Opinion No. 2013-070

September 17, 2013

The Honorable Roger Norman, JD, CPA, CFE
Legislative Auditor
Division of Legislative Audit
172 State Capitol
Little Rock, Arkansas 72201-1099

Dear Mr. Norman:

You have requested my opinion on the following question concerning sick leave for county library employees:

> Does the Faulkner County Library Board have the authority to establish a sick leave policy that conflicts with, or differs from the sick leave policy established by the Faulkner County Quorum Court?

As background for this question, you state that an audit report concerning Faulkner County, Arkansas, contained the following finding:

> County library employees are allowed to accumulate up to 640 hours of sick leave as approved by the County Library Board. This is in apparent conflict with the Faulkner County personnel manual which states "… This earned sick leave can be carried over and allowed to accumulate up to a maximum of 480 hours…."

As further background, you note that Faulkner County Ordinance No. 78-8 ("Ordinance") established the Faulkner County Library Department and its administrative board pursuant to section 107 of Act 742 of 1977 (now codified at A.C.A. § 14-14-712 (Repl. 1998)).[1] You also report that the Ordinance grants the

[1] Act 742 of 1977 is the enabling legislation to Ark. Const. amend. 55, which reorganized county government. Section 107 of Act 742 made county library boards subject to reorganization by county ordinance.

administrative board "all powers enumerated in Section 103 of Act 742 of 1977, as well as … all powers normally incidental to the administration" of a library.[2] You state, finally, that the Ordinance does not discuss sick leave and that according to Division of Legislative Audit staff, the authority to establish sick leave policy was not delegated to the Faulkner County Library Board.

After seeking legal advice regarding its authority, the Board has expressed disagreement with the audit finding.

RESPONSE

Given that a sick leave policy established by the Faulkner County Quorum Court must be general in nature and apply uniformly to all employees of the county, it is my opinion that the answer to your question is "no." The Faulkner County Library Board lacks authority, in my opinion, to adopt a sick leave policy for county library employees that conflicts with or differs from the policy established by the Quorum Court.

The enactment of a sick leave policy for county employees plainly falls within the legislative authority of a quorum court, pursuant to A.C.A. § 14-14-805, which provides in relevant part:

> [A] quorum court may exercise any legislative authority with regard to employee policy and practices of a general nature, *including, but not limited to, establishment of general vacation and sick leave policies*…. Legislation promulgated by a quorum court dealing with matters of employee policy and practices shall be applicable only to employees of the county and shall not apply to the elected county officers of the county. Legislation applying to employee policy practices *shall be only of a general nature and shall be uniform in application to all employees of the county*.[3]

The background information accompanying your request for my opinion indicates that the Faulkner County Quorum Court has exercised its authority under this statute and established a sick leave policy. I have not been provided with the actual policy, but I assume it is general in nature and applies uniformly to all

---

[2] Section 103 of Act 742 (A.C.A. § 14-14-705 (Repl. 1998), provides general authority for the creation of advisory or administrative boards by counties.

[3] A.C.A. § 14-14-805(2) (Repl. 1998) (emphasis added).

employees of the county – including the "county library employees" referenced in the Division of Legislative Audit audit report.

As you can see from the above excerpt, subsection 14-14-805(2) exempts from the scope of a county's general employment policy only elected county officers, not those officers' staffs or any other county employees. In my opinion, such a policy is generally controlling in the face of a conflicting policy adopted by a county board, including a library board.[4]

In response to your particular question, therefore, it is my opinion that the Faulkner County Library Board lacks authority to adopt a sick leave policy for county library employees that contravenes a policy established by the Quorum Court pursuant to A.C.A. § 14-14-805(2).[5]

Deputy Attorney General Elisabeth A. Walker prepared the foregoing opinion, which I hereby approve.

Sincerely,

DUSTIN MCDANIEL
Attorney General

DM/EAW:cyh

---

[4] This office has previously opined that a county library board may have recourse to the courts if it feels its core functions have been compromised by inadequate quorum court appropriations. *See* Op. Att'y Gen. 2001-012. As a general proposition, I believe a library board might similarly challenge the adequacy of a county general leave policy. The resolution of any such issue is a matter for the courts, however, and not a library board in contravention of quorum court determinations. Additionally, it is difficult to envision facts that would render library employees unique in a sense entitling the Board to depart from an employment policy that is constitutionally adequate as to other county employees.

[5] According to material attached to your request, the Faulkner County Library Board is a constituent member of the Faulkner-Van Buren Regional Library System ("System"). I note that A.C.A. § 13-2-407 (Repl. 2003) provides for the creation of such a "regional public library system," and that subsection (d) thereof addresses "fringe benefit coverage" for "eligible employees of a … regional public library system." The precise scope and operation of this subsection are not entirely clear. The statute addresses "benefits" for system employees but does not further define or identify those employees. I mention this statute only because it appears to address benefits for some category of employees working under a library system. I do not believe it is implicated under your particular question concerning Faulkner County library employees. As stated above, those employees are in my opinion subject to the sick leave policy established by the Faulkner County Quorum Court.