

Ad Hoc Transition Committee Minutes
August 4, 2011, 9:00 a.m. A231

The meeting was called to order at 9:04 a.m. by Chairman Miller. The meeting was properly announced. Present, Ward, Stuchlak, Johnson, Croke, Cohen, and Miller. Excused, West. Also present, Barnes, Larson, Karen Bays, and Kotlowski.

Motioned by Croke/Sumpter to approve the agenda. Motion carried by unanimous voice vote.

Croke noted corrections to minutes adding d to change, correcting the spelling of burden, stating clearly indicate, clear and convincing evidence, closed session not doors, standard of review and for or on behalf of someone else.

Motioned by Croke/Sumpter to approve July 18th minutes as corrected. Motion carried by unanimous voice vote.

West present at 9:10 a.m.

Discussion and/or act on grievance policy. The following sections had changes and/or modifications as identified below. Work place safety discussion occurred simultaneously.

1. “**Employee**” for purposes of a grievance for Discipline and Termination (as defined in this procedure) means a “regular full-time” and “regular part-time” employee who works at least ~~eighty five (85)~~ **sixty (60)** hours per month as defined by the Adams County Personnel & General Administrative Policies and who has completed six (6) continuous months of employment with the County. “Employee” does not include any of the following: elected officials, part-time, **seasonal** employees, temporary employees, contract employees, limited term employees, contractors or their respective employees, employees covered by a collective bargaining agreement that addresses Discipline and Termination or any employees, officials or officers that serve at the pleasure of an appointing authority as provided by Wisconsin statutes. “**Employee**” for purposes of Workplace Safety (as defined in this procedure) means a “~~regular full-time~~” and “~~regular part-time~~” **any** employee of the County.

Employee defined in the safety policy would include seasonal, however; independent contractors would not be included in the definition. Anyone defined as an employee should be able to report a safety issue.

2. **Initiating A Grievance.** An Employee may initiate a grievance relating to Discipline or Termination by presenting a written grievance on the form attached to this policy as Appendix A to the office of the Corporation Counsel within five (5) working days of the event giving rise to the grievance or the date upon which the Employee should have reasonably known the facts giving rise to the grievance. **Immediately upon receipt the Corporation Counsel shall forward a copy of the grievance to the Executive Committee.** The Employee must sign and date the grievance. A grievance will not be considered filed until the employee signs the grievance and the grievance is received by the Office of the Corporation Counsel.

B. County Answer And Hearing Request

Upon receipt of a complete grievance form, the Corporation Counsel shall **within five (5) working days** provide a written response to the Employee **and the Executive Committee** either granting or denying the **grievance.** **If the Corporation Counsel does not answer within five (5) working days the Executive Committee shall set the matter for hearing.** The Employee shall have five (5) working days following receipt of the County’s denial of a grievance to file a written request for a hearing with the Office of the Corporation Counsel. Failure of the office of the Corporation Counsel to receive a written request for hearing from the Employee

within five (5) working days shall constitute a waiver of the employee's right to use the grievance procedure and an abandonment of the grievance.

4. Hearing.

b. Representation. The Employee and the County may be represented by an attorney of their choice. Neither party shall be responsible for the attorneys' or witness fees of the other. The Employee may only be represented by ~~an counsel~~ attorney.

f. Close of the Record Hearing; no briefs. After the Employee and the County have finished introducing evidence, the Impartial Hearing Officer shall close the ~~hearing record~~. The parties shall have no right to file briefs or position statements.

E. Costs Of Impartial Hearing Officer. The Employee and the County shall share the costs of the Impartial Hearing Officer for any grievance filed by the Employee related to a suspension. The County shall pay all costs for the Impartial Hearing Officer associated with a termination. ~~In the event he employee prevails, the entire costs shall be borne by the County.~~

There should be no cost to the employee when it comes to workplace safety.
There should be a separate workplace safety procedure.

1. Report Of An Unsafe Condition. An employee may not file a grievance relating to a condition that the Employee believes constitutes a Workplace Safety violation unless the employee has first reported the condition to the ~~Corporation Counsel~~ Safety Committee in writing on the attached form, Appendix B.

2. Initiating A Grievance. An Employee may initiate a grievance relating to Workplace Safety by presenting a written grievance on the form attached to this policy as Appendix C to the ~~office of the Corporation Counsel~~ Safety Committee within ~~five (5)~~ ten (10) working days of: (a) the Employee's receipt of written notice from the County that the County will not be taking corrective action with respect to an alleged Workplace Safety violation; (b) the County's failure to begin corrective action within ten (10) working days of the Employee's report of the Workplace Safety violation referenced in section 1.04(A) above; (c) the failure of the County to respond to a report of a Workplace Safety violation within ten (10) working days. The Employee must sign and date the grievance. A grievance will not be considered filed until the employee signs the grievance and the grievance is received by the ~~Corporation Counsel~~ Safety Committee.

B. Requesting An Appeal. An appeal may be initiated to the County Board by filing an appeal with the Corporation Counsel on the form attached as Appendix D within ~~seven (7)~~ ten (10) working days of the date of the Impartial Hearing Officer's decision. Failure to file a written appeal by the filing deadline will result in the waiver of the right to an appeal and the outcome of the proceedings before the hearing officer shall be final.

D. Standard Of Review. The Board shall not overturn or otherwise modify the Impartial Hearing Officer's decision unless the decision of the Impartial Hearing Officer is found to be ~~arbitrary, oppressive or unreasonable~~ clearly erroneous.

E. Decision. The County Board shall deliver a written decision to the Employee and the County no later than ~~seven (7)~~ ten (10) working days from the date of the County Board meeting. The written decision shall contain: (1) a statement of the issues; (2) findings, along with an explanation as to why any findings differ from the hearing examiner; and (3) a remedy along with an explanation as to why any remedy differs from the remedy granted by the Impartial Hearing Officer.

All Forms/Appendixes should reflect changes as referred to above.

Workplace safety discussion:

- Make the employee whole if the county is wrong.
- Generate a list of Impartial Hearing Officers
- Local Businesses who may have safety officers may be willing to share resources

- To grieve the employee will need to identify the state and/or federal law violated
- The county will need to provide the employee something in writing upon a complaint
- If the grievance is appealed, the members of the Safety Committee would not participate in or vote on the appeal
- Anything can be reported to the Safety Committee
- Appendix B = to include what is unsafe, what corrective action should be taken
- Formal request for hearing should be 10 days
- Initial burden is on the county
- The county is to say yes or no to the violation
- At the end of the day the employ must overcome/prove the county wrong
- The employee must provide clear and convincing evidence to reverse the Hearing Officer's decision.
- The Impartial Hearing officer will leave it up to the county to determine settlement if needed

Kaye present at 9:36 a.m.

Barnes left at 10:05 a.m.

Recess: Motioned by Ward/Johnson for a 5 minute recess at 10:45 a.m. Motion carried by unanimous voice vote.

Reconvene: Called back to order by Chairman, Miller at 10:55 a.m. All present.

Kotlowski left at 10:45 a.m.

***The committee discussed the possibility of a three (3) person safety committee.

Discuss and/or act on distinguishing public safety employees from protective employees with different bargaining rights – memo. The committee took no action each member received a copy of the draft memo. Borowski talked about temporary assignments, this does not constitute a change in classification for purposes of WRS. Being sworn in and deputized does not automatically make an employee protected.

The committee determined that our Corporation Counsel should be the one sending a letter clarifying the WRS deduction.

Albert present at 11:23 a.m.

Corporation Counsel executes the letter to the employees. Borowski will discuss with Albert. The county is following the law and the employees will be notified in accordance to the law.

Next agenda items: memo regarding 4 day workweek, grievance procedure, ethics ordinance, forms, employee handbook, definition of supervisors/managers

Set next meeting date, August 15th at 1:00 p.m.

Motioned by Ward/Croke to adjourn at 11:31 a.m. Motion carried by unanimous voice vote.

Respectfully submitted,

Cindy Phillippi
Recording Secretary