

**Call to Order:**

This meeting was called to order in the Vilas County conference rooms at 4:00 P.M. by Chairman Jim Behling with the following committee members present: Emil Bakka, Ed Bluthardt, Jr., Bob Egan, Sig Hjemvick, Erv Teichmiller and Linda Thorpe.

Others present during this meeting: Andy Phillips representing Phillips Borowski SC, Martha Milanowski, Ken Anderson, Jim Galloway and David Alleman. 17 Vilas County employees were also in attendance.

Open meeting notices and quorum present verified by the Chairman.

**Approve agenda to be discussed in any order by the Chair:**

**Motion by E. Teichmiller 2<sup>nd</sup> by E. Bakka to approve the agenda to be discussed in any order by the Chair. All voted aye. Carried.**

**Approve minutes of the July 14, 2011 meeting:**

**Motion by E. Bakka, 2<sup>nd</sup> by L. Thorpe to approve the minutes of the July 14, 2011 meeting as presented. All voted aye. Carried.**

**Meeting time:**

The consensus of the committee was to continue meeting at 4:00 P.M.

**Grievance policy:**

**a. Action items:**

The Chair asked for reports concerning action items. E. Bluthardt reported no additional progress regarding the possible use of judicially appointed court commissioners as Independent Hearing Officers (IHO) for purposes of grievance adjudication. He will confer with the Circuit Court Judge this week. The concept of a regional pool of qualified IHOs has so far been rejected by the other area governments and school districts that were previously contacted. E. Teichmiller and S. Hjemvick have investigated the scope of actions that would be subject to the grievance policy. They both agree that the current list of grievable items will suffice. J. Behling would like to define the position and qualifications of the IHO, as an action item for the next meeting.

**b. Decision tree:**

A. Phillips presented a chapter by chapter explanation and review of the draft grievance policy. The minutes reflect chapters and sections that were discussed and/or acted upon.

A. Phillips noted that under 1.02(2), the term employee may have to be amended in the future due to forthcoming changes in the state administrative code regarding Social Services employees.

Under 1.02(3), types of discipline were discussed but no changes were made.

Under 1.03(1)(a) the written form referred to will be drafted by A. Phillips.

Under 1.03(1)(c), A. Phillips explained his reasons for including the Personnel Committee in the decision making process regarding incomplete or untimely grievances.

J. Behling contested language contained under 1.03(1)(e) that allowed the grievant to be represented by counsel. He feels that this inclusion provides union members with no or low cost union provide legal representation, which will not be available to non-represented and management employees. He regards this as a matter of fairness. E. Teichmiller noted that this issue was decided on at the last meeting when the majority voted to allow representation by counsel. A. Phillips asked the committee to offer a more equitable solution. The idea of a county funded subsidy to pay for legal counsel desired by a non-union employee was rejected.

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The consensus of the majority was that the language regarding services by counsel should remain as drafted. J. Behling continues to oppose the policy under those terms. The committee discussed the language forbidding the employee representative from also being a County employee. It was decided by consensus to strike that language in 1.03(1)(e)

The list of eligible IHOs as stipulated under 1.03(3)(a) needs to be determined. E. Bluthardt feels that the IHO must be a qualified individual, preferably a practicing lawyer, due to the quasi-judicial nature of a grievance hearing. He also feels that the IHO needs to be formally appointed by the County. J. Behling reminded him that the Circuit Court needs to be asked if court commissioners can fill this role. M. Milanowski will confer with the Circuit Court Judge regarding this matter.

A. Phillips, referring to 1.03(3)(b), noted that both parties were precluded from engaging in discovery, submission of argument and pre-hearing motions.

Under 1.03(3)(d) A. Phillips defended the grievant's right to engage in cross-examination, but cautioned that cross-examination could be contentious and uncomfortable. E. Bluthardt also felt that cross-examination was a basic right of testimony. B. Egan felt that the IHO would need to maintain order and decorum regarding all testimony, including cross-examination. E. Bluthardt repeated the need for a qualified IHO accustomed to the rules of judicial testimony. E. Bakka felt that cross-examination could be prohibited for both parties. S. Hjemvick stated that the IHO needed to particularly control the situation with regards to all cross-examination to prevent badgering of witnesses. A. Phillips stated that all persons chosen to be IHO's would need extensive training regarding the county's grievance policy and process. **Motion by S. Hjemvick, 2<sup>nd</sup> by B. Egan to allow cross-examination by both parties as long as said cross-examination is relevant to the grievance being adjudicated. All voted aye. Carried.**

Referring back to 1.03(3)(i), A. Phillips asked if the audio copy of the hearing was to be provided to the grievant. The length of time that the Human Resource Director (HR) must preserve the audio copy was also brought up. Both items were discussed and two actions were taken.

**Motion by E. Bakka, 2<sup>nd</sup> by S. Hjemvick to provide an audio copy of the hearing to the grievant at no cost. All voted aye. Carried.**

**Motion by S. Hjemvick, 2<sup>nd</sup> by E. Bluthardt to amend the language under (i) to state that the Human Resource Director shall preserve all audio copies for a period "as required by law". All voted aye. Carried.**

Under 1.03(4)(a), E. Teichmiller feels that the language should read "actual time off" versus the mandated 75 day cap.

Discussion moved to County Board Appeal under 1.05(4)(a). If a grievance appealed before the County Board is sustained, and the grievance has resulted in termination, the Board may award remedies consistent with 1.03(4)(a), with the exception that back pay is limited to "greater than the equivalent number of working days elapsed from the date of termination to the date of the County Board meeting." E. Teichmiller felt that the draft language went beyond an action taken at the previous meeting where County Board awarded back pay was to be limited to "be equivalent to actual days lost (under reinstatement)." He also questioned the County Board's apparent broader power to award remedies resulting from a sustained grievance, as compared to the IHO under 1.03(4)(a). A. Phillips countered that the County Board, as the highest body to which a grievant may appeal, needed greater discretion to apply remedies in regards to sustained grievances. This concept was discussed at length. E. Bluthardt felt that the draft language under (a) did nothing to limit County Board awards of back pay. A. Phillips explained that the phrase "back pay" as used in (a) effectively prohibited the County Board from awarding "back pay greater than the equivalent of the number of working days elapsed from the date of termination

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to the date of the County Board meeting.” As a result of hearing that explanation, E. Bluthardt asked to reconsider the action taken at the previous meeting, to wit: *Erv Teichmiller moves that back pay be equivalent to actual days lost (under reinstatement). Ed Bluthardt seconds. 6 in favor of the motion. Opposed: Jim Behling. Motion carried.* A point of order was called.

E. Bluthardt maintained that as the second to the motion made in the action taken above, he had the ability to now move for its reconsideration. The Chair agreed. **Motion by E. Bluthardt, 2<sup>nd</sup> by L. Thorpe to reconsider the previous action taken as described in the July 14, 2011 meeting minutes on page 4 under subsection x. 4 voted aye. 3 voted no. Carried.** The committee again discussed the issue of limits to County Board discretion regarding back pay at length. **Motion by E. Bluthardt, 2<sup>nd</sup> by L. Thorpe to accept the draft language contained under 1.05(4)(a) as written. 6 voted aye. 1 no vote: E. Teichmiller.**

**Workplace safety:**

A. Phillips began the discussion of workplace safety draft language, as contained in the Grievance Policy beginning under 1.04. He explained that in contrast with grievance language concerning actions taken against employees, the burden of proof with regards to workplace safety grievances fell squarely on the County. He urged the committee to consider this fact as they deliberated on the workplace safety language. He also stated that workplace safety issues did not require decision tree analysis due to the fact that the entire process was heavily dependent upon the resolution of workplace safety issues at the department level. A. Phillips expressed the need for an active Employee Safety Committee. J. Galloway stated that an Employee Safety Committee was in existence and active as needed. He added that county policy needed to clearly define the role that the Employee Safety Committee would play with regards to the resolution of workplace safety issue. E. Bluthardt questioned the organizational makeup of the current committee. He feels that there needs to be greater representation from the County Board. A. Phillips replied that committee makeup could be changed anytime without amending the Grievance Policy. J. Behling stated that the Employee Safety Committee needed the autonomy and authority to recommend and/or mandate changes in employee safety policy. A. Phillips asked if the Employee Safety Committee needed to be included in language under 1.04 as first in line to receive and act upon employee safety issues. J. Galloway felt that initial safety issues needed to be initially acted upon at the department level. J. Behling would like the Employee Safety Committee listed as second in line after the department level. This was discussed and the consensus was that this was a good idea. A. Phillips will amend that section of 1.04 to include the Employee Safety Committee as next in line in the grievance process after the department level.

**Public participation:**

The Chair asked if any employees present wished to speak. Dan Klessig expressed his concern about J. Behling’s position regarding union provided legal services to covered employees during the grievance process. He feels that he has paid for those legal services due to his many years of paying union dues. To prohibit future union provided legal services nullify that benefit, which he feels is to his financial disadvantage. J. Behling replied that his position was predicated on fairness; union represented employees would retain a financial advantage in the grievance process over that of non-represented employees. No other questions were asked by employees.

**Review and respond to employee correspondence:**

Nothing new has been received.

**Letters and communications:**

Nothing presented

**Future meeting dates:**

A. Phillips suggested that the Grievance Policy be presented in full to interested employees at the August 15, 2011 meeting. He suggested a larger venue in expectation of greater attendance. The Clerk was instructed to secure the main courtroom for that date. A subsequent meeting was also scheduled for Monday, August 29, 2011 at 4:00 P.M.

**Adjournment:**

**Motion by E. Teichmiller, 2<sup>nd</sup> by E. Bakka to adjourn. All voted aye. Carried.** Meeting adjourned at 6:30 P.M.

Respectfully Submitted,  
David R. Alleman  
Vilas County Clerk

Minutes reflect the recorder's notations and are subject to approval by the appropriate board or committee.