

TO: Deans, Directors, Department Chairs, and Administrators

FROM: E. Jill Pollock, Senior Associate Vice President for Human Resources

SUBJECT: Information for Supervisors of Classified Staff Regarding Colorado WINS

DATE: February 24, 2009

The purpose of this paper is to describe the relationship between and provide guidance to supervisors regarding interactions between the University of Colorado (CU) and Colorado Workers for Innovations and New Solutions (Colorado WINS or CWINS).

Background

Governor Bill Ritter, in November 2007, issued Executive Order D 028 07, "Authorizing Partnership Agreements with State Employees." The governor, in the order, stated that partnership agreements are agreements between certain bargaining units, represented by unions and the state for the purpose of "improving government services, achieving efficiencies, and establishing the framework for discussing issues of mutual concern to [classified] employees and the State."

CWINS is a coalition of three national unions—American Federation of State, County and Municipal Employees, the Service Employees International Union and the American Federation of Teachers. Last summer, CWINS won through election by the majority of those State classified employees who voted in each occupational group (e.g. Administrative Professionals, Professional Services, Labor, Trades, Crafts, Health Care, etc.) except state troopers the right to represent the classified employees on issues of mutual concern. Certain classified employees in managerial, supervisory and confidential positions are excluded from the executive order. Each campus human resources department has a list of such exclusions.

Virtually any issue can be discussed by the parties, but no partnership agreement may diminish the governor's discretion in budget-setting or expand the authority of the governor, the Department of Personnel and Administration, or the Department of Labor and Employment beyond that authorized by the Colorado Constitution or the Colorado Revised Statutes. Most attributes of the State Personnel System—including such matters as grievances, appeal of personnel decisions, and the statewide salary survey—are set forth in the Colorado Constitution or Statutes. Relative to CU, a partnership agreement also cannot usurp the university president's and the CU Board of Regents' responsibility and accountability for operation and management of the state personnel system for CU, as provided for by the Colorado Constitution or the Colorado Revised Statutes.

Types of Partnership Agreements

There are three types of partnership agreements described in the Executive Order: *horizontal*, *statewide* and *vertical*. The university's classified employees will be covered by horizontal and statewide agreements. The Executive Order, however, does not require CU to negotiate a vertical agreement with its classified employees, because the Board of Regents (and other governing boards of institutions of higher education) has autonomy in the supervision of its campuses and employees.

Horizontal agreements

- are to be negotiated between the State and CWINS on issues specific to each occupational group, affecting all covered employees in the group, including CU classified employees; and
- will involve the Governor's Designee for Employee Partnerships (the "Governor's Designee") and, often, the Department of Personnel and Administration, but not CU in an official capacity.

To date, no horizontal agreements have been reached for an individual occupational group. A statewide Memorandum of Understanding (MOU) between the Governor's Designee and CWINS was executed in October 2008 to set forth initial rules for interactions between the parties and with covered classified employees. The MOU does not establish an agenda of issues of mutual interest for discussion by the parties. *CU and all other higher education institutions in Colorado specifically are not covered by the MOU.*

Statewide agreements

- have statewide impact (like an agreement on a different health care program), negotiated by the Governor's Designee and CWINS for application to the entire state personnel system, including CU classified employees; and,
- will involve the Department of Personnel and Administration, but not CU in an official capacity.

Vertical agreements

- cover issues of concern within a single state department. Sixteen state departments must, in good faith, negotiate an agreement with CWINS, as stipulated in the Executive Order; the sixteen departments are Agriculture, Corrections, Education, Health Care Policy and Financing, Higher Education, Human Services, Labor and Employment, Local Affairs, Military and Veterans Affairs, Natural Resources, Personnel and Administration, Public Health and Environment, Public Safety, Regulatory Agencies, Revenue, and Transportation; and,
- are not required by the Executive Order for offices of the Attorney General, Secretary of State, Treasurer, State Board of Education, and governing boards of institutions of higher education, including CU; however, each of these organizations may elect, at its discretion, to negotiate such an agreement with CWINS. *At this time, no higher education institutions in Colorado have elected to participate in vertical agreements.*

Impact on CU

Horizontal agreements

- will affect CU's classified employees within a specific occupational group, with the possible exception of those classified employees not covered by the Executive Order: confidential, supervisory, managerial and temporary;
- will be made by CWINS and the Governor's Designee, who will seek CU's input during the negotiations process; and,
- may involve a small number of CU classified employees who wish to be on and are chosen by CWINS for a CWINS employee partnership negotiating team (more on this later).

Statewide agreements

- will affect CU's classified employees, with the possible exception of those classified employees not covered by the Executive Order: confidential, supervisory, managerial and temporary;

Vertical agreement

- is not in discussion at CU, because the Board of Regents has not elected to opt for such an agreement with CWINS; therefore,
- there is no mechanism for CWINS to participate in bargaining or in other formal partnership discussions with CU.
- is not dissimilar in definition from the role of the University of Colorado Staff Council, as stated in *Laws of the Regents* Article 6.B.1(B), "A University of Colorado Staff Council that serves as the universitywide representative body for communicating to the administration and Board of Regents matters of concern to exempt professionals and classified staff employees of the university...."

Classified Employee Membership in CWINS

- Classified employees covered by the Executive Order may choose to join or not to join CWINS; however, pursuant to State Personnel Board Rule 1-18, membership in CWINS may not be a condition of employment and employees may not be coerced into joining or not joining.
- Employees will be affected by the results of a partnership agreement, whether the employees are dues-paying CWINS members or not.
- In January 2009, the Department of Personnel and Administration authorized payroll deduction and use of a related form for CWINS dues. CU's Payroll & Benefit Services (PBS) is prepared for such deductions, which begin after PBS receives a CWINS membership form completed and signed by each classified employee who wishes to have dues withheld from pay and forwarded to CWINS.
- Representatives of CWINS have begun distributing the membership forms on campus; however, representatives may not distribute forms during work hours. If supervisors are concerned about the times the forms are being distributed, they should ask their human resources department for guidance. The membership form also is available on the PBS website at <https://www.cu.edu/pbs/forms/downloads/ColoradoWins.pdf>

CWINS' Access to CU Employees

Because higher education specifically is excluded from applicability of the earlier-noted MOU between the Governor's Designee and CWINS, there is no agreement between CU and CWINS for structured interactions during work time between CU supervisors or classified employees and CWINS regarding partnership agreements or university business.

- CWINS may interact with CU employees on non-work time—breaks, meal intervals, annual leave or before or after shifts.
- CU employees who are members of CWINS may not engage in CWINS recruitment activities during their work time. Likewise, CU employees' work time should not be interrupted for recruitment purposes.
- CWINS may request and obtain permission to use campus facilities for meetings on CU employees' non-work time if the campus regularly provides such facilities to non-university groups.
- CWINS may post flyers limited to CWINS business on campus bulletin boards according to campus procedures if the campus regularly allows other non-university groups to post informational flyers on such boards.
- Supervisors may distribute or make available CWINS business-related flyers in common areas like break rooms if the campus regularly allows other non-university groups to have such flyers distributed or available.
- CWINS may not contact CU employees by university email during work hours.
- CWINS may not telephone CU employees at their university telephone numbers during work times for any reason, including membership solicitation or recruitment.
- Distribution of information regarding CWINS is the responsibility of CWINS.
- CWINS may purchase advertisement space in the *Silver & Gold Record* at rates and with access comparable to other external advertisers.

Employee Release Time for Partnership Activities

- For horizontal agreement meetings—Some CU classified employees may wish to be CWINS delegates to partnership meetings to discuss with the Governor's Designee matters of occupational group or statewide interest. If the meetings are scheduled to occur during work time and if the work disruption is minimal, supervisors may choose to grant the time off as annual leave or leave without pay.

- For internal CWINS meetings—Similarly, some classified employees may wish to participate in matters that are purely internal to CWINS, such as organizing, political or CWINS governance activities. It is likely these matters will be scheduled for discussion during non-work time; if, however, the meetings are scheduled to occur during work time and if the work disruption is minimal, supervisors may grant the time off as annual leave or leave without pay.

CWINS' Interaction with Supervisors and Other Members of CU's Administration

Because higher education specifically is excluded from applicability of the earlier-noted MOU between the Governor's Designee and CWINS, there is no agreement between CU and CWINS for structured interactions between CU administrators and CWINS.

- Administrators are not obliged to consult with CWINS when contemplating organizational or personnel changes in their organizations.
- Supervisors or department heads who are requested by CWINS representatives to engage in interest-based bargaining or related training should refer the CWINS representative to the campus human resources department, because, as noted above, CU has no vertical agreement with CWINS.
- Supervisors or department heads who are requested by CWINS representatives to discuss department-specific employee issues should refer the CWINS representatives to the campus human resources department, because, as noted above, CU has no vertical agreement with CWINS.
- Under the State Personnel Board Rules, if supervisor and employee are scheduled to have a pre-disciplinary or grievance meeting, the employee may choose to have (or not to have) a representative accompany her or him. The representative may be a co-worker, friend, attorney, CWINS member or any other person, including a representative of another employee organization. The representative is in the meeting to give the employee support and may ask questions to help the employee understand what is being discussed, but the employee is expected to answer questions and participate in the discussion. Employees are not entitled to have a representative present for other types of meetings. The university has no agreement with CWINS or any other organization to provide that form of representation. The supervisor does not call or request a CWINS representative to be present in the meeting and is not required to ask the employee if representation is desired. It is the employee's choice.

Miscellaneous Matters

- CWINS membership buttons or pins may be worn by employees during work time if such employees do not follow a department-required dress code or wear a university-required uniform that identifies them as employees of a particular campus department.