



OFFICE OF THE ATTORNEY GENERAL
STATE OF ILLINOIS

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May 21, 2025

I – 25-006

COUNTIES:

Authority of County Board to
Implement a Mandatory
Electronic Timekeeping Policy

The Honorable Ruth A. Woolery
State's Attorney, Shelby County
Shelby County Courthouse
301 East Main Street
Shelbyville, Illinois 62565

Dear Ms. Woolery:

We have your letter inquiring: (1) whether a timekeeping policy passed by a county board applies to county officers who have been granted internal control over the operations of their office; and (2) whether a county board has the "managerial right" to implement a mandatory electronic timekeeping policy when the timekeeping policy conflicts with the terms of a union contract. For the reasons stated below, a county board may not impose a mandatory electronic timekeeping policy on officers with internal control over the operations of their office **if the policy affects the personnel decisions of those officers. Additionally, whether a particular timekeeping policy is an inherent managerial right is a determination that is best resolved by the Illinois Labor Relations Board** or other avenues of dispute resolution provided under the Illinois Public Labor Relations Act (5 ILCS 315/1 *et seq.* (West 2022)).

BACKGROUND

According to the information that you provided, until recently, all Shelby County employees maintained paper time sheets that were reviewed and approved by their respective department heads and subsequently submitted to the treasurer's office for payroll processing. On July 13, 2023, upon the recommendation of its Legislative Committee, the Shelby County Board

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passed a motion to approve the installation of electronic timeclocks for the purpose of electronic timekeeping for all county employees. The county's "Payroll Policies and Procedures"--which were implemented in 2020--were not revised or amended to reflect the installation of the electronic timekeeping system. On July 11, 2024, after union representatives submitted a demand to bargain to the Shelby County Board, the Shelby County Board passed a new timekeeping policy. **You have indicated that the timekeeping policy is in direct conflict with certain contracts between union employees and the county and may also conflict with internal timekeeping procedures established by department heads.**

ANALYSIS

County Board Authority to Require Electronic Timekeeping for Employees of County Officers Operating Under Statutory Internal Control Provisions

You first inquire whether a timekeeping policy passed by a county board applies to county officers who have been granted internal control over the operations of their office. It is well established in Illinois that non-home-rule counties, acting through their county board (55 ILCS 5/5-1004 (West 2022)), possess only those powers that are expressly granted to them by the constitution or by statute, together with those powers that are necessarily implied therefrom to effectuate the powers that have been expressly granted. Ill. Const. 1970, art. VII, § 7; *Redmond v. Novak*, 86 Ill. 2d 374, 382 (1981); *Inland Land Appreciation Fund, L.P. v. County of Kane*, 344 Ill. App. 3d 720, 724 (2003); Ill. Att'y Gen. Inf. Op. No. I-25-003, issued February 4, 2025, at 3. A county board has the authority to manage county funds and county business (55 ILCS 5/5-1016 (West 2022)), to examine and settle all accounts concerning the receipts and expenditures of the county, including those expenditures made by the several county officers (55 ILCS 5/5-1019 (West 2022)), and "install an adequate system of accounts and financial records in the offices and divisions of the county, suitable to the needs of the office and in accordance with generally accepted principles of accounting for governmental bodies" (55 ILCS 5/5-1005(16) (West 2022)). However, these powers are limited to that which is not otherwise specifically provided for by law and must be exercised in accordance with other statutory provisions. 1984 Ill. Att'y Gen. Op. 9, 11, citing *Locke v. Davison*, 111 Ill. 19, 25 (1884).

Several statutes expressly grant certain county officers the power to control the day-to-day operations of their respective offices. *See* 55 ILCS 5/3-1004 (West 2022) (county auditor); 55 ILCS 5/3-2003.2 (West 2022) (county clerk); 55 ILCS 5/3-3003 (West 2022) (county coroner); 55 ILCS 5/3-5005.2 (West 2023 Supp.) (county recorder); 55 ILCS 5/3-6018 (West 2022) (county sheriff in counties with less than 1,000,000 population); 55 ILCS 5/3-9006 (West 2022) (State's Attorney); 55 ILCS 5/3-10005.1 (West 2022) (county treasurer). These officers are granted exclusive control over the internal operations of their offices, including the authority to procure equipment, materials, and services that each officer deems necessary to

perform his or her statutory duties, subject to applicable budgetary limitations.¹ See 1984 Ill. Att'y Gen. Op. 9 (county board may not impose line-item budget constraints on county officers with internal control); *see also* Ill. Att'y Gen. Inf. Op. No. I-23-004, issued April 10, 2023, at 3-4 (same). Additionally, previously issued opinions of this office have determined that county boards do not have the authority to control staffing or personnel decisions of officers with internal control over the operations of their office. See Ill. Att'y Gen. Inf. Op. No. I-96-008, issued January 3, 1996, at 2 ("[T]he county board's control over personnel practices of county officers is similarly limited"); Ill. Att'y Gen. Inf. Op. No. I-90-020, issued June 15, 1990 (county board may not control hours of work and compensation of employees of county officers with internal control).²

As noted in your inquiry, in informal opinion No. I-02-007, issued March 7, 2002, this office was asked whether personnel policies adopted by the county board may be made applicable to the employees of elected county officers who have been granted internal control over the operations of their offices. Under the circumstances underlying that inquiry, the employee handbook set out procedures regarding applications for employment, performance evaluations, employee benefits, leave policies, employee conduct, work rules, and discipline. After first determining that the county board had no authority to control the qualifications, selection, hours of work, or leave time of these officers, this office also concluded that the county board did not have authority to impose personnel policies or handbooks on the employees of elected county officers who have been granted internal control over the operations of their respective offices.³ Ill. Att'y Gen. Inf. Op. No. I-02-007 at 2.

¹For example, section 3-2003.2 of the Counties Code (55 ILCS 5/3-2003.2 (West 2022)) provides:

Internal operations of office. The county clerk shall have the right to control the internal operations of the clerk's office and to procure necessary equipment, materials and services to perform the duties of the clerk's office.

The other internal control statutes cited above are essentially similar to section 3-2003.2, although there are differences in language. *See, e.g.*, 55 ILCS 5/3-3003, 3-6018 (West 2022).

²Although the county board has been granted the statutory authority to change the hours of operation for certain county offices (*see, e.g.*, 55 ILCS 5/3-2007 (West 2022) (county clerk); 55 ILCS 5/3-5016 (West 2023 Supp.) (county recorder); 55 ILCS 5/3-6019 (West 2022) (sheriff); 55 ILCS 5/3-10008 (West 2022) (treasurer)), this office has advised that "the county board cannot require individual employees to work specific hours." Ill. Att'y Gen. Inf. Op. No. I-90-020 at 4.

³*But see* Ill. Att'y Gen. Inf. Op. No. I-02-007 at 4 (county board may apply personnel policies to employees of county engineers and appointed supervisors of assessments because those officers have not been granted internal control over their offices).

Informal opinion No. I-02-007 also considered whether the county board may implement a payroll accounting system. After examining the county board's authority to maintain adequate records under subsection 5-1005(16) of the Counties Code (55 ILCS 5/5-1005(16) (West 2000)), informal opinion No. I-02-007 concluded:

The county board cannot use a payroll accounting system to impose personnel policies indirectly that it is not authorized to impose directly. It can, however, require that officers cooperate in maintaining adequate records for accounting purposes with respect to employees who are paid by the county and for whom the county provides group insurance and retirement fund contributions. Ill. Att'y Gen. Inf. Op. No. I-02-007 at 5.

Subsequent to the issuance of informal opinion No. I-02-007, this office was asked whether the county board of a non-home-rule county may validly apply an ordinance requiring that certain county employees reside within the county to the employees of the county's elected officials. In informal opinion No. I-10-013, issued November 16, 2010, this office determined that the county board could not impose a residency requirement on employees of county officers with internal control because the imposition of a residency requirement "is the establishment of a qualification, term, or condition of employment." Ill. Att'y Gen. Inf. Op. No. I-10-013 at 3, citing Ill. Att'y Gen. Op. No. 97-007, issued May 6, 1997 (a township board may impose a residency requirement as a condition of continued employment, except for employees subject to the supervision and control of the officers who appoint them).

Based upon the foregoing, a timekeeping policy that merely requires elected county officers operating under internal control statutory provisions to cooperate in maintaining adequate records for accounting purposes would not infringe on the elected county officers' internal control. See Ill. Att'y Gen. Inf. Op. No. I-02-007 at 5; Ill. Att'y Gen. Inf. Op. No. I-98-036, issued October 28, 1998, at 2. A county board may not, however, use a timekeeping policy to "impose personnel policies indirectly that it is not authorized to impose directly." Ill. Att'y Gen. Inf. Op. No. I-02-007 at 5; see also Ill. Att'y Gen. Inf. Op. No. I-98-036 at 2 (the accounting procedure did not interfere with officer's internal control because it "merely * * * assist[ed] in the tracking of fees required to be paid to the clerk" and did not concern the "organization, staffing or management of the office"). For example, an electronic timekeeping system or policy that dictates personnel decisions--such as the officer's employees' work hours and leave time⁴--may impermissibly interfere with elected county officers' internal control of the operations of their offices. See Ill. Att'y Gen. Inf. Op. No. I-90-020 (county board does not have authority to control hours of work of employees of internal control county officers).

⁴See *Ozburn-Hessey Logistics, LLC v. National Labor Relations Board*, 803 Fed. Appx. 876 (6th Cir. 2020) (distinguishing between clocking in function and time-off policy).

Although the information provided to this office indicates that the new timekeeping policy may conflict with internal timekeeping procedures established by county officers with internal control, you have not provided us with any information concerning how they conflict. To the extent that the mandatory electronic timekeeping system interferes with the personnel decisions of county officers operating under statutory internal control provisions, the county board may not impose the timekeeping system upon such officers.

Inherent Managerial Right

You have also inquired whether a county board has the "managerial right" to implement a mandatory electronic timekeeping policy that explicitly contradicts the terms of a union contract. You have indicated that the pertinent timekeeping policy was passed by the county board several months after the union representative made a demand to bargain. You have further indicated that the policy is in direct conflict with certain contracts between union employees and the county.

The Illinois Public Labor Relations Act (the Act) (5 ILCS 315/1 *et seq.* (West 2022)) regulates labor relations between public employers and employees. 5 ILCS 315/2 (West 2022). A public employer and the employees' exclusive representative have a duty to bargain collectively "over any matter with respect to wages, hours and other conditions of employment[.]" 5 ILCS 315/7 (West 2022); *see also* Ill. Const. 1970, art. I, § 25 (employees have fundamental right to organize and bargain collectively). Relevant to your inquiry, county officers who operate under internal control provisions are subject to the collective bargaining process under the Act and their internal control authority is "limited by collective bargaining principles." Ill. Att'y Gen. Inf. Op. No. I-95-002, issued January 6, 1995, at 2, 7 (county treasurer could not unilaterally raise salary of one employee subject to collective bargaining agreement without bargaining with the employee's union representative).

A public employer commits an unfair labor practice under the Act "when it makes a unilateral change to a term or condition of employment that is the subject of collective bargaining while the parties are involved in contract negotiations." *American Federation of State, County, & Municipal Employees, Council 31 v. Illinois Labor Relations Board*, 2017 IL App (5th) 160046, ¶ 43; *see* 5 ILCS 315/10(a)(1), (a)(4) (West 2022). Section 4 of the Act (5 ILCS 315/4 (West 2022)), however, provides that public employers are not required to bargain over matters of "inherent managerial policy," which include "such areas of discretion or policy as the functions of the employer, standards of services, its overall budget, the organizational structure and selection of new employees, examination techniques and direction of employees." *See also Board of Trustees of the University of Illinois v. Illinois Labor Relations Board*, 224 Ill. 2d 88, 97 (2007) (a subject is a public employer's managerial right if it touches on "the core of entrepreneurial control"). Some subjects, however, may be "both one of wages, hours, and other conditions of employment and within an employer's inherent managerial authority." *International Brotherhood of Teamsters, Local 700 v. Illinois Labor Relations Board, Local*

Panel, 2017 IL App (1st) 152993, ¶ 32. Illinois courts apply a balancing test established in *Central City Education Ass'n v. Illinois Educational Labor Relations Board*, 149 Ill. 2d 496, 523 (1992), to determine whether the public employer was required to negotiate with the union about the subject:

[A] matter is a mandatory subject of bargaining if it (1) involves wages, hours, and terms and conditions of employment and (2) is either not a matter of inherent managerial authority or (3) is a matter of inherent managerial authority but the benefits of bargaining outweigh the burdens bargaining imposes on the employer's authority. *Central City*, 149 Ill. 2d at 523; *Forest Preserve District*, 369 Ill. App. 3d at 752.

A matter concerns wages, hours, and terms and conditions of employment if it (1) involved a departure from previously established operating practices, (2) effected a change in the conditions of employment, or (3) resulted in a significant impairment of job tenure, employment security, or reasonably anticipated work opportunities for those in the Union. *Chicago Park District v. Illinois Labor Relations Board*, 354 Ill. App. 3d 595, 602 (2004). Further, a rule that subjects employees to potential discipline concerns the terms and conditions of employment. *International Brotherhood of Teamsters*, 2017 IL App (1st) 152993, ¶¶ 32-33.

Initially, we note that you have not indicated whether the applicable collective bargaining agreements provide an appropriate mechanism to resolve the underlying dispute. *See, e.g.*, 5 ILCS 315/7 (West 2022) ("The parties may, by mutual agreement, provide for arbitration of impasses resulting from their inability to agree upon wages, hours and terms and conditions of employment to be included in a collective bargaining agreement"); 5 ILCS 315/8 (West 2022) (a collective bargaining agreement must contain a grievance resolution procedure providing "for final and binding arbitration of disputes concerning the administration or interpretation of the

agreement unless mutually agreed otherwise").⁵ Additionally, you have not indicated whether the parties negotiated in response to the demand to bargain.

Ultimately, the Illinois Labor Relations Board has jurisdiction over collective bargaining matters between public employers and public employees in Illinois. 5 ILCS 315/5 (West 2022), as amended by Public Act 103-865, effective January 1, 2025; *Village of North Riverside v. Illinois Labor Relations Board, State Panel*, 2017 IL App (1st) 162251, ¶ 19 ("The [Illinois Labor Relations Board] is charged with administering and enforcing the Act [citation], the purpose of which is to regulate labor relations in the public sector and resolve disputes under CBAs"). Whether a public employer is required to bargain over a specific subject involves mixed questions of law and fact. *International Brotherhood of Teamsters*, 2017 IL App (1st) 152993, ¶ 30, quoting *Forest Preserve District of Cook County v. Illinois Labor Relations Board, Local Panel*, 369 Ill. App. 3d 733, 751 (2006). Which issues are mandatory subjects of collective bargaining involve "very fact-specific questions that the Board, given its experience, is eminently qualified to make." *Chicago Park District v. Illinois Labor Relations Board, Local Panel*, 354 Ill. App. 3d 595, 602 (2004), citing *Central City*, 149 Ill. 2d at 510.⁶ Accordingly,

⁵Section 14 of the Act (5 ILCS 315/14 (West 2023 Supp.)) establishes a different process for handling disputes and different factors that must be considered with respect to "peace officers" or "security employees," as defined in the Act (see 5 ILCS 315/3(k), (p) (West 2022)). See also 5 ILCS 315/2 (West 2022) ("all collective bargaining disputes involving persons designated by the [Illinois Labor Relations] Board as performing essential services and those persons defined herein as security employees shall be submitted to impartial arbitrators"); *Village of Oak Lawn v. Illinois Labor Relations Board, State Panel*, 2011 IL App (1st) 103417, ¶ 18 (if subject is excluded from arbitration under subsection 14(i) (5 ILCS 315/14(i) (West 2006)), then there is no need to apply the *Central City* test because the subjects excluded are not mandatory bargaining subjects). In order to determine whether an employee satisfies one of the categories of employees subject to section 14 of the Act, the language of the Act and the employee's duties must be considered. See *County of DuPage v. Illinois Labor Relations Board, State Panel*, 395 Ill. App. 3d 49, 72-74 (2009). Certain employees of the sheriff's office may not satisfy the categories of employees under section 14 of the Act. See, e.g., 5 ILCS 315/3(k) (West 2022) (county court security officers as defined by section 3-6012.1 of the Counties Code (55 ILCS 5/3-6012.1 (West 2022)) are not "peace officers"); *Policemen's Benevolent Labor Committee v. County of Kane*, 2012 IL App (2d) 110993, ¶¶ 26-30 (county court security officers are not "peace officers," "security officers," or "essential services employees"); see also *County of DuPage*, 395 Ill. App. 3d at 69-80 (affirming the Illinois Labor Relations Board's decision that sheriff's deputies assigned to Corrections Bureau are not "peace officers" while also noting they were "indisputably security employees").

⁶One recent non-precedential ruling of the Illinois Labor Relations Board Local Panel addressed a new automated timekeeping system that the City of Chicago's Department of Police implemented without first bargaining with the union. See *Fraternal Order of Police, Lodge 7 v. City of Chicago (Department of Police)*, ILRB General Counsel Order No. L-CA-20-019, 38 PERI ¶ 56 (October 21, 2021) (recommended decision and order of the Administrative Law Judge (ALJ), which was final and binding on the parties, concluded that, under the circumstances presented and applying the *Central City* test, the timekeeping system was not a mandatory subject of collective bargaining and the City of Chicago had inherent managerial authority regarding the timekeeping system it unilaterally implemented because the burden on the employer to bargain with the union outweighed any benefits the public employees would receive from bargaining; however, the employer did have an obligation to bargain over the impacts of the new timekeeping system). In reaching that conclusion, the ALJ relied on a decision by the Illinois Educational Labor Relations Board (IELRB) reaching a similar conclusion regarding timekeeping. See *Federation of College Clerical and Technical Personnel, Local 1708 v. City Colleges of Chicago*, 32 PERI ¶ 10 (IELRB 2015).

whether a county board has an inherent managerial right to implement a mandatory electronic timekeeping system is a fact-intensive inquiry that is best determined by the Illinois Labor Relations Board or other avenues of dispute resolution provided under the Illinois Public Labor Relations Act. See also Statement of Policy of the Illinois Attorney General Relating to Furnishing Written Opinions, <https://www.illinoisattorneygeneral.gov/Page-Attachments/opinionpolicy.pdf> (the Attorney General will not furnish opinions upon questions of fact).

CONCLUSION

For the reasons stated above, the county board may not implement a mandatory electronic timekeeping system that interferes with the personnel decisions of county officers operating under statutory internal control provisions. Moreover, whether a county board has an inherent managerial right to implement a mandatory electronic timekeeping system is a fact-intensive inquiry that is best determined by the Illinois Labor Relations Board or other avenues of dispute resolution provided under the Illinois Public Labor Relations Act.

This is not an official opinion of the Attorney General. If we may be of further assistance, please advise.

Very truly yours,



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