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**Wisconsin State Employees Union
Comments on UW Systems
Human Resources Plan (UPS) (2012-2013)
10/26/2012**

Over the course of the last year UW Systems and the UW Madison have been engaged in developing a new human resources/personnel system. UW Systems was charged with creating their own “separate and distinct” system. This activity was as a result of Act 32 (2012-2013 State Budget) and Act 10. During the course of this study, there were a series of work groups comprised of faculty, academic staff, classified staff and students. Many of the proposals affecting classified staff will need Legislative approval, which brings uncertainty to the actual plan. UW Systems will be presenting this proposal to the Board of Regents most likely at their early December 2012 meeting, and are required to begin actual implementation of the plan effective July 1, 2013. This report will comment on some of the global and more problematic areas of the plan.

The first major change is to redefine the current classified employees’ (civil service) status. The recommendation is to create a new category of employees – University Staff – to replace classified civil service employees. It is important to point out that this transition is not transparent. Current classified “hourly” workers will become University Staff while “salaried” classified workers will be categorized as academic staff. Simply using “salaried vs. hourly” as the threshold for employee designation really does not recognize or credit these employees for what they do or their responsibilities. The definition of “salaried” and “hourly” lies within the Federal Fair Labor Standards Act (FLSA), administered by the US Department of Labor. This definition was simply the tool for overtime and hours of work issues, not a procedure for defining substantive duties or responsibilities of workers. Often there are disagreements about workers being exempt or non-exempt, which makes this threshold less of a “bright line”. The question begs, “What happens in a dispute about a worker’s FLSA status, and what process does this plan have in place to try and resolve the dispute?” While it is laudable for the study to allow current



employees an option of the status quo, the process accomplishes the change through attrition. Given the changing work environment and enhanced technology, this demarcation of workers will become problematic with no established method of recourse. The study also points out that the change in employee's job categories will change how these workers are perceived by current faculty and academic staff. Classified staff has historically been treated as separate state staff, rather than university staff. Much of the reason for this is collective bargaining rights for these employees. This attitudinal issue is really a culture issue within the University System and not something that will change with simply promulgating new human resource policies.

The report replaced collective bargaining for these newly designated university staff with "governance rights". The recommendation is to establish a third governance entity (faculty, academic staff, university staff) that would provide these staff members with the ability to "participate in the ongoing development of the personnel policies and processes that impact them". Major areas of concern rise from this new governance model.

First, the right and ability to have governance is enumerated in the State Statutes. The current statutes provide governance for faculty and academic staff, not university staff. The statutes would need to be amended by the Legislature in order to provide governance to the newly defined university staff. This certainly is not a given. In fact, given the diverse composition and ideological mix of the legislature, we believe that there would be a degree of difficulty in amending the statutes to enable this new "governance" model. This study replaced collective bargaining rights and many of the changes are predicated on this new governance system. What happens if the Legislature fails to amend the statutes and these workers have no participation in governance? Second, the proposed governance structure has no coordinator or resolution procedure if the entities do not agree on university policy or proposals. Given the vast diversity of workers in the UW System and on each campus, differences may be highly likely. This governance proposal is not worker driven but "top down" driven. Worker input and engagement is neutered in this process. Currently there are Classified Staff Committees on all of the university campuses. Participants are run through a screen, with the chancellor and their administration having incredible influence on who serves and the employee's "loyalty" to the university administration. The same would hold for the governance entity for classified staff. Thirdly, there is the question of coordination and disparate policies from one campus to another. This new policy on governance would allow each campus to establish their own distinct personnel policies. The result would be that similarity situated workers from one campus could have different policies affecting their work and work environment than those at a different campus. This certainly would lend itself to disparate treatment.

Lastly the report sets out that the university staff will maintain “just cause” protections, due process and appeal rights. There is absolutely no specificity on what that means or an established process for “due process” and appeal rights. Is the final step of resolution with the Chancellor, the Systems President, or Board of Regents? This is far different than the application of these rights in the workers’ collective bargaining agreements. There, the employees could move their grievances or issues to a neutral third party who would be the final and binding arbiter of the issue. There was recourse and a fair, final conclusion to employees’ issues. The report goes on to “mitigate” the discussion about just cause, due process and appeal rights by stating that “specific procedures may evolve”. That really signals that these provisions could be diluted or demised. Clearly these new provision do not have the same effect or certainty as was contained in workers’ collective bargaining agreements. While the university in this academic exercise tries to swoon workers that this is all transparent, the fact is that it is not.

The study also tries to address a change in the compensation system for this new entity. What is striking is that the trigger for their proposal (performance based) is first line supervisors and managers. Employees have no recourse for arbitrariness, supervisory competencies or subjective decision making. The gist of the proposal is that all supervisors and managers “will do their right thing” because of the university culture. We can tell you that there are and will be first line supervisors and managers that will not change their practices because this study says they should, regardless of the training. The loose knit decision regarding pay structure and “broad banding” is ripe for pay inequities and disparities of employees within the same class and performing much the same responsibilities. It erases whatever gains have been made in “comparable worth”.

In the discussion of “employee benefits” we see significant changes that devalue employee assets and minimize seniority as a determinative factor for certain transactions. The permissive nature of transfers and layoffs, giving the managers total control of the process, is grounds for inequities and favoritism in career altering decisions. The prohibition of an employee’s right to return to a previous position they had permanent status in is chilling for workers that want to promote or take a risk.

We also see a decentralization of some major human resource functions. While the report recognizes the critical role that managers and supervisors play in the work place, it leaps to the assumption that a cultural change will occur by the simple promulgation and implementation of the plan. These managers and supervisors will be responsible for critical decision making regarding salary and employees benefits (e.g. FMLA) while not being equipped with competencies or resources to adequately meet these additional responsibilities.

While in some ways we applaud the University System for a thorough review of their human resources function, we find serious shortcomings and dramatic impact on classified workers. If the goal was autonomy for the System's human resource classification and compensation system, they should have used the University of Wisconsin Hospital and Clinics as a model. The Hospital transitioned and has been very successful in establishing health care specific classifications, new and appropriate compensation structures with protections for inequities and pay discrepancies and has completely severed their "dependence" on the Office of State Employment Relations and the Joint Committee on Employment Relations. The Hospital Board has the ultimate employer and decision making authority. While we understand some of the time constraints the University system finds itself enmeshed in, this "sea change" should not and cannot be an academic or political exercise. There is too much at stake and the economic well being and lives of thousands of workers are on the block.

ATTACHMENT

Following from the discussion at the Labor/Management Advisory Committee meeting last Thursday, we are providing you and other management representatives with the below list of discussion points about the Human Resource Design recommendations. The following is a series of changes that identify and modify key elements of the HR Design plan that we feel would otherwise exacerbate existing workplace inequalities that the plan seeks to address. We hope that this engagement will lead to the best possible outcome for UW-Madison and everyone that works here.

Sincerely

LMAC Union Representatives

Job Security

1. Retain the right of an employee that laterally transfers, to the same or equal position if they don't pass a permissive probationary period.
2. Maintain seniority as the sole criteria for decisions on employee transfer.
3. Maintain seniority as the sole criteria for decisions on employee layoffs.
4. Maintain the right of current employees to choose to remain as University Staff rather than becoming Academic Staff involuntarily throughout their career.
5. Retain mandatory restoration rights for layoff.
6. Commit the employer to provide that all employees are permanent employees.
7. Define "impartial hearing officer" as WERC staff as the outside party that will be selected for due process final and binding decisions of adverse job actions.

Wages and Compensation:

1. Cost-of-living and similar equity based criteria should be the primary basis for compensation decisions for all employees. Those criteria must be met before any other performance based considerations.
2. The recommendations should strike any and all language that rewards employees for going "above and beyond" their job expectations.

Bargaining Language

1. Provide a Memoranda of Understanding that guarantees a "meet and confer" process between the UW administration and unions in lieu of collective bargaining rights.