- or department-specific expectations of the arrangement.
- c. Telework Agreements should also provide clear definition of what is considered reasonable and expected, in relation to employee breaks, response time, availability, core work hours, flexible hours, etc. or refer to department work rules on these topics as appropriate.
- d. Items designated with a  symbol should be represented in the Telework Agreement.

All employees approved to telework will complete an annual review of this policy through LMS and electronically sign an agreement to abide by the conditions described.

B. **Teleworking Position Eligibility**

- i. Telework is an option exercised at the discretion of the Department Director or their delegate(s), based on the guidance outlined in this policy. It is the responsibility of the Department Director or their delegate(s) to determine whether a position is telework eligible or ineligible, using the [Telework Decision Making Guide](#).
 - a. Eligible positions include those where all or some portion of the duties can be accomplished through telework.
 - b. A position's suitability for telework is based on operational needs and the duties and responsibilities of the position as outlined in the job or position description.
- ii. A department may establish telework as a condition of employment, based on position needs. In such cases, this requirement should be included when the position is advertised and in correspondence offering employment. Such requirements do not supersede civil service rules.
-  iii. Employees who are in telework-eligible positions may request to work in a Central Workplace. Such requests are to be made to the Department Director or their delegate(s).

Approval to work in the office may be based on operational needs and/or the number of employees scheduled to work in the office at any time.

- iv. Telework eligibility may change at any time by the Department Director when doing so is determined to be in the best interest of Milwaukee County, business operations, and high-quality service delivery. Based on operational needs, immediate recall may be warranted.
- v. Telework options may be revoked, if the employee fails to adhere to the Terms and Conditions of Teleworking. The transition time will be determined by the manager, employee and HRBP based on the situation.

C. Terms and Conditions of Teleworking

Employees are required to adhere to the following terms and conditions in addition to attendance, performance, and conduct expectations for continued employment. All telework employees shall abide by the following telework rules:

- i. Employees must be able to carry out the same duties, assignments, and other work obligations at their Alternate Work Location as from a Central Workplace. Work duties and assignments that cannot be completed at the Alternate Work Location are to be completed at the Central Workplace and time in each location should be assigned accordingly.
- ii. Telework employees are expected to maintain regular and consistent attendance and adhere to Milwaukee County's and/or departmental attendance policies.
- iii. Employees who are teleworking are subject to the same policies as other employees, including policies, procedures and directives covering Acceptable Use, information security, and data privacy as well as the requirements of applicable state and federal government statutes. Employees will follow the [Administrative Directive on Acceptable Use of Information Technology](#).
- iv. Employees must be available to work and be responsive to their supervisors and co-workers during core work hours and maintain a consistent weekly work schedule meeting department work rule expectations.
- v. Employees and managers must comply with all timekeeping and overtime regulations defined by state or federal law (e.g., the Fair Labor Standards Act, collective bargaining agreements or civil service rules). Overtime eligible employees must obtain approval from their managers to work overtime. Managers must ensure accurate recording of hours worked.
- vi. Employees must be available to attend scheduled meetings and participate in other required office activities at the Alternate Work Location as needed except when on approved accrued time, family medical leave, or other County approved leave.
- vii. [AMOP 02.17 Snow Day Policy](#) applies to inclement weather days.
- viii. The telework employee must notify their manager in the event of any emergency that impact's the employee's ability to work from the Alternate Work Location. In a case where an emergency such as a power failure prevents work at the Alternate Work Location, the employee may be required to report to a Central Workplace or make arrangements with their manager.

D. Managing a Teleworking Workforce

When managing telework employees, like managing employees that work in an office, it is important to communicate regularly, establish clear performance expectations, and solicit input for improvement. Managers should reach out to their Human Resources Business Partner (HRBP) for support as needed with any of these areas.

- i. Communication
 - a. The telework employee must notify their manager in the event of an emergency. Similarly, managers should notify their team members in the event of an emergency.
 - b. Managers who manage telework employees are to have regular one-on-one's with their employees to understand what's working well and any challenges, to gauge employee progress on work assignments, and to cultivate engagement.
 - c. Managers are to have regular team meetings to provide departmental updates, policy changes, and Milwaukee County updates.
 - d. Managers must intentionally include teleworking employees in meetings where some employees are in person and use technology to allow participation by each individual.
 - e. Managers should include teleworking employees in department events to preserve and promote teamwork.
 - f. Department leaders should intentionally provide team building and employee engagement opportunities.
- ii. Performance Management
 - a. All telework employees are expected to manage the responsibilities agreed upon with their supervisor in accordance with consistent performance expectations and other agreed-upon terms.
 - b. An employee's classification, compensation, and benefits will not change if the employee is teleworking.
 - c. Just as they would for employees working in a Central Workplace, managers are responsible for determining a consistent and appropriate means of evaluating telework employees' overall work performance and/or tasks completed to maintain employee accountability. Consultation with the department's assigned HRBP is encouraged so that work performance assessment measures are included in the Telework Agreement. Expectations *may include* but are not limited to the following:
 - i. Employees complete work assignments and meet timelines and quality standards set by the manager.
 - ii. Employees and managers attend and participate in virtual meetings, using all virtual meeting features such as cameras, chat feature and audio.
 - iii. Employees are available and reachable by their supervisor and co-workers during working hours except for work breaks and meal periods as detailed in the department's work rules.
 - iv. Team members' calendars are current and accessible to each other.
 - v. Employees submit accurate working hours in Dayforce.
 - vi. Employees complete and submit [Daily Telework Log](#).
 - vii. Employees continue to comply with all Milwaukee County policies while working from an Alternate Work Location, including those that pertain to information and device security.
 - d. As stated in [AMOP 02.03.01 Corrective Action](#), in carrying out their job responsibilities, Milwaukee County employees are expected to meet all performance expectations, including regular attendance, and conduct themselves appropriately. When that is not the case, corrective action should be considered in consultation with the HRBP.
 - i. The HRBP will provide guidance regarding effective documentation and what steps management should take to ensure consistency and compliance with all relevant County policies, rules, and procedures, including this Telework Policy.
 - ii. Action steps to consider include counseling, first warning, final warning, termination or charges for discharge, depending on the severity of the violation.

E. Alternate Work Location

i. Employees permitted to telework need to maintain their alternative workplace in the State of Wisconsin according to Wis. Stat. 63.08(1)(a) which requires state residency after hire. Temporary arrangements for work while traveling out of state must be approved by the telework employee’s manager.

ii. Alternate Work Location Setup

Requirement	Responsibility (Financial or Non-Financial)
a. Telework employees are responsible for establishing and maintaining a designated, adequate workspace at the Alternate Work Location (see Appendix D).	Employee
b. Telework employees will be issued a single computing device or appropriate device with a softphone to perform their work at the Alternate Work Location. Other equipment (mobile phone, printer, scanner, monitor, hotspot) may be provided as determined and funded by the department.	Milwaukee County Department
c. Telework employees may reasonably request office supplies, such as paper, pencils, pens, and paper clips as needed for County business conducted at the Alternate Work Location.	Milwaukee County Department
d. Telework employee will be responsible for providing furniture and other equipment for the Alternate Work Location. <ul style="list-style-type: none"> i. Maintenance or repair of all personally owned equipment is the employee’s responsibility. ii. Milwaukee County may provide furniture and other equipment when determined necessary for an accommodation as required by law. 	Employee (Except when required by law)
e. A telework employee’s Alternate Work Location should be relatively free of interruptions and distractions that would affect work performance.	Employee
f. A telework employee’s Alternate Work Location must have effective internet access to perform daily work. Note: County-issued cell phones can be used as a temporary hotspot if needed but should not be used for conducting regular County work.	Employee
g. A telework employee will be responsible for all costs associated with remodeling, electrical modifications, or other permanent improvements deemed necessary by the employee to make the Alternate Work Location suitable for telework. This includes normal household expenses, such as heat and electricity.	Employee


iii. Alternate Work Location Use

- a. As use of conference rooms, printers, scanners, shredders, etc. are needed, telework employees are encouraged to use available accommodations at a Central Workplace.
- b. A telework employee will not hold in-person business meetings at the Alternate Work Location if such location is a private residence.

- c. A telework employee must provide the same or greater privacy and confidentiality consideration to any County work conducted in the Alternate Work Location.
 - d. Departments are encouraged to implement a check-out process for physical records needed by telework employees outside of the Central Workplace.
 - i. The Central Workplace is the primary file storage location.
 - ii. The process must define and record the length of time records may be checked out.
 - iii. Records checked out from the Central Workplace remain the property of Milwaukee County and must be accessible for compliance with public record law.
 - iv. Any County documents or related materials physically stored at the Alternate Work Location should be kept in the designated workspace and not be made accessible to others.
 - e. Milwaukee County uses cloud tools to enhance employee capabilities. An employee has the ability to use personal devices to access email, documents, and other Milwaukee County information. Employees should take care not to store any Milwaukee County information on their personal computing device. Any Milwaukee County information stored on personal computing devices is subject to [Wisconsin Public Records Law, Wis. Stats. 19.21, et seq.](#)
 - f. An employee must consult with Information Management Services Division (IMSD) one week prior to travel outside of the United States to confirm the ability to telework from the international location, upon approval by their manager. Not all locations are viable for telework. Applications and access that are not managed by Milwaukee County may not work.
- iv. Alternate Work Location Safety
- a. A telework employee shall ensure that the immediate work area and other area used in the scope of work, such as the bathroom and kitchen, are free of recognized hazards prior to and while performing telework duties.
 - b. A telework employee must practice the same safety habits they would use in the Central Workplace and to maintain safe conditions in their Alternate Work Locations.
 - c. A telework employee should avoid activities that are not normally part of their job responsibilities when working at the Alternate Work Location, such as heavy lifting, and should take extra precautions to avoid accidents.
 - d. A telework employee shall ensure proper smoke and carbon monoxide detectors are operational at the Alternate Work Location.
 - e. A telework employee is required to report any and all injuries that occurs when performing Milwaukee County business at the Alternate Work Location by following proper reporting procedures. (See Milwaukee County AMOP 5.04)
- v. County Access to Alternate Work Location
- a. A telework employee shall allow the County to make on-site visits to the Alternate Work Location as deemed necessary by Milwaukee County with advanced notice for purposes of conducting a physical inspection of the Alternate Work Location setup, and to maintain, repair, inspect or retrieve equipment, software, data, files, or supplies owned by the County.
 - b. A telework employee shall allow agents of the County to investigate and/or inspect the Alternate Work Location in case of injury, theft, loss, or tort liability related to telework. Failure to cooperate with an investigation may result in denial of any benefits, legal claims, or insurance coverage and/or revocation of telework privilege.

F. Technology Considerations

To address digital divides and to enable Milwaukee County's workforce, IMSD has the technological means to enable employees to work in a telework capacity when their job function allows it.

- i. Service and Training
 - a. Self-service training options are available for multiple technology related items and may be found on the CountyConnect website or via <https://app.quickhelp.com/milwcnty>
 - b. The [Service Desk](#) is the primary support for all information technology for Milwaukee County employees.
 - c. Employees may also seek support from their Business Development Analyst for technology related needs and optimization.
- ii. Equipment & Information Security
 - a. County managed computing devices have an automatic VPN that allows telework employees to connect securely to the environment.
 - b. Telework employees agree to restrict use of Milwaukee County-provided equipment and supplies located in the Alternate Work Location according to the same policies that apply to Milwaukee County Central Workplace-based equipment.
 - c. Any software, products, documents, reports, or data created as a result of work-related activities are owned by Milwaukee County.
 - d. Any equipment allocated for use in the Alternate Work Location must to comply with ordinance 56.11 Control and Disposal of County Owned Property.
 - e. If repairs or replacement are necessary to County-issued computing devices, IMSD staff will be available during normal business hours. Equipment that can't be fixed remotely will need to be delivered to a designated Central Workplace. Guidance for repairs and replacement will be determined on a case-by-case basis.
 - f. The telework employee is responsible for returning equipment to their manager at a Central Workplace at the time of separation of employment.
 -  g. In the event of equipment malfunction or theft, telework employees agree to notify their supervisor and IMSD Service Desk as soon as practical. If the malfunction or theft prevents completion of any work assignment, telework employees understand that they may be assigned to the Central Workplace or a shared workspace.
 - h. Milwaukee County reserves the right to monitor any and all equipment on the Milwaukee County network, and the right to remove or disable the network connection should the equipment or systems show the behavior of infection or indicators of compromise.

G. Shared Workspace/Hoteling Considerations

Shared workspaces may be established for use by telework employees when reporting to a Central Workplace for work. Shared workspaces will be sized and configured to maximize the number of employees that can be accommodated, in accordance with established Milwaukee County office space standards. A workspace may be reserved and shared by multiple employees overtime, but will be used on an individual basis.

- i. Employees who are required to be in the office less than 50% of their scheduled work week should not expect to have a dedicated workspace in a County-owned or -leased or operated facility.
- ii. Shared workspaces may be reserved for use. If shared workspaces are intended to be reserved, teleworking employees shall reserve the workspaces in accordance with established department procedures. Shared workspaces should not be reserved for days that the employee is not intending to use the space and the employee is responsible for

canceling unneeded reservations, as appropriate.

- iii. When using a shared workspace, such as a hoteling station, teleworking employees shall maintain the workspace in a neat and orderly fashion.
- iv. If a teleworking employee uses a workspace in a County-owned or -leased or operated facility, the teleworking employee shall clean regularly-touched surfaces with disinfecting wipes at the start and the end their work day.
- v. Teleworking employees may furnish the shared workspace with appropriate personal items, but shall remove the personal items prior to use of the shared workspace by another employee.
- vi. Teleworking employees shall follow requirements listed in building rules or tenant handbooks for County facilities.

H. Employee Wellness

Milwaukee County is invested in the wellness of its employees.

- i. The Employee Wellness portal may be accessed online from the central workplace or alternate work location at www.workforcehealth.org/mkecounty.
- ii. Employees can complete activities online, including developing an action plan on diabetes prevention, financial wellness, smoking cessation, and healthy eating.
- iii. Employees can participate in online wellness challenges. Health coaches are available telephonically to discuss stress management, physical activity, or nutrition.
- iv. Milwaukee County’s employee assistance provider (EAP) offers three (3) free sessions to employees interested in meeting with a counselor.
- v. The EAP website, at www.liveandworkwell.com also has on demand videos, articles, and activities on topics ranging from financial health to work-life balance.

I. Limited Liability

- i. Milwaukee County assumes no responsibility for injuries occurring in the employee's Alternate Work Location or while teleworking that do not arise out of or occur in the course of employment.
- ii. Milwaukee County assumes no liability for damages to employee’s real or personal property resulting from participation in telework.
- iii. Telework arrangements are discretionary and cannot be a basis for discrimination claims.

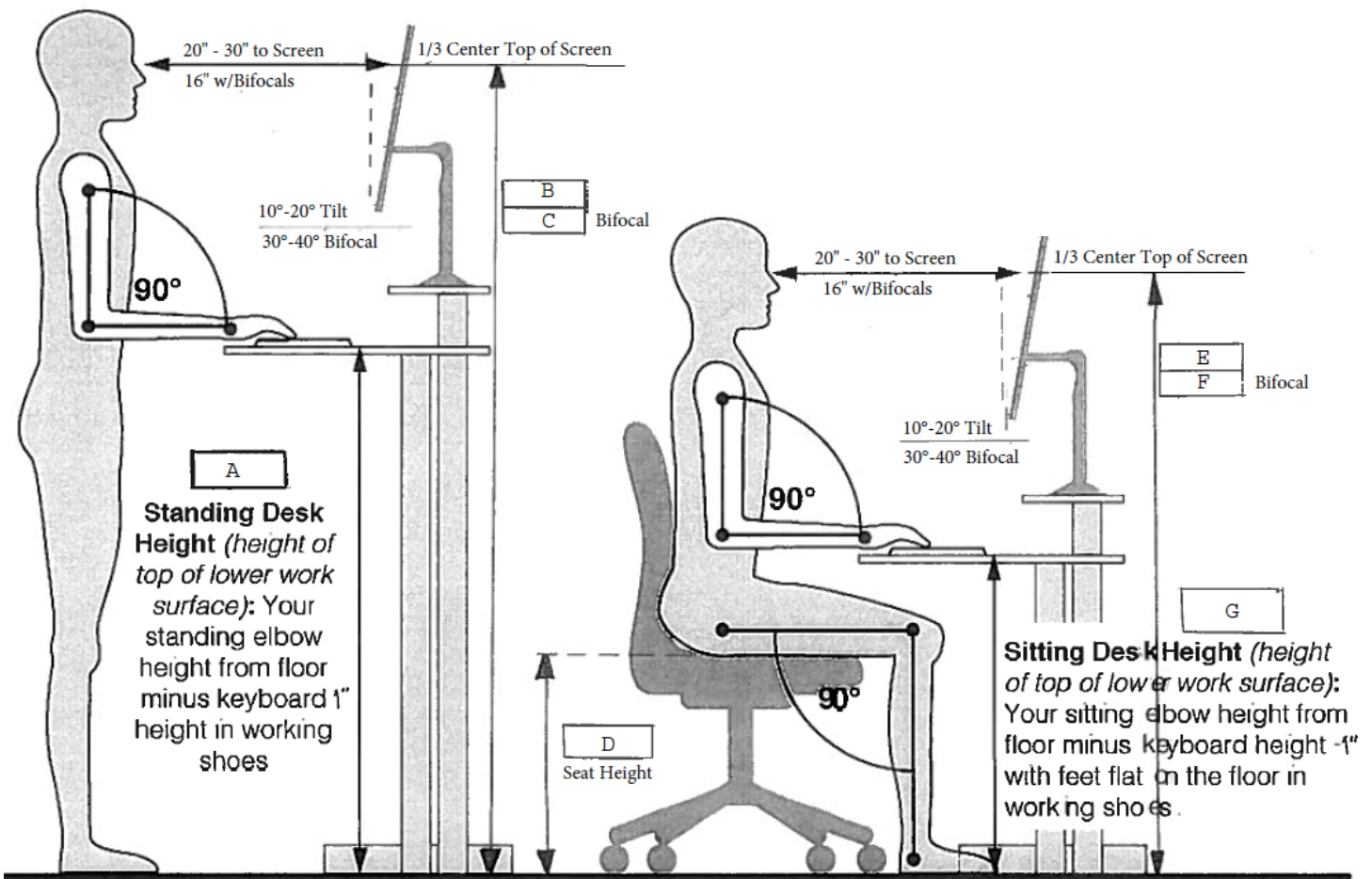
5. REVISION HISTORY:

Rev. #	Summary of Changes	Date of Change	Author
1.1	CEX suspended implementation of policy; added notes for effective date.	1/10/2022	Una Stojisavljevic
1.0	New procedure	07/19/2021	Telework Policy Coordination Team

APPENDIX D

Ergonomic Workstation Setup

Height (feet-inches)	Height (inches)	A	B	C	D	E	F	G
5'-0"	60"	36.5"	55.5"	51.5"	14.0"	41.5"	37.5"	22.5"
5'-1"	61"	37.0"	56.5"	52.5"	14.5"	42.0"	38.0"	23.0"
5'-2"	62"	37.5"	57.5"	53.5"	15.0"	43.0"	39.0"	23.0"
5'-3"	63"	38.0"	58.0"	54.0"	15.0"	44.0"	40.0"	23.5"
5'-4"	64"	39.0"	59.5"	55.5"	15.5"	44.5"	40.5"	24.0"
5'-5"	65"	39.5"	60.5"	56.5"	15.5"	45.0"	41.0"	24.5"
5'-6"	66"	40.5"	61.5"	57.5"	16.0"	46.0"	42.0"	25.0"
5'-7"	67"	41.0"	62.5"	58.5"	16.5"	46.5"	42.5"	25.0"
5'-8"	68"	41.5"	63.5"	59.5"	16.5"	47.5"	43.5"	25.5"
5'-9"	69"	42.5"	64.5"	60.5"	17.0"	48.0"	44.0"	26.0"
5'-10"	70"	43.0"	65.0"	61.0"	17.0"	48.5"	44.5"	26.5"
5'-11"	71"	43.5"	66.0"	62.0"	17.5"	49.0"	45.0"	27.0"
6'-0"	72"	44.0"	67.5"	63.5"	18.0"	50.0"	46.0"	27.0"
6'-1"	73"	44.5"	68.0"	64.0"	18.0"	50.5"	46.5"	27.5"
6'-2"	74"	45.5"	69.0"	65.0"	19.0"	51.5"	47.5"	28.0"
6'-3"	75"	46.0"	70.0"	66.0"	19.0"	52.5"	48.5"	28.5"
6'-4"	76"	47.0"	71.5"	67.5"	19.5"	53.5"	49.0"	28.5"





Milwaukee County COVID-19 Public Health Emergency

Service Risk Mitigation and Re-Opening Requirements

Administrative Order 20-13v10

- Version 1 Issued and Effective as of 12:01 p.m. on Wed., May 13, 2020
 - Version 2 Issued and Effective as of 12:01 p.m. on Wed., May 13, 2020
 - Version 3 Issued and Effective as of 12:01 p.m. on Wed., May 27, 2020
 - Version 4 Issued and Effective as of 12:01 a.m. on Mon., August 17, 2020
 - Version 5 Effective as of 8:00 a.m. on Thursday, October 8, 2020
 - Version 6 Effective as of 8:00 a.m. on Tuesday, November 17, 2020
 - Version 7 Effective as of 8:00 a.m. on Monday, February 22, 2021
 - Version 8 Effective as of 8:00 a.m. on Friday, April 2, 2021
 - Version 9 Effective as of 8:00 a.m. on Thursday, June 3, 2021
 - Version 10 Effective as of 8:00 a.m. on Thursday, July 1, 2021
-

Federal, state, and local authorities have issued guidance for re-opening of organizations and services based on the trajectory of the coronavirus and the capacity to respond to needs created by the pandemic. While Milwaukee County has continued to provide many critical services throughout the pandemic to support the community, a number of services have been partially or fully shut down to help protect public health.

Milwaukee County must prepare to bring affected services back up safely, which will require leaders and staff to think about how to redesign spaces, technology, and service formats to meet the needs of the public during a prolonged public health emergency. Furthermore, while services that have continued to operate during the pandemic have gone to great lengths to reformat service delivery and workplace standards to meet public health guidance, the County is dedicated to continuous improvement to enhance the safety of services and meet the emerging and evolving needs of service users.

This Administrative Order establishes the Minimum Requirements for operational risk mitigation and re-opening standards, as well as the governance for re-opening planning and service opening decisions. This order is subject to change as public health guidance evolves.

Version 10 replaces Version 9 of this order as of 8:00 a.m. on Thursday, July 1, 2021. Major changes to this order are denoted in red and include:

- Setting all **indoor** capacity to 100 percent of limit for facility or space. Physical distancing requirements remain in place and should continue to be observed.
- Allowing fully vaccinated¹ attendees at private events held at County facilities which are fully or partially indoors to attend without wearing masks. Unvaccinated individuals and all Milwaukee County employees regardless of their vaccination status attending such private events are still required to wear masks.
- Note that re-opening plans are still required for services or events re-opening in fully or partially indoor spaces.

If you have questions about this, or any other Administrative Order or policy, please email: COVID-19@milwaukeecountywi.gov

¹ An individual is fully vaccinated two or more weeks following the second dose of a two-dose vaccination series or following a single dose in a one-dose series.

I. Scope of Re-Opening Planning

Leaders overseeing services that are fully or partially *non-operational*² at the effective date of version 1 of this order (May 13, 2020) should immediately begin creating re-opening plans; if a department chooses to keep a service non-operational, they should consult with the Re-Opening Steering Committee (ROSC) and County Executive Chief of Staff about their decision before continuing to keep a service non-operational.

If an event or service is entirely outdoors, a re-opening plan no longer needs to be submitted and approved before re-opening. Departments should make every effort to mitigate the risk of spread of COVID-19 in outdoor settings by meeting safety standards in this order, whenever feasible. If an event or service is partially or completely indoors, departments should continue to submit re-opening plans for approval before re-opening.

If an event or service is partially or entirely indoors, a re-opening plan must be submitted and approved before re-opening. For services or events that require a re-opening plan, leaders and involved re-opening staff within the department or elected office should:

- Create **one (1) re-opening plan per service or program** that is fully or partially non-operational. If a department has questions about how to define a “service” in their operational context, they should work with the ROSC to ensure their plan is correctly scoped.
- Direct vendors managing the delivery of a service that is fully or partially non-operational to create re-opening plans per the Minimum Requirements referenced in this Administrative Order (see Section VI).³ Vendors should also submit **one (1) re-opening plan per service** that they manage that is fully or partially non-operational. Vendor plans should be reviewed and approved by the department before being submitted to the ROSC.
- Re-opening plans submitted under previous versions of this Administrative Order do not need to be re-submitted for approval. All plans submitted after the effective date of Version 10 of this order will be reviewed under the Version 10 Minimum Requirements.
 - For upcoming outdoor events/services that already have an approved re-opening plan, the department may lift any restrictions in place for that event at their discretion.
 - For upcoming indoor events/services, if raising the capacity to 100 percent of the facility’s capacity limit is the only change being sought, departments may update the capacity limit for the event without re-submitting their re-opening plans. If any other changes are being made outside of updating the capacity limit, the plan should be re-submitted for approval.

² “Fully or partially non-operational” should be interpreted from the perspective of an end-user. A service currently being delivered in a new format due to the pandemic is considered to be operational if end users still have access to the service.

³ Vendors may have completed COVID-19 Pandemic Preparedness Plan per Administrative Order “Contracting Procedures during COVID-19 Public Health Emergency (20-11 v1).” Please note that re-opening plans will be overlapping but are different than these preparedness plans, as the re-opening plans are tied to a specific set of minimum requirements. Vendors can pull relevant language from preparedness plans, but should create re-opening plans specific to requirements in this Order.

- Leaders and vendors may, but are not required to, use the Minimum Requirements for Re-Opening - Plan Template (**Version 8**) to aid in their planning efforts (located at the end of this Administrative Order).
- Any request for re-opening facilities and/or services should be sent to: COVID-19@milwaukeecountywi.gov.

For services that are currently operational:

- Every effort should be made to come into compliance with the Minimum Requirements for Re-Opening outlined in this Administrative Order, whenever possible.
- The ROSC, described below, is available to help support solutions for all services to continue to protect the health of our employees, contractors, and the public.
- The ROSC will be conducting site visits with the public health consultants to services or facilities that have remained open or that have recently re-opened to identify and help mitigate any remaining risk. If a department or elected official would like to proactively schedule a site visit, they should request a visit by emailing the ROSC at: ROSC@milwaukeecountywi.onmicrosoft.com
- No formal plan for meeting Minimum Requirements is needed at this time. Leaders can directly ask for support (e.g., space planning, facility needs, IT needs) from the ROSC to help execute any risk-mitigating solutions (COVID-19@milwaukeecountywi.gov).

Recognizing that certain unique County services do not easily lend themselves to all the outlined re-opening requirements, the ROSC will work with County leaders operating those services to ensure that their re-opening plan is consistent with minimum requirements to the extent possible, and will help identify additional risk mitigation strategies, as needed.

II. When to Implement Re-Opening Plans

For services that are fully or partially non-operational, and therefore required to develop a re-opening plan before bringing the service back up, **all of the following criteria must be met** before the service can be made operational again:

1. The service re-opening plan has been approved by the ROSC.
2. The County Executive or Chief of Staff has approved the service to re-open once a recommendation to re-open has been made by the ROSC.

All elements of the approved re-opening plan should be in place before service is re-opened to the public. Departments can, and should, start implementing measures to meet minimum requirements during re-opening planning, whenever possible.

Due to the nature of some services, some exceptions to the above criteria may have to be made to best protect the health of the community (e.g., playgrounds are very difficult to keep closed, so it may be better to open the service and find other strategies to mitigate risks). Departments can request exemptions to the ROSC, and the ROSC will coordinate with requesting leaders and the County Executive or Chief of Staff to determine the best path forward.

III. Guiding Principles and Operating Assumptions to Risk Mitigation and Re-Opening

Milwaukee County will use the following principles and assumptions to guide its approach to operational risk mitigation and re-opening.

1. Guiding Principles

- When evaluating any service re-opening, Milwaukee County's primary focus is the health of its residents, employees, and contractors. Services currently interrupted by the pandemic will resume operations at a time and in a manner that is reasonably safe for everyone based on then current public health criteria. The risk profile of the population using a service, based on CDC guidance for high-risk individuals, will be a key input to decisions about re-opening services for in-person operations.
- Decisions on process improvement and re-design of County services will be made through a racial equity lens while keeping in mind the best interest of our employees and the community.
- The impact to the County's budget as a result of COVID-19 has been substantial and therefore any decisions made on re-opening services will be made while being cognizant of the impact re-opening will have on the County's budget.
- Maximizing the number of people teleworking will be a key public health risk mitigation strategy, and the County will plan to have employees telework whenever possible for the foreseeable future.

2. Assumptions

- All County services must be prepared to enforce strict public health measures at any time, especially if re-opening a service leads to a spike in COVID-19 cases.
- The County will have to remain flexible when re-opening services. Moreover, if re-opening contributes to a spike in infection rates, certain services may have to close again. The indicator dashboard will guide this decision-making.
- Not all County services may be able to come back fully operational because the nature of the service may prevent the County from meeting necessary public health standards. This will mean that services may look different than they did before the pandemic.

IV. Ongoing Expectations for Employees, Contractors, and Service Users

All employees, contractors, and service users must continue to follow CDC recommended practices to promote good public health hygiene and take the necessary steps to prevent the spread of sickness. People must:

- Wash their hands with soap and water or use hand sanitizer, especially after touching frequently used items or surfaces.
- Avoid touching their face.
- Avoid shaking hands.
- Sneeze or cough into a tissue or the inside of their elbow.
- Disinfect frequently used items and surfaces as much as possible.

- Maintain a distance of 6 feet or more from individuals outside one’s own household, particularly when inside public facilities
- Use cloth face coverings while in public as recommended or required, and particularly when physical distancing of 6 feet may not be possible.
- Stay home if sick, or if a member of their household is sick, with fever, cough, shortness of breath, sore throat, unusual fatigue, muscle aches, or chills.
- Follow medical advice from a medical provider.
- Telework, if jobs duties allow.

V. Governance of Re-Opening Plans

The County Executive has established a Re-Opening Steering Committee (ROSC) to help guide the development and execution of re-opening plans, tailored to the specific needs of departments and elected offices. The ROSC will partner with departments and elected offices to:

- Review re-opening plans that meet the procedures and guidelines for phased re -opening per this administrative order.
- Support the development and execution of service re-design solutions (e.g., re-designing physical spaces, moving services online, process improvement efforts).
- Conduct site visits and follow up to identify and mitigate risks in work or service areas that have remained operational and to evaluate the effectiveness and compliance with services that re-opened under an approved plan.
- Develop policy to support the County’s response and recovery efforts to COVID-19.

The ROSC will routinely inform and consult with the County Board throughout the re -opening planning, policy decisions, and the execution of any re-opening plans. The ROSC will work with department and elected office leadership to identify the person or people to partner with for re-opening planning and ongoing risk mitigation efforts.

Re-opening plans, the execution of these plans, and local policy decisions about services and resource needs will be collaboratively made between the ROSC, the elected official or department head, and the County Executive or Chief of Staff.

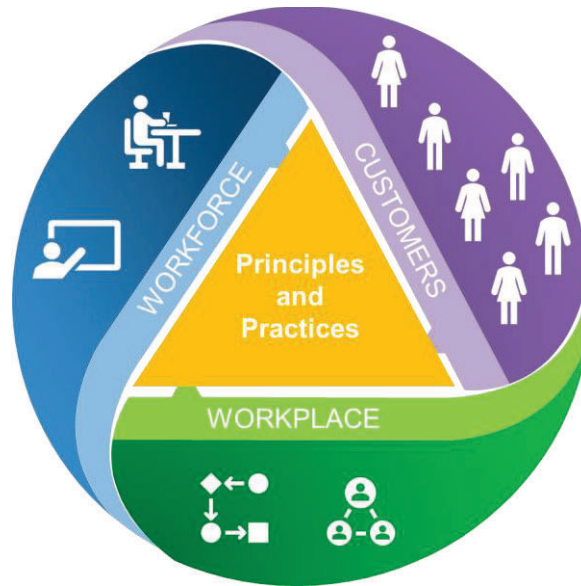
VI. Risk Mitigation and Responsible Reopening Procedures and Guidelines

Departments and elected offices with services that are fully or partially non-operational should follow the minimum requirements and recommendations below to inform the development of their re-opening plans (as required in Section 1). The minimum requirements are broken into three main categories:

Prepare and Protect WORKFORCE

- ✓ Protective Practices
- ✓ Screening
- ✓ Rapid Response to Cases
- ✓ Flexible Work Options
- ✓ Risk Mitigation
- ✓ Education and Cultural Practices

Sources:
Medical College of Wisconsin,
CDC, WHO, OSHA



Prepare and Protect CUSTOMERS

- ✓ Risk Awareness
- ✓ Education
- ✓ Communication

Prepare and Protect WORKPLACE

- ✓ Disinfecting Practices
- ✓ Environmental Controls
- ✓ Workspace Design
- ✓ Workflow Design
- ✓ Controlled Access

Below are the required and recommended operational risk reduction and re-opening minimum requirements to mitigate risk across services that have remained open as well as services that were fully or partially closed due to COVID-19. Minimum requirements are indicated by underlining; considerations for how to achieve the minimum requirement are provided based on best practices, and leaders should consider their local context and needs in order to achieve the minimum requirement. **In general, if a department or elected office is not able to meet certain minimum requirements, they should clearly state why and work with the ROSC (who will facilitate consultations with Public Health Officials) to identify appropriate risk mitigation controls; not being able to meet a minimum requirement does not automatically mean a re-opening plan will not be approved.**

There are times when the County might adopt the more conservative minimum requirements if the risks of spreading COVID-19 associated with the event or service are exceptionally high or if the population being served is particularly high risk (e.g., services in a congregate living setting). The ROSC will work with departments and public health experts to determine appropriate risk mitigation strategies in these instances.

Table 1. Summary of Capacity Limits at Milwaukee County Facilities

All capacity limits for indoor and outdoor locations are now 100 percent of their standard (pre-COVID-19) limits. This change applies to both routine County operations and special events held at County facilities.

Table 2. Workplace

<u>Workplace Minimum Requirements</u>
<p>Workspace and Workflow Controls</p> <ul style="list-style-type: none"> ○ <u>Physical Distancing</u>. Create a plan that promotes physical distancing of at least 6 feet. The plan should include, or at least consider, the following: <ul style="list-style-type: none"> ○ Indoor, closed, or confined County facilities, office spaces, or vehicles. ○ <u>The number of people allowed in an indoor, closed or confined space</u>

should be limited to 100 percent of facility, office or vehicle capacity.

- All shared rooms must have a room capacity sign posted, including: elevators; conference rooms; and shared spaces, such as lunchrooms, breakrooms, and bathrooms.
- Control access to and circulation within County facilities.
 - Evaluate the flow of customers to increase space between and avoid contact with each other and County staff (i.e., entry way lines, one-way aisles, wider aisles, necessary waiting areas).
 - Use lines on floor or ground and arrange furniture to increase awareness of space distance.
 - Eliminate “back door” entrances and evaluate access at loading docks.
- Workstations should be set up with at least 6 feet of distance between people; whenever possible, workstations without a barrier between employees (e.g., cubicles) should be configured so employees do not directly face each other.
 - If physical distancing between workstations is not possible, install barriers or partitions at least 5’ high between stations in use (e.g. consider in combination with staggered work shifts).
 - Whenever possible, employees should have a designated work station to minimize the number of people sharing space.
- Breakrooms, kitchen seating areas, or other sitting areas (not including necessary waiting areas) may be used with the following protocols:
 - Encourage employees to spend break or mealtimes outdoors or at their workspaces.
 - Post signs to remind employees about risk mitigating protocols. (see Appropriate Signage section below).
 - Occupancy of the break room should not exceed 100 percent of occupancy limit at any time.
 - Stagger break/lunch times to minimize occupancy of shared break/lunchroom spaces.
 - Have adequate disinfectant, hand sanitizer, hand soap and towels at all hand washing stations in break rooms at all times.
 - Employees should disinfect the dining/seating area they will use before and after each use.
 - Prop open doors and, in rooms with more than one door, designate one for entering and one for exiting.
 - Avoid cleaning dirty dishes while at work; dirty dishes should be brought home for cleaning to avoid sharing dirty sinks, sponges, etc.
- Work Vehicles with multiple riders should ensure that face masks are worn at all times. Proper cleaning of the vehicle after use is also mandatory.⁴

⁴ <https://www.cdc.gov/coronavirus/2019-ncov/community/organizations/disinfecting-transport-vehicles.html>

- Certain public health and safety functions may be exempt, such as law enforcement and emergency services in specific, rare circumstances.
- Members of the same household are not required to physically distance from each other. When applicable, departments can structure exemptions to physical distancing in certain spaces (e.g., sitting at a picnic table, using an elevator).
- **Appropriate Signage.** In order to establish a consistent message regarding COVID-19 public health guidelines and requirements for County facilities and property, ROSC-approved signs must be posted in appropriate areas. Signage will be available through HOC Graphics and can be ordered by departments and elected offices via Marketplace Central. Departments may also print signs locally. Departments are responsible for posting signs in employee work areas and departments managing facilities are responsible for posting signs in public areas. Signs are updated as new needs are identified and can be accessed on [SharePoint](#).⁵
 - **Cleaning Shared Surfaces:** Should be posted in communal work areas, including kitchens, common areas, and cubicle areas.
 - **Do Not Enter If Symptomatic:** Should be posted at entry points to facilities and public entrances to department services, both indoor and outdoor.
 - **Elevator Capacity:** Elevator capacity is set at 100 percent of standard capacity limit.
 - **Face Mask Dispensing Station:** File contains 3 signs that can be used in part or in combination at face mask distribution stations.
 - **Face Masks Required:** Should be posted throughout facilities and on County grounds in employee and public-facing areas indoors.
 - **Face Masks Required Beyond this Point:** Should be posted at controlled entry points for reminders to both employees and the public.
 - **Hand Washing:** Should be posted above sinks in bathrooms and kitchens.
 - **Physical Distancing:** Should be posted throughout facilities and on County grounds in employee and public-facing areas.
 - **Room Capacity:** Should be posted on any room in which there may be more than one person in the room at a time (e.g., conference rooms, kitchens).
 - **Courtesy Seating:** Should be placed in public seating areas, especially where seating is limited.
 - **Household Seating:** Should be placed in public seating areas where chairs may be clustered together to allow members of a household to sit together.

Environmental Controls

- Masks, cloth or disposable (if available), should be distributed at indoor entry points per the policy and procedures in the “Universal Face Mask Policy and Procedures Administrative Order (20-14)”.⁶
- Hand sanitizer should be available at transaction points, entry points, in communal areas with high touch points, and throughout facilities.
- Increase ventilation.

⁵ <https://milwaukeecountywi.sharepoint.com/sites/SignsforCOVID-19/SitePages/Signs.aspx>

⁶ <https://county.milwaukee.gov/EN/COVID-19>

- Increase ventilation rates.
- Increase the percentage of outdoor air that circulates into the system.
- Keep bathroom doors propped open (when not an invasion of privacy).
- Doors in facilities should be propped open, unless doing so is a violation of code, a threat to safety, or poses a similar type of problem.
- Limit all communal touch-points.
 - All trash and recycling bins should not require a person to touch the container in order to dispose of something (e.g., remove lids or flaps).
 - Eliminate shared workspaces. (e.g., in combination with staggered work shifts)
 - Discourage people from using other workers' phones, desks, offices, writing utensils, white board markers, or other work tools and equipment, when possible.
 - If necessary, post signs requiring users to clean and disinfect communally used equipment (e.g., printers, desktop computers) before and after use and make sanitizers available in the area.
 - Install controls at transaction points that work to minimize touch-points and areas of close contact. If possible:
 - Avoid or limit the exchange of objects during a transaction (e.g., employee should avoid physically taking a license or credit card).
 - Place a barrier between the employee and customer.
 - Sanitize any equipment (e.g., credit card readers) between each use and provide plastic covers and disposable digit touchers.
- Vending machines can remain operational and should be treated as a high-touch point subject to increased cleaning and disinfecting.
- Water fountains and bottle filling stations can remain operational and should be treated as a high-touch point subject to increased cleaning and disinfecting.

Cleaning and Disinfecting

- Pre-opening and ongoing cleaning and disinfecting protocols should follow CDC guidelines for their industry and identify they are meeting those guidelines.⁷ Generally, some considerations are:
 - Provide ready access to cleaning and disinfecting supplies to all employees.
 - Develop comprehensive touch-point disinfection protocols.
 - Review any cleaning contracts with janitorial services to ensure each facility is maximizing cleaning of high surface touch-points (especially in public areas) and there is ongoing sanitation throughout the day. Additional cleaning and disinfecting protocols should be assigned to staff if janitorial services aren't available for routine (every 2 to 3 hours) daily disinfecting.
 - See the CDC's website on Cleaning and Disinfecting a Facility.

Food Service Areas

- Cafeterias may reopen to accommodate up to 100 percent of capacity limits, and physical distancing encouraged. **If pick-up service is available:**
 - Cash payments are allowed; hand sanitizer should be available at point of payment, and employees should wash their hands every 2-3 hours or more

⁷ <https://www.cdc.gov/coronavirus/2019-ncov/community/workplaces-businesses/index.html>

- frequently depending on job duties.
- Online ordering and payment methods (or other touchless methods) are preferred.
- If seating is available:
 - Tables should be at least 6 feet apart for indoor seating areas where space allows. Members of a household do not need to physically distance themselves from each other.
- Tables should be sanitized frequently.

Retail Shops (Gift Shops and Pro Shops)

- Stand-alone gift shops and pro shops with entrances to the outside may be open with the following procedures in place:
 - Capacity is limited to 100 percent of stated facility capacity.
 - Cash payments are allowed; hand sanitizer should be available at point of payment and employees should wash their hands every 2-3 hours.
 - Develop a plan for physical distancing for customers in line for entry, as well as between customers and employees inside the shop.

Indoor Event Spaces: Milwaukee County will receive re-opening plans for indoor event spaces. Re-opening plans for indoor events are subject to the guidelines in this order, with the additional guidelines and requirements. Please note that a number of minimum requirements were removed from this section in Version 9 of this Administrative Order.

- The number of people allowed in an indoor, closed or confined space is limited to 100 percent of space capacity.
- Physical distancing of 6’ between chairs and people should be maintained, whenever possible.
 - Members of a household may sit together without physically distancing.
- Virtual attendance should be available and encouraged whenever possible for individuals at high risk⁸ (or in a household with someone at high risk) or for individuals who cannot wear a face mask.
- **Fully vaccinated⁹ attendees at private events held at County facilities which are fully or partially indoors may attend without wearing masks. Unvaccinated individuals and all Milwaukee County employees regardless of their vaccination status attending such private events are still required to wear masks. Departments operating such facilities may use the honor system to enforce this requirement.**
- In general, chairs should not be set up with anyone directly facing someone outside of their household.
- Dancing is permitted at events so long as distance reminders are clearly marked on the dance floor, and no eating or drinking is allowed on the dance floor.
- Events with buffets, food, or drink stations should:
 - Physically distance in lines.
 - Install Plexiglas between servers and patrons at service points where physical

⁸ <https://www.cdc.gov/coronavirus/2019-ncov/need-extra-precautions/people-at-increased-risk.html>

⁹ An individual is fully vaccinated two or more weeks following the second dose of a two-dose vaccination series or following a single dose in a one-dose series.

distancing is not possible.

- Cleaning and Enforcement
 - Departments may introduce fees to meet required cleaning protocols.
 - Departments may introduce fees to help oversee adherence to policies (e.g., additional security or staffing).
 - At least one (1) event staff person must be present to oversee enforcement of event policies for events over 100 people where food and/or alcoholic beverages are being served.

Table. Employees & Contractors

Employees and Contractors returning to worksites should enter the workplace on day one with knowledge of any new or changed work practices and understand what will be expected of them.

Employees & Contractors Minimum Requirements

Reporting to County Facilities

- Employees who are able to telework, fully or in-part, should continue to do so.
- Any symptomatic employees or contractors should not report to work per policies in Administrative Order 20-7, Procedures for Responding to Individuals with Confirmed Cases of Symptoms of or Exposure to COVID-19 (20-7v7).
- Physical Distancing. Create a plan with flexible work options and practices aimed at minimizing contact from occurring within 6 feet.
 - Limit in-person meetings, including pre-shift roll call. Remote meetings should be maximized and in-person meetings should be minimized.
 - If necessary, conduct meeting in a room with sufficient capacity to accommodate attendees.

Protective Practices

- Face masks are required for all employees and contractors without a qualifying exemption indoors and in outdoor settings when individuals cannot consistently physically distance from other people. Please see “Universal Face Mask Policy and Procedures Administrative Order (20-14)” for details.¹⁰
- Discourage work practices that may cause the spread of the virus.
 - Avoid all unnecessary physical contact with other people (e.g., shaking hands).
 - Discourage people from using other workers’ phones, desks, offices, writing utensils, white board markers, or other universal work tools and equipment when possible.
 - Discourage sharing food, crockery, utensils, cups, and other personal hygiene items.
 - Encourage regular hand washing or use of hand sanitizer.

¹⁰ <https://county.milwaukee.gov/EN/COVID-19>

Symptom Screening

- Please refer to COVID-19 Health Screening Policies and Procedures Administrative Order 20-17.¹¹

Communication and Training

- Reopening plans should include a plan for communicating to employees new requirements and procedures (e.g., face coverings, physical distancing, screening) that are expected in the workplace and when delivering services.

Table 4. Service Users and Visitors

Service Users and Visitors Minimum Requirements

Entry to County Facilities or Property

- If possible, stagger arrival of service users.
 - An appointment system is highly encouraged for services, whenever possible.

Protective Practices

- Face masks are required for all visitors and service users ages 3 and over to indoor County facilities. Please see “Universal Face Mask Policy and Procedures Administrative Order (20-14)” for details.¹²
- Face masks should be distributed and worn upon entry to indoor County facilities. The department or elected office managing controlled entry points will be responsible for managing the local procedures and processes for mask distribution.
 - Departments and elected offices should plan on keeping spare masks in their offices inside of the facility for people who show up without a mask.

Symptom Screening

- Please refer to COVID-19 Health Screening Policies and Procedures Administrative Order 20-17.¹³

High-Risk Visitors or Service Users: Consider a plan for visitors or service users who are high-risk for COVID-19 complications and death, such as older adults or people of any age who have serious underlying medical conditions.¹⁴

- Have a virtual option in place for someone who has identified themselves as high risk.
- Offer deferment plans or alternate participation mechanisms to mitigate risks to high-risk individuals.
- Offer specific times of the week, ideally after a cleaning, that is designated for high risk individuals or groups, and enforce proper physical distancing and face coverings requirements by all during that time.

¹¹ <https://county.milwaukee.gov/EN/COVID-19>

¹² <https://county.milwaukee.gov/EN/COVID-19>

¹³ <https://county.milwaukee.gov/EN/COVID-19>

¹⁴ <https://www.cdc.gov/coronavirus/2019-ncov/need-extra-precautions/people-at-increased-risk.html>

Communications Plan:

- How will service users know about changes and new expectations for accessing the service?
- How will service changes, including new expectations for accessing the service (e.g., appointment only, face mask required), be communicated to service users?
- Where will this information be available?
- How will information be distributed?
- If special accommodations are available for high-risk service users, how will you communicate about available accommodations?
- Have a communications plan for how service changes, including new expectations for accessing the service (e.g., appointment only, face mask required, online option), will be communicated to service users.
 - Clearly request use of enterprise-wide communication channels for information dissemination (e.g., County press release, website update, social media post).

Minimum Requirements for Re-Opening – Plan Template (Version 8)

Department or Elected Office Name:

Service or Program:

Short Description of Service (1 – 3 sentences):

Please fill in all relevant information using the tables below, which structure questions around the minimum requirements in the “Re-Opening Guidance for Milwaukee County Services and Facilities.” If a requirement is not applicable, leave blank or write N/A. Answers should be concisely written.

1. Workplace

Workspace and Workflow Controls	
Please explain your plan for Physical Distancing. (Note: Your plan should promote physical distancing of at least 6 feet.	
Confirm that all shared rooms will have a room capacity sign posted, including conference rooms, break rooms, restrooms, and other shared spaces.	
What is your plan for addressing the flow of customers to increase space between and avoid contact with each other and County staff (i.e., entry way queues/lines, one-way aisles, wider aisles, necessary waiting areas)?	
Confirm that your workstations are set up with at least 6 feet of distance between people and that stations are configured so people are not facing towards each other. If this is not possible, confirm that you have installed barriers or partitions at least 5' high.	
Breakrooms, kitchen seating areas, or other sitting areas:	

<ul style="list-style-type: none"> • Confirm that appropriate signage is posted in areas, including room capacity signage. • Confirm that chairs and tables have been removed from the space to ensure 6' of space between employees is maintained at all times. • Confirm that disinfectant, hand sanitizer, soap and towels are available and visible. • Confirm that there is signage and that employees have been informed to disinfect dining/seating areas before and after each use. 	
<p>Confirm that when there are two or more people in a County vehicle face masks worn at all times. Confirm proper cleaning of the vehicle after use will be completed per CDC guidelines.</p>	
<p>Confirm that you have acquired and posted <u>appropriate signage</u> in the following areas:</p> <ul style="list-style-type: none"> ○ Cleaning Shared Surfaces posted in communal work areas, including kitchens, common areas, and cubicle areas. ○ Do Not Enter If Symptomatic posted at entry points to facilities and public entrances to department services, both indoor and outdoor. ○ Face Mask Dispensing Station at face mask distribution stations. ○ Face Masks Required posted throughout facilities in employee and public-facing areas. ○ Face Masks Required Beyond this Point posted at controlled entry points. ○ Hand Washing above sinks in bathrooms and kitchens. ○ Physical Distancing posted throughout facilities and on County grounds in employee and public-facing areas. 	

	<ul style="list-style-type: none"> ○ Room Capacity posted on any room in which there may be more than one person in the room at a time (e.g., conference rooms, kitchens). ○ Courtesy Seating: Should be placed in public seating areas, especially where seating is limited. ○ Household Seating: Should be placed in public seating areas where chairs may be clustered together to allow members of a household to sit together.
	<p>Outdoor and open spaces on County Property. Confirm that picnic tables, outdoor eating areas, or similar outdoor seating areas are spaced at least 6' apart wherever possible.</p>
Environmental Controls	
	<p>Do you have face masks, cloth or disposable, available at indoor entry points per the Universal Face Mask Policy and Procedures Administrative Order (20-14)? How are they being distributed? <i>Note: not all services are required to provide masks to visitors.</i></p>
	<p>Confirm that hand sanitizer is available at all transaction points, entry points, in communal areas with high touch points, and throughout the facility/service areas.</p>
	<p>Describe actions you have taken to increase ventilation, if possible.</p> <ul style="list-style-type: none"> ● Are you able to increase ventilation rates? ● Are you able to increase the percentage of outdoor air that circulates into the system? ● Are you able to keep bathroom doors propped open (when not an invasion of privacy)? ● Identify any doors you plan to keep propped open to increase ventilation and reduce touch-points.

What are you doing to limit communal touch points? For example:

- Have you removed lids/flaps on trash and recycling bins?
- Have you eliminated shared workspaces?
- How have you discouraged use of communal equipment?
- Have you propped open doors, when appropriate?
- How have you limited the exchange of materials between people?
- Have you placed a barrier between employees and customers at service counters?

Cleaning and Disinfecting

Describe your plan for pre-opening cleaning and disinfecting protocols consistent with CDC guidelines for your industry and explain how you will meet those guidelines.

- Are cleaning supplies readily available to all employees?
- What are your high touch-point disinfection protocols?
- If appropriate, have you reviewed any cleaning contracts with janitorial services to ensure each facility is maximizing cleaning of high surface touch-points (especially in public areas) and there is ongoing sanitation throughout the day?
- What is your plan for assigning additional cleaning and disinfecting protocols to staff to the extent janitorial services aren't available for routine (every 2 to 3 hours) daily disinfecting?

Food Service Areas

Are cash payments allowed? If yes, is hand sanitizer

<p>available at all payment transaction points?</p> <p>Is seating available? If so:</p> <ul style="list-style-type: none"> • Confirm that for enclosed spaces, the expected capacity will not exceed 100 percent of the facility capacity limit. • Confirm that tables are at least 6 feet apart for both indoor and outdoor seating areas. • What is your plan to frequently sanitize tables? • Explain your plan for physically distancing guests while waiting for food pick-up. 	
<p>Retail Shops (Gift Shops and Pro Shops)</p>	
<p>Is a capacity sign posted for the shop?</p>	
<p>Are cash payments allowed? If yes, is hand sanitizer available at all payment transaction points?</p>	
<p>What is your plan for physical distancing for customers in line for entry, as well as between customers and employees inside the shop?</p>	
<p>Indoor Event Spaces</p>	
<p>How are you maintaining 6’ of distance between chairs and people (for people not in the same household) whenever possible in the event space?</p>	
<p>How will you ensure that prior to renting a space that renters understand COVID-19 safety requirements of them while using the event space? How are requirements included in contracts? ‘</p>	
<p>How will you communicate for private events held at indoor or partially indoor spaces that fully vaccinated individuals are not required to wear masks but that</p>	

	<p>individuals who are not fully vaccinated as well as all County employees at the event must wear masks?</p>
	<p>Will dancing be allowed in the event space? If so, please confirm that distance reminders are clearly marked on the dance floor, and no eating or drinking is allowed on the dance floor.</p>
	<p>Please explain how food and beverages (non-alcoholic and alcoholic) will be served during the event.</p> <p>Please explain how distancing will be maintained between individuals accessing food or beverage service.</p> <p>Is consistent physical distancing of 6' possible between servers and patrons? If not and as appropriate, has Plexiglas been installed in areas where distancing isn't possible (e.g., buffet lines)?</p>
	<p>Please confirm that at least one (1) event staff person will be present to oversee enforcement of COVID -19 safety protocols if the event is over 100 people and food and/or alcoholic beverages are being served.</p>

2. Employees and Contractors

<p>Reporting to County Facilities</p>	
	<p>Describe your plan for employee telework. (Note: at this time, employees who are able to telework, fully or in-part, should continue to do so.)</p>
	<p>Confirm that department has procedures for prohibiting symptomatic employees or contractors from reporting to work.</p> <ul style="list-style-type: none"> ○ If a symptomatic person does report to work,

<p>they should be sent home.</p> <ul style="list-style-type: none"> ○ Continue following procedures, including return to work procedures, per the Responding to Symptomatic Individuals Admin. Order 20-7. ○ If a person feels sick they should be advised to contact and follow the advice of their medical provider immediately. 	
<p>Describe any flexible work options you intend to implement to maximize physical distancing of at least 6 feet. How are you limiting in-person meetings and maximizing remote meetings?</p>	
<p>Protective Practices</p>	
<p>Face masks are required for all employees and contractors without a qualifying exemption indoors and in outdoor settings when individuals cannot consistently physically distance from other people. Please confirm that your in-person employees understand the policy and that this protocol is being enforced with employees in line with the requirements of the Universal Face mask Policy and Procedures Administrative Order (20-14).</p>	
<p>How are you discouraging work practices that may cause the spread of the virus? For example:</p> <ul style="list-style-type: none"> ○ Avoid all unnecessary physical contact with other people (e.g., shaking hands). ○ Discourage people from using other workers' phones, desks, offices, writing utensils, white board markers, or other universal work tools and equipment when possible. ○ Discourage sharing food, crockery, utensils, cups, and other personal hygiene items. ○ Encourage regular hand washing or use of hand sanitizer. 	

Communication and Training	
<p>Describe your plan for communicating workplace and workforce changes, such as the face covering policy and physical distancing, to employees so they are prepared for work when they return.</p> <p><i>Note: HR has developed Countywide training for returning employees that includes universal hygiene methods, proper face covering usage, and how to effectively communicate to the public.</i></p>	
<p>How are your vendors or contractors who work in County facilities communicating their pandemic protocols and plans to their employees?</p>	

3. Service Users and Visitors

Protective Practices	
<p>Face masks are required for all visitors and service users ages 3 and over at indoor County facilities unless a person has a qualifying exemption. Please see "<u>Universal Face Mask Policy and Procedures Administrative Order (20-14)</u>". If a visitor comes to access your service without a mask, what is your plan for helping reinforce County policy and encourage compliance (e.g., give person a new mask, reinforce with signage or messaging from employees, refuse service)?</p>	
<p>If you manage the County facility or indoor entry points covered in this re-opening plan, how will you distribute masks to visitors upon entry (if required per the universal face mask order)?</p>	
<p>How will you mitigate the risks to employees delivering</p>	

<p>services when a service user will not or cannot wear a face mask, especially when physical distancing is not possible?</p>	
<p>High-risk Visitors or Service Users</p>	
<p>Do you have a plan to accommodate visitors or service users, such as a virtual option, deferment plan, alternate participation mechanism, or specific time reserved only for high-risk users in which extra cleaning and disinfecting and physical distancing (lower maximum capacity) occurs?</p>	
<p>Communications Plan</p>	
<p>How will service users know about changes and new expectations for accessing the service? How will service changes, including new expectations for accessing the service (e.g., appointment only, face mask required), be communicated to service users? Where will this information be available? How will information be distributed? If special accommodations are available for high-risk service users, how will you communicate about available accommodations?</p>	

From the Office of the County Executive, requesting adoption of a framework for an ongoing COVID-19 response within the organization of Milwaukee County.

A RESOLUTION

WHEREAS, in March of 2020, the World Health Organization declared the Novel Coronavirus Disease (COVID-19) a global pandemic; and

WHEREAS, on March 13, 2020, the County Executive declared a local public health emergency due to COVID-19; and

WHEREAS, through Administrative Orders based on the Declaration of Emergency, Milwaukee County has since then implemented numerous mitigation measures intended to slow the spread of COVID-19 and protect employees, service users, and the general public; and

WHEREAS, the Milwaukee County Board of Supervisors, in File No. 21-918, voted to terminate the Emergency Declaration, effective February 28, 2022; and

WHEREAS, the goal of Milwaukee County’s COVID-19 pandemic management process has been to continue County operations for its residents while keeping its staff and participants safe; and

WHEREAS, Milwaukee County will continue developing and executing these policies in response to guidance issued by the Centers for Disease Control and Prevention (CDC) and State of Wisconsin Department of Health Services (DHS); and

WHEREAS, recognizing that the COVID-19 pandemic is dynamic and will remain an ongoing challenge that requires an approach that can adapt with the changing nature of the virus; and

WHEREAS, science, public health expert guidance, and data continue to necessitate rapid changes in COVID-19 mitigation policies, notably seen in the latest surge in cases from the omicron variant; therefore

BE IT RESOLVED, Milwaukee County will move from using Administrative Orders based on an Emergency Declaration to a series of policies that reside within the Departments charged with implementation (to include, but not necessarily limited to, the Department of Human Resources, the Division of Facilities Management within the Department of Administrative Services, and others); and

BE IT FURTHER RESOLVED, a step-wise framework for COVID-19 mitigation is hereby adopted as the policy of Milwaukee County, as outlined in the following chart:

Policy Area	Low Activity	Medium Activity	High/Very High Activity	Critically High Activity <i>(Here as of 1/6)</i>
Telework	Depts encouraged to follow long-term teleworking policies	Depts encouraged to bring back some staff as needed	Staff who can telework encouraged to do so	Access to facilities for essential staff only
Masking	Masking for those with symptoms	At department discretion for vaccinated staff; marks mandatory for unvaccinated staff	Masking for all staff at all times when on-site and in public areas	Masking for all staff at all times when on-site and in public areas and outdoors when social distancing cannot be maintained
Facility Capacity	100% Capacity	100% Capacity	Decrease capacity as able given department discretion	Minimize capacity levels as able based on critical needs
Health Screening at Facilities	Self-screening for symptoms encouraged	Self-screening for symptoms encouraged	All staff entering facilities take online health screening	All staff entering facilities take online health screening
Cleaning Standards	Daily cleaning regimen	Daily cleaning regimen	Enhanced cleaning regimen in high volume spaces	Enhanced cleaning regimen in high volume spaces

47

48 BE IT FURTHER RESOLVED, the framework will consist of “Disease Activity Levels,”
49 that range from Low to Critically High; and

50

51 BE IT FURTHER RESOLVED, movement between levels of the framework will trigger
52 primarily based on the State of Wisconsin’s Department of Health Services *Disease*
53 *Activity Composite Measure*, while also taking into account subjective measures that
54 cannot be account for in pure data, as indicated by Milwaukee County’s Chief Health
55 Policy Advisor. These may include, but are not necessarily limited to, national and
56 international disease trends, hospital capacity concerns, and the emergence of new
57 variants of concern); and

58

59 BE IT FURTHER RESOLVED, to ensure alignment across mitigation policies, a central
60 workgroup will be established that will consist of the Chief Health Policy Advisor, the
61 Office of Corporation Counsel, the Office of the County Executive, and departmental
62 representatives as necessary; and

63

64 BE IT FURTHER RESOLVED, a member of this workgroup will be designated to report
65 to the appropriate standing committee of the Milwaukee County Board of Supervisors
66 on a monthly basis.

MILWAUKEE COUNTY BOARD OF SUPERVISORS

DATE: March 24, 2022

AMENDMENT NO. 2 to Item #61

Resolution File No. 22-419

Ordinance File No.

COMMITTEE: Judiciary, Safety and General Services

OFFERED BY SUPERVISOR(S): Staskunas

ADD AND/OR DELETE AS FOLLOWS:

Add a BE IT FURTHER RESOLVED clause as follows:

BE IT FURTHER RESOLVED, the framework will consist of “Disease Activity Levels,” that range from Low to Critically High; and

BE IT FURTHER RESOLVED, movement between levels of the framework will trigger primarily based on the State of Wisconsin’s Department of Health Services *Disease Activity Composite Measure*, while also taking into account subjective measures that cannot be accounted for in pure data, as indicated by the County’s Chief Health Policy Advisor, as these may include, but are not necessarily limited to, national and international disease trends, hospital capacity concerns, and the emergence of new variants of concern; and

BE IT FURTHER RESOLVED, the Milwaukee County Board of Supervisors hereby supports and directs that Administrative Orders related to COVID-19 issued by the County Executive after the adoption of this resolution shall be handled as follows:

- The Administrative Order (AO) shall be effective upon issuance; and
- The County Executive shall promptly submit the AO to the County Board after issuance to the County Board of Supervisors for review and approval; and
- The AO shall remain in effect until the County Board takes action to approve, terminate, or amend the AO; and

BE IT FURTHER RESOLVED, to ensure alignment across mitigation policies, a central workgroup will be established that will consist of the Chief Health Policy Advisor, the Office of Corporation Counsel, the Office of the County Executive, and Departmental representatives, as necessary; and

BE IT FURTHER RESOLVED, a member of this workgroup will be designated to report to the appropriate standing committee of the Milwaukee County Board of Supervisors on a monthly basis.



OFFICE OF THE COUNTY EXECUTIVE

DAVID CROWLEY

MILWAUKEE COUNTY EXECUTIVE

Honorable Members of the Milwaukee County Board of Supervisors:

Pursuant to Wis. Stat. § 59.17(6), I have vetoed File Number 22-419, “Requesting adoption of a framework for an ongoing COVID-19 response within the organization of Milwaukee County.”

I object to the amended portion of this file in that it would violate the division of powers between the Office of the County Executive and the County Board under state law. The amendment effectively hamstring Milwaukee County’s ability to secure the health and safety of our staff and prevent us from maintaining a productive workforce.

The Administration will continue to use the framework as laid out in this file to ensure the safety of Milwaukee County employees and members of the community who use our services; however, these mitigation procedures fall within the powers of the Office of the County Executive to exercise day-to-day control of county functions as contemplated by Wis. Stat. § 59.794(3)(a).

Over the past two years, the COVID-19 pandemic has often imperiled Milwaukee County’s ability to provide quality services, yet we have been able to stay nimble, regularly pivot and continue to deliver for our most vulnerable residents.

Most critical at the moment is that we remain united in our commitment to health in an equitable fashion. Our focus and attention should remain on safety, accomplished through swift action informed by appropriate experts, and we must remove politics from our day-to-day operations.

A deliberative body would not accomplish that, nor has state law granted review and approval power to the County Board regarding the types of work rules and facility safety measures at issue here.

I urge you to engage with me, our Department of Health and Human Services, our advisors from the Medical College of Wisconsin, and the County’s Chief Medical Advisor, Dr. Ben Weston, in discussions about why I’ve issued these most recent work rules and facility safety requirements.

Let’s discuss the specific data that is used each day to amend these rules and inform these decisions. I am eager to share how we led the nation in the development of the ground-breaking EVE Model (a.k.a. the COVID-19 dashboard), which combined the CDC’s Social Vulnerability Index with COVID-19 vaccination rates to create a 16-box grid color coding jurisdictions for targeted interventions. Our model has been published by the American Journal of Public Health, adopted by the CDC as of August 2021, and has become the lodestar national model. Because of our best-in-class leadership, more lives were saved.

We must continue to work to save as many lives as we can. To protect public health and ensure that our employees are safe, I've put in place a work group of the appropriate experts that will meet as much as is necessary to recommend updates to these work rules and facility safety measures.

It is my promise to you and every resident and visitor to Milwaukee County that I will implement, without alteration, the work rules and facility safety measures recommended by the workgroup. I will not politicize public health.

In conclusion, the directives that I have issued since the expiration of the Emergency Order, and those that our administration will continue to issue in consultation with experts, fall within the powers granted to my office by state statute. I remain committed to transparency with your honorable body and the public, and will continue my administration's practice of providing updates as to the status of COVID-19 mitigation procedures as we have done from the original issuance of mitigation procedures under the now-defunct Emergency Order.

Respectfully,

A handwritten signature in black ink, appearing to read 'D. Crowley', with a large, stylized flourish at the end.

County Executive David Crowley

MILWAUKEE COUNTY BOARD OF
SUPERVISORS and
THEODORE LIPSCOMB, SR.,

Plaintiffs/Counter Defendants,

Case No. 16-CV-2888

v.

CHRISTOPHER ABELE,

Defendant/Counterclaimant.

DECISION AND ORDER

The Milwaukee County Board of Supervisors and Theodore Lipscomb, Sr., in his official capacity as Chairman of the Board¹ seek a declaratory judgment to clarify: (1) the scope of the Board’s authority “to provide, fix or change” the compensation of county employees under Wis. Stat. § 59.22(2); and (2) the Board’s authority under Wis. Stat. § 59.794(3)(b) to require the County Executive to attend Board meetings when necessary to provide information and answer questions.

The County Executive brought counterclaims for a declaratory judgment that the Board has exceeded its authority in seeking to control: (1) the reclassification of employees and positions under MCO § 17.05(2)(c)(7); (2) the reallocation of employees and positions under MCO § 17.055(1); (3) the advancement within pay ranges for individual employees under MCO § 17.10(4); and (4) the verification of the County’s payroll under MCO § 34.06 . The County

¹ The Court will collectively refer to the plaintiffs as “the Board.”

Executive also seeks a declaration that the Board cannot compel him to attend Board meetings, and that County employees can only be compelled to attend meetings pursuant to Wis. Stat. § 59.794(3) if their attendance is necessary and is directly related to a duty or power of the Board.

Both parties seek Declaratory Judgments under Wis. Stat. § 806.04 via their cross motions for summary judgment under Wis. Stat. § 802.08. For the reasons stated below, the parties' motions are granted in part and denied in part.

LEGAL PRINCIPLES

1. Declaratory Judgment a. Statutory Provision

Wis. Stat. § 806.04(2) provides:

Any person interested under a deed, will, written contract or other writings constituting a contract, or whose rights, status or other legal relations are affected by a statute, municipal ordinance, contract or franchise, may have determined any question of construction or validity arising under the instrument, statute, ordinance, contractor franchise and obtain a declaration of rights, status or other legal relations thereunder.

b. Case Law

To obtain a Declaratory Judgment, a justiciable controversy must exist. For a justiciable controversy to exist, four elements must be present:

- 1) A controversy in which a claim of right is asserted against one who has an interest in contesting it.
- 2) The controversy is between persons whose interests are adverse.
- 3) The party seeking Declaratory Judgment has a legal interest in the controversy, and
- 4) The controversy is ripe for judicial determination.

See *Shovers v. Shovers*, 292 Wis.2d 531, 543 (Ct. App. 2006); *Coyne v. Walker*, 368 Wis.2d 444, 467-468 (2016).

The Court is satisfied that the conditions precedent for seeking a Declaratory Judgment are present.

2. Summary Judgment
a. Statutory Provision

Wis. Stat. § 802.08 provides:

- (1) A party may ... move for summary judgment on any claim, counterclaim, cross claim, or 3rd party claim which is asserted by or against the party.
- (2) The judgment sought shall be rendered if the pleadings, depositions, answers to interrogatories, and admissions on file, together with the affidavits, if any, show that there is no genuine issue as to any material fact and that the moving party is entitled to a judgment as a matter of law.

b. Case Law

Summary judgment is appropriate where there are no material facts in dispute and the moving party is entitled to judgment as a matter of law. *Brenner v. Amerisure Mutual Insurance Co.*, 2017 WI 38, ___ Wis.2d ___; See Wis. Stat. § 802.08(2).

When cross motions for summary judgment are brought and neither party argues that factual disputes bar the other's motion, the practical effect is that the facts are stipulated and only issues of law are before the court. See *Katzman v. State Ethics Board*, 228 Wis.2d 282, 291 (Ct. App. 1999).

In this case, the Court is satisfied that the conditions precedent for seeking summary judgment are present because there are no genuine issues of material fact. The court is being asked to interpret statutes and ordinances and their interrelationships which are questions of law appropriate for summary judgment and for the declaratory judgments being sought by the parties.

DISCUSSION:

1. 2013 Wisconsin Act 14 did not eliminate the Board's authority to provide, fix or change the compensation of county employees.

The parties dispute whether 2013 Wisconsin Act 14, which prohibits the Board from exercising "day-to-day control of any county department or subunit of a department," prevents the Board from "providing, fixing or changing" the compensation of county employees. Several statutes are applicable.

Wis. Stat. § 59.03(2) provides as follows:

Subject to s. 59.794(2) and (3) and except as elsewhere specifically provided in these statutes, the board of any county is vested with all powers of a local, legislative and administrative character, including without limitation because of enumeration, the subject matter of water, sewers, streets and highways, fire, police, and health, and to carry out these powers in districts which it may create for different purposes, or throughout the county, and for such purposes to levy county taxes, to issue bonds, assessment certificates and improvement bonds, or any other evidence of indebtedness.

Wis. Stat. § 59.51(1) sets forth the Board's "organizational or administrative powers" as follows:

The board of each county shall have the authority to exercise any organizational or administrative power, subject only to the constitution and any enactment of the legislature which grants the organizational or administrative power to a county executive or county administrator or to a person supervised by a county executive or county administrator or any enactment which is of statewide concern and which uniformly affects every county. Any organizational or administrative power conferred under this subchapter shall be in addition to all other grants. A county board may exercise any organizational or administrative power under this subchapter without limitation because of enumeration, and these powers shall be broadly and liberally construed and limited only by express language.

Wis. Stat. § 59.22(2)(a) provides as follows:

[S]ubject to 59.794(3), the board has the powers set forth in this subsection, sub. (3) and s. 59.03(1) as to any office, department, board, commission, committee, position or employee in county service created under any statute, the salary or compensation for which is paid in whole or in part by the county, and the jurisdiction and duties of which lie within the county or any portion thereof and the powers conferred by this section shall be in addition to all other grants of power and shall be limited only by express language.

Wis. Stat. § 59.22(2)(c)(1)a. provides as follows:

[T]he board may do any of the following:

- a. Provide, fix or change the salary or compensation of any office, board, commission, committee, position, employee or deputies to elective officers that is subject to sub. (1) without regard to the tenure of the incumbent.

Wis. Stat. § 59.17 describes the duties and powers of the County Executive as follows:

(2) DUTIES AND POWERS. The county executive shall be the chief executive officer of the county. The county executive shall take care that every county ordinance and state or federal law is observed, enforced and administered within his or her county if the ordinance or law is subject to enforcement by the county executive or any person supervised by the county executive. The duties and powers of the county executive shall be, without limitation because of enumeration, to:

(a) Coordinate and direct all administrative and management functions of the county government not otherwise vested by law in other elected officers.

(b) In any county with a population of 750,000 or more:

1. Appoint and supervise the heads of all departments except where the statutes provide that the appointment shall be made by a board or commission or by other elected officers. Notwithstanding any statutory provision that a board or commission or the county board or county board chairperson appoint a department head, except ss. 17.21 and 59.47 (3), the county executive shall appoint and supervise the department head. Except for a statutory provision which specifies that a board or commission or the county board shall supervise the administration of a department, the county executive shall administer, supervise, and direct all county departments, including any person who negotiates on behalf of the county, and the county board, other board, or commission shall perform any advisory or policy-making function authorized by statute. Any appointment by the county executive under this subdivision requires the confirmation of the county board unless the county board, by ordinance, elects to waive confirmation. An appointee of the county executive may assume his or her duties immediately, pending board action which shall take place within 60 days after the county executive submits the appointment to the board for confirmation. Any department head appointed by a county executive under this subsection may be removed at the pleasure of the county executive. The county executive shall comply with hiring policies set by the board when making appointments under this paragraph.

2. Establish departments in county government, and sections and divisions within those departments, that the county executive believes are necessary for the efficient administration of the county. Any department or subunit of a department that the county executive creates under this subdivision

may not be established unless its creation and funding are approved by a vote of the board. The county executive shall administer, supervise, and direct any department or subunit of a department that is created under this subdivision, and those departments and subunits shall report to the county executive.

Wis. Stat. § 59.794(3), as amended by Act 14, imposes certain limitations on the Board's authority as follows:

(a) Notwithstanding the provisions of s. 59.51, the board may not exercise day-to-day control of any county department or subunit of a department. Such control may be exercised only by the county executive as described in s. 59.17.

(b) A board may require, as necessary, the attendance of any county employee or officer at a board meeting to provide information and answer questions. Except as provided in par. (d), for the purpose of inquiry, or to refer a specific constituent concern, the board and its members may deal with county departments and subunits of departments solely through the county executive, and no supervisor may give instructions or orders to any subordinate of the county executive that would conflict with this section.

(c) The board may not create any county department or subunit of a department, except as provided in s. 59.17(2)(b)2.

(d) The board may use the legal services of the corporation counsel under s. 59.42(2).

(e) The board may not terminate, lower the salary or benefits of, or eliminate the position of, any county employee who works in the office of the county executive unless a similar change is made which affects county employees, on a countywide basis, in all other county departments. This paragraph does not apply after the county board supervisors who are elected in the 2016 spring election take office.

The County Executive argues that the legislature's decision to limit the Board's day-to-day authority is consistent with the power that the legislature granted to county boards, which is primarily policy-making and legislative. According to this argument, the Board cannot make decisions concerning the salary of individual employees because such decisions are administrative in nature and concern the day-to-day control of a county department.

Relying on the statutory separation of powers, our courts and Attorneys General have consistently concluded that a county board's administrative power is limited. The power that the legislature granted to county boards is primarily policy-making and legislative. *Schuette v. Van De Hey*, 205 Wis. 2d 475, 480 (Ct. App. 1996). As summarized by the Attorney General, the

County Executive “takes over the administrative and executive functions of the county board which are presently to a large extent in the hands of standing committees of the county board,” and “the county board thus becomes a purely legislative body.” OAG 32-791979 WL 42016, at *1 (Wis. A.G. Mar. 16, 1979) The Attorney General clarified that “the role of the county board is primarily policy-making and legislative, and the county executive exercises substantial direct and indirect control over personnel performing administrative and management functions for the various county departments and offices.” *Id.* at *2. Wis. Stat. § 59. As stated by Attorney General La Follette, the county executive is empowered to “[c]oordinate and direct . . . all administrative and management functions of the county government not otherwise vested by law,” and “the power to supervise personnel on a day-to-day basis would appear to be an administrative and management function.” 72 Wis. Op. Att’y Gen. 161 1983 WL 180895, at *3 (1983). Selecting or appointing an individual to perform a particular task or function is an organizational or administrative power. OAG-07-13, 2013 WL 6645996, at *2 (Wis. A.G. Dec. 12, 2013).

Policy has been defined as “a high-level overall plan embracing the general goals and acceptable procedures esp. of a governmental body.” *Schuetz v. Van De Hey*, 205 Wis. 2d 475, 480 (Ct. App. 1996). “Legislative power, as distinguished from executive power, is the authority to make laws, but not to enforce them, or appoint the agents charged with the duty of such enforcement.” *Id.* at 480-81. “The crucial test for determining what is legislative and what is administrative has been said to be whether the ordinance is one making a new law, or one executing a law already in existence.” *Id.* at 481. The Attorney General has stated that “the decision to enter into a public works contract, and therefore setting the terms of that contract, is

primarily a legislative or policy decision,” and that the administration of the contract is primarily an administrative or management function. 80 Wis. Op Att’y Gen. 49 (1991).

This Court finds that the decision to set or change employees’ salaries is primarily a policy decision. The Board sets and/or changes the salaries, and the heads of the departments then make hiring and supervisory decisions – and report to the County Executive – to ensure that the employees fulfill their job obligations. While the legislative/administrative distinction is somewhat blurred when the Board makes individual – as opposed to categorical – decisions, the Board is essentially “setting the terms” of the contracts in these instances.

The County Executive argues that since the enactment of Act 14, the Board no longer has the authority to provide, fix or change the salary of county employees because Wis. Stat. § 59.794(3) expressly removed the Board’s authority to affect day-to-day control. He argues that he has the exclusive authority to exercise day-to-day control, as he is charged with the responsibility to “coordinate and direct all administrative and management functions of the county,” appoint and supervise the heads of all departments,” and “administer, supervise and direct all county departments.” Wis. Stat. § 59.17(2)(a)-(b). According to the County Executive, the statutes clearly provide that the powers provided for in Wis. Stat. § 59.22 are only preserved in counties that have a population of less than 750,000 people.²

Statutory interpretation begins with the language of the statute. *State ex rel. Kalal v. Circuit Court for Dane Cty.*, 2004 WI 58, ¶ 45, 271 Wis.2d 633. “Statutory language is given its common, ordinary, and accepted meaning, except that technical or specially-defined words or phrases are given their technical or special definitional meaning.” *Id.* It is “well established that

²In counties with a higher population (*i.e.*, Milwaukee County), the authority to set compensation for county employees is vested in the County Executive.

technical words or phrases with a peculiar meaning in the law must be construed according to such meaning.” *Weber v. Town of Saukville*, 209 Wis.2d 214, 224 (1997). A court will not “add words to a statute to give it a certain meaning.” *See Fond Du Lac Cnty. v. Town 286 of Rosendale*, 149 Wis.2d 326, 334 (Ct. App. 1989). A court interprets statutory language in the context in which it is used, in relation to the language of surrounding or closely-related statutes, and reasonably, to avoid absurd or unreasonable results. *Kalal*, ¶ 46. A court may consider the statute's purpose, to the extent it is readily apparent from the statutory text or from the statute's context or structure. *See id.*, ¶ 49. “ ‘If this process of analysis yields a plain, clear statutory meaning, then there is no ambiguity, and the statute is applied according to this ascertainment of its meaning.’ ” *Id.*, ¶ 46 (citation omitted). If, however, we determine the statute is ambiguous, we consult extrinsic sources, such as legislative history, to determine the legislature's intent. *See id.*, ¶ 50. While courts generally do not consider legislative history unless a statute is ambiguous, a court may do so to confirm a plain meaning interpretation. *Id.*, ¶¶ 50-51.

A review of the applicable statutes reveals that the Board is vested “with all powers of a local, legislative and administrative character.” Wis. Stat. § 59.03(2)(a). The Board “may exercise any organizational or administrative power . . . without limitation because of enumeration, and these powers shall be broadly and liberally construed and limited only by express language.” Wis. Stat. § 59.51. The Board also has the authority to “[p]rovide, fix, or change the salary or compensation” of county employees. Wis. Stat. § 59.22(2). “In the event of a conflict between [Section 59.22] and any other statute, [Section 59.22] to the extent of the conflict shall prevail. Wis. Stat. § 59.22(4); *see also Milwaukee Deputy Sheriffs’ Ass’n v. Milwaukee County*, 2016 WI App 56, ¶ 16, 370 Wis. 2d 644 (“§ 59.22 (4) makes it clear that if there is a conflict between the provisions of § 59.22 and any other statute, § 59.22 prevails.”)

Wis. Stat. § 59.794(3) does not expressly limit the Board's authority over compensation, except to temporarily limit the Board's power to reduce the compensation of unclassified employees in the County Executive's Office. See Wis. Stat. §59.794(3)(e). While Act 14 clarifies the limits on the Board's administrative power, the Board retains its broad organizational powers. 2013 Wisconsin Act 14 did not eliminate the Board's authority to provide, fix or change the compensation of county employees. The language in Wis. Stat. §59.794(3)(e) which temporarily limited the Board's power regarding lowering compensation of employees in the County Executive's office in essence recognizes that beyond this exception compensation is an organizational power of the Board.

A review of the legislative history confirms this plain meaning interpretation. Act 14 was sponsored by Representative Joe Sanfelippo. Representative Sanfelippo's 2013 Drafting Request states as follows:

Topic: Make the Milwaukee County board part-time, reduce the authority of the Milwaukee County board; add certain authority for Milwaukee County executive

Instructions: See attached. Combine LRB – 1091/3 and -0840/1, and attached changes. Delete the authority of the Milwaukee County board to do certain things, i.e., items listed in s. 59.79(4) [due to be repealed 4/1/13], (6), (8), (10), (11), (12), and (13); contracts below \$500,000 don't need board approval; county departments report to county exec, not county board. . . .

The attachment to Joe Sanfelippo's 2013 Drafting Request provides, in pertinent part:

This bill will remove outdated/irrelevant statutes that are no longer required by Milwaukee County for day to day operations. For example, state statutes specifically give Milwaukee County authority to issue cat licenses and own a professional baseball team, both of which have not been utilized in decades.

The bill will also seek to more clearly define the roles of both the County Board and the County Executive. The roles of each were never properly defined when the state created the County Executive branch back around 1960. For example, the bill will:

- 1) Clearly establish that the County Executive is responsible for the day to day operations of county government. The County Exec will have the authority to propose policy but can only enact policy that is approved by the board. This holds true for operational policy as well as budget authority.
- 2) Clearly establish that the County Board is responsible for long range strategic and financial planning, approving policy regarding programs and services to be provided by the county (whether originating from the Board or the Executive), holding the County Executive responsible for carrying out the policies approved by the board, and approving the county budget.

* * *

The end result of the statute changes will lead to a more orderly functioning of county government by establishing a “chain of command” whereby the County Board is clearly the policy making branch and holds the County Executive, the administrative branch, responsible for carrying out that policy by efficiently and effectively operating the day to day business of the departments.

COUNTY BOARD

Establish Policy

Long Range Planning

↓↑

COUNTY EXECUTIVE

↓↑

Administer Policy

Oversee Departments

Report to County Board

↓↑

COUNTY DEPARTMENTS

Carryout Programs and Services

Report to the County Executive

The Wisconsin Legislative Council Act Memo states as follows:

POWERS OF THE MILWAUKEE COUNTY EXECUTIVE AND THE MILWAUKEE COUNTY BOARD

The Act makes various changes to the powers of the Milwaukee County Executive and Milwaukee County Board. In general, the effect of the changes is to add certain new authorities to the Milwaukee County Executive, transfer or remove certain authorities of the Board, and clarify the roles of the two entities in some areas where power is shared.

Supervision and Day-to-Day Control of County Departments

Prior law required the Milwaukee County Executive to supervise the heads of county departments, but the department heads were responsible for supervising the administration of their departments.

Under *the Act*, unless otherwise specified in the Wisconsin statutes, the Milwaukee County Executive must administer, supervise, and direct all county departments, including any department established by the County Executive and any person who negotiates on behalf of the county. In addition, the Act prohibits the Milwaukee County Board from exercising day-to-day control of any county department or department subunit. . . .

Additional Authorities of the Milwaukee County Executive

In addition to authorities under prior law, **the Act** authorizes the Milwaukee County Executive to do all of the following:

* * *

- Subject to approval by the Milwaukee County Board of the Milwaukee County Executive's department budget, hire and supervise the number of employees that the County Executive believes are necessary to carry out the duties of the County Executive.

* * *

Temporary Limitation on Termination and Salary Reductions for County Executive Employees

The Act places a restriction on terminations and salary reductions, to be in effect until new Milwaukee County Board Supervisors take office following the 2016 Spring Election. Specifically, until that time, the Act prohibits the Milwaukee County Board from terminating, lowering the salary or benefits of, or eliminating the position of, any

county employee who works in the Office of the Milwaukee County Executive, unless a similar change is made that affects all county employees.

The “Analysis by the Legislative Reference Bureau,” in 2013 Assembly Bill 85, provides as follows:

Generally under current law, a county executive has the authority to direct all administrative and management functions of a county government that are not vested by law in other elected officers. The Milwaukee County executive is further authorized to appoint and supervise the heads of all departments, unless otherwise provided by law, and the department heads are generally authorized to supervise the administration of their departments. Current law also generally authorizes a county board to exercise any organizational or administrative power that is not given to a county executive or administrator, or such person’s subordinate. The bill makes a number of changes which clarify or increase the authority of the Milwaukee County executive and limits and clarifies certain authority of the Milwaukee County board.

With regard to the powers of the Milwaukee County executive and board, the bill does the following:

1. Except for a specific statutory provision which states otherwise, authorizes the county executive, exclusively, to administer, supervise, and direct all county departments, including any person who lobbies for, or negotiates on behalf of, the county.
2. Authorizes the county executive to establish departments and subunits of the departments, subject to the approval of the board, that the executive believes are necessary for the efficient administration of the county. This authority is subject to board approval of the county executive department budget.
3. . . .
4. . . .
5. The county board is prohibited from creating a county department or subunit of a department, and may not exercise day-to-day control of any county department. Such control may be exercised only by the county executive.
6. Except for making an inquiry, referring a specific constituent concern, or using legal services of the corporation counsel, the supervisors may deal with county departments solely through the county executive, although the board may require any county employee or officer to attend a board meeting to provide information and answer questions.
7. Although the board may generally set the salary and compensation level of county employees, the bill prohibits the board from lowering the salary,

terminating or eliminating the position of any county employee who works in the office of the county executive, unless such changes affect all county employees in all county departments. This prohibition does not apply after the supervisors who are elected in the spring 2016 election take office.

Assembly Amendment 2 modified Assembly Bill 85 as follows:

The amendment removes the term “exclusively” from a provision under the bill that specifies that the Milwaukee County Executive, exclusively, shall administer, supervise, and direct all county departments

Wisconsin Legislative Council Amendment Memo (published on April 22, 2013).

It is uncertain whether the term “exclusively” was removed because it was redundant, or because the Legislature intended cooperation in the administration of county departments. What is apparent, however, is that the legislature intended to limit the Board’s authority to “administer, supervise and direct” the departments. It is this day-to-day control that the legislature intended to eliminate; not the authority of the Board to provide, fix or change the compensation of county employees. For these reasons, the Court finds that 2013 Wisconsin Act 14 did not eliminate the Board’s authority to provide, fix or change the compensation of county employees.

2. The Board had statutory authority to adopt the executive pay provision.

The County Executive maintains that the Board has improperly usurped its role in “provid[ing], fix[ing] or chang[ing]” the compensation of employees when it approved its 2014 Budget. Among other things, the Board adjusted the pay range for employees assigned to executive pay grade 903E (the “executive pay provision”) and authorized the immediate reallocation of five positions from pay grade 903E to pay grade 904E, which provides for a higher pay range.³ According to the County Executive, the executive pay provision illustrates the problems that arise when the Board attempts to control the day-to-day operation of

³ The County Executive vetoed these changes, and the Board overrode the veto. To date, the County Executive has not adjusted the salaries of these unclassified employees to comply with the Board’s reallocation and executive pay provision.

Milwaukee County. He argues that elected officials have no background in human resources or in compensating public employees, and that the Human Resources Department, as an extension of the executive branch, has the requisite experience to make better, more informed decisions.

Contrary to the County Executive’s assertions, at issue is not whether the HR Department is better suited than the Board to make compensation determinations. Rather, the issue is whether the adoption of the executive pay provision constitutes the exercise of “day-to-day control over employees. The Court is not convinced that the adoption of the executive pay provision constitutes “administering,” “supervision, or “direction of the departments. Nor is the Court convinced that the adoption of this provision is an example of control on a *day-to-day* basis. While the Board may no longer supervise the department heads, the Board still has the statutory authority to set the salary and compensation of county employees pursuant to Wis. Stat. § 59.22(2).

3. The Board exceeded its authority in its attempt to determine reclassifications pursuant to MCO § 17.05(2)(c)(7).

The County Executive argues that the Board exceeded its authority in its attempt to determine reclassifications pursuant to MCO § 17.05(2)(c)(7).⁴ The parties agree that

⁴ This provision states as follows:

Monthly while a reclassification is pending, the director of human resources shall provide a report to the committee on personnel which lists all position reclassifications which the director intends to approve, along with a fiscal note for each. This report shall be distributed to all county supervisors and placed on the committee agenda for informational purposes. If a county supervisor objects to the decision of the director within seven (7) working days of receiving this report the reclassification shall be held in abeyance until resolved by the county board, upon recommendation of the committee, and subsequent county executive action. . . .

MCO § 17.05(2)(c)(7) (emphasis added).

reclassifications place employees with new or changed duties into a more appropriate job classification. A reclassification usually involves an individual employee or a small group of employees. The HR Director initiates reclassifications or processes departmental requests for reclassifications, and the Board is involved if at least one supervisor objects.

For informational purposes, the Milwaukee County Corporation Counsel concluded that a reclassification is an administrative function, not a policy decision, and therefore is within the “day-to-day control of any county department or subunit.” This Court agrees. When the Board is acting pursuant to MCO § 17.05(2)(c)(7), it is essentially engaging in the rehiring process by either approving or disapproving of employee promotions and demotions. When the Board refuses to accept employee reclassifications, the Board is not “providing, fixing or changing” the employees’ compensation. Rather, the Board is actually *refusing to change* their compensation, based on individual assessments of job duties. Such meddling and second-guessing is impermissible in light of Wis. Stat. § 59.794(3)(a). For these reasons, the Court declares that the Board exceeded its statutory authority with respect to reclassifications that were made pursuant to MCO § 17.05(2)(c)(7).

4. The Board did not exceed its authority in its attempts to determine reallocation pursuant to MCO § 17.055(1).

The County Executive argues that the Board exceeded its authority by interjecting itself in the process of reallocating existing county employees and positions. The parties agree that a reallocation refers to adjusting compensation for an existing job category based on market conditions. The applicable ordinance, MCO § 17.055(1), provides as follows:

Whenever labor market conditions or other factors indicate that compensation for existing classifications is not sufficient to recruit and retain qualified employees a

department head or appointing authority may request the director of human resources to review the compensation provided for the classification:

(1) The director of human resources shall review the request and inform the requestor of his/her findings. All recommendations of the director to reallocate a nonrepresented classification shall be included in a report distributed to all county board supervisors. In the event the requestor does not concur with the director's recommendation it may be appealed to the committee on personnel within thirty (30) days of receipt of such notice. The decision of the county board on the committee recommendation, subject to review by the county executive, shall be final. . . .

For informational purposes, the Milwaukee County Corporation Counsel has opined as follows:

In our view, this provision remains effective as to the county's classified service employees, i.e., those employees identified under § 63.03, Stats. As part of the civil service system, approving an annual "standardized scale of wages and salaries for all county offices and positions in the classified service" is a statutory power and obligation of the Board (although apparently has been overlooked). See § 63.11, Stats. Since the Board is charged with approving the scale, the Board necessarily has the authority to determine what changes to the scale will be made, and has chosen to do so through 17.055. Act 14 specifically provides powers to the County Executive related to other statutes, but not this one, so MCO 17.055, which derives from 63.11 of the statutes, remains in effect as to the classified employees.

As to the approximately 300 non-classified (also known as "exempt") County employees, our analysis is different, and while the question is a close one, we have concluded that MCO 17.055 is no longer effective as to reallocations involving non-classified employees. Non-classified employees are those identified by § 63.03(2), Stats., or those so designated by the Civil Service Commission under § 63.03(3). It is our opinion that reallocations involving non-classified employees are day-to-day-administrative matters rather than policy decisions. Because most of the non-classified positions are single-incumbent classifications within departmental management groups, most if not all reallocations of non-classified categories are in fact decisions about specific managers. Decisions about individual employees are matters of day-to-day administration, not matters of county policy. Since the County Board's authorities under § 63.11 does not extend to non-classified employees, § 63.11 does not provide a grant of statutory authority here as it did in relation to classified employees. The County Executive is now authorized by statute to "administer, supervise and direct any department or subunit of a department" and "those departments and subunits shall report to the county executive." § 59.17(2)(b)(2). Non-classified employees (except elected officials) are part of the administrative structure under the County Executive, and are therefore subject to the Executive's "day-to-day control of any county department or subunit of a department" that under Act 14 may be exercised only by the county executive and not by the County

Board. § 59.794(3)(a). The more recent, specific provisions take precedence over older provisions such as § 59.22 aimed at different circumstances.

The Court agrees with Corporation Counsel’s opinion with respect to the county’s classified service employees. However, the Court disagrees with Corporation Counsel’s opinion with respect to non-classified positions. Whenever labor market conditions or other factors indicate that compensation for existing classifications is not sufficient to recruit and retain, the Board is entirely free to provide, fix or change their compensation – even for department heads. While it is the County Executive’s responsibility to recruit and retain employees, it is the Board’s responsibility to determine the amount of compensation that it deems necessary for their recruitment and retention. To the extent there is a conflict with the statutory prohibition on interfering with the County Executive’s administrative duties on a day-to-day basis, the Board’s statutory right to “fix” salaries pursuant to Wis. Stat. § 59.22 prevails.

It is important to point out that when the legislature amended Wis. Stat. § 59.794(3) by precluding the “day-to-day” control over employees, the legislature also stated that the Board “may not terminate, lower the salary or benefits or, or eliminate the position of, any county employee who works in the office of the county executive unless a similar change is made which affects county employees, on a countywide basis, in all other county departments.” Wis. Stat. § 59.794(3)(e). Notably, all of the employees in the County Executive’s office are *non-classified employees*. See Wis. Stats. §§ 59.17(3), 63.03(2)(t) (providing that “administrative secretaries” to the County Executive are unclassified). The enactment of Wis. Stat. § 59.794(3)(e) suggests that the legislature acknowledged the Board’s authority to change the salaries of all employees, including the salaries of unclassified employees. For the above reasons, the Court finds that MCO § 17.055(1) is valid and enforceable.

5. The Board does not have statutory authority to control the advancement of employees within pay ranges, and the provision in MCO § 17.10(4) is therefore unenforceable.

The County Executive argues that the Board lacks the authority to veto the HR director's decision to advance employees within a pay range. MCO § 17.10(4) provides as follows:

Monthly while any advancements within a pay range requested by departments, pursuant to subsections (3)(a) and (3)(b) are pending, the director of human resources shall provide a report to the committee on personnel which lists all such advancements which the director intends to approve, along with a fiscal note for each. This report shall be distributed to all county supervisors and placed on the committee agenda for informational purposes. If a county supervisor objects to the decision of the director within seven (7) working days of receiving this report the advancement shall be held in abeyance until resolved by the county board, upon recommendation of the committee, and subsequent county executive action. If no county supervisor objects, the advancement shall be implemented the first day of the first pay period following the meeting of the committee. . . .

(emphasis added).

For informational purposes, the Milwaukee County Corporation Counsel opined that “the Board should not be involved in pay decisions concerning individual employees, which are not county policy decisions but are day-to-day administrative decisions as long as they are within departmental budget.” This Court agrees. Pay advancements are made when an employee exhibits exemplary performance or if the department deems it necessary to retain the employee. While pay advancements would necessarily have an effect on the employees' salaries or compensation, the Board is actually making determinations involving individual work performance. The situation is similar to reclassifications, as the Board is essentially engaging in the rehiring process by either approving or disapproving promotions. Such determinations are administrative in nature and constitute day-to-day control that is prohibited by Wis. Stat. § 59.794(3)(b). For these reasons, the Court finds that MCO § 17.10(4) impermissibly infringes on

the administrative functions of the executive branch. Accordingly, the Court declares that MCO § 17.10(4) is invalid and unenforceable as drafted.

6. MCO § 34.06, on its face, does not conflict with Wis. Stat. § 59.794(3), and the facts are not sufficiently developed for the Court to declare that the Board improperly interfered with the County Executive’s right to supervise the Comptroller.

MCO § 34.06 requires the comptroller to:

Provide centralized payroll functions, including the computation of required and voluntary deductions, preparation and verification of payrolls, maintenance of payroll records and reports, preparation of various reports for federal and state governmental agencies, and processing of payments to employes and other agencies for which payroll deductions were made.

The County Executive argues that this provision conflicts with Wis. Stat. § 59.794(3) because it improperly interferes with the County Executive’s right and duty to control departments and subunits. As an example, over the past year, there have been approximately 100 employees whose pay increases were approved and processed by HR, only to have the Board compel the Comptroller to manually back out of the amount of each raise for each employee. In response, the Board argues that the facts are not sufficiently developed for a declaratory judgment. *See Miller Brands-Milwaukee v. Case*, 162 Wis. 2d 684, 694 (1991) (facts must be sufficiently developed to avoid courts entangling themselves in abstract disagreements). In reply, the County Executive argues that when the Board vetoes payroll decisions, the Comptroller is compelled to adjust the payroll according to the Board’s actions.

This Court finds that MCO § 34.06 does not, on its face, improperly interfere with the County Executive’s right to supervise the Comptroller because it does not give the Board any authority to enforce the Comptroller’s job responsibilities. The Court also agrees with the Board that the facts are not sufficiently developed for the Court to issue a declaration.

7. Wis. Stat. § 59.794(3) does not allow the Board to compel the County Executive to appear at county board meetings.

The Board argues that it may compel the County Executive to appear at county board meetings pursuant to Wis. Stat. § 59.794(3), which authorizes the Board to “require, as necessary, the attendance of any county employee or officer at a board meeting to provide information and answer questions.” The Attorney General has opined that the Board may require department heads to report to the Board. The Board submits that the County Executive is Milwaukee County’s “chief executive officer” under Wis. Stat. § 59.17(2). According to the Board, the Wisconsin statutes contemplate a shared governance between the Board and the County Executive, *see, e.g., Barland v. Eau Claire Cty.*, 216 Wis. 2d 560 (1998), and it would be reasonable to conclude that the legislature intended to include the County Executive among those whom may be required to appear at a board meeting to provide information and answer questions. The Board also points out that Wis. Stat. § 59.794(3) grants **the Board** – not the county officer – the authority to determine whether an officer’s attendance is required.

In response, the County Executive argues that he is not encompassed by the phrase “county employee or officer.” He argues that an elected official would not commonly be referred to as an “employee.” *See McGrath v. Gillis*, 44 F.3d 567, 572 (7th Cir. 1995) (holding that elected state attorneys who perform their duties within one county are not county employees). He argues that the same conclusion is reached when applying the definition of employee from Wisconsin Public Records Law. Wis. Stat. § 19.32(1bg) (defining “employee” as “any individual who is employed by an authority, other than an individual holding public office or a state public office, or any individual who is employed by an employer other than an authority.”)

This Court agrees with the County Executive. A review of Wisconsin Statutes Chapter 59, Subchapter IV, reveals that the County Executive is not encompassed within the meaning of “county official.” Chapter 59 itself distinguishes between the County Executive and “county officers.” Similarly, Wis. Stat. § 59.20(3) discusses the offices of these “county officers,” enumerating the sheriff, clerk of circuit court, register of deeds, treasurer, comptroller, register of probate, and clerk and county surveyor. Likewise, Wis. Stat. § 59.21 sets forth the requirement that every county officer file an official bond after being elected or appointed, and the statute addresses official oaths and bonds for clerks, treasurers, sheriffs, coroners, clerk of the circuit courts, register of deeds, surveyors, county abstractors, and comptrollers. The term “county officer” cannot be viewed in a vacuum, and it must be viewed within the role of the language in the entire statutory framework.

To the extent the statute is ambiguous, the Court may resort to the legislative history of the statute. The Wisconsin Legislative Council Act Memo states as follows:

The Act authorizes the County Board to require, as necessary, the attendance of any county employee or officer at a board meeting to provide information and answer questions. Except for the purpose of inquiry, or to refer a specific constituent concern, the Act specifies that the County Board and its members may deal with county departments and department subunits solely through the County Executive. The Act also specifically prohibits County Board supervisors from giving any instructions or orders to any subordinate of the County Executive that conflict with the relevant provisions in the Act.

In other words, the legislature appears to be referring to employees in departments and subunits that are the County Executive’s subordinates. Moreover, the Drafter’s Note from the Legislative Reference Bureau, dated February 4, 2013, provides, in pertinent part:

Representative Sanfelippo:

Please review this draft carefully to ensure that it meets your intent. As I discussed with Josh and Ray Carey, I did not incorporate into this draft some of the requirements for a county executive that apply to Cuyahoga County because they seem to have no legal effect. . . . Similarly, I did not include the requirement that the county executive attend board meetings and participate in all discussions

Thus the legislative history appears to indicate that the legislature considered, but rejected, the possibility of requiring the County Executive to attend meetings. For the above reasons, the Court grants the County Executive's request for a declaration that Wis. Stat. § 59.794(3) does not authorize the Board to compel the County Executive to appear at county board meetings.

8. The scope of Wis. Stat. § 59.794(3) extends to committee meetings.

The County Executive argues that the Board may only compel an employee or officer's attendance at board meetings, as opposed to committee meetings. In response, the Board points out that the legislature did not specify or limit the types of meetings. According to the Board, the particular meetings at which the Board may require county employees and officers to provide information is best left to the Board's determination, and should not be entertained by the Court. *See generally Mills v. Vilas County Bd. of Adjustments*, 2003 WI App 66, ¶ 17, 261 Wis. 2d 598 (court should not entertain a "political question," one that, based on separation of power concerns, the courts should not entertain because its determination is best left to the other branches of government.)

This Court finds that the scope of Wis. Stat. § 59.794(3) extends to committee meetings. After all, it has been stated that municipal powers of a ministerial, administrative or executive nature may be delegated to a committee, even if the delegation permits the exercise of some discretion or judgment. OAG 44-851985 WL 257982, at *2 (Wis. A.G. Nov. 8, 1985). Any such delegation must be by resolution and must require that the committee report its actions to the

Board. Wis. Stat. § 59.06(1). There are no explicit statutory limits on the kinds of powers which may be delegated. OAG 44-851985 WL 257982, at *3 (Wis. A.G. Nov. 8, 1985). Thus the Court rejects the County Executive’s request for a declaration that the Board may only compel an employee or officer’s attendance at board meetings, as opposed to committee meetings.

9. The County Executive has not established that the attendance of employees must be required by the full Board.

The County Executive argues that, based on the plain language of the statute, only the full board may require an employee or officer’s attendance. While the Board did not directly respond to this argument, the same logic applies. The full board is authorized to delegate its statutory responsibilities to a committee, and the committee may subsequently compel the attendance of employees. The Court rejects the County Executive’s request for a declaration to the contrary.

10. The County Executive is not entitled to a declaration that the Board’s request must be necessary AND “directly related” to a duty and power of the Board.

The County Executive seeks a declaration that for the Board to request the appearance of an employee or officer, the Board must demonstrate that the request is necessary and directly related to a duty and power of the Board.

Wis. Stat. § 59.794(3)(b) provides that the Board “may require, as necessary, the attendance of any county employee or officer at a board meeting to provide information and answer questions.” The County Executive argues, and this Court agrees, that the Board does not have unfettered discretion to require county employees to attend meetings. The Board is only authorized to require the attendance of employees and officers when it is deemed *necessary*. With that said, the Court is not convinced that it would be proper to insert the terms “*directly*

related” into a statute where such terms do not exist. *See Fond Du Lac Cnty. v. Town 286 of Rosendale*, 149 Wis.2d 326, 334 (Ct. App. 1989) (holding that a court will not “add words to a statute to give it a certain meaning.”) The purpose of the Uniform Declaratory Judgments Act is to allow courts to anticipate and resolve identifiable, certain disputes between adverse parties, and the County Executive has not identified the specific types of Board inquiries that it is seeking to prevent. The Court finds that the statute speaks for itself, and the County Executive’s request for a declaration on this issue is denied.

CONCLUSION:

THEREFORE, IT IS HEREBY ORDERED that:

- The Board’s request for a declaration that it has statutory authority to provide for, fix or change the compensation of unclassified County employees, including department heads, is **GRANTED**.
- The Board’s request for a declaration that it has the authority to require the attendance of the County Executive to attend Board meetings when deemed necessary by the Board to provide information or answer the Board’s questions is **DENIED**.
- The County Executive’s request for a declaration that the Board exceeded its statutory authority with respect to reclassifications that were made pursuant to MCO § 17.05(2)(c)(7) is **GRANTED**.
- The County Executive’s request for a declaration that the Board exceeded its statutory authority with respect to reallocations that were made pursuant to MCO § 17.055(1) is **DENIED**.

- The County Executive’s request for a declaration that the Board exceeded its statutory authority with respect to the advancement of employees within pay ranges pursuant to MCO § 17.10(4) is **GRANTED**.
- The County Executive’s request for a declaration that MCO § 34.06 conflicts with Wis. Stat. § 59.794(3) is **DENIED**.
- The County Executive’s request for a declaration that the Board exceeded its statutory authority with respect to the verification of the County’s payroll is **DENIED**.
- The County Executive’s request for a declaration that Wis. Stat. § 59.794(3) does not allow the Board to command the County Executive to appear at Board meetings is **GRANTED**.
- The County Executive’s request for a declaration that only the full Board may require the attendance of a county employee or officer at a Board meeting is **DENIED**.
- The County Executive’s request for a declaration that employees and officers can only be requested to appear at Board meetings, as opposed to committee meetings, is **DENIED**.
- The County Executive’s request for a declaration that a request may only be made for information or questions that the Board has demonstrated to be necessary and directly related to a duty and power of the Board is **DENIED**.

THIS IS A FINAL ORDER FOR PURPOSES OF APPEAL.

Dated at Milwaukee, Wisconsin, this 24th day of April, 2017.

BY THE COURT:

Electronically signed by

Hon. John J. DiMotto
Milwaukee County Circuit Court, Branch 41

384 Wis.2d 1

Court of Appeals of Wisconsin.

Theodore LIPSCOMB, Sr. and Milwaukee County Board of Supervisors, Plaintiffs-Respondents-Cross-Appellants,

v.

Christopher ABELE, Defendant-Appellant-Cross-Respondent.

Appeal No. 2017AP1023

|

Argued June 26, 2018

|

Filed August 2, 2018

Synopsis

Background: Milwaukee County Board of Supervisors brought action, and Milwaukee County Executive brought counterclaims, for declarations to establish the scope of their respective statutory powers on specific topics relating to compensation of unclassified county employees or meeting attendance. The Circuit Court, Milwaukee County, [John J. DiMotto, J.](#), made requested declarations. County Executive appealed, and Board cross-appealed.

Holdings: The Court of Appeals, [Blanchard, J.](#), held that:

[1] Board had authority to reduce the maximum salary for employees assigned to a particular executive-level pay grade and to authorize the immediate reallocation of five positions from that executive-level pay grade to a pay grade with a higher pay range;

[2] Board had authority to enact ordinance giving the Board the opportunity to veto reallocation decisions made by the chief human resources officer;

[3] Board lacked authority to enact ordinance giving the Board effective veto power over reclassification decisions made by the chief human resources officer;

[4] Board lacked authority to enact ordinance giving the Board authority to veto decisions of the chief human resources officer to advance employees within pay ranges when the employee exhibited exemplary performance or the department deemed it necessary to retain the employee;

[5] Board had authority to enact ordinance requiring the county comptroller to take actions that included verifying payrolls for county employees;

[6] county executive is included the phrase “any county officer” as that phrase is used in statute providing that a populous county's board of supervisors may require the attendance of any county employee or officer at a board meeting to provide information and answer questions;

[7] only the populous county's board of supervisors as a whole may require attendance of a county employee or officer at a meeting; and

[8] Circuit Court properly exercised its discretion in declining County Executive's request for a declaration that the Board's requirement that an employee or officer appear must be necessary and directly related to a duty and power of the Board.

Affirmed in part, reversed in part, and remanded with directions.

Procedural Posture(s): On Appeal; Motion for Declaratory Judgment.

West Headnotes (18)

[1] **Appeal and Error** 🔑 Statutory or legislative law

30 Appeal and Error

30XVI Review

30XVI(D) Scope and Extent of Review

30XVI(D)2 Particular Subjects of Review in General

30k3169 Construction, Interpretation, or Application of Law

30k3173 Statutory or legislative law

Interpretation of statutes presents issues of law that an appellate court reviews de novo.

[2] **Statutes** 🔑 Construction

Statutes 🔑 Construction in View of Effects, Consequences, or Results

361 Statutes

361III Construction

Exhibit 13

361III(A) In General
 361k1061 In general
 361 Statutes
 361IV Operation and Effect
 361k1402 Construction in View of Effects,
 Consequences, or Results
 361k1403 In general

The purpose of statutory interpretation is to determine what the statute means so that it may be given its full, proper, and intended effect.

[3] **Statutes** 🔑 Plain Language; Plain, Ordinary, or Common Meaning

361 Statutes
 361III Construction
 361III(B) Plain Language; Plain, Ordinary, or Common Meaning
 361k1091 In general

If a statute's meaning is plain from the language of the statute, that ends a court's inquiry.

[4] **Statutes** 🔑 Similar or Related Statutes

361 Statutes
 361III Construction
 361III(G) Other Law, Construction with Reference to
 361k1210 Other Statutes
 361k1216 Similar or Related Statutes
 361k1216(1) In general

Statutory language is not interpreted in isolation but rather in context, that is, in relation to the language of surrounding or closely related statutes.

[5] **Declaratory Judgment** 🔑 Scope and extent of review in general

118A Declaratory Judgment
 118AIII Proceedings
 118AIII(H) Appeal and Error
 118Ak392 Appeal and Error
 118Ak393 Scope and extent of review in general

An appellate court will affirm a trial court's discretionary decision to deny declaratory relief if the circuit court examined the relevant facts, applied a proper standard of law, and, using a demonstrated rational process, reached a conclusion that a reasonable judge could reach.

[6] **Counties** 🔑 Salaries and commissions
Public Employment 🔑 Authority to regulate

104 Counties
 104III Officers and Agents
 104k68 Compensation
 104k70 Salaries and commissions
 316P Public Employment
 316PVII Employment Practices
 316PVII(F) Compensation in General
 316Pk352 Authority to regulate

The statutory power granted to the Milwaukee County Executive to exercise day-to-day control of county departments and their subunits controls when there is any conflict with the County Board of Supervisors' authority to provide, fix, or change salary or compensation. *Wis. Stat. Ann.* §§ 59.22(2)(c)(1)(a), 59.794(3)(a).

[7] **Appeal and Error** 🔑 Necessity of presentation in general

Appeal and Error 🔑 Points and arguments

30 Appeal and Error
 30V Presentation and Reservation in Lower Court of Grounds of Review
 30V(A) Issues and Questions in Lower Court
 30k169 Necessity of presentation in general
 30 Appeal and Error
 30XII Briefs
 30k761 Points and arguments

The Court of Appeals would address Milwaukee County Executive's argument that the Milwaukee County Board of Supervisors' power to provide, fix, or change salary or compensation was limited to employees or officers whose offices, departments, etc., were created by statute, even though executive failed to present such an argument to the circuit court or to the Court of Appeals in his appellant's brief; the issue was simple and potentially significant to persons who might have been affected, and the Board had a full opportunity to respond to it, including at oral argument. *Wis. Stat. Ann.* § 59.22(2)(c)(1)(a).

[8] **Statutes** 🔑 Construing together; harmony

361 Statutes
 361III Construction
 361III(G) Other Law, Construction with Reference to
 361k1210 Other Statutes
 361k1213 Construing together; harmony
 Courts are required to attempt to harmonize statutes that may conflict.

[9] **Counties** ➡ Salaries and commissions
Public Employment ➡ Authority to regulate

104 Counties
 104III Officers and Agents
 104k68 Compensation
 104k70 Salaries and commissions
 316P Public Employment
 316PVII Employment Practices
 316PVII(F) Compensation in General
 316Pk352 Authority to regulate

The statutory power granted to the Milwaukee County Executive to exercise day-to-day control of county departments and their subunits controls the authority of the Milwaukee County Board of Supervisors to provide, fix, or change the salary or compensation so that the Board may not, even in the area of attempting to provide, fix or change the salary or compensation, take actions that effectively direct what duties may or must be accomplished by employees or officers or how they may or must perform those duties. *Wis. Stat. Ann. §§ 59.22(2)(c)(1)(a), 59.794(3)(a).*

[10] **Counties** ➡ Salaries and commissions
Public Employment ➡ Authority to regulate

104 Counties
 104III Officers and Agents
 104k68 Compensation
 104k70 Salaries and commissions
 316P Public Employment
 316PVII Employment Practices
 316PVII(F) Compensation in General
 316Pk352 Authority to regulate

Milwaukee County Board of Supervisors has statutory authority to provide, fix, or change the salary or compensation of unclassified employees and officers. *Wis. Stat. Ann. § 59.22(2)(c)(1)(a).*

[11] **Counties** ➡ Salaries and commissions
Public Employment ➡ Authority to regulate

104 Counties
 104III Officers and Agents
 104k68 Compensation
 104k70 Salaries and commissions
 316P Public Employment
 316PVII Employment Practices
 316PVII(F) Compensation in General
 316Pk352 Authority to regulate

Milwaukee County Board of Supervisors had authority to reduce the maximum salary for employees assigned to a particular executive-level pay grade and to authorize the immediate reallocation of five positions from that executive-level pay grade to a pay grade with a higher pay range; Board had statutory authority to provide, fix, or change the salary or compensation of unclassified employees and officers. *Wis. Stat. Ann. §§ 59.22(2)(a), 59.22(2)(c)(1)(a), 59.794(3)(a).*

[12] **Counties** ➡ Powers and functions in general

104 Counties
 104II Government
 104II(C) County Board
 104k47 Powers and functions in general

Milwaukee County Board of Supervisors had authority to enact ordinance giving the Board the opportunity to veto reallocation decisions made by the chief human resources officer; decision to adjust compensation for an existing position in response to market conditions did not effectively direct what duties could or had to be accomplished by employees or officers or how they could or had to perform those duties. *Wis. Stat. Ann. §§ 59.22(2)(c)(1)(a), 59.794(3)(a).*

[13] **Counties** ➡ Powers and functions in general

104 Counties
 104II Government
 104II(C) County Board
 104k47 Powers and functions in general

Milwaukee County Board of Supervisors lacked authority to enact ordinance giving the Board

effective veto power over reclassification decisions made by the chief human resources officer; a reclassification decision reassigned a position or group of positions from one classification to another based on new or changed job duties, which could cause one or more employees to be assigned to a higher or lower pay range, and a reclassification veto effectively directed what duties could or had to be accomplished by employees or officers or how they could or had to perform those duties. *Wis. Stat. Ann. §§ 59.22(2)(c)(1)(a), 59.794(3)(a)*.

[14] Counties ➔ Salaries and commissions

Public Employment ➔ Authority to regulate

104 Counties

104III Officers and Agents

104k68 Compensation

104k70 Salaries and commissions

316P Public Employment

316PVII Employment Practices

316PVII(F) Compensation in General

316Pk352 Authority to regulate

Milwaukee County Board of Supervisors lacked authority to enact ordinance giving the Board authority to veto decisions of the chief human resources officer to advance employees within pay ranges when the employee exhibited exemplary performance or the department deemed it necessary to retain the employee; veto power at issue permitted the Board to effectively direct what duties could or had to be accomplished by employees or officers or how they could or had to perform those duties. *Wis. Stat. Ann. §§ 59.22(2)(c)(1)(a), 59.794(3)(a)*.

[15] Counties ➔ Powers and functions in general

Counties ➔ Authority and Powers

104 Counties

104II Government

104II(C) County Board

104k47 Powers and functions in general

104 Counties

104III Officers and Agents

104k81 Authority and Powers

104k81.1 In general

Milwaukee County Board of Supervisors had authority to enact ordinance requiring the county comptroller to take actions that included verifying payrolls for county employees, despite argument that ordinance was invalid under Milwaukee County Executive's statutory power to exercise day-to-day control of county departments and their subunits, absent a developed argument that anything the comptroller was required to do under the ordinance, including the direction that the comptroller is responsible for preparation and verification of payrolls, would, in itself, violate Executive's statutory power of day-to-day control. *Wis. Stat. Ann. §§ 59.255(2), 59.794(3)(a)*.

[16] Counties ➔ Powers and functions in general

104 Counties

104II Government

104II(C) County Board

104k47 Powers and functions in general

County executive is included the phrase “any county officer” as that phrase is used in statute providing that a populous county's board of supervisors may require the attendance of any county employee or officer at a board meeting to provide information and answer questions. *Wis. Stat. Ann. § 59.794(3)(b)*.

[17] Counties ➔ Powers and functions in general

104 Counties

104II Government

104II(C) County Board

104k47 Powers and functions in general

Only a county board of supervisors as a whole, and not a committee, committee chair, or other subunit of the board as a whole, may require attendance of a county employee or officer at a meeting under statute allowing boards of populous counties to require such attendance. *Wis. Stat. Ann. § 59.794(3)(b)*.

[18] Declaratory Judgment ➔ Discretion of lower court

118A Declaratory Judgment

118AIII Proceedings

118AIII(H) Appeal and Error

118Ak392 Appeal and Error

118Ak394 Discretion of lower court

Circuit court properly exercised its discretion in declining Milwaukee County Executive's request for a declaration that Milwaukee County Board of Supervisors' requirement that an employee or officer appear must be necessary and directly related to a duty and power of the Board; Executive failed to provide and explain a consistent standard that should be used to limit Board's discretion in determining what appearance requirement was "necessary," Executive failed to provide a workable definition of "directly related to a duty and power of the Board," and Executive failed to describe an actual circumstance or a plausible hypothetical to which a proper declaration on the topic could be applied. *Wis. Stat. Ann. § 59.794(3)(b)*.

****437** APPEAL and CROSS-APPEAL from an order of the circuit court for Milwaukee County, Cir. Ct. No. 2016CV2888: **JOHN J. DiMOTTO**, Judge. *Affirmed in part; reversed in part; and cause remanded with directions.*

Attorneys and Law Firms

On behalf of the defendant-appellant-cross-respondent, the cause was submitted on the briefs of **Ronald S. Stadler** and **Jonathan E. Sacks** of Mallery & Zimmerman, S.C., Milwaukee. There was oral argument by **Ronald S. Stadler**.

On behalf of the plaintiffs-respondents-cross-appellants, the cause was submitted on the briefs of **Susan M. Crawford** of Pines Bach LLP, Madison. There was oral argument by **Susan M. Crawford**.

Before **Blanchard**, **Kloppenburg**, and **Fitzpatrick**, JJ.

Opinion

BLANCHARD, J.

¶1 ***6** The Milwaukee County Board of Supervisors and the Milwaukee County Executive dispute their relative powers, as defined by closely related state statutes.¹ Based on statutory interpretations, the circuit court granted and denied ***7**

requests for declaratory relief by both sides. The Executive appeals and the Board cross appeals.

¶2 The disputes fall into two categories: (1) compensation-related issues, namely, whether the Executive or instead the Board has authority to take certain actions relating to the compensation of "unclassified" county employees; and (2) meeting-attendance issues, namely, whether the Board or Board committees may require county employees and officers, including the Executive himself or herself, to appear at Board meetings or Board committee meetings, to provide information and answer questions.

¶3 To resolve the compensation-related issues, we primarily interpret two statutes. This involves harmonizing the two statutes. One statute empowers the Board, by giving it authority to "[p]rovide, fix, or change the salary or compensation" of unclassified county employees. *WIS. STAT. § 59.22(2)(c)1.a.* (2015-16).² The other statute empowers the Executive, by giving him or her exclusive authority to "exercise day-to-day control" of county departments and their subunits. *WIS. STAT. § 59.794(3)(a)*.

¶4 On the compensation-related issues, we reach conclusions that include the following. In favor of the Board, we conclude that the Executive's "day-to-day control" power does *not* eliminate the Board's compensation-fixing ****438** power, and that the Board's compensation-fixing power applies to the salary or compensation of *all* unclassified county employees and officers. In favor of the Executive, we conclude that the Executive's "day-to-day control" power prevents the Board from taking actions that effectively direct what ***8** duties may or must be accomplished by employees or officers or how they may or must perform those duties, even when a Board action may result in a compensation change.

¶5 On the meeting-attendance issues, we primarily interpret *WIS. STAT. § 59.794(3)(b)*, which permits "[a] board" to "require, as necessary, the attendance of any county employee or officer at a board meeting to provide information and answer questions." We reach conclusions that include the following. In favor of the Board, we conclude that the Executive is included in the definition of "any ... officer" whose appearance the Board may require. In favor of the Executive, we conclude that the "board" that may require an appearance means the Board as a whole, not any committee or other subset of Board supervisors.

BACKGROUND

¶6 The Board commenced this action. The Executive brought counterclaims. Both sides seek declarations to establish the scope of their respective statutory powers on specific topics relating to compensation or meeting attendance.

¶7 As we have indicated, two statutes are central to the disputes:

- Pertinent only to compensation-related issues is what we call “the compensation provision,” [WIS. STAT. § 59.22\(2\)](#).³ Most notably, the compensation *9 provision allows county boards to “[p]rovide, fix or change the salary or compensation of any office, board, commission, committee.”
- Both sets of issues involve [WIS. STAT. § 59.794\(3\)](#), enacted in 2013 Act 14, which has two pertinent paragraphs.⁴ **439 Paragraph (a), which we will call the “day-to-day control provision,” grants the Executive exclusive power to “exercise day-to-day control *10 of any county department or subunit of a department.” [Sec. 59.794\(3\)\(a\)](#). Paragraph (b), which we will call the “meeting attendance provision,” gives the Board power to “require, as necessary, the attendance of any county employee or officer at a board meeting to provide information and answer questions.” [Sec. 59.794\(3\)\(b\)](#).

¶8 We now summarize the circuit court’s five compensation-related rulings and four meeting-attendance rulings, and briefly state whether we affirm or reverse the particular ruling. We explain our conclusions in the Discussion section below. Each of our decisions is based on statutory interpretation, except our decision in the last of these summaries. There, we review the circuit court’s exercise of its discretion in denying a declaration request.

*11 *Compensation-Related Rulings*

¶9 **Providing, fixing, or changing salaries of unclassified county employees.** We affirm the circuit court’s ruling that the Board has authority to adopt pay provisions that adjust pay ranges for all unclassified county employees and officers.

¶10 **Reallocation.** A reallocation decision adjusts compensation for an existing position, based on a

determination that market conditions call for everyone holding that position to be paid more or less. We affirm the court’s ruling that the Board has authority to enact an ordinance that gives the Board the power to veto reallocation decisions made by the county’s chief human resources officer, who reports to the Executive.

¶11 **Reclassification.** A reclassification decision reassigns a position from one classification to another, which may cause the employee to be assigned to a higher or lower pay range. We affirm the court’s ruling that the Board lacks authority to enact an ordinance that gives the Board the power to veto reclassification decisions made by the chief human resources officer.

¶12 **Advancement within pay ranges.** We affirm the court’s ruling that the Board lacks authority to enact an ordinance that gives the Board the opportunity to block advancement-within-pay-range decisions made by the chief human resources officer based on exemplary employee performance or concern about employee retention.

¶13 **Comptroller verification of payroll.** We affirm the court’s ruling that the Executive failed to support its request for a declaration that the Board *12 lacks authority to enact an ordinance that requires the **440 county comptroller to take actions that include verifying county payrolls.

Meeting-Attendance Rulings

¶14 **Requiring *the Executive to appear*.** The court determined that the Board lacks authority to require the Executive to appear at Board meetings to provide information and answer questions. We reverse two rulings: denying the Board’s request for a declaration that it has authority to require the Executive to appear, and granting the Executive’s request for a declaration that the Board lacks this authority.

¶15 **Attendance required by a Board committee.** We reverse the court’s ruling that a committee of the Board has authority to require county employees and officers to appear at meetings; we conclude that only the Board has this authority.

¶16 **Attendance required at a Board committee meeting.** We reverse the court’s ruling that the Board has authority to require a county employee or officer to appear at a meeting of a Board committee, as opposed to at a meeting of the Board itself.

¶17 **Board justification for meeting attendance.** The court ruled that the Executive failed to sufficiently support his request for a declaration that each Board request for the appearance of an employee or officer at a meeting must be necessary and directly related to a duty and power of the board. We affirm the court’s ruling as a proper exercise of the court’s discretion.

*13 DISCUSSION

[1] [2] [3] [4] ¶18 In this appeal we interpret statutes. This presents issues of law that we review de novo. See *State v. Ozuna*, 2017 WI 64, ¶9, 376 Wis.2d 1, 898 N.W.2d 20. “[T]he purpose of statutory interpretation is to determine what the statute means so that it may be given its full, proper, and intended effect.” *State ex rel. Kalal v. Circuit Court for Dane Cty.*, 2004 WI 58, ¶44, 271 Wis.2d 633, 681 N.W.2d 110. If the meaning is plain from the language of the statute, that ends our inquiry. *Id.*, ¶45. Statutory language is not interpreted in isolation but rather in context, that is, in relation to the language of surrounding or closely related statutes. *Id.*, ¶46.

[5] ¶19 We resolve one issue, the declaration request involving the Board’s justification for required meeting attendance, on the ground that the Board effectively asks us to affirm a discretionary decision of the circuit court to deny declaratory relief. We will affirm such discretionary decisions “if the circuit court ‘examined the relevant facts, applied a proper standard of law, and, using a demonstrated rational process, reached a conclusion that a reasonable judge could reach.’ ” *Olson v. Town of Cottage Grove*, 2008 WI 51, ¶35, 309 Wis.2d 365, 749 N.W.2d 211 (quoting *Putnam v. Time Warner Cable of S.E. Wis., Ltd. P’ship*, 2002 WI 108, ¶40, 255 Wis.2d 447, 649 N.W.2d 626).

*14 ¶20 Before proceeding with our analysis, we clarify that both sides address a single type of question: should the circuit court have ordered a requested declaration, based on pertinent statutory language? The Executive submitted brief affidavits to the circuit court that, according to the Executive, allege Board actions that are prohibited under the day-to-day control provision. The Board did not submit affidavits. We conclude that the Executive’s affidavits are not pertinent to any issue we

**441 are asked to resolve in this appeal. Even if we were to assume as true all averments in the affidavits, none changes the statutory analysis regarding the requested declarations.⁶

I. COMPENSATION-RELATED ISSUES

¶21 We begin our discussion of compensation-related issues with a categorical distinction. The parties agreed at oral argument that we are concerned only with actions of the Board or the Executive related to compensation of *unclassified* county employees, and not compensation of *classified* county employees. The “classification” statute, WIS. STAT. § 63.03, divides county employees in Wisconsin into two categories of *15 service: classified and unclassified. See § 63.03(1). County boards are tasked with approving an annual “standardized scale of wages and salaries for all county offices and positions in the *classified* service.” See WIS. STAT. § 63.11 (emphasis added). Given the fact that salary schedules for classified employees are established under a civil service system, the parties ask us to assume that the Board has exclusive authority on all compensation issues related to all classified employees.

¶22 In the discussion that follows, we resolve compensation-related issues regarding unclassified employees in three steps. First, we interpret pertinent aspects of the compensation provision, WIS. STAT. § 59.22(2), and address arguments of the parties regarding its meaning. Second, we similarly construe pertinent aspects of the day-to-day control provision, WIS. STAT. § 59.794(3)(a), including two other statutes referenced in the day-to-day control provision. Third, we apply our interpretations to the specific compensation-related issues raised in the appeal or cross appeal.

A. The Compensation Provision

¶23 The compensation provision provides that county boards in Wisconsin, including the Board, “may” “[p]rovide, fix or change the salary or compensation of any office, board, commission, committee, position, employee or deputies to elective officers ... without regard to the tenure of the incumbent.” WIS. STAT. § 59.22(2)(c)1.a. The verbs “provide, fix[,] or change” appear to establish a broad power to determine compensation levels for all unclassified county positions. Further, the Executive does not argue that these verbs should not be given their “common, ordinary, *16 and accepted meaning[s].” *Kalal*, 271 Wis.2d 633, ¶45, 681 N.W.2d 110. For example, the Executive does not argue that

“provide, fix, or change” have limited “technical or special definitional meaning[s]” in this context. See [id.](#)

¶24 The Board calls to our attention the following two features of the compensation provision, and argues that they give the compensation provision additional reach in the context of the issues we address: “the powers conferred by this section shall be in addition to all other grants of power and *shall be limited only by express language*,” WIS. STAT. § 59.22(2)(a) (emphasis added); and “[i]n the event of conflict between ****442** this section and any other statute, *this section* to the extent of the conflict *shall prevail*.” Sec. 59.22(4) (emphasis added).

¶25 However, as the Executive properly emphasizes, the day-to-day control provision expressly modifies the compensation provision, because the compensation provision makes the “powers” of county boards “*subject to s. 59.794(3)*.” See WIS. STAT. § 59.22(2)(a) (emphasis added).

¶26 The phrase “subject to” is not defined in these statutes. However, we believe that the following synonyms, which are among those listed for “subject to” by the Oxford University Press, are properly descriptive of the common meaning of “subject to” in this context: “conditional on,” “hinging on,” “susceptible to,” and “bound by.” *Subject to*, ENGLISH OXFORD LIVING DICTIONARIES, https://en.oxforddictionaries.com/thesaurus/subject_to (last visited July 24, 2018); see also *Subject*, WEBSTER’S THIRD NEW INTERNATIONAL DICTIONARY (1993) (“having a contingent relation to something and usu[ally] dependent on such relation for final ... significance ... <a treaty [subject] to ratification>....”). In ***17** addition, we note that, in establishing the day-to-day control provision, the legislature selected a word, “control,” that connotes absolute authority within its sphere of operation.

[6] ¶27 For these reasons, we conclude that the power to exercise day-to-day control granted to the Executive controls when there is any conflict with the Board’s authority to provide, fix, or change salary or compensation. We interpret the day-to-day control provision in the following section, but it is sufficient for now to recall that this statute expressly grants to the Executive, and denies to the Board, the power to “exercise day-to-day control of any county department or subunit of a department.”

¶28 Summarizing to this point, the specific power of the Board to provide, fix, or change salary or compensation

survives enactment of the day-to-day control provision, but is controlled by the power of the Executive to “exercise day-to-day control of any county department or subunit of a department.” Therefore, no action of the Board, even one that involves providing, fixing, or changing salary or compensation, may interfere with day-to-day control of county departments by the Executive. Rephrased, the Board can provide, fix, or change the pay of unclassified employees, unless and until Board action interferes with the Executive’s day-to-day control of a county department or subunit.

¶29 What we have stated to this point is sufficient to explain why we reject various interpretations of the compensation provision offered by the parties.

¶30 We have just explained why we reject the following argument by the Board: the Board’s power to provide, fix, or change salaries or compensation of ***18** unclassified employees and officers is not affected by the day-to-day control provision. The “subject to” language in the compensation provision defeats this argument because all applications of the compensation provision are controlled by the terms of the day-to-day control provision.

¶31 Similarly, we have explained why we reject the Executive’s argument that his day-to-day control power is so strong that it has the effect of “expressly remov[ing] the Milwaukee County Board’s authority to provide, fix, or change the salary of employees,” eliminating that Board power altogether. The legislature decided to leave in place the Board’s explicit authority to provide, fix, or change salaries, but made it “subject to” the day-to-day control power of the Executive.

****443** ¶32 Our interpretation is supported by paragraph (e) of WIS. STAT. § 59.794(3).⁷ Paragraph (e) is strikingly narrow. It addresses one specific category of employees (those who work in the office of the Executive) during one specific time period (before supervisors elected in the spring of 2016 take office). Paragraph (e) appears to confirm that the legislature did not intend to use the day-to-day control provision to eliminate the authority of the Board to provide, fix, or change salary or compensation, as the Executive argues, because this sole explicit compensation-related limitation is restricted to a specific group of employees for a restricted time period.

***19** ¶33 We turn to the Board’s more specific argument that its power to provide, fix, or change salaries or compensation

is unlimited based on the provisions in [WIS. STAT. § 59.22\(2\)](#) and (4), establishing that the powers conferred by the compensation provision “shall be limited only by express language,” and that “this section” “shall prevail” in the event of conflict with another statute. We conclude that these provisions have no application in this particular context. Regarding the phrase, “shall be limited only by express language,” the phrase “subject to” is itself express language limiting the Board’s power. Regarding the “shall prevail” provision, the phrase “subject to” is included in the compensation provision and therefore the day-to-day control provision cannot be a conflicting statute.

¶34 We now address the Board’s argument that the “subject to” language exclusively addresses [WIS. STAT. § 59.794\(3\)\(e\)](#). As we have indicated, this paragraph expressly limits the Board’s authority over changes to salaries of a small group of employees for a limited time period. We reject the Board’s argument for the simple reason that the language does *not* read, “... subject to [s. 59.794\(3\)\(e\)](#), ...,” but instead reads, “...subject to [s. 59.794\(3\)](#),...” If “subject to” had the limited meaning that the Board contends—to exclude paragraphs (a)-(d)—that limitation would have been reflected in the statutory language.

[7] ¶35 We conclude our discussion of the compensation provision by explaining our rejection of an additional argument that the Executive makes, which is based on language in the compensation statute that we have not yet specifically addressed. Under this *20 argument, Board authority under the compensation provision would apply to only a thin slice of county employees or officers.⁸

¶36 The Executive’s argument is based on the phrase in the compensation provision that we now emphasize:

[T]he board has the powers set forth in this subsection, ... as to any office, department, board, commission, committee, position or employee in county service *created under any statute*, the salary or compensation for which is paid in whole or in part by the county, and the **444 jurisdiction and duties of

which lie within the county or any portion thereof....

[WIS. STAT. § 59.22\(2\)\(a\)](#) (emphasis added). The argument proceeds as follows: (1) the phrase “created under any statute” modifies the phrase “employee in county service”; (2) Chapter 59 contains statutes that “create” a limited number of county offices (*e.g.*, surveyor, [WIS. STAT. § 59.20\(2\)\(c\)](#), register of deeds, [WIS. STAT. § 59.43](#)), but no other offices; and (3) therefore, the compensation provision applies strictly to the employees whose offices are created in these statutes. We end our analysis with the first step of the argument. It confuses the term “employee” with such terms as “office” or “department.” A “statute” cannot “create” an “employee in county service.” But statutes *can* (as the statutes here do) create offices, departments, etc. The *21 only reasonable interpretation is that the phrase “created under any statute” modifies the string of nouns that comes *before* the word “employee,” namely, “office, department, board, commission, committee, position...” What must be “created under any statute” are the various kinds of offices and positions, not “employees.” For this reason, we reject the Executive’s late argument that the Board’s power to provide, fix, or change salary or compensation is limited to employees or officers whose offices, departments, etc. are created by statute and does not extend to all unclassified employees.

B. The Day-To-Day Control Provision

¶37 We have explained how the compensation provision empowers the Board. In contrast, the day-to-day control provision has the express intent of “removing and clarifying some authority of the Milwaukee County board” and “increasing and clarifying the authority of the Milwaukee County executive.” 2013 Wis. Act 14, preamble. Before moving to the specifics of the day-to-day control provision, we introduce two separate statutes that are referenced in the day-to-day control provision and are significant for reasons we will explain. One statute generally addresses authority of county boards in Wisconsin and the other generally addresses authority of county executives in Wisconsin, and more particularly in Milwaukee County.

¶38 **The board powers statute.** The legislature grants to county boards broad, authority over “any” county “organizational or administrative power” not granted to

county executives, “in addition to all other grants.”⁹ See WIS. STAT. § 59.51 (defining “Board powers”). These organizational or administrative powers of county boards are granted “without limitation because of enumeration,” and “shall be broadly and liberally construed and limited only by express language.” *Id.*

¶39 **The executive powers statute.** County executives are granted duties and powers through a combination of broad and detailed language, quoted in the margin, including specific duties and powers of the Milwaukee County Executive.¹⁰ See **445 WIS. STAT. § 59.17(2). These duties and powers are conferred “without limitation because of enumeration” to include the “[c]oordinat[ion] and direct[ion of] all administrative and management functions of the county government not otherwise vested by law in other elected officers.” WIS. STAT. § 59.17(2) (a). Significantly, “[t]he county executive shall administer, supervise, and direct any department or subunit of a department ..., and those departments and subunits shall report to the county executive.” See WIS. STAT. § 59.17(2) (b)2.

**446 ¶40 Summarizing, county boards are granted authority over “any” county “organizational or administrative power” not granted to county executives; county executives are granted duties and powers that include “[c]oordinat[ion] and direct[ion of] all administrative and management functions of the county government,” when those functions are “not otherwise vested by law in other elected officers,” such as county board supervisors; and the Milwaukee County Executive has exclusive authority over the administration, supervision, and direction of all county departments. WIS. STAT. § 59.17(2).

¶41 With that background, we turn to the day-to-day control provision:

*25 (a) Notwithstanding the [board powers statute], the board may not exercise day-to-day control of any county department or subunit of a department. Such control may be exercised only by the county executive

as described in [the executive powers statute].


WIS. STAT. § 59.794(3)(a). Also pertinent to compensation-related issues is paragraph (e), which we have already quoted and discussed above. See § 59.794(3)(e).¹¹

¶42 The opening phrase in the day-to-day control provision (“Notwithstanding the [board powers statute]”) makes clear that the increased powers of the Executive under paragraph (3)(a) are not diminished by any authority granted to county boards under the board powers statute. This is consistent with the “subject to” language in the compensation provision referencing the day-to-day control provision. See WIS. STAT. §§ 59.22(2)(a), 59.794(3)(a).

¶43 Turning to a key phrase—“the board may not exercise day-to-day control of any county department or subunit of a department”—neither the day-to-day control provision nor any closely related statute defines what this phrase means. WIS. STAT. § 59.794(3)(a). In their briefing and at oral argument, the parties have offered various definitions.



¶44 One argument of the Executive has a premise and a conclusion. The Executive’s premise is that the phrase “exercise day-to-day control” means the direction of a department or subunit based on any action, including any compensation-related action, that is “administrative in nature.” The Executive’s *26 conclusion is that this settles all the compensation-related issues in favor of the Executive, because all “decisions concerning the salar[ies] of individual employees” are “administrative in nature.”¹² As discussed in more detail below, we accept the premise that day-to-day control involves control over administrative matters of county government. However, the Executive’s conclusion goes too far, because it is not informed by a meaningful interpretation of what the administration of county government entails, which we provide in discussion below. We now explain further why we do not accept the Executive’s conclusion, which appears to have no limit.

¶45 As we have seen, in the board powers statute and the executive powers statute, the legislature has granted to *both* county boards and county executives “administrative” powers over county governments. **447 Further, it directed, in each instance, that the administrative power of the one is limited by the administrative power of the other. See WIS. STAT. § 59.51(1) (granting to county boards authority over

“any” county “*administrative power*” *not granted to county executives*);  WIS. STAT. § 59.17(2)(a) (granting to county executives powers over “direct[ion of] all *administrative* and management functions of the county government *not otherwise vested by law in other elected officers*”) (emphasis added). Indeed, the day-to-day control provision does not purport to repeal the board powers statute, which remains in place and, to repeat, grants county boards “the authority to *27 exercise any organizational *or administrative* power, subject only to the constitution and any enactment of the legislature which grants the organizational *or administrative* power to a county executive or county administrator,” which boards may exercise “without limitation because of enumeration, and these powers *shall be broadly and liberally construed* and limited *only by express language*.” See § 59.51(1) (emphasis added). All of this tells us that the Executive is not the sole “administrator” of all county government functions.¹³

*28 [8] ¶46 Further, we are required to attempt to harmonize statutes that may conflict. See *City of Madison v. DWD, Equal Rights Div.*, 2003 WI 76, ¶11, 262 Wis.2d 652, 664 N.W.2d 584 (when two statutes potentially conflict, we attempt to harmonize them to give effect to the legislative intent in enacting each). As we have explained, the “subject to” provision in the compensation provision makes clear that the compensation provision is only modified, not eliminated, by the day-to-day control provision.

¶47 The Board asks us to interpret the day-to-day control provision to mean only that “the Board is not to interfere in the minutiae of the daily work of departmental employees.” It is not reasonable to interpret the day-to-day control provision as prohibiting the Board only from directing small daily work details.

¶48 To derive a definition of day-to-day control, we first turn to a specific reference to the executive powers statute contained in the day-to-day control provision. The control at issue “may be exercised **448 only by the county executive as described in  s. 59.17,” which is the executive powers statute. See WIS. STAT. § 59.794(3)(a) (emphasis added). To repeat, the executive powers statute directs in pertinent part that “[t]he county executive shall *administer, supervise, and direct* any department or subunit of a department ..., and those departments and subunits shall report to the county executive.”  § 59.17(2)(b)2. (emphasis added).

¶49 The pertinent statutes do not define “administer,” “supervise,” or “direct.” However, pertinent dictionary definitions heavily overlap. *Administer* means “to direct or superintend the execution, use, or conduct of.” WEBSTER’S THIRD NEW INTERNATIONAL DICTIONARY (1993).

*29 *Supervise* means “oversee[,], with the powers of direction and decision[,], the implementation of one’s own ... intentions.” *Id.* *Direct* means “to regulate the activities or course of.” *Id.* We apply these definitions to the context of day-to-day control of county departments, which are of course operated by county employees and officers. We conclude that this produces a rule that day-to-day control in this context involves directing *what duties* may or must be accomplished by employees or officers and *how* they may or must perform those duties. Thus, we conclude that the Board improperly exercises “day-to-day control of any county department or subunit of a department” when the Board’s action—even if it involves the providing, fixing, or changing of salary or compensation—involves the Board effectively directing what duties may or must be accomplished by employees or officers or how they may or must perform those duties. This definition is generally consistent with some definitions offered by both sides at oral argument.

[9] ¶50 To summarize, WIS. STAT. § 59.794(3)(a), the day-to-day control provision, controls the authority of the county board to “[p]rovide, fix or change the salary or compensation,” WIS. STAT. § 59.22(2)(c)1.a., so that the Board may not, even in the area of attempting to “[p]rovide, fix or change the salary or compensation,” take actions that effectively direct what duties may or must be accomplished by employees or officers or how they may or must perform those duties.

¶51 We now apply our statutory interpretations to each specific compensation-related issue.

*30 C. Individual Compensation-Related Issues

1. The Board May Provide, Fix, Or Change Compensation For Unclassified Employees

[10] [11] ¶52 The circuit court granted the Board’s request for a declaration that the Board has authority under the compensation provision to provide, fix, or change the salary or compensation of unclassified employees and officers. This includes the Board’s decisions, as part of its 2014 county budget, to reduce the maximum salary for employees

assigned to pay grade 903E, an executive-level pay grade, and authorize the immediate reallocation of five positions from pay grade 903E to pay grade 904E, which has a higher pay range. Based on our statutory interpretations related above, we agree with the Board and the circuit court that the Board has this authority.

¶53 We have explained why we reject the primary argument the Executive makes. This is the blanket proposition that, whenever the Board takes action that involves employee or officer compensation, this necessarily “encroach[es] on the day-to-day operations of the County,” in violation of the day-to-day control provision in [WIS. STAT. § 59.794\(3\)\(a\)](#). On this issue, the Executive fails to present a more specific argument that adjusting the executive pay ****449** range constitutes the exercise of “day-to-day control of any county department or subunit of a department.” Further, we discern no reason to conclude that this particular action effectively directs what duties may or must be accomplished by employees or officers or how they may or must perform those duties.

***31** ¶54 Putting aside policy issues that are not for the courts to resolve, the Executive effectively conceded this issue at oral argument.¹⁴ Counsel acknowledged that he has no remaining argument to make if we reject the Executive’s “created under any statute” argument based on the terms of [WIS. STAT. § 59.22\(2\)\(a\)](#), which we do. *See supra*, ¶37.

¶55 For these reasons, we conclude that the circuit court correctly determined that the Board has authority to provide, fix, or change the salary or compensation of unclassified employees and officers, including the authority it exercised in setting executive pay levels in the 2014 county budget.

2. The Board May Veto Reallocation Decisions

[12] ¶56 The Executive interprets the day-to-day control provision to prohibit the Board from enacting MILWAUKEE COUNTY GENERAL ORDINANCE (“M.C.G.O.”) § 17.055(1) (revised as of June 5, 2018), which gives the Board the opportunity to veto reallocation decisions made by the chief human resources officer.¹⁵ As stated above, a reallocation decision adjusts compensation ***32** for an existing position, based on a determination that market conditions call for all employees in that position to be paid at a higher or lower level.¹⁶ We agree ****450** with the Board

that it can exercise this power, because the decision to adjust compensation for an existing position in response to market conditions does not effectively direct what duties may or must be accomplished by employees or officers or how they may or must perform those duties.

***33** ¶57 As the Executive himself describes reallocation determinations, this involves setting a proper level of salary or compensation for an existing position based strictly on whether the job market would value the work at issue at a higher or lower salary or compensation level. For this reason, Board vetoes of reallocation decisions do not usurp the Executive’s day-to-day control of county departments and subunits.

¶58 The Executive repeats his unpersuasive argument that the Board lacks authority to provide, fix, or change salary or compensation due to the day-to-day control provision. More specifically in this context he argues that most unclassified employees are single-incumbent classifications, and therefore most, if not all, reallocation decisions involve decisions affecting specific managers. And, the argument proceeds, decisions that affect the compensation of individual employees are matters of day-to-day county administration. However, as with other arguments we have rejected above, this “specific manager” rationale would read the day-to-day control provision as altogether repealing the compensation provision, which we have explained is not the intent expressed in these statutes when harmonized. That is, under this “specific manager” argument, the Board would have no authority to provide, fix, or change salary or compensation for unclassified employees, even when doing so would not interfere with the Executive’s exclusive day-to-day control power, on the ground that compensation-related decisions regarding unclassified employees often involve small numbers of employees or officers.

¶59 In addition, the circuit court aptly noted another statutory basis to reject the Executive’s argument. When the legislature carved out, in para. (e) of ***34** [WIS. STAT. § 59.794\(3\)](#), the narrow exception to Board authority to provide, fix, or change salary or compensation, all of those affected were *unclassified* employees, specifically, “administrative secretaries.” *See* [WIS. STAT. §§ 59.794\(3\)\(e\), 59.17\(3\), 63.03\(2\)\(t\)](#). This would have been superfluous if the Board lacks authority to provide, fix, or change compensation of unclassified employees.

¶60 For these reasons, we conclude that the circuit court correctly determined, as a matter of statutory interpretation, that the Board could lawfully enact M.C.G.O. § 17.055(1) regarding reallocation decisions.

3. *The Board May Not Veto Reclassification Decisions*

[13] ¶61 Also based on his interpretation of the day-to-day control provision, the Executive argues that the Board could not lawfully enact M.C.G.O. § 17.05(2)(c)(7), which gives the Board effective veto power over reclassification decisions by the chief human resources officer.¹⁷ As we have noted, a reclassification **451 decision reassigns a position or group of positions from one classification to another based on new *35 or changed job duties, which may cause one or more employees to be assigned to a higher or lower pay range. See M.C.G.O. § 17.05(2)(c)(4), (5), (7). We agree with the Executive that, unlike the reallocation veto, a reclassification veto effectively directs what duties may or must be accomplished by employees or officers or how they may or must perform those duties.

¶62 The Board argues that, because the ordinance “enables the Board to determine the appropriate salary or compensation for a county employee,” reclassification falls squarely within its power under the compensation provision. It is true that a reclassification will often affect compensation levels for those involved. However, in vetoing a reclassification, the Board effectively directs what duties may or must be accomplished by employees in the affected position and how they may or must perform those duties. Considerations will ordinarily include the level of complexity of duties as currently performed by an incumbent or incumbents, the volume and quality of work they are currently producing, and the nature and extent of their interactions with fellow employees. As the circuit court noted, reclassification decisions resemble a “rehiring process” that amounts to a promotion or demotion. And, we see no reasonable argument that a promotion or demotion decision does not constitute the exercise of day-to-day control of a department or subunit.

¶63 The Board makes the following argument:

Blocking the Board’s review of reclassifications, particularly in concert with blocking the Board’s review of advancement-within-pay-

range decisions, opens up a huge loophole that gives the executive branch of county government a nearly unfettered ability to increase the salary of any county employee, simply by moving the employee’s position to a different or newly-created *36 classification with a higher pay range and moving the employee to the top of the pay range.

We make two observations about this loophole argument.

¶64 First, under our interpretation of pertinent statutes, a “huge loophole” does not exist. We construe the statutes to grant the Board authority to establish pay ranges and to veto reallocation decisions based on market conditions.

¶65 Second, even if our interpretation regarding reclassification decisions could be characterized as having the effect of “nullifying” Board authority, the legislature has drawn the lines in this area based on policy determinations beyond our purview. For reasons we have explained, the reclassification veto usurps the Executive’s day-to-day control of county departments and subunits under a plain language interpretation of the statutes. If the Board means to argue that it would be an absurd result for the Executive to have exclusive control over reclassification decisions, one that the legislature could not have intended, the Board fails to support that argument.

¶66 For these reasons, we conclude that the circuit court correctly determined, as a matter of statutory interpretation, that the Board could not lawfully enact M.C.G.O. § 17.05(2)(c)(7), giving it a veto role in reclassification decisions.

4. *The Board May Not Veto Advancements Within Pay Range*

[14] ¶67 Our analysis of decisions to advance employees within a pay range is **452 similar to our analysis of reclassification decisions. The Board argues that the *37 compensation provision provides authority for the enactment of M.C.G.O. § 17.10(4), which gives the Board authority to veto decisions of the chief human resources officer to advance employees within pay ranges when the employee exhibits exemplary performance or the department deems it necessary

to retain the employee.¹⁸ To the contrary, we agree with the circuit court’s declaration that this veto power by the Board is invalid under the day-to-day control provision.

¶68 The veto power at issue permits the Board to effectively direct what duties may or must be accomplished by employees or officers or how they may or must perform those duties. As the circuit court explained, “[t]he situation is similar to reclassifications, [because] the Board is essentially engaging in the rehiring process by either approving or disapproving promotions” of individual employees. We do not discern a persuasive argument by the Board on this topic that we do not address and reject elsewhere in this opinion.

*38 ¶69 For these reasons, we conclude that the circuit court correctly determined that the Board could not lawfully enact M.C.G.O. § 17.10(4) regarding advancement within pay range decisions.

5. The Board May Require Verification Of Payrolls

[15] ¶70 The Executive sought a declaration, that M.C.G.O. § 34.06, which requires the county comptroller to take actions that include verifying payrolls for county employees, is invalid under the day-to-day control provision.¹⁹ The circuit court denied this request and we affirm that ruling.

¶71 The Executive acknowledged at oral argument that its argument has the following limited content. If the Board *itself* takes an action that is not permitted under the day-to-day control provision, and the comptroller relies on the results of the improper Board action to verify a payroll in compliance with M.C.G.O. § 34.06, this results in the comptroller taking *39 an improper action. The Executive does not attempt **453 to develop an argument that anything the comptroller is required to do under § 34.06, including the direction that the comptroller is responsible for “preparation and verification of payrolls,” would, in itself, violate the day-to-day control provision. If there is a reason that the comptroller’s responsibilities cannot lawfully include those specified in § 34.06, the Executive fails to explain what that reason is.

¶72 For this reason, we conclude that the circuit court correctly determined that the Executive failed to identify a legal basis to invalidate M.C.G.O. § 34.06.

II. MEETING-ATTENDANCE ISSUES

¶73 All arguments on the second set of issues are based on the meeting attendance provision:


A board may require, as necessary, the attendance of any county employee or officer at a board meeting to provide information and answer questions. Except as provided in par. (d), [which permits the board to “use the legal services of the corporation counsel] for the purpose of inquiry, or to refer a specific constituent concern, the board and its members may deal with county departments and subunits of departments solely through the county executive, and no supervisor may give instructions or orders to any subordinate of the county executive that would conflict with this section.

WIS. STAT. § 59.794(3)(b).

¶74 We first address whether the county executive himself or herself is “any county employee or officer” who may be required to appear. Then we address whether the phrase “[a] board may require ... *40 attendance ... at a board meeting...” refers strictly to the Board, or instead extends to committees of the Board. Finally, we review the discretionary ruling of the circuit court that the Executive is not entitled to a declaration that the Board may request an employee or an officer to appear at a meeting only when that is necessary and directly related to a duty and power of the Board.

A. The Executive Is “Any County ... Officer”

[16] ¶75 The Board argues that the Executive is “any county ... officer” under the Board’s authority to “require, as necessary, the attendance of *any county employee or officer* at a board meeting to provide information and answer questions.” See WIS. STAT. § 59.794(3)(b) (emphasis added). The meeting attendance provision itself does not define “any county employee or officer.” For the following reasons, we agree with the Board, based on a plain language interpretation, and accordingly reverse two circuit court rulings: denying the Board’s request for a declaration that it has authority to require the Executive’s appearance, and granting the Executive’s request for a declaration that the Board does not have this authority.²⁰

¶76 First, closely related statutory language here provides a strong aid to interpretation. See  *Kalal*, 271 Wis.2d 633,

¶46, 681 N.W.2d 110. As reflected in the text of the executive powers statute quoted above, the first sentence ***41** states: “The county executive shall be the *chief executive officer* of the county.” **WIS. STAT. § 59.17(2)** (emphasis added); see also **WIS. CONST. art. IV, § 23** (“the legislature may provide for the election at large once in every 4 years of a ****454** *chief executive officer* in any county with such powers of an administrative character as they may from time to time prescribe in accordance with this section and shall establish one or more systems of county government”) (emphasis added). This appears to confirm the common sense notion that county executives are the highest ranking executive “officers” of their respective county governments. In the same vein, § 59.17(2)(b)4., in the course of describing duties and powers of the county executive, refers to “no *other* county officer or employee.” We see no substance in the Executive’s response that “chief executive officer” is merely “a label and a title” that does not “make [the Executive] an officer.”

¶77 Second, the full phrase at issue is “any county employee or officer.” **WIS. STAT. § 59.794(3)(b)** (emphasis added). As a general rule, “a phrase modified by the word ‘any’ indicates broad application,” and means of whatever kind and without restriction. See *State v. Jensen*, 2010 WI 38, ¶29, 324 Wis.2d 586, 782 N.W.2d 415 (quoting **Marotz v. Hallman**, 2007 WI 89, ¶25, 302 Wis.2d 428, 734 N.W.2d 411); see also *Adams v. Northland Equip. Co., Inc.*, 2014 WI 79, ¶43, 356 Wis.2d 529, 850 N.W.2d 272 (“By using the term ‘any,’ the legislature chose language that does not limit the type of disputes on which a circuit court must pass.”). We see no reason that this general without-restriction interpretation of “any” should not apply here.

¶78 Third, as we have seen, the pertinent statutes, including subsection **WIS. STAT. § 59.794(3)**, contain ***42** many specific references to county executives in Wisconsin and the Milwaukee County Executive in particular. Given these references, and the legislature’s explicit intent to clarify relative powers of the Board and the Executive, it would be peculiar to silently exclude the Executive from the definition of “any county ... officer.”

¶79 Fourth, the Board makes a persuasive argument based on the entire text of the meeting attendance provision. The Board notes the evident balance of authority that is struck between the Board (empowered through the ability to require appearances) and the Executive (empowered through the ability to prevent supervisors from directly dealing with

county employees and officials). It would be surprising for the legislature to make the Executive the exclusive face of the county’s executive branch to the Board and at the same time exclude the Executive alone from required appearances at Board meetings.

¶80 The Executive argues, based on various sources of authority addressing “employee” status, that the Executive, as an elected official, could not be considered “any county employee.” However, this does not resolve the issue. Assuming without deciding that the Executive is not “any county employee,” this leaves the phrase “any county ... officer.”

¶81 Separately, the Executive makes a series of broad brush arguments referencing **WIS. STAT. §§ 59.17-59.21**. However, these arguments appear, at best, to stand only for the proposition that, in some contexts, the legislature has intentionally excluded county executives from some statutory references to “county officers.” For example, a statute requiring county “officers” to keep offices at the county seat does not refer to the county executive, see **§ 59.20(3)**, and ***43** county executives are not assigned an “official bond” amount while such “officer[s]” as “Clerk,” “Treasurer,” and “Sheriff,” are assigned bond amounts, see **§ 59.21**. It is sufficient to note that none of these statutory references approaches the relevance and clarity of the closely related statutory language we discuss in our first point above.

****455** ¶82 Counsel for the Executive attempted to explain at oral argument why the legislature would exempt the Executive alone, out of all county officers, from appearing at Board meetings. Counsel said that the Executive will often lack ready answers to specific Board supervisor questions, while department heads and other employees and officers will have answers. We see at least two problems with this as a rationale to support the Executive’s statutory interpretation. First, our interpretation is not that the Board is limited to requiring the appearance of the Executive alone. Instead, that he or she, along with all other employees and officers, may be required to appear. Second, it is self-evident that, however often the Executive might lack specific information sought by Board supervisors, there will be times when the Board reasonably considers the chief executive of county government to be uniquely accountable for providing information or answering questions.

¶83 For these reasons, we conclude that the circuit court erred in concluding that the meeting-attendance provision does not authorize the Board to request the Executive to appear at meetings to provide information and answer questions. With that conclusion, we reject the sole ground offered by the Executive in support of a declaration on this topic, which was also the sole ground articulated by the circuit court in making its two pertinent rulings. Accordingly, we reverse *44 and remand with instructions to grant the Board’s request for a declaration that the Executive is included in the phrase “any county ... officer.”

B. Committees May Not Require Appearances; Appearances Must Be At Board Meetings

[17] ¶84 The Executive argues that he is entitled to a declaration that only *the Board as a whole*—and no committee, committee chair, or other subunit of the Board as a whole—may *require attendance* of a county employee or officer at a meeting. On a closely related issue, the Executive argues that he is entitled to a declaration that employees and officers may be required to appear only *at Board meetings*, as opposed to *at committee meetings*. These closely related arguments are based on plain language readings of the meeting attendance provision, which provides that “[a] board,” and not a committee or other subunit of the Board, “may require ... attendance ... *at a board meeting*,” and not at committee meeting. See WIS. STAT. § 59.794(3) (b) (emphasis added). We agree with the interpretation of the Executive, and accordingly reverse contrary rulings of the circuit court.

¶85 As the Executive points out, the term “[b]oard” is defined to mean “the board of a county,” and more specifically the particular Board here. See WIS. STAT. § 59.794(1)(b); see also § 59.794(1)(c) (a county population level makes this the Milwaukee County Board). This resolves the issue, given the unambiguous language selected by the legislature.

¶86 We reject the Board’s primary argument, which has two parts. First, the Board argues that the phrase “a board meeting” does not specify a “type of *45 meeting.” We think it is obvious that “a board meeting” means a meeting of the Board. Second, the Board effectively contends that the legislature could not have intended in this context to interfere with the systematic delegation of powers by the Board to its committees. See M.C.G.O. § 1.13 (providing for regular and special meetings of standing committees)

and M.C.G.O. § 1.09 (referral process for reports and recommendations from standing committees). However, the Board’s systematic delegation of functions to its committees does not change the fact that the **456 legislature used the unambiguous term “board.” The Board argues that the Executive’s interpretation is “at odds with long-established county legislative procedure,” under which resolutions and ordinances are referred by the Board chair to standing committees for recommendations. However, it would be for the legislature to change this statutory language.


¶87 The Board also suggests that it should be left to the Board to determine what “a board” means in this context, because this presents a “political question.” Along similar lines, the Board argues that courts “should not dictate to the Board how it may exercise this authority or its legislative procedures.” We are not certain precisely where this argument begins, or for that matter where it might end. We reject it based on the clarity of the statutory language.

¶88 For these reasons, we conclude that the circuit court erred in interpreting the meeting attendance provision to grant power to subgroups of the Board to require attendance at any meeting, or to grant power to the Board to require attendance at meetings of subgroups of the Board. With those conclusions, we reject the sole grounds offered by the Board against declarations on these closely related *46 topics, which were also the sole grounds articulated by the circuit court in making its pertinent rulings. Accordingly, we reverse and remand for entry of the declaration on these topics sought by the Executive.

C. The Circuit Court Did Not Erroneously Exercise Its Discretion In Declining To Declare That The Requirement To Appear Must Be Necessary And Directly Related To A Board Duty And Power

¶89 The Executive argues that he is entitled to a declaration that a required appearance must be “necessary” and “directly related to a duty and power of the Board.” This argument is based on one phrase in the meeting attendance provision, that “[a] board may require, *as necessary*.” For its part, the Board argues that the “require, as necessary” language grants it authority to determine what it might deem necessary in the way of appearances and information.

¶90 We resolve this issue based on our conclusion that the circuit court “ ‘examined the relevant facts, applied a

proper standard of law, and, using a demonstrated rational process, reached a conclusion that a reasonable judge could reach,' ” see  *Olson*, 309 Wis.2d 365, ¶35, 749 N.W.2d 211 (quoted source omitted), and therefore properly denied the Executive’s declaration request. We see multiple problems with the Executive’s request, but the following three points are sufficient to affirm the court’s discretionary decision.²¹

*47 ¶91 First, the Executive fails to provide and explain a consistent standard that should be used to limit Board discretion in determining what appearance requirement is “necessary.” He argues both that all **457 requirements to appear must be “absolutely required, essential, and indispensable,” and also that all must be “directly related to a duty and power” of the Board. These are separate concepts, however much they might overlap. Beyond this, the Executive fails to explain how one might distinguish between, say, an “indispensable” Board requirement to appear and one that may be merely useful to the Board in executing its duties and powers. See *Cellular Telecomm. & Internet Ass’n v. FCC*, 330 F.3d 502, 510 (D.C. Cir. 2003) (noting multiple connotations for the term “necessary,” which are highly dependent on context; specifically rejecting “indispensable” connotation in one federal statutory context; stating “ ‘courts have frequently interpreted the word “necessary” to mean less than absolutely essential, and have explicitly found that a measure may be “necessary” even though acceptable alternatives have not been exhausted’ ”) (quoted source omitted).

¶92 Second, and in a similar vein, the Executive fails to provide a workable definition of “directly related to a duty and power of the Board.” It is not immediately evident, for example, what the scope of *48 “directly” is, or what sources of authority the Executive proposes to use to establish Board duties and powers in this context.

¶93 Third, the Executive fails to describe an actual circumstance—or, for that matter, even a plausible hypothetical—to which a proper declaration on this topic could be applied.²² The first two problems that we note are compounded by the Executive’s failure to provide meaningful context for the requested declaration.

[18] ¶94 For these reasons, we conclude that the circuit court properly exercised its discretion in declining to declare that a Board requirement that an employee or officer appear must

be necessary and directly related to a duty and power of the Board.

CONCLUSION

¶95 For these reasons, we affirm and reverse the circuit court’s decision as follows and direct the circuit court to enter orders consistent with this opinion:

- **Affirm** the following rulings:

- *49 *Granting* the Board’s request for a declaration that the Board has statutory authority to provide for, fix, or change the compensation of all unclassified employees;

- *Denying* the Executive’s request for a declaration that the Board lacks statutory authority to veto reallocation decisions, pursuant to M.C.G.O. § 17.055(1);

- *Granting* the Executive’s request for a declaration that the Board lacks statutory authority to veto reclassification decisions, pursuant to M.C.G.O. § 17.05(2)(c)(7);

- *Granting* the Executive’s request for a declaration that the Board lacks statutory authority to veto advancement-of-employees-within-pay-ranges decisions, pursuant to M.C.G.O. § 17.10(4);

- *Denying* the Executive’s request for a declaration that M.C.G.O. § 34.06, requiring verification of payrolls by the **458 comptroller, conflicts with WIS. STAT. § 59.794(3); and

- *Denying* the Executive’s request for a declaration that the Board may require a meeting appearance only if it is necessary and directly related to a duty and power of the Board.

- **Reverse** the following rulings:

- *Denying* the Board’s request for a declaration that it has authority to require the attendance of the Executive at Board meetings and *granting* the Executive’s request for a declaration that the Board does not have this authority;

- *Denying* the Executive’s request for a declaration that only the Board as a whole may require attendance at Board meetings; and

Denying the Executive’s request for a declaration *50 that employees and officers can be required to appear only at Board meetings.

By the Court.—Order affirmed in part; reversed in part; and cause remanded with directions.

All Citations

384 Wis.2d 1, 918 N.W.2d 434, 2018 WI App 58

Footnotes

1 We generally use the upper case “Executive” to refer to the defendant-appellant-cross-respondent, Christopher Abele, the current Milwaukee County Executive and also to refer to the office of the Milwaukee County Executive, and lower case “county executive” to refer to the generic position of county executive in Wisconsin counties. We generally use the upper case “Board” to refer collectively to the plaintiffs-respondents-cross-appellants, Theodore Lipscomb, Sr., the current chair of the Milwaukee County Board of Supervisors, and the Milwaukee County Board of Supervisors, and lower case “county board” or “board” to refer to the generic body in Wisconsin counties.

2 All references to the Wisconsin Statutes are to the 2015-16 version unless otherwise noted.

3 The compensation provision provides, in pertinent part:

59.22 Compensation, fees, salaries and traveling expenses of officials and employees.

....

(2) APPOINTIVE OFFICIALS; DEPUTY OFFICERS; AND EMPLOYEES. (a) ... [S]ubject to s. 59.794(3), the board has the powers set forth in this subsection, ... as to any office, department, board, commission, committee, position or employee in county service created under any statute, the salary or compensation for which is paid in whole or in part by the county, and the jurisdiction and duties of which lie within the county or any portion thereof and the powers conferred by this section shall be in addition to all other grants of power and shall be limited only by express language.

(c)1. ... [T]he board may do any of the following:

a. *Provide, fix or change the salary or compensation* of any office, board, commission, committee, position, employee or deputies to elective officers that is subject to sub. (1) without regard to the tenure of the incumbent.

....

(4) INTERPRETATION. In the event of conflict between this section and any other statute, this section to the extent of the conflict shall prevail.

4 WISCONSIN STAT. § 59.794 provides, in pertinent part:

59.794 Milwaukee County; limitations on board authority and on intergovernmental cooperation, shared services. (1) DEFINITIONS. In this section:

....

(b) “Board” means the board of a county.

(c) “County” means a county with a population of 750,000 or more.

....

(3) LIMITATIONS ON BOARD AUTHORITY. (a) Notwithstanding the provisions of s. 59.51, the board may not exercise day-to-day control of any county department or subunit of a department. Such control may be exercised only by the county executive as described in s. 59.17.

(b) A board may require, as necessary, the attendance of any county employee or officer at a board meeting to provide information and answer questions. Except as provided in par. (d), for the purpose of inquiry, or to refer a specific constituent concern, the board and its members may deal with county departments and subunits of departments solely through the county executive, and no supervisor may give instructions or orders to any subordinate of the county executive that would conflict with this section.

....

(d) The board may use the legal services of the corporation counsel under s. 59.42(2).

(e) The board may not terminate, lower the salary or benefits of, or eliminate the position of, any county employee who works in the office of the county executive unless a similar change is made which affects county employees, on a countywide basis, in all other county departments. This paragraph does not apply after the county board supervisors who are elected in the 2016 spring election take office.

5 On some issues, we apply our statutory interpretations in the context of county ordinances enacted by the Board that we identify below. However, the parties do not dispute the meaning of any county ordinance.

6 One argument by the Executive, which we conclude is off-point, illustrates our narrow focus on the specific declaration requests by both sides. The Executive asks us to consider the following hypothetical: the Board cuts in half the salary of a county department head, under the guise of a reallocation decision to adjust compensation for a position based on market conditions, but does so in a manner that conveys to the Executive, “We don’t like your department head.” Whether such a hypothetical Board action would be contrary to pertinent statutes, and whether as a result the Executive or any other person could obtain relief from a court, are not issues that were developed before the circuit court or clearly presented in this appeal or cross appeal.

7 Under [WIS. STAT. § 59.794\(3\)\(e\)](#), the Board

may not terminate, lower the salary or benefits of, or eliminate the position of, any county employee who works in the office of the county executive unless a similar change is made which affects county employees, on a countywide basis, in all other county departments. This paragraph does not apply after the county board supervisors who are elected in the 2016 spring election take office.

8 We would typically reject the Executive’s argument regarding a thin slice of county employees on the ground that the Executive failed to present it to the circuit court or to this court in his appellant’s brief. However, we choose to address it because the issue is simple and potentially significant to persons who may be affected. Moreover, the Board had a full opportunity to respond to it, including at oral argument.

9 [WISCONSIN STAT. § 59.51\(1\)](#) provides:

The board of each county shall have the authority to exercise any organizational or administrative power, subject only to the constitution and any enactment of the legislature which grants the organizational or administrative power to a county executive or county administrator or to a person supervised by a county

executive or county administrator or any enactment which is of statewide concern and which uniformly affects every county. Any organizational or administrative power conferred under this subchapter shall be in addition to all other grants. A county board may exercise any organizational or administrative power under this subchapter without limitation because of enumeration, and these powers shall be broadly and liberally construed and limited only by express language.

10

As potentially pertinent here,  WIS. STAT. § 59.17(2), the executive powers statute states:

(2) DUTIES AND POWERS. The county executive shall be the chief executive officer of the county. The county executive shall take care that every county ordinance and state or federal law is observed, enforced and administered within his or her county if the ordinance or law is subject to enforcement by the county executive or any person supervised by the county executive. The duties and powers of the county executive shall be, without limitation because of enumeration, to:

(a) Coordinate and direct all administrative and management functions of the county government not otherwise vested by law in other elected officers.

(b) In [Milwaukee County]:

1. Appoint and supervise the heads of all departments except where the statutes provide that the appointment shall be made by a board or commission or by other elected officers. Notwithstanding any statutory provision that a board or commission or the county board or county board chairperson appoint a department head, except ss. 17.21 and 59.47(3), the county executive shall appoint and supervise the department head. Except for a statutory provision which specifies that a board or commission or the county board shall supervise the administration of a department, the county executive shall administer, supervise, and direct all county departments, including any person who negotiates on behalf of the county, and the county board, other board, or commission shall perform any advisory or policy-making function authorized by statute. Any appointment by the county executive under this subdivision requires the confirmation of the county board unless the county board, by ordinance, elects to waive confirmation.... Any department head appointed by a county executive under this subsection may be removed at the pleasure of the county executive. The county executive shall comply with hiring policies set by the board when making appointments under this paragraph.

2. Establish departments in county government, and sections and divisions within those departments, that the county executive believes are necessary for the efficient administration of the county. Any department or subunit of a department that the county executive creates under this subdivision may not be established unless its creation and funding are approved by a vote of the board. The county executive shall administer, supervise, and direct any department or subunit of a department that is created under this subdivision, and those departments and subunits shall report to the county executive.

....

6. Hire and supervise the number of employees that the county executive reasonably believes are necessary for him or her to carry out the duties of the county executive's office, subject to board approval of the county executive department budget.

....

(bm)1. In [Milwaukee County], appoint the following persons:

.... [lists various directors of departments]

2. Each appointment under subd. 1. is subject to the confirmation of the county board and is in the unclassified service, serving at the pleasure of the county executive and holding office until a new appointment is made by the county executive and confirmed by the board.... The county executive shall comply with hiring policies set by the board when making appointments under subd. 1.

....

(c) Appoint the members of all boards and commissions where appointments are required and where the statutes provide that the appointments are made by the county board or by the chairperson of the county board. All appointments to boards and commissions by the county executive are subject to confirmation by the county board.

- 11 As we have indicated, the remaining paragraph of [WIS. STAT. § 59.794\(3\)](#) disputed by the parties is the meeting attendance provision, addressed separately below. See [§ 59.794\(3\)\(b\)](#).
- 12 In a variation on this argument, the Executive urges us to interpret day-to-day control to include *any* ability to provide, fix, or change salary or compensation for a position, because *by definition* this constitutes the power to exercise day-to-day control over any person holding that position. Our discussion in the text resolves this variation.
- 13 The Executive relies in part on case law that we conclude provides little additional value in this context. The Executive quotes from the following passage in [Schuette v. Van De Hey, 205 Wis.2d 475, 556 N.W.2d 127 \(Ct. App. 1996\)](#), for the broad proposition that supervisors are strictly limited to executing “legislative and policy based responsibilities”:

The county board’s function is primarily policy making and legislative, while the county executive functions as an administrator and manager. See, e.g., 80 Op. Atty. Gen. 49 (1991). Policy has been defined as “a high-level overall plan embracing the general goals and acceptable procedures esp. of a governmental body.” *Webster’s New Collegiate Dictionary* 890 (1977). “Legislative power, as distinguished from executive power, is the authority to make laws, but not to enforce them, or appoint the agents charged with the duty of such enforcement.” See 2A MCQUILLIN, MUNICIPAL CORPORATIONS § 10.06 at 311 (3d ed. 1996). “The crucial test for determining what is legislative and what is administrative has been said to be whether the ordinance is one making a new law, or one executing a law already in existence.” *Id.*

[Schuette, 205 Wis.2d at 480-81, 556 N.W.2d 127](#). These broad statements are generally consistent with our statutory interpretations, but shed no specific light on the intent of the legislature, post-[Schuette](#), in enacting the day-to-day control provision.

Separately, the Executive relies on opinions from courts in other states holding that fixing salaries of county employees is primarily an administrative or executive function. This authority is off point, because none of these opinions interprets a statute that resembles Wisconsin’s compensation statute.

- 14 The Executive devotes considerable energy to raising questions about the capacities of board supervisors to address employee compensation issues, as compared with the capacities of human resources staff who work under the Executive. We conclude that the Executive’s arguments along these lines are of no value in any legal argument that the Executive develops, because they are expressions of policy preferences contrary to the legislative policy choice to grant the Board the power to provide, fix, or change salary or compensation.

- 15 Under MILWAUKEE COUNTY GENERAL ORDINANCE § 17.055(1) (revised as of June 5, 2018), the County Board can either accept or override reallocation decisions of the human resources director, which involves the comparison of data from labor markets with job classifications:

Whenever labor market conditions or other factors indicate that compensation for existing classifications is not sufficient to recruit and retain qualified employees, a department head or appointing authority may request the director of human resources to review the compensation provided for the classification:

(1) The director of human resources shall review the request and inform the requestor of his/her findings. All recommendations of the director to reallocate a nonrepresented classification shall be included in a report distributed to all county board supervisors. In the event the requestor does not concur with the director's recommendation, it may be appealed to the committee on personnel within thirty (30) days of receipt of such notice. The decision of the county board on the committee recommendation, subject to review by the county executive, shall be final.

- 16 The following was the Executive's own summary to the circuit court of the reallocation function:

Reallocation refers to adjusting compensation for an existing job category. Whenever labor market conditions or other factors indicate that compensation for existing classifications is not sufficient to recruit and retain qualified employees, a department head or appointing authority may request the director of HR to review the compensation provided for the classification.

The Executive put it in similar terms at oral argument: "Human resources does a market study to determine if a manager's compensation matches market conditions," and as a result of the study determines whether "this position should make this much more money."

- 17 Under the reclassification ordinance, the human resources director submits to the County Board's personnel committee a report each month listing position reclassifications that the director "intends to approve, along with a fiscal note for each," and these reports "shall be distributed to all county supervisors and placed on the committee agenda for informational purposes." M.C.G.O. § 17.05(2)(c)(7). Supervisors then have seven days to object. An objection places the report "in abeyance until resolved by the county board, upon recommendation of the committee, and subsequent county executive action." *Id.*

- 18 MILWAUKEE COUNTY GENERAL ORDINANCE § 17.10(4) provides in pertinent part:

[On a monthly basis,] while any advancements within a pay range requested by departments, ... are pending, the director of human resources shall provide a report to the committee on personnel which lists all such advancements which the director intends to approve, along with a fiscal note for each. This report shall be distributed to all county supervisors and placed on a committee agenda for informational purposes. If a county supervisor objects to the decision of the director within seven (7) working days of receiving this report the advancement shall be held in abeyance until resolved by the county board, upon recommendation of the committee, and subsequent county executive action. If no county supervisor objects, the advancement shall be implemented the first day of the first pay period following the meeting of the committee.

- 19 Under M.C.G.O. § 34.06, the county comptroller must:

Provide centralized payroll functions, including the computation of required and voluntary deductions, preparation and verification of payrolls, maintenance of payroll records and reports, preparation of various reports for federal and state governmental agencies, and processing of payments to employees and other agencies for which payroll deductions were made.

As background, we note that the comptroller is the “chief financial officer of the county, and the administrator of the county’s financial affairs,” whose duties and responsibilities are specified in some detail by statute. See [WIS. STAT. § 59.255\(2\)](#). These include “[w]henever requested to do so by the ... [B]oard, ... provid[ing] an independent fiscal analysis of any matter affecting the county....” [Sec. 59.255\(2\)\(g\)](#).

20 Because we see a plain meaning in the statutory language, we ignore the arguments of the parties referencing legislative history. See [State ex rel. Kalal v. Circuit Court for Dane Cty.](#), 2004 WI 58, ¶¶45, 271 Wis.2d 633, 681 N.W.2d 110.

21 The County Board does not explicitly argue that the circuit court’s decision to decline to issue the requested declaration here may be affirmed as a proper exercise of discretion, but we choose to affirm on that ground.

Separately, we could also affirm on the independent basis that the Executive’s arguments are theoretical at best. He fails to show that this claim for declaratory relief is ripe, and therefore justiciable, which is a legal issue we review de novo. See [Olson v. Town of Cottage Grove](#), 2008 WI 51, ¶¶29, 32, 309 Wis.2d 365, 749 N.W.2d 211. The Executive fails to direct us to facts that are “ ‘sufficiently developed’ ” to avoid the court here from “ ‘entangling [itself] in abstract disagreements’ ” about what is “necessary” in this context. See [id.](#), ¶¶32, 43 (quoting [Miller Brands-Milwaukee, Inc. v. Case](#), 162 Wis.2d 684, 694, 470 N.W.2d 290 (1991)).

22 The Executive purports to briefly describe an actual circumstance, but then fails to defend it as useful in supporting the requested declaration. The circumstance is that the Board requested that the county department of administrative services director appear at a meeting to answer questions about the Opportunity Schools Partnership Program, a school improvement program that requires the Executive’s participation. See [WIS. STAT. § 119.9002\(2\)](#). However, after the Board asserts in its response brief in this court that the Board made this request as part of a Board effort to develop a policy related to administration of the program, the Executive appears to concede the point through silence.



Department of Human Resources
Face Mask Procedure
Version 1.0 – April 6, 2022

Face masks are important in slowing the spread of respiratory disease and a key tool in protecting individuals, especially those at high risk, from COVID-19. This procedure outlines the types of masks that County employees should use, and the accompanying table outlines times when face masks are required.

Types of Face Masks

The following types of face masks are recommended by the Centers for Disease Control (CDC) as effective in stopping the spread of COVID-19 and are acceptable for use in County facilities, grounds, or other places where services are delivered and masks required.

Allowed for Employees, Contractors and Volunteers:

1. N95 respirators or specific masks as required by job duties
2. KN-95 masks
3. Masks that meet one of the following NIOSH standards:
 - a. ASTM F3502
 - b. MEETS WORKPLACE PERFORMANCE
 - c. MEETS WORKPLACE PERFORMANCE PLUS
4. FDA-approved face masks for sign language (ASL or LEP) interpreters, when required¹
5. Surgical-type or multi-layer disposable masks with adjustable metal nose clips are allowed ONLY if none of masks above are available
6. **NOTE:** Cloth masks are not allowed for employees

Allowed for Visitors and Other Individuals:

1. N-95 or KN-95 face masks
2. Surgical-type or multi-layer disposable face masks with adjustable metal nose clips, such as non-medical grade paper or procedure masks.
3. Cloth face masks with two or more layers of breathable, washable fabric.
4. FDA-approved face masks for sign language (ASL or LEP) interpreters.¹
5. Medical-grade surgical face masks, KN95 or N95 respirators (typically reserved for use by healthcare workers, first responders, and others who work in high-risk environments).

Not Allowed for Employees, Contractors, Volunteers, Visitors and Other Individuals:

1. Neck scarves or bandanas
2. Neck gaiters or buffs
3. Winter scarfs
4. Face shields
5. Masks with exhalation valves or vents
6. Masks with inappropriate writing or images

¹ ClearMask: <https://www.theclearmask.com>



Department of Human Resources
COVID-19 Facility Capacity Limits Procedure for Milwaukee County
Version 1.0 – April 1, 2022

The COVID-19 pandemic has required numerous responses to keep Milwaukee County residents, service users, and employees safe. These responses, outlined in various orders and policies issued by the County, include vaccinations for all eligible individuals, quarantining of exposed and symptomatic individuals, isolation of infected individuals, physical distancing, mask wearing, and enhanced cleaning protocols.

With rates of community transmission and hospitalization falling from all-time highs, Milwaukee County is eliminating its facility capacity limits. **Version 1.0 of this procedure includes a new table outlining capacity limits. As of March 9, 2022, the Capacity Limits for Milwaukee County facilities is set to LOW, as outlined in this procedure.**

If you have questions about this, or any other COVID-19 procedure, please email: COVID-19@milwaukeecountywi.gov

I. General

Milwaukee County facilities are managed by multiple departments within Milwaukee County, serving a range of general and specialized needs. These limits below affect all facilities, regardless of department management.

II. Definitions

- A. Essential Institutions** – Milwaukee County departments, services or facilities that are deemed essential to the safe operation of Milwaukee County. These include, but are not limited to, Milwaukee County Courts, correctional facilities, and hospital facilities.
- B. Risk Rating** – a rating set by Milwaukee County based on the Centers for Disease Control COVID Community Level Rating classification¹ as well as local trends identified by the Milwaukee County Chief Health Policy Advisor. This rating may change from time to time.

III. Capacity Limits

Capacity limits in force for all facilities owned or operated by Milwaukee County, except those designated as Essential Institutions, are set based on the County’s Risk Rating and are subject to change. Essential Institutions are responsible for setting their own capacity level.

- A.** Private party rentals may observe capacity limits in place at the time of booking or on the day of the event if limits on the day of the event are less strict than at the time of booking.

¹The Centers for Disease Control “[COVID Community Level Rating](#)” classification system identifies counties as being low, medium, or high risk, based on criteria including cases and COVID patient-occupied hospital beds that those counties report to the CDC.

B. The current Risk Level for Milwaukee County is Low, and capacity limits are set as:

For Critically High and Intermediate Risk Levels, Limits are Lesser of:			LOW RISK (NORMAL OPERATIONS)
Persons per 30 square feet OR	Risk-Rated Capacity*		
	CRITICALLY HIGH RISK	INTERMEDIATE RISK	

Indoor Facilities (non-rental)**

Buildings	1 person per 30 sq ft OR	50 percent	75 percent	100 percent
Elevators	1 person per 30 sq ft OR	50 percent	75 percent	100 percent
Meeting rooms	1 person per 30 sq ft OR	50 percent	75 percent	100 percent
Break Rooms	1 person per 30 sq ft OR	50 percent	75 percent	100 percent
Kitchenettes	1 person per 30 sq ft OR	50 percent	75 percent	100 percent
Restaurants – carryout service	1 person per 30 sq ft OR	100 percent	100 percent	100 percent
Restaurants – dine in seating	1 person per 30 sq ft OR	50 percent or 100 people	75 percent or 250 people	100 percent
Gift Shops, Pro Shops, Other retail	1 person per 30 sq ft OR	50 percent or 100 people	75 percent or 350 people	100 percent
Auditoriums	1 person per 30 sq ft OR	50 percent or 100 people	75 percent or 350 people	100 percent
Gyms	1 person per 30 sq ft OR	50 percent or 100 people	75 percent or 350 people	100 percent
Private Vehicles used for County Business	n/a	Driver only - no passengers	Driver + one passenger in back seat	100 percent
County Vehicles	n/a	Capacity Limit with KN-95 masks and windows open	Vehicle capacity with all windows open and KN-95 Masks	100 percent

Outdoor Operations (excluding rental spaces)

Work Yards, Storage Areas	1 person per 30 sq ft OR	50 percent	100 percent	100 percent
Paths, Trails	1 person per 30 sq ft OR	100 percent	100 percent	100 percent
Picnic Areas	1 person per 30 sq ft OR	100 percent	100 percent	100 percent
Open Air Shelters	1 person per 30 sq ft OR	50 percent or 100 people	75 percent or 350 people	100 percent
Playgrounds	1 person per 30 sq ft OR	100 percent	100 percent	100 percent
Golf Courses	1 person per 30 sq ft OR	100 percent	100 percent	100 percent

Rental Spaces (Private Party Usage)***

Rental Meeting Rooms -Beverage Serv -Food Serv	1 person per 30 sq ft OR	50 percent -Pre-Plated or Pre-Packaged Bev & Food -No self-service	75 percent -Bev Serv Allowed -Food Serv Allowed	100 percent -Bev Serv Allowed -Food Serv Allowed
Banquet Halls -Beverage Serv -Buffet Serv -Food Serv by wait staff	1 person per 30 sq ft OR	50 percent or 100 people -Bev Serv by wait staff -No Buffet -Food by wait staff	75 percent or 250 people -Bev Serv self serv w/ distancing -Buffet w/ distancing -Food by wait staff	100 percent -Bev Serv Allowed -Buffet Allowed -Food Serv Allowed
Dancing	n/a	Allowed with distancing marked on floor	Allowed with distancing marked on floor	Allowed
Indoor Rental Pavilions	1 person per 30 sq ft OR	50 percent or 100 people	75 percent or 250 people	100 percent
Outdoor Rental Picnic areas	1 person per 30 sq ft OR	50 percent or 200 people	75 percent or 350 people	100 percent

* County-defined Risk Levels, as set from time to time. Level as of March 9, 2022, is Low.

** Essential Facilities may operate at higher capacity limits. These include, but are not limited to, Milwaukee County Courts, correctional facilities, hospitals and airports.

*** Private party rentals may observe capacity limits in place at the time of booking or on the day of the event, if limits on the day of the event are less strict than at the time of booking.

NOTE: All County policies regarding masking and physical distancing must be enforced.



Department of Human Resources
COVID-19 Vaccine Mandate Procedure for Milwaukee County
Version 1.0 – April 1, 2022

The development and rollout of vaccines for COVID-19 has been a major success in the face of the worst pandemic in a century. With broad international cooperation between governments and private industry, several vaccines have been launched worldwide, with three receiving emergency use authorization in the United States and at least one receiving full approval from the U.S. Food and Drug Administration.

To date, nearly 525 million doses of COVID-19 vaccine have been administered in the U.S. according to the Centers for Disease Control (CDC), and the vaccines have been overwhelming safe and effective in reducing the incidence of serious illness and death from COVID-19. At the same time, recent data suggest that, like many vaccines, their effectiveness wanes over time. As a result, the CDC recommends that individuals receive booster vaccinations from two to five months after completing vaccination, depending on the earlier vaccine received.

Given the importance of keeping employees and those in our care as safe as possible, as of Tuesday, January 18, 2022, Milwaukee County is requiring that employees, contractors, and volunteers who work at Milwaukee County's high-risk facilities receive boosters. Workers who are eligible for boosters as of January 18, 2022, will have until February 4, 2022, to comply with this Order; workers who are not yet eligible for boosters will have 21 days from the day they become eligible to comply.

Consistent with federal and state law, Milwaukee County may grant reasonable accommodations for medical reasons or sincerely held religious beliefs, as also outlined in the Order. **Changes in Version 1.0 of this procedure are highlighted in red**, and the procedure:

- Explains key terms used in the procedure.
- Defines the requirements for vaccination for employees, contractors, volunteers, and those accepting employment with the County
- Describes the documentation process for vaccinated individuals.
- **Described the documentation process for required boosters.**
- Specifies the process for employees requesting an exemption and accommodation.
- Outlines rewards and incentives for vaccination, potential consequences for non-compliance, and additional risk mitigation measures for unvaccinated employees.

If you have questions about this, or any other COVID-19 procedure or policy, please email: COVID-19@milwaukeecountywi.gov



Department of Human Resources
COVID-19 Vaccine Mandate Procedure for Milwaukee County
Version 1.0 – April 1, 2022

I. Definitions

- a. **High-risk (Congregate Living) Facilities:** These facilities include the Milwaukee County Jail, the House of Correction (HOC), and within the Department of Health and Human Services (DHHS) the Children, Youth, and Family Services (CYFS) Detention Center and the hospital operated by the Behavioral Health Services (BHS).
- b. **Eligible for Booster:** A individual who has received a second dose of either the Pfizer or Moderna vaccine at least 5 months ago or who has received one dose of the Johnson & Johnson vaccine at least 2 months ago. NOTE: If an individual has recovered from a confirmed case of COVID-19, the individual is Eligible when fully recovered and out of isolation OR has met the required time since receiving a second dose of Pfizer / Moderna or the single dose of J&J, whichever is LATER.
- c. **Non-Compliant:** An individual who has neither met the requirement of this order for Completed Vaccination (or for Up to Date with Vaccination when required) nor has received an approved accommodation for medical or religious reasons.
- d. **Up to Date with Vaccinations:** Individuals who have either:
 - i. Had a booster shot (a third shot for individuals initially vaccinated with Pfizer or Moderna or a second shot for those initially vaccinated with Johnson & Johnson), OR
 - ii. Been fully vaccinated and are not yet eligible for boosters, that is:
 - i. Have received one dose of Johnson & Johnson vaccine within the past two months OR
 - ii. Have received a second dose of the Pfizer or Moderna vaccine within the last five months.

II. Policies for Current Employees, New Employees, and County Contractors

This section outlines the COVID-19 vaccination policies for current employees, new employees, and contractors.

a. Vaccine Requirements for Current Employees

All employees are required to submit required documentation verifying their Completed Vaccination status or to submit a completed medical or religious exemption and accommodation request form by no later than **October 1, 2021**. Vaccinated, exempt, or non-compliant employees will be subject to the policies and associated timelines outlined in Section V. This vaccine requirement applies to all employees,¹ regardless of current or previous COVID-19 infection status.

Employees who get vaccinated or receive a booster as a result of this Order may use up to

¹ The terms and conditions of this procedure do not currently apply to employee-members of the Milwaukee County public safety unions.



Department of Human Resources
COVID-19 Vaccine Mandate Procedure for Milwaukee County
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one (1) hour of their Expanded Paid Sick Leave (EPSL) time bank to cover time away from work for each vaccine dose they receive. Employees should use the **payroll code “EPSL Vaccine”**.

b. Booster Requirement for Employees at High-Risk Facilities

All employees working at High-Risk Facilities must be Up to Date with Vaccinations, that is, receive a booster, as soon as they become Eligible. Employees who are Eligible as of January 18, 2022, have until February 4, 2022, to comply with this Order. Employees who are not Eligible as of January 18, 2022, must comply within 21 days of becoming Eligible.

c. Vaccine Requirements for New Employees

Effective **October 1, 2021**, with the exception of new hires by the Milwaukee County Sheriff’s Office (MCSO), only job candidates who have Completed Vaccination or who have received an approved medical or religious accommodation shall be hired by Milwaukee County. The Department of Human Resources (HR) should add vaccination status as a condition of employment for any current and future posted positions, excluding MCSO postings, as soon as is feasible. In offer letters to potential new employees after October 1, 2021, candidates will be asked to provide proof of vaccination status to HR using the verification requirements for employees in Section III. New employees hired before October 1, 2021, but after the effective date of this order, will be subject to the policies for current employees (see Section III). This vaccine requirement applies to all job candidates, regardless of current or previous COVID-19 infection status.

Effective **February 4, 2022**, only candidates for positions in High-Risk Facilities² who are Up to Date with Vaccinations or who have received an approved medical or religious accommodation shall be hired by Milwaukee County. The Department of Human Resources (HR) will add Up to Date Vaccination status (booster) as a condition of employment for any current and future posted positions in High-Risk Facilities as soon as is feasible. In offer letters to potential new employees after January 18, 2022, candidates will be asked to provide proof of Up-to-Date Vaccination status to HR using the verification requirements for employees in Section IV. New employees hired before February 4, 2022, but after the effective date of this order, will be subject to the policies for current employees (see Section IV). This vaccine requirement applies to all job candidates for positions in High-Risk Facilities, regardless of current or previous COVID-19 infection status.

² With the exception of new hires by the Milwaukee County Sheriff’s Office (MCSO).



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d. Vaccine Requirements for County Contractors and Volunteers

All contractors and volunteers working in County High Risk Facilities must be Up to Date with Vaccinations.³ Those who are Eligible as of January 18, 2022, have until February 4, 2022, to comply. Those who are not Eligible as of January 18, 2022, must comply within 21 days of becoming Eligible. This vaccine requirement applies to all applicable contractors and volunteers, regardless of current or previous COVID-19 infection status.

Departments may require Completed Vaccination or Up to Date Vaccination status for their contractors and volunteers more broadly than just those working in County High Risk or Congregate Living Facilities. Departments are encouraged to consider the risk profile of service users,⁴ staffing levels, the necessity of the service being open for in-person use, and other operational needs when considering broader vaccine mandates for their contractors and volunteers.

III. Vaccination Verification Process

Employees who have Completed Vaccination, new hires, or employees seeking an accommodation are required to submit proof of their vaccination status (described below) or an exemption and accommodation request form (see Section IV) by **October 1, 2021**. Please note that proof of vaccination status submitted for the Vaccin8 program does **not** satisfy verification requirements for this policy.

- a. To verify Completed Vaccination status, employees must submit two (2) different forms of proof from the following five (5) options into Dayforce:
 1. A copy of the CDC vaccination card provided at the vaccine appointment.
 2. A copy/screenshot of the employee's COVID-19 vaccination status from the [Wisconsin Immunization Registry \(WIR\)](#).⁵
 - a. If you were vaccinated outside of Wisconsin, vaccination records can be accessed via each State's operational [immunization information system \(IIS\)](#).⁶ Employees may upload a copy/screenshot from the IIS for the state in which they were vaccinated.
 3. A copy/screenshot from the employee's healthcare system patient profile (for example, MyChart).
 4. A note from the employee's healthcare provider or Milwaukee County vaccinator verifying vaccination status.

³ If a department operating a High-Risk Facility determines a contractor will be out of compliance with this Order, the department head must contact the County Executive's Office to confirm planned remediation and risk mitigation measures.

⁴ <https://www.cdc.gov/coronavirus/2019-ncov/need-extra-precautions/people-with-medical-conditions.html>

⁵ <https://www.dhfs.wisconsin.gov/pr/clientSearch.do?language=en>

⁶ <https://www.cdc.gov/vaccines/programs/iis/contacts-locate-records.html>



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5. A copy/screenshot of the employee’s COVID-19 vaccination status from the federal [Vaccine Administration Management System \(VAMS\)](#).⁷ Please note that only people receiving vaccines from select providers will have a record in this federal system.

Please contact COVID-19@milwaukeecountywi.gov if you have questions or need assistance submitting the proper documentation, and an HR representative will contact you.

- b. Employees who fail to meet the October 1 vaccine verification deadline should submit the required documentation as soon as possible. These employees will be subject to consequences (see Section V) until they have verified their vaccination status or received an approved accommodation.
- c. **NOTE:** If photographs or screenshots are submitted, the image must be legible and must contain the following information: the vaccine recipient’s name and the date(s) when COVID-19 vaccine dose(s) were administered. When submitting information, employees should take care to avoid submitting other medical information. Employees submitting fraudulent documentation are subject to corrective action up to and including termination and could be subject to prosecution under federal law.
- e. HR will verify employees’ proof of Completed Vaccination on a weekly basis. If there are issues with the submission, employees will be contacted by an HR representative to resolve the issue.
- f. Employees not submitting proof of their Completed Vaccination (or a request for accommodation described in Section IV) in a timely manner will be subject to policies for non-compliance (see Section V) until they have provided the appropriate documentation.

IV. Booster Verification Process

Employees at High-Risk Facilities are required to document their Up to Date Vaccination status by submitting proof of their COVID-19 booster vaccination using the online submission [form](#). Employees will be required to provide **one** form of proof of booster vaccination, which may be any form allowed in Section III a. (above). Human Resources staff are responsible for verifying booster vaccination submissions.

VI. Accommodation Process

Milwaukee County recognizes that employees may be unable to have Completed Vaccination status because of specific medical conditions or sincerely-held religious beliefs.

- a. Employees seeking an accommodation should request either a “Medical Exemption and Accommodation Request Form” or “Religion or Creed Exemption and Accommodation Request Form” from their HR Business Partner. Employees should return their completed

⁷ https://vams.cdc.gov/vaccineportal/s/login/?language=en_US&startURL=%2Fvaccineportal%2Fs%2F&ec=302



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exemption and accommodation request form to their HR Business Partner as soon as possible, but no later than October 1, 2021. Employees must also indicate their request for an exemption on the COVID-19 Vaccination Form in Dayforce.

- b. Consistent with federal and state law, HR will consider requests for accommodation on a case-by-case basis and may engage with the employee, with medical providers, and/or with faith community leaders as allowed by law in considering requests. HR staff will review requests for accommodation weekly and will contact employees as needed.
- c. Accommodations may be granted where they are required by law and do not create undue hardship on Milwaukee County or pose a direct threat to the health and safety of others, including those working for or served by Milwaukee County.
- d. Employees who claim a medical or religious exemption but fail to submit the documents necessary to act on the request, or who fail to engage in the interactive process to address accommodations, and who do not have a Completed Vaccination shall be denied an accommodation and shall be viewed as non-compliant and subject to the actions described in Section V.
- e. Employees receiving an exemption may or may not qualify for specific rewards or incentives, as described in Section V.
- f. **Employees at High-Risk Facilities who have received approved Accommodations for Vaccination do not have to apply again for Accommodations for Boosters. Earlier Accommodations will apply to the Booster mandate.**

V. Incentives, Consequences, and Additional Risk Mitigation Measures

With three (3) highly safe, highly effective vaccines available, County leaders recognize that the time has come to strengthen policies and expectations around vaccines for all current employees. This policy offers incentives and rewards to employees who get vaccinated and impose consequences on non-compliant employees.

a) Rewards and Incentives for Employees with Completed Vaccination

From time to time, Milwaukee County may offer incentives to employees to increase acceptance of these vital tools in keeping one another and those we serve safe. When available, these incentives, along with timelines and methods for applying, will be communicated to employees.

b) Consequences for Non-Compliance

Milwaukee County views non-compliance with this vaccine mandate, that is, employees who are not vaccinated, **or boosted when required**, and do not have an approved accommodation in place, as a decision inconsistent with our vision of becoming the healthiest county in Wisconsin and inconsistent with our responsibilities as public servants. As a result, the County will impose escalating consequences on employees who fail to comply with this vaccine mandate.



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Failure to comply with vaccination requirements outlined in this procedure may result in corrective action, up to and including termination.⁸

Employees who report Completed Vaccination status or who receive an approved accommodation before October 11, 2021, will not be subject to consequences for non-compliance with this Order. Employees who report Completed Vaccination or receive an approved accommodation on or after October 11, 2021, will be subject to consequences until such time as they Complete Vaccination or receive an approved accommodation. The consequences for non-compliant employees include:

1. Effective October 11, 2021

- i. Employees will not be eligible for voluntary overtime.
- ii. Employees will not be eligible for Risk Recognition Pay, when it is available.
- iii. **(OPTIONAL DEPARTMENT POLICY)** Employees failing to comply with the terms of this Order may be placed on unpaid suspension for up to 10 days.
 1. **Departments are encouraged to pursue unpaid suspensions for non-compliant employees as strictly as possible** without a) exceeding 10 days per employee, or b) impeding service delivery or operations, or c) triggering overtime.
 2. Unpaid suspensions may be scheduled at the discretion of the Department Head or designee(s), consistent with operational needs.
 3. Unpaid suspensions should occur between October 11 – December 31, 2021.
 4. A suspension policy should be evenly applied across non-compliant employees within the department or subunits, as determined by department heads.
- iv. **(OPTIONAL DEPARTMENT POLICY)** Department Heads or designee(s) may use an employee's compliance or non-compliance with this Order as a factor when making decisions about promotions, hiring current employees into new positions at the County, or giving a Temporary Assignment to a Higher Classification (TAHC).
- v. **(OPTIONAL DEPARTMENT POLICY)** Department Heads or designee(s) may use an employee's compliance or non-compliance with this order as a factor when making decisions about Departmental Other Salary Adjustment Allocation (DOSAA).

⁸ Employees who claim a medical or religious exemption, but who have failed to submit documentation in accordance with the established deadlines, and/or any additional requested support for their request, and who are not vaccinated, shall be denied an accommodation and shall be subject to the actions described in this order.



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2. Effective January 1, 2022

- i. Employees enrolled in Milwaukee County health insurance will incur a **\$20 per pay period surcharge**. If an employee opts to Complete Vaccination in 2022, the surcharge will be eliminated after they submit their documentation for the full vaccine series (see Section III), effective the following pay period.
- ii. Any employees working in Behavioral Health Services (BHS) who do not meet the Vaccination requirements of this policy by January 1, 2022, may be restricted from work until vaccination requirements are completed. Non-compliance may lead to separation.

3. Effective February 4, 2022

For employees at High-Risk Facilities who are Eligible for Boosters and who are NOT Up to Date with Vaccinations:

- i. Employees will not be eligible for premium pay differentials.
- ii. Employees will not be eligible for voluntary overtime.
- iii. Employees will not be eligible for Risk Recognition Pay when it is available.

c) Additional Risk Mitigation Measures for Unvaccinated Employees

In order to mitigate the risk of spread of COVID-19, all unvaccinated employees, or those employees at High-Risk Facilities who are Eligible but NOT Up to Date with Vaccinations, including those with an approved accommodation, will be subject to the following additional risk mitigation measures:

1. Effective October 11, 2021

- i. Employees working in any County healthcare setting will be required to wear a fitted N95 mask whenever a face mask is required per the current version of the Universal Face Mask Policies and Procedures Administrative Order (20-14).
- ii. All employees working in person in a non-healthcare setting will be required to wear a KN95 mask whenever a face mask is required per the current version of the Universal Face Mask Policies and Procedures Administrative Order (20-14).
- iii. Employees working in-person full- or part-time at the HOC, the County Jail, or the CYFS Detention Center will be subject to COVID-19 testing on a bi-weekly basis, that is, every other week, consistent with current policy.



Department of Human Resources
COVID-19 Health Screening Procedures
Version 1.0 – April 1, 2022

COVID-19 Health Screening Policies and Procedures

Symptoms and Exposures are often important indicators of possible cases of COVID-19. This policy defines circumstances when individuals should be screened for COVID-19 Symptoms and Exposures and establishes procedures for conducting such screening. Currently, only employees at the County's High-Risk facilities are required to complete a health screening questionnaire prior to reporting for in-person work.

This policy includes:

- [Definitions](#) of terms used in this Order.
- Employee and Contractor Daily [Health Screening and Response Requirements](#) for In-Person Workers.
- [Procedures for Completing the Screening Questionnaire, Temperature Check when required, and Verification Process.](#)
- Screening requirements for [departments responsible for Individuals](#) in the Care or Custody of Milwaukee County.

If you have questions about this, or any other AO or policy, please contact your Human Resources Business Partner.

I. Definitions

A. Close Contact:¹ A person with Close Contact is someone who:

- i. Was within 6 feet of an infected person for a cumulative total of 15 minutes or more over a 24-hour period starting from 2 days before illness onset (or, for an asymptomatic infected person, 2 days prior to test specimen collection) until the time the infected person is isolated. This is the definition **regardless of whether face masks or personal protective equipment (PPE) were worn by any or all individuals**; and/or
- ii. Provided care at home to an infected person; and/or
- iii. Had direct physical contact with an infected person (touched, hugged, or kissed them); and/or
- iv. Shared eating or drinking utensils with an infected person; and/or
- v. Got respiratory droplets (for example, was sneezed or coughed on) on them from an infected person.

B. Confirmed Case of COVID-19: A case of COVID-19 that has been confirmed through a positive test for COVID-19 or, in the absence of testing, has been confirmed by a medical professional as being a suspected case of COVID-19 based on symptoms.

¹ For employees at work in a healthcare or medical setting, Close Contact does not qualify if the CDC-recommended PPE was used when job duties were performed.

- C. Contractor:** For the purpose of this order a Contractor is an individual working alongside County employees as part of the overall County workforce.
- D. Critical Infrastructure Worker:** The CDC defines a Critical Infrastructure Worker as one needed to deliver critical services, including law enforcement, transportation, 911 call center response, and others. See the [CDC guidelines](#)² for a complete list. For this administrative order, department heads may consider essential workers under the umbrella of Critical Infrastructure Workers and follow relevant policies and procedures accordingly.
- E. Exposure to COVID-19 (Exposure):** Any form of Close Contact (see A. above) with an individual with a Confirmed Case of COVID-19 during the last 14 days.
- F. Green Status:** An individual who has no Symptoms (see N. below) and has had no Exposure (see E. above).
- G. High-Risk Facility:** Any facility operated by Milwaukee County that houses individuals for eight hours or longer, including the Criminal Justice Facility (Jail), House of Correction, Behavioral Health Services inpatient hospital, and the Children, Youth and Family Services youth detention center.
- H. Person in Care or Custody:** Anyone who is legally under the care of Milwaukee County, including those in detention, in jail, or in a medical care facility, and for whom Milwaukee County has a custodial responsibility.
- I. Public Safety Officers (PSOs):** Security staff stationed at public entrances at the County Courthouse complex, the Vel Phillips Juvenile Justice Center, and Zoofari who screen individuals seeking entrance to the facilities.
- J. Red Status:** An individual who, at the time of screening, has at least one Symptom (see N. below) and/or has had Exposure (see E. above).
- K. Screening Questionnaire:** A survey designed to assess whether an individual has Symptoms or has had Exposure. The current version of the Screening Questionnaire is posted with Administrative Orders on the County's [website](#).
- L. Screening Tool:** An online tool that allows County employees and Contractors to access the Screening Questionnaire to self-assess for Symptoms and for Exposure. The Screening Tool may be accessed using any device that can connect to the Internet, including smart phones, personal computers, and tablets. The Screening Tool may be accessed at: <https://county.milwaukee.gov/EN/COVID-19/MKE-Health-Screen>
- M. Social Distancing:** Maintaining a distance of six feet or more between individuals.³
- N. Symptoms Compatible with COVID-19 (Symptoms):** The following symptoms may be symptoms of COVID-19 if they are new or uncommon for an individual:
- i. Feverish or temperature of 100.4⁰F (38⁰C)⁴ or higher
 - ii. Chills
 - iii. Nausea or vomiting
 - iv. Diarrhea
 - v. New shortness of breath or difficulty breathing
 - vi. New congestion or runny nose

² <https://www.cdc.gov/coronavirus/2019-ncov/community/critical-workers/implementing-safety-practices.html>

³ For more details, see Administrative Order 20-4 In-Person Workers: Social Distancing and Symptomatic Employees and Contractors.

⁴ Note: Throughout this order, healthcare workers working in a medical setting should follow the CDC guidelines of fever being a temperature of 100.0⁰F or higher.

- vii. New loss of taste or smell
 - viii. New sore throat
 - ix. New cough
 - x. Headache that is new or different
 - xi. Unexpected fatigue
 - xii. Unexpected muscle or body ache
- O. Visitor:** Any individual seeking entry to a Milwaukee County facility, grounds, or workplace, excluding Milwaukee County employees, Contractors, and Persons in Care or Custody.

II. Employee and Contractor Daily Health Screening and Response Requirements

All employees and Contractors working at High-Risk Facilities **must screen** for Symptoms and for Exposure **on each day they are working in-person**, and the screening must be completed before or upon entrance to the work site. Only employees with Green Status may report for in-person work, and departments or PSOs must confirm each employee's Green Status prior to the employee starting work.⁵

In general, employees should complete their Health Questionnaire at home prior to reporting for in-person work to minimize the spread of COVID-19 in the workplace. The daily health screen should not be taken as medical advice; employees with questions about any symptoms they are experiencing should consult their medical provider.

A. Requirements for Employee and Contractor Daily Screening

This section establishes the screening requirements for employees, Contractors, departments, and facility managers of the County's High-Risk Facilities. Procedures for how to complete and verify these requirements are detailed in the sections that follow.

- i. It is the responsibility of all employees and Contractors who work in High-Risk Facilities to complete the Screening Questionnaire using the Screening Tool on each day they are working in person. The Screening Questionnaire should be completed at home, prior to reporting to the job site.⁶
- ii. Prior to starting in-person work, all employees must be verified as Green Status based on the results of the Screening Questionnaire.
- iii. Employees who are teleworking are encouraged to monitor for Symptoms and Exposures but are not required to complete the Health Questionnaire unless their Department requires them to do so.
- iv. Departments cannot set screening standards that are less restrictive than those outlined in this AO, but they may set standards that are more restrictive. For instance, they may require all employees to self-screen, rather only those who are reporting for in-person work, or they may set a lower standard for fever if advised by the CDC for their specific line of work. They may also continue temperature screening based on industry-specific recommendations.

⁵ Note that the one exception is for Critical Infrastructure Workers who screened RED due to Exposure and have been told by a manager to follow adapted quarantine procedures and report to work as long as they have no Symptoms Compatible with COVID-19 (See Administrative Order 20-7, Section V).

⁶ See Section III.A.ii for procedures when an employee may not have access to the Screening Tool.

- v. Departments shall, at minimum, use the questions in the County's Screening Questionnaire without altering the wording. Any changes to the Screening Questionnaire will be made centrally based on input from public health experts.
- vi. The time employees spend completing the Screening Questionnaire, as well as the temperature screen, is **not** compensable time.

B. Responding to and Reporting Results of Health Questionnaire and Temperature Screenings

This section outlines the requirements for employees, Contractors, and managers for interpreting, and in the case of Red Status, responding to, the results of the health screening for employees who are reporting for in-person work.

- i. **Red Status Requirements:** If employees or Contractors screen as Red Status, that is, they ARE experiencing any one or more Symptoms and/or have had Exposure, they should:
 - a) Stay home or return home and not report for in-person work (Note: in the case of Exposure, this procedure may vary for Critical Infrastructure Workers; see Section II.B.i.d below).
 - b) Notify their manager immediately of their Red Status, using the department-approved notification system. Note that employees **are required** to report whether they are reporting Red Status for Symptoms and/or for Exposure, but they **do not** need to disclose the specific Symptom(s). Managers may ask follow-up questions about the nature of an Exposure to determine if it happened in the work setting to determine whether additional contact tracing among the workforce is necessary.
 - c) Work remotely, if possible.
 - d) Follow the instructions in HR policy: Responding COVID-19:
 - **With Symptoms** should follow Section III.
 - **With Exposure** should follow the instructions in Section
- ii. **Green Status Requirements:** If employees or Contractors are Green Status for Symptoms and for Exposure, they should report to work as scheduled.

III. Procedures for Completing the Screening Questionnaire

All High-Risk Facility managers must verify each day that all employees scheduled to work in person have been screened for COVID-19 Symptoms and Exposures prior to employees starting in-person work duties. High-Risk Facility managers may accomplish this screening in a variety of ways depending on the work location, available technology, and environmental or operational risk factors. In general, such facilities should make every effort to ensure employees use the Screening Tool to help with data collection across the workforce and to support any centralized changes to the Health Questionnaire based on new CDC guidance or operational needs.

A. Completing the Screening Questionnaire Using the Screening Tool

- a) Employees may use work or personal devices connected to the Internet, including cell

- phones, tablets, or personal computers, to complete the Screening Questionnaire.⁷
- b) The Screening Tool will display either Green Status or Red Status based on the individual's reported Symptoms and Exposure.
- The Screening Tool will inform employees with Green Status to report to work as scheduled.
 - Employees with Red Status will be informed to stay home and contact their supervisor. The Screening Tool will also direct employees to the Responding to COVID-19 policy for specific instructions.
- c) The Screening Tool will create a daily employee status badge and time stamp based on the results of the employee self-assessment.
- If both Symptoms and Exposure are Green, then the status badge will be Green.
 - If either Symptoms or Exposure is Red, or if both Symptoms and Exposure are Red, then the status badge will be Red.
 - **The time stamp must be within the 12-hour period before the individual is presenting their status badge for verification to be valid for the employee's shift.** For example, an employee starting work on a Tuesday at 9 a.m. must have completed their Health Questionnaire and temperature screening after 9 p.m. on Monday. Employees are encouraged to take the Health Questionnaire and their temperature as close to the start of their shift as possible.
- d) Departments should have the necessary procedures in place to verify the Green Status of each employee scheduled to work in person prior to starting their shift.
- Employees working at locations with Public Safety Officers (PSOs) at entry (the Courthouse Complex, Vel Phillips Juvenile Justice Center,) will display their status badge to the PSO along with their County ID. No additional verification by departments operating within these facilities is needed for employees able to display their Green Status to PSOs.⁸
 - Employees working at all other in-person locations shall verify their Green Status and time stamp as outlined in department procedures. This may include:
 - Employees showing their Green badge and time stamp to a department recorder located at the entrance to a facility or department suite, or
 - Employees showing their Green badge and time stamp to a manager upon arrival, or
 - Employees certifying their status on a [log sheet](#) that is verified by a manager, or
 - Departments implementing supervisor reporting from the Screening Tool for immediate notification of Red Status for employees and for daily screening reports at the start of every shift (see (h) below).
- e) Departments with employees who report directly to a job site must ensure that manager reporting from the Screening Tool is implemented for immediate notification of Red Status for employees and for daily screening reports at the start of every shift (see (h) below).

⁷ Note: Departments may choose to provide County cell phones to employees who do not have personal devices; in these cases, Departments should plan to cover the monthly cost of the device and may need to provide employee training in the use of such devices.

⁸ Note: If employees entering these facilities are using entrances not staffed by Public Safety Officers, departments will need to establish and enforce local verification protocol.

- f) Departments are responsible for communicating notification policies for employees who screen as Red Status, including:
- Whom to notify
 - How to notify (phone, email, text)
 - Time to notify (for example, no later than two hours before start of shift)
 - What to communicate (e.g., “I screened Red for Symptoms” or “I screened Red for Exposure”)

B. Procedures for Employee Screening Questionnaire When the Screening Tool Cannot be Accessed

Departments should try to overcome any technology barriers employees face in using the Screening Tool, as the Screening Questionnaire is likely to be updated when CDC guidance changes. In addition, the Screening Tool allows the County to track Symptoms and Exposures at the Department and Division level to inform risk mitigation strategies.

If significant technology barriers prevent an employee or employee group from using the Screening Tool, department leaders may administer either verbal or hard-copy versions (see County [website](#) for printable version) of the Health Questionnaire while they work to overcome technology barriers.

IV. Screening Requirements for Persons in Care or Custody

Any County unit with Persons in Care or Custody should be given a full health screening (Health Questionnaire and Temperature Screening) at the time of intake and before any transfer is made within the facility or to a new facility, at minimum. The Health Questionnaire may be administered verbally, in hard copy, or electronically, at the discretion of the department.

Departments must have protocols in place, in accordance with CDC and State guidelines for their industry, to inform procedures for quarantining and isolation of Persons in Care or Custody. The ROSC will work individually with departments operating congregate and long-term care facilities on such protocols.



Department of Human Resources
Procedures for Responding to COVID-19
Version 1.0 – **April 1, 2022**

While the instance and severity of COVID-19 has declined, COVID-19 remains a serious health risk and Milwaukee County remains committed to practices to reduce its impact on our employees, those we serve, and our community. This policy of the Human Resources Department outlines the steps that employees, managers, and visitors to our facilities should take whenever individuals:

- Contract cases of COVID-19, or
- Experience symptoms of COVID-19, or
- Have been exposed to COVID-19.

Version 1.0 of this Human Resource policy includes these sections:

1. [Definitions](#)
2. What to do when an employee, contractor, or recent visitor has a [Confirmed Case of COVID-19](#).
3. What to do when an employee reports to work with [Symptoms of COVID-19](#), develops Symptoms while at work, or calls in sick with Symptoms, or when a contractor or visitor to a County location exhibits Symptoms.
4. What to do when an employee has [Exposure](#) to a person with a Confirmed Case of COVID-19.
5. What to do when a [Critical Infrastructure employee](#) has Exposure to a person with a Confirmed Case of COVID-19.
6. Isolation and Quarantine [Guidance](#).

If you have questions about this, or any other Administrative Order or policy, please email: COVID-19@milwaukeecountywi.gov.

I. Definitions

A. Close Contact:¹ A person with Close Contact is someone who:

- i. Was within 6 feet of an infected person for a cumulative total of 15 minutes or more over a 24-hour period starting from 2 days before infected person's illness onset (or, for an asymptomatic infected person, 2 days prior to test specimen collection) until the time the infected person is isolated. This is the definition **regardless of whether face masks or personal protective equipment (PPE) were worn by any or all individuals**, and/or
- ii. Provided care at home to an infected person; and/or
- iii. Had direct physical contact with an infected person (touched, hugged, or kissed them); and/or
- iv. Shared eating or drinking utensils with an infected person; and/or

¹ For employees at work in a healthcare or medical setting, Close Contact does not qualify if the CDC-recommended PPE was used when job duties were performed.

- v. Got respiratory droplets (for example, was sneezed or coughed on) on them from an infected person.
- B. Confirmed Case of COVID-19:** A case of COVID-19 that has been confirmed through a positive test for COVID-19.
- C. Critical Infrastructure Worker:** The CDC defines a Critical Infrastructure Worker as one needed to deliver critical services, including law enforcement, transportation, 911 call center response, and others. For this policy, department heads may identify essential workers under the umbrella of Critical Infrastructure Workers and follow relevant policies and procedures accordingly.
- D. Exposure to COVID-19 (Exposure):** Any form of Close Contact (see A. above) with an individual who has a Confirmed Case of COVID-19 during the last 14 days.
- E. Fully Vaccinated:**
- i. An individual has received two vaccinations in a two-dose vaccine series or one vaccination in a single-dose vaccine, AND
 - ii. Two weeks or more have passed since the individual received the final dose,
- F. High-Risk Facility:** A congregate living facility operated by Milwaukee County, including the House of Correction; the jail within the Criminal Justice Facility operated by the Milwaukee County Sheriff; and, within the Department of Health and Human Services (DHHS), the Children, Youth, and Family Services (CYFS) Detention Center and the hospital operated by the Behavioral Health Services (BHS).
- G. Isolation:** [Isolation](#) keeps **someone who is infected** with the virus away from others, even in their home.
- H. KN-95 Mask.** For this order, N-95 and KN-94 masks are equivalent to KN-95 and may be used interchangeably. If these masks are not available, multiple-ply disposable masks, sometimes referred to as “surgical,” masks, may be substituted until a KN-95 or its equivalent can be obtained.
- I. Not Up to Date with Vaccinations:** Individuals who:
- i. Have not received the second shot of a two-dose vaccine despite being eligible for a second shot (more than 3 weeks since initial Pfizer vaccination or since the initial Moderna vaccination) OR
 - ii. Have not received a booster shot despite being eligible for a booster (more than two months since single dose of Johnson & Johnson vaccination or more than five months since second dose of Pfizer or Moderna vaccination)
- J. Person in Care or Custody:** Anyone who is legally under the care of Milwaukee County, including those in detention, in jail, or in a medical care facility, and for whom Milwaukee County has a custodial responsibility.
- K. Persons Recovered from COVID-19 in the Past Three Months:** An individual who received a positive test within the past Three Months where the date of the test is Day 0, who has completed the required Isolation period, and who no longer has Symptoms.
- L. Quarantine:** [Quarantine](#) keeps **someone who has been exposed** to the virus away from others.
- M. Side Effects from COVID-19 Vaccine (Side Effects).** A set of reactions that are commonly experienced following a vaccination dose. In the 72 hours following a COVID-19 vaccine dose, including booster dose, individuals may experience fever, chills, headache, fatigue, muscle and body aches, and soreness at the injection site.

- N. Symptomatic Individual:** Any person in a County facility who has Symptoms Compatible with COVID-19. This could include employees, contractors, visitors, or people in the County’s Care or Custody.
- O. Symptoms Compatible with COVID-19 (Symptoms):** Symptoms may appear from 2 to 14 days following exposure. Also see the [CDC self-check tool²](#) for identifying COVID-19 symptoms. The following symptoms may be symptoms of COVID-19 if they are new for an individual or are not commonly experienced. Note that **in the 72 hours following a dose of COVID-19 vaccine**, common side effects of the vaccines may mimic some COVID-19 Symptoms but should be treated as Side Effects, not Symptoms, as indicated below.

COVID-19 Symptom or Vaccine Side Effect?	Outside Vaccination Window³	Within 72 hours of receiving vaccination
Feverish or temperature of 100.4 ⁰ F (38 ⁰ C) ⁴ or higher ⁷	COVID-19 Symptom	Side Effect; normal response to vaccine – BUT need to stay home until 24 hours after fever ends (without use of fever-reducing drugs)
Chills	COVID-19 Symptom	Side Effect; normal response to vaccine – Go to work, if able
Headache that is new or different for you	COVID-19 Symptom	Side Effect; normal response to vaccine – Go to work, if able
Unexpected fatigue	COVID-19 Symptom	Side Effect; normal response to vaccine – Go to work, if able.
Unexpected muscle or body aches	COVID-19 Symptom	Side Effect; normal response to vaccine – Go to work, if able
Soreness at site of injection	(not applicable)	Side Effect; normal response to vaccine – Go to work, if able
Diarrhea	COVID-19 Symptom	COVID-19 Symptom; follow procedures in Section III
Nausea or vomiting	COVID-19 Symptom	COVID-19 Symptom; follow procedures in Section III
New shortness of breath or difficulty breathing	COVID-19 Symptom	COVID-19 Symptom; follow procedures in Section III
New congestion or runny nose	COVID-19 Symptom	COVID-19 Symptom; follow procedures in Section III
New loss of taste or smell	COVID-19 Symptom	COVID-19 Symptom; follow procedures in Section III
New sore throat	COVID-19 Symptom	COVID-19 Symptom; follow procedures in Section III
New cough	COVID-19 Symptom	COVID-19 Symptom; follow procedures in Section III

- P. Test for COVID-19:** Two tests are commonly used to diagnose COVID-19: PCR (polymerase chain reaction) tests and rapid (or antigen) tests. Both are used to determine if the virus that causes COVID-19 is currently present in an individual.

² <https://www.cdc.gov/coronavirus/2019-ncov/symptoms-testing/symptoms.html>

³ The Vaccination Window is the 72 hours following any COVID-19 vaccination.

⁴ Note that the threshold for fever in healthcare workers is a temperature of 100.0⁰F.

- i. PCR tests, which are analyzed in laboratories and usually take from one to three days for results, are highly accurate and considered the “gold standard” test.
 - ii. Rapid tests may be analyzed outside labs and may yield results as soon as a few minutes after testing. Rapid tests are most accurate in identifying positive cases of COVID-19 when symptoms are present; negative rapid test results may be less conclusive. For more information, visit the [CDC website](#).
 - iii. Note that antibody tests are blood tests that determine if an individual has had a past infection of COVID-19 but are not used to diagnose current infections.
- Q. Unvaccinated:** Individuals who have not received any dose of COVID-19 vaccine. Note that individuals with approved exemptions are considered Unvaccinated for purposes of this order
- R. Up to Date with Vaccinations:** Individuals who have either:
- i. Had a booster shot (a third shot for individuals initially vaccinated with Pfizer or Moderna or a second shot for those initially vaccinated with Johnson & Johnson), OR
 - ii. Been fully vaccinated and are not yet eligible for boosters, that is:
 - a. Have received one dose of Johnson & Johnson vaccine within the past two months OR
 - b. Have received a second dose of the Pfizer or Moderna vaccine within the last five months

II. What to do when an employee, contractor, or recent visitor has a Confirmed Case of COVID-19

This section provides guidance to employees who have a Confirmed Case of COVID-19. It also provides guidance to supervisors of these individuals as well as to managers of facilities where a recent contractor or visitor has a Confirmed Case of COVID-19. In no instance is this guidance meant to replace or override the advice of a medical professional.

NOTE: An individual’s vaccination status does not affect the required responses if the individual contracts a Confirmed Case of COVID-19. The variables that affect these requirements are 1) whether the individual develops Symptoms and 2) where the individual works.

A. For Employees with Confirmed Case of COVID-19

- i. If an employee has a Confirmed Case of COVID-19, they should notify their supervisor immediately and identify areas of the County facility(s) where they spent 15 minutes or more over the last 48 hours.
- ii. The employee should provide to their supervisor confirmation of their positive test result or confirmation from medical personnel of the Confirmed Case of COVID-19 as soon as it can be reasonably obtained.
- iii. Medical advice to the employee should come from a medical doctor or public health authority.
- iv. The employee should follow the [guidance on isolation](#) from the CDC as well as Section VI (Isolation and Quarantine Guidance).

- v. If telework is possible, isolating employee may telework. If telework is not an option, employee may use Expanded Paid Sick Leave (EPSL) Bank if eligible and the Bank is available.

B. Department Leader or Supervisor Immediate Actions

- If a department leader or supervisor is notified that an employee, contractor, or recent visitor to the facility has a Confirmed Case of COVID-19, then, as possible, the leader or supervisor should immediately evacuate and section off⁵ areas that the individual with the Confirmed Case of COVID-19 has occupied for 15 minutes or more over the past 48 hours (for example, the individual's office, shared work areas, kitchen area). Where possible, the areas should remain sectioned off for 24 hours before cleaning or disinfecting.
- The department leader or supervisor should ensure that areas occupied by the individual with COVID-19 for 15 minutes or more in the last 48 hours are cleaned or disinfected in accordance with [CDC standards](#). This may be accomplished by contacting the department's facilities management team via a service request⁶ or by arranging directly for cleaning or disinfecting.
 - a) In the case of a facilities service request, the requestor should provide the following information (as known and available):
 - This is a COVID-19 Confirmed Case alert, with request for disinfectant cleaning.
 - The point of contact within the department.
 - The location of the potentially infected areas (for example, Courthouse, Suite ####).
 - The time that the person with a Confirmed Case of COVID-19 was last in the space.
 - Whether or not the potentially infected areas have been sectioned off.
 - b) For departments without direct access to a facilities management team, the department should follow closely the [CDC guidance](#) for cleaning or disinfecting facilities, including:
 - Opening outside doors and windows, if possible, to increase air circulation in these areas.
 - Waiting 24 hours, or as long as is practical, since last occupancy by the person with COVID-19 before cleaning or disinfecting sectioned off areas.
 - Cleaning or disinfecting all areas used by the person with COVID-19, focusing especially on frequently touched surfaces.
 - Vacuuming should not be done in the first 24 hours. Afterwards, when needed, vacuuming should be done when the area is unoccupied and using a high-efficiency particulate air (HEPA) filter vacuum (if available) and with any fans or ventilation systems turned off (if possible).

⁵ Set up a temporary barrier so people do not enter the space. This could include closing doors, posting signs, putting up tape, or any other signal to people not to enter.

⁶ For those departments and facilities that are cleaned by Milwaukee County contractor ABM, please log into the ABM Customer Service Request Portal and enter a work order request for a COVID-19 deep cleaning.

- c) Once any space occupied by the individual with COVID-19 has been appropriately cleaned or disinfected, it may be reopened for use.
- Supervisors should, as possible, identify employees, contractors, and Persons in Care or Custody who had Exposure to the individual with the Confirmed Case of COVID-19 in the 48 hours prior to the onset of symptoms through the time of the positive test or medical confirmation.
- If the individual with the Confirmed Case of COVID-19 is asymptomatic, identify people who had Exposure to the individual in the 48 hours prior to the time the test specimen was collected.
 - a) All employees with Exposure should follow the procedures in Section IV. Exposed Critical Infrastructure Workers should follow the adapted quarantine procedure outlined in Section V as directed by their Department Head or designee.
 - b) Persons in the Care or Custody with Exposure should be Quarantined for 14 days or should follow public health guidelines for their facility type.
- Note that the press should never be contacted about individuals who have a Confirmed Case of COVID-19, which would violate confidentiality and County policy. Departments should refer any press inquiries to the County Executive's Office.

C. Return to Work Procedure for Employees with a Confirmed Case of COVID-19

- i. Unless otherwise directed by their health care provider, employees with a Confirmed Case of COVID-19 should follow these guidelines and procedures for returning to work:
 - a) **Employees with a Confirmed Case of COVID-19 who developed Symptoms** and were directed to isolate themselves at home may return under the following conditions:
 - i. At least 10 days have passed since symptom onset, **and**
 - ii. At least 24 hours have passed since resolution of fever without the use of fever-reducing medications, **and**
 - iii. Other symptoms have improved.
 - b) **Employees with a Confirmed Case of COVID-19 who never developed Symptoms**
 - i. If Employed at a High-Risk Facility AND if manager has notified individual of a critical staffing shortage
 - a) Must isolate for 5 days, where day of diagnosis is day 0
 - b) Must have rapid (or antigen) test for COVID-19 on Day Six
 - i. If rapid test is negative, may return to work but must wear KN-95 mask or mask required by department for days 6 through 10 and follow the County's mask order thereafter
 - ii. If rapid test is positive, should isolate for remainder of 10 days
 - ii. If Employed in Critical Infrastructure role as confirmed by manager but NOT in a High-Risk Facility
 - a) Must isolate for 5 days, where day of diagnosis is day 0
 - b) If experiencing no symptoms including no fever, may return to work on day 6 but must wear KN-95 mask or mask required by department for days 6 through 10 and follow the County's mask order thereafter

- c) A rapid (or antigen) test for COVID-19 is strongly recommended but not required
 - iii. If Employed outside High-Risk Facilities with critical staffing shortage and outside Critical Infrastructure role
 - a) Must observe 10-day isolation for confirmed case of COVID-19. May return to work on day 11. No testing is required.
- ii. Note that a negative test for COVID-19 **is not** required to return to work after 10 days of isolation.
- iii. Individuals with Confirmed Cases of COVID-19 must provide evidence of positive test results or documentation from a doctor or medical professional confirming the case of COVID-19 prior to returning to work.

III. What to do when an employee calls in sick with Symptoms, reports to work with Symptoms, or develops Symptoms while at work, or when a contractor or visitor to a County location exhibits Symptoms while at a County location

Public health officers are confident that the number of people with COVID-19 is higher than the number of known positive cases. While Symptoms Compatible with COVID-19 are an imperfect proxy for someone being infected, Symptoms can be used to inform preventative measures to contain the spread of the virus. The guidelines below are consistent with recommendations from local public health officers to help contain spread in Milwaukee County.

Note: Individuals may experience common Side Effects within 72 hours of receiving a dose of COVID-19 vaccine, and these Side Effects are NOT Symptoms of COVID-19. See the definition of Symptoms in Section I.D for a list of common side effects of COVID-19 vaccinations and for instructions on responding to Side Effects.

Departments with Persons in Care of Custody should follow CDC and state guidance for responding to Symptomatic Individuals in the County’s care.

A. Employees, Contractors, or Visitors with Symptoms

If employees experience any Symptoms, they should stay at home or, if at work, return home following the immediate directions below. Any Symptomatic contractors or visitors should also return home immediately, following this guidance.

- i. **Immediate Directions to Symptomatic Individuals, including Symptomatic contractors or visitors, in the Workplace**
 - a. The Symptomatic Individual should stay 6 feet away from other people at all times.
 - b. The Symptomatic Individual should wear a face mask over their nose and mouth to help prevent the spread of germs.
 - c. The Symptomatic Individual should avoid touching equipment and furniture, as much as possible, and should not move around the workspace.
 - d. The Symptomatic Individual should be sent home as soon as possible.
 - e. The Symptomatic Individual should continue to wear a mask and practice physical distancing until they reach their residence or Isolation area. Modes of transportation for the Symptomatic Individual to get to their residence are prioritized below, starting with the top recommendation:

- Personal transportation.
 - A ride with a member of their household.
 - A ride with a family member or friend.
- f. Once outside the workplace the Symptomatic Individual should go to their residence and Isolate.
- ii. **Directions to Symptomatic Employees Once Isolating**
- a. Symptomatic Individuals should notify their supervisor immediately if the Symptoms emerged outside the workplace.
 - b. Symptomatic Individuals should report to a supervisor any area of the County facility(s) where they spent 15 minutes or more over the past 48 hours.
 - c. **Symptomatic Individuals who do not telework full time must be tested for COVID-19 immediately.**
 1. **Employee should have a PCR test for COVID-19 as soon as possible and no later than one (1) business day from the onset of Symptoms.**⁷ If employee fails to be tested in a timely manner, they may be required to use their personal leave for time off required to accommodate the delay.
 2. Employee should Isolate while test results are pending (see Section VI).
 3. Supervisors may ask for confirmation that the employee has scheduled or registered for testing to ensure the employee completes the testing in a timely manner.
 4. Employee should provide their test results to their supervisor as soon as results are available. If employee tests positive, follow procedures in Section II. If negative, follow return to work procedures in this section (see Section III.C).
 5. If possible, employee should telework until they are cleared to return to work (see Section III.C). If telework is not an option, employees may use EPSL Bank if eligible.
 - d. **Symptomatic individuals who telework full time are encouraged, but not required, to get tested.**
 - e. Employees who are symptomatic and seeking testing are encouraged to document people they have been in Close Contact with in the 48 hours prior to the start of their Symptoms to inform contact tracing efforts should they test positive.⁸
 - f. Employees who have Symptoms AND who have had Exposure to someone with a Confirmed Case of COVID-19 should follow procedures in Section IV. and immediately seek out testing.

B. Department Leaders or Supervisors Immediate Actions

When a supervisor is notified of a Symptomatic Individual in the workplace, the supervisor should immediately confirm that this individual has Symptoms Compatible with COVID-19. **Supervisors have the right to ask employees, contractors, or members of the public about how they are feeling as it relates to COVID-19 Symptoms. They should wear a mask and maintain 6 feet of distance when asking questions.**

⁷ Community-based testing locations can be found [here](https://www.healthymke.com/testing) (https://www.healthymke.com/testing).

⁸ Note that when an individual has Close Contact with a Symptomatic Individual, the individual with Close Contact does NOT need to self-quarantine; quarantining is only required for individuals with Close Contact with Confirmed Cases of COVID-19.

Once a supervisor has confirmed that the Symptoms are Compatible with COVID-19, the department leader or supervisor should take the following immediate actions:

- Evacuate and section off⁹ areas that the Symptomatic Individual has occupied for 15 minutes or more over the past 48 hours (for example, the individual’s office, shared work areas, kitchen area). Where possible, the areas should remain sectioned off for 24 hours since last contact with the Symptomatic Individual before cleaning or disinfecting.
- Ensure that areas occupied by the Symptomatic Individual for 15 minutes or more in the last 48 hours are cleaned or disinfected in accordance with [CDC standards](#). This may be accomplished by contacting the department’s facilities management team via a service request¹⁰ or by arranging directly for disinfection or cleaning.
 - a. In the case of a facilities service request, the requestor should provide the following information (as known and available):
 - This is a COVID-19 Symptomatic Individual alert, with request for cleaning or disinfecting.
 - The point of contact within the department.
 - The location of the potentially infected areas (for example, Courthouse, Suite ###).
 - The time that the Symptomatic Individual was last in the space.
 - Whether or not the potentially infected areas have been sectioned off.
 - b. For departments without direct access to a facilities management team, the department should follow closely the [CDC guidance](#) for cleaning or disinfecting facilities, including:
 - Opening outside doors and windows, if possible, to increase air circulation in these areas.
 - Waiting 24 hours, or as long as is practical, since last occupancy by Symptomatic Individual before cleaning or disinfecting sectioned off areas.
 - Cleaning or disinfecting all areas used by the Symptomatic Individual, focusing especially on frequently touched surfaces.
 - Vacuuming should not be done in the first 24 hours. Afterwards when needed, vacuuming should be done when the area is unoccupied and using a high-efficiency particulate air (HEPA) filter vacuum (if available) and with any fans or ventilation systems turned off (if possible).
 - c. Once any space occupied by the Symptomatic Individual has been appropriately cleaned or disinfected, it may be reopened for use.
- Local health departments **do not** need to be notified of a Symptomatic Individual.

⁹ Set up a temporary barrier so people do not enter the space. This could include closing doors, posting signs, putting up tape, or any other signal to people not to enter.

¹⁰ For those departments and facilities that are cleaned by Milwaukee County contractor ABM, please log into the ABM Customer Service Request Portal and enter a work order request for a COVID-19 deep cleaning.

C. Return to Work Procedure for Employees with Symptoms of COVID-19 Only (no Exposure)

Keep in mind that within 72 hours of receiving a COVID-19 vaccination, individuals may experience Side Effects that mimic Symptoms of COVID-19. See Section I.O to distinguish between Symptoms and Side Effects. This section addresses return to work following Symptoms of COVID-19. Please note that the logic in the County's [Health Screening Questionnaire](#) distinguishes between vaccine Side Effects and COVID-19 Symptoms to support the correct interpretation of return-to-work policy.

- i. **Symptomatic Individuals who do not telework full time:** Before a Symptomatic employee may return to in-person work, the following must be true:
 - a. The supervisor must have documentation of negative test results from the employee, **AND**
 - b. The employee must be symptom free for 24 hours. If the symptom was fever, this means at least 24 hours of a temperature below 100.4 degrees without the aid of fever reducers such as aspirin or acetaminophen.
- ii. **Full-time telework employees:** Symptomatic employees should either telework or if unable to work use Extended Paid Sick Leave (EPSL) if available or use sick time, per department policies.

IV. What to do when an Employee has Exposure to a Person with a Confirmed Case of COVID-19

It is an employee's responsibility to notify their supervisor immediately if they have had Exposure to someone with a Confirmed Case of COVID-19, including a member of their household with a Confirmed Case of COVID-19.

This section includes **procedures for**

- Exposed employees who are Up to Date with Vaccination (Section IV.C.i)
- Exposed employees who have Recovered from a Confirmed Case of COVID-19 in the past three months (Section IV.C.ii)
- Exposed employees who are Not Up to Date with Vaccinations or are Unvaccinated (Section VI C.iii)

B. Employees who have been Exposed

- i. Employee **should not** report for in-person work until they meet the required return to work procedures in Section IV.D.
- ii. Employee should notify their supervisor immediately.
- iii. If telework is possible, employee with Exposure should telework. If telework is not an option, employees may use EPSL Bank if eligible and if the Bank is available.

C. Department Leaders or Supervisors Immediate Actions

When a supervisor is notified that an employee has had Exposure to a person with a Confirmed Case of COVID-19, or that a household member of an employer has COVID-19, no specific actions are required of the supervisor beyond requiring the Exposed employee(s) to Quarantine (no Symptoms) or Isolate (with Symptoms).

- Local health departments **do not** need to be notified that the employee has had Exposure to COVID-19.
- Unless the employee develops Symptoms or has a Confirmed Case of COVID-19, the supervisor does not need to request special cleaning or notify other employees.

D. Procedure for Employees with Exposure Only (no Symptoms)

The procedures in this section cover three categories of employee Exposure.

i. Employees who are Up to Date with Vaccinations and who have been Exposed

Persons who are Up to Date with Vaccinations and who are Exposed to COVID-19 **DO NOT** need to Quarantine and may return to work immediately so long as they:¹¹

- Meet the definition of Up to Date with Vaccinations (see Section I.Q); **AND**
- Have no current Symptoms; **AND**
- Wear a KN-95 mask, or if unavailable, a disposable surgical-type mask indoors in all public places, including work areas where other people are present; **AND**
- Are tested for COVID-19 using a PCR test on day 6, where day 0 is the day on which they were Exposed.
 - If test results are positive**, they should follow the procedures outlined in Section II of this order, or
 - If test results are negative**, they should wear a KN-95 or specialty mask designated by department for days 1 to 10 and, afterwards, follow the County’s masking requirements in Universal Face Mask Policy and Procedures Administrative Order 20-14.¹²

ii. Employees Recovered from COVID-19 in the Past Three Months who have been Exposed

Persons who have recovered from COVID-19 in the past three months and who are Exposed to COVID-19 **DO NOT** need to Quarantine and may return to work immediately so long as they:¹³

- Meet the definition of Up to Date with Vaccinations (see Section I.Q); **AND**
- Have no current Symptoms; **AND**
- Wear a KN-95 mask, or if unavailable, a disposable surgical-type mask indoors in all public places, including work areas where other people are present.

iii. Employees Who are Not Update to Date with Vaccinations, Or Who are Unvaccinated, OR Who have Had COVID-19 but Their Initial Positive Test Result was more than Three Months Ago

- If they have or develop Symptoms, they should:
 - Stay home and isolate, and
 - Notify their supervisor immediately, and
 - Have a PCR test within 24 hours:
 - If the PCR test is positive, they should follow instructions for Confirmed Case of COVID-19 in Section II (above).

¹¹ <https://www.cdc.gov/coronavirus/2019-ncov/vaccines/fully-vaccinated-guidance.html>

¹² <https://county.milwaukee.gov/EN/COVID-19>

¹³ <https://www.cdc.gov/coronavirus/2019-ncov/hcp/duration-isolation.html>

- If the PCR test is negative, they should follow instructions for Symptoms in Section III (above) and may return to work after 24 hours of being Symptom free. They should wear a KN-95 or specialty mask designated by department while at work until Day 10, where the day of Exposure was Day Zero and, afterwards, should follow the County’s face mask policy in Universal Face Mask Policy and Procedures Administrative Order 20-14.¹⁴
- b. If they have no Symptoms, they should:
- i. Notify their supervisor immediately.
 - ii. Stay home and quarantine for five days, where the day of exposure is day zero
 - iii. If telework is possible, Quarantining employee should telework. If telework is not an option, employee may use EPSL Bank if eligible.¹⁵
 - iv. Have a PCR test on day 6
 - If the PCR test is positive, they should follow the instructions for Confirmed Cases of COVID-19 in Section II.
 - If the PCR test is negative, they may return to work on day 6. They should wear a KN-95 or surgical mask at work on days six through ten and, afterwards, follow the County’s current face mask policy.

NOTE: Supervisors do not need a doctor’s note for the quarantined employee to return to work. Supervisors may ask individuals about any Symptoms to be sure the Return-to-Work Procedures are being correctly understood and applied before someone returns to work.

V. What to do when a Critical Infrastructure Employee has been Exposed

Please note that both Individuals who are Up to Date with Vaccinations (Section IV.D.i) and Individuals who have recovered from COVID-19 in the Past Three Months (Section IV.D.ii) who are Exposed to a Confirmed Case of COVID-19 do **not need to** Quarantine, regardless of whether or not they are Critical Infrastructure Workers, as long as they have no Symptoms of COVID-19.

In cases where staffing shortages threaten the delivery of Critical Infrastructure services, then the Department Head or designee may reduce the Quarantine requirements for employees in the following limited circumstances:

- The employee who is Not Up to Date on Vaccinations, is Unvaccinated, or who has recovered from COVID-19 longer than the past three months has had Exposure to an individual with a Confirmed Case of COVID-19, **AND**
- The employee has **no Symptoms** of COVID-19.

Under these circumstances, the Department Head or designee may choose to reduce or eliminate the Quarantine requirements for such individuals following these procedures and guidelines:

¹⁴ <https://county.milwaukee.gov/EN/COVID-19>

¹⁵ Most-recent version of active Administrative Orders can be found on the County website: <https://county.milwaukee.gov/EN/COVID-19>

- A. If staffing levels allow, the quarantine period should be reduced, rather than eliminated, for the exposed employee. Employees should Quarantine for as much of the standard quarantine period as possible.
- B. Critical Infrastructure Workers undergoing an adapted Quarantine are **required to have a PCR on Day 6 after their most-recent Exposure**, where Day 0 is the day of their most-recent exposure.¹⁶
 - i. If staffing levels allow, the asymptomatic employee should Quarantine until they receive their test results.
 - ii. If staffing levels do not allow for an asymptomatic employee with Exposure to Quarantine until test results are received, the asymptomatic employee may continue working following additional modified work standards in Section V.C.
 - iii. Supervisors may ask for confirmation that the employee has scheduled or registered for **PCR testing** in a Day 5-to-7 window to ensure the employee completes the testing in appropriate timeframe. A test prior to Day 5 **does not** meet the requirements of this order and person should be tested again in the appropriate window; a test after Day 7 **does** meet the requirements of this order. A rapid (or antigen) test, as opposed to a PCR test, **does not** meet the testing requirements of this order.¹⁷
 - iv. Employees should report their test results to their supervisor as soon as possible. If positive, follow procedures in Section II immediately. If negative, person may resume reporting to work under an adapted Quarantine following modified work standards in Section V.C.
- C. **Modified Work Standards:** Whenever a Department Head or designee chooses to reduce or eliminate quarantine requirements, the department must institute and/or strictly follow the additional risk mitigation measures for the Exposed employee and for all members of the work unit, to the greatest extent possible, for a duration of 14 days:
 - i. If possible, employees in work unit should wear KN-95 masks or, if unavailable, disposable surgical masks.
 - ii. Operations and work environments should be further adapted to eliminate or minimize Close Contact between the individuals undergoing a shortened quarantine and their co-workers or members of the public. For example, someone may punch in for the Exposed employee at the beginning of the day, enabling the individual to go directly to their workstation.
 - iii. As possible, departments should assign Exposed employees to their own office or workspace, even if this means displacing other employees to mimic a Quarantine environment in the workplace.
 - iv. Limit the use of shared equipment and spaces.

VI. Isolation and Quarantine Guidance

These guidelines are meant to augment instructions provided by the CDC for [isolation](#) and for [quarantine](#).

¹⁶ Community-based testing locations can be found [here](https://www.healthymke.com/testing) (<https://www.healthymke.com/testing>).

¹⁷ <https://www.memorialhealthcare.org/whats-the-difference-between-covid-19-rapid-and-prc-tests/>

- A. **Isolation:** Keeps **someone who is sick or is infected** with the virus away from others, even in their home. When you isolate, you should:
- i. Stay home! This means do not go to school, work, public areas, or attend large gatherings, such as parties, weddings, meetings, and sporting events. If you need medical care, call a health care provider.
 - ii. Call ahead before going to a doctor's office.
 - iii. Monitor your symptoms. If you have an [emergency warning sign](#) such as trouble breathing, seek emergency medical care immediately.
 - iv. Stay in a separate room from other household members, if possible.
 - v. Use a separate bathroom, if possible.
 - vi. Avoid contact with other members of the household and pets.
 - vii. Don't share personal household items, like cups, towels, or utensils.
 - viii. Wear a face mask.
- B. **Quarantine:** Keeps **someone who might have been exposed** to the virus away from others. When you quarantine, you should:
- i. Stay home! This means do not go to school, work, public areas, or attend any gatherings, such as parties, weddings, meetings, and sporting events. If you need medical care, call a health care provider and use telemedicine when possible.
 - ii. Call ahead before going to a doctor's office or any other health care setting.
 - iii. Watch for fever (100.4°F degrees or higher), cough, shortness of breath, or [other symptoms](#) of COVID-19. If you experience symptoms, you should isolate from others.
 - iv. Stay away from others, especially people who are at [higher risk](#) for getting very sick from COVID-19.
 - v. Minimize contact with others in the same household including not sharing bathrooms, kitchens, or other common areas whenever possible.