

**-COUNTY OF MILWAUKEE-**  
INTEROFFICE COMMUNICATION

**AMENDED**

DATE : January 12, 2011  
TO : Supervisor Lee Holloway, Chairman, Board of Supervisors  
FROM : Department of Human Resources  
SUBJECT: Request to amend Milwaukee County General Ordinance (MCGO) 17.207  
Grievance Procedure

**Issue**

The passage of 2011 Wisconsin Act 10 (Budget Repair Bill) and Wisconsin Act 32 (Budget Bill) made all issues except for base wages a prohibited subject of collective bargaining with non-public safety worker unions. Grievance procedures contained in contracts with the Firefighters and the Deputy Sheriffs are not affected by the state law changes or the attached proposal. The County had negotiated, and the labor contracts had contained, a procedure for handling grievances. With the elimination of negotiations with most labor unions regarding grievance procedures, the Budget Repair Bill required local units of government to establish a Civil Service System and/or a grievance procedure system. The County currently has a Civil Service System for all classified employees and has an ordinance on grievances that applies only to non-represented employees.

The attached resolution proposes to make changes to MCGO 17.207 so that it covers both represented and non-represented employees. The grievance procedure is intended to resolve claims or disputes between parties regarding matters related to Chapter 17 of County Ordinances. Matters related to the Civil Service Rules are handled through complaints to the Civil Service Commission.

With respect to discipline matters, state statutes that created the civil service system in Milwaukee County require that a classified employee who is suspended for more than ten days, or for a second time within six months, or whose discharge or demotion is being requested, are entitled to a hearing. Chapter 33 of the County ordinances already provides for that hearing by the Personnel Review Board. Thus, chapter 33 satisfies all of the recent state law requirements for all classified employees related to discipline, demotion or discharge. The recent state law does not require any review hearing for any discipline less than a ten-day suspension. County ordinances have not provided for any such review or appeal for non-represented employees. The attached proposal does not create any review or appeal process for represented employees that is greater than that provided to non-represented employees.

With respect to safety concerns, an amendment to apply the provisions of section 17.207 to all classified employees will address that statutory requirement.

No other amendments are required by state law.

Open lines of communication are essential to employee engagement and the overall level of service by Milwaukee County. We are committed to building and maintaining excellent working relationships between and among all employees, including management. We are working to develop an open communication policy, which will be proposed in the near future. All employees are encouraged to bring questions or concerns about their work responsibilities, environment, disciplinary actions, or general work issues to their supervisor, manager, or Human Resources representative. The grievance procedure outlined below will provide recourse for employees who do not feel their concerns are being heard or addressed.

### **Background:**

Currently, Milwaukee County follows different procedures for grievances depending on the representation of the employee. Included below is an explanation of the current grievance procedures for non-represented employees, and for certain represented employees.

#### *Non-represented Employees:*

MCGO 17.207 currently provides a procedure specifically for:

- Non-represented employees to address grievances concerning the application of wage schedules and provisions relating to hours of work and working conditions; and
- Non-represented employees, students of county-operated or affiliated training programs, or county employees in the unclassified service to address grievances concerning discrimination based on race, sex, age, nationality, political or religious affiliation or handicap.

This procedure may not be used to change existing wage schedules, hours of work, working conditions, fringe benefits and position classifications established by ordinances and rules which are matters processed under existing procedures. All final appeals under MCGO 17.207 may be made to the Personnel Review Board (PRB) for decision.

#### *Represented Employees:*

Collective bargaining agreements provided procedures specifically for matters involving the interpretation, application or enforcement of the terms of the agreement in effect. The procedures, similar to the MCGO 17.207, could not be used to change existing wage schedules, hours of work, working conditions, fringe benefits and position classifications established by ordinances and rules which are matters processed under existing procedures. All appeals under the collective bargaining agreement's procedures were made to an arbitrator.

### **Recommendation**

It is recommended that MCGO 17.207 be amended as follows:

- Adopt language to include ***any employee in the classified service who does not have a grievance process under a current collective bargaining agreement.*** This will create a process for all employees in the classified service while also allowing for grievance procedures in effect under current public safety worker collective bargaining agreements (e.g. deputy sheriffs and firefighters). Upon the effective date of 2011 Wisconsin Act 10 grievance procedures became a prohibited subject of bargaining. The following unions would be covered by the amended section 17.207 as follows:

AFSCME District Council 48	Upon adoption
Association of Milwaukee County Attorneys	Upon adoptions
Milwaukee County Firefighters Association	Not applicable
International Association of Machinists and Aerospace Workers	Upon adoption
Federation of Nurses and Health Professionals Local 5001, AFT, AFL-CIO	January 1, 2013
Milwaukee Deputy Sheriffs' Association	Not applicable
TEAMCO	Upon adoption
Milwaukee Building Construction and Trades Council	Upon adoption

- Consistent with Civil Service Rules, the grievance process will only apply to employees in the classified service. Formerly unionized unclassified employees may follow applicable federal laws, rules and regulations relating to discrimination based on race, sex, age, nationality, political or religious affiliation or handicap. Unclassified employees have the right to pursue claims of discrimination with the Equal Employment Opportunity Commission on the basis of the Civil Rights Act of 1964, as amended, the Americans with Disabilities Act and/or the Age Discrimination in Employment Act. Claims of discrimination may also be filed with the State of Wisconsin, Department of Workforce Development, Equal Rights Division based upon the Wisconsin Fair Employment Act, secs. 111.31 – 111.395 Stats. This would be the only impact of the amendment on employees in the unclassified service. As mentioned earlier, our commitment to building a practice of open communications will further provide unclassified employees avenues to raise concerns. As mentioned earlier, our commitment to building a practice of open communications will further provide unclassified employees avenues to raise concerns.
- The subjects which may be grieved per Act 10 include two: (1) ***issues relating to workplace safety; and (2) matters involving the interpretation, application, or enforcement of the language found in Chapter 17 of the Milwaukee County General Ordinances, where there are no provisions to address such issues.*** Employees governed by this ordinance are encouraged to raise issues concerning the application of wage schedules and provisions relating to hours of work and working conditions to their management or department Human Resources representative. Pursuant to 2011 Wisconsin Act 10, as these issues are no longer mandatory subjects of bargaining. Additionally, matters relating to discrimination based on race, sex, age, nationality, political or religious affiliation or handicap are covered by applicable federal and state laws, rules and regulations. Represented employees have the right to pursue claims of discrimination with the Equal Employment Opportunity Commission on the basis of the Civil Rights Act of 1964, as amended, the Americans with Disabilities Act and/or the Age Discrimination in Employment Act. Claims of discrimination may also be filed with the State of Wisconsin, Department of Workforce Development, Equal Rights Division based upon the Wisconsin Fair Employment Act, secs. 111.31 – 111.395 Stats.
- Provide clarification that the grievance procedure does not cover disciplinary suspensions and oral and written reprimands. All rights related to discipline, demotion and discharge for all classified employees are those currently contained in state statute and Chapter 33 of the ordinances. Represented employees who currently have the ability under a union contract to appeal a suspension of ten days or less to an arbitrator would no longer have that right, since it is not a grievable issue per Act 10. Consistent with past provisions for non-represented employees, there is no provision for an appeal process for suspensions of ten days or less. Instead, our intention is that employees will

escalate such concerns through either management or Human Resources for review and resolution, and they will enjoy the protections of the Civil Service.

- Modify the language to streamline the grievance process from a five-step process to a three-step process. This change would create a more efficient process for all employees. As is currently the case, any employee not satisfied with the decision of the Personnel Review Board would be entitled to seek circuit court review. The modified grievance process would consist of three steps:
  - 1<sup>st</sup> step: Grievance filed with supervisor or designated individual
  - 2<sup>nd</sup> step: Grievance elevated to designated grievance hearing officer
  - 3<sup>rd</sup> step: Grievance elevated to Personnel Review Board

Due to the extensive changes described above, it is recommended that MCGO 17.207 be struck in its entirety and replaced with the language in the attached resolution.

cc: Chris Abele, County Executive  
Joe Sanfelippo, Chairman, Personnel Committee  
Amber Moreen, Chief of Staff, County Executive  
Terrence Cooley, Chief of Staff, County Board  
Jerry Heer, County Auditor  
Steve Cady, County Board Fiscal and Budget Analyst  
Rick Ceschin, County Board Analyst  
Scott Manske, Controller  
Fred Bau, Labor Relations Specialist  
Kerry Mitchell, Interim Human Resources Director  
Candace Richards, Interim Human Resources Deputy Director  
Matthew Hanchek, Interim Director Employee Benefits  
Jacqueline Russell, Employee Relations Manager  
Sue Drummond, Payroll Manager  
Veronica Robinson, Personnel Review Board Executive Director  
Mark Grady, Deputy Corporation Counsel