

**POLK COUNTY
OFFICE OF CORPORATION COUNSEL**

POLK COUNTY JUSTICE CENTER
1005 WEST MAIN STREET, SUITE 100
BALSAM LAKE, WI 54810
Telephone: 715-485-9210
Facsimile : 715-485-9171

Jeffrey B. Fuge
Corporation Counsel

Tomma Broome
Administrative Assistant

Malia T. Malone
Assistant Corporation Counsel

Laurie Finn
Legal Secretary

November 29, 2007

The Honorable J. B. Van Hollen
Wisconsin Attorney General
P.O. Box 7857
Madison WI 53707-7857

Re: Authority of Human Services Departments to Receive Gifts

DEPT. JUSTICE-

Dear Attorney General Van Hollen:

3 DEC 07 11 20 Our office represents Polk County and the Polk County Human Services Department. Our office requests that the Office of the Wisconsin Attorney General provide a legal opinion on the question of whether human services departments, created under Wis. Stat. Sec. 46.23, have the authority to accept donations and/or gifts.

Our office has reviewed relevant statutes and has come to the conclusion that the language of Wis. Stat. Sec. 59.52(19) appears to place sole authority to accept gifts at the level of the County Board of Supervisors. Our office notes that Wis. Stat. Sec. 46.23(3)(b) 2.c. adopts, by reference, Wis. Stat. Sec. 46.22(1)(c) 8.b. In Wis. Stat. Sec. 22(1)(c) 8.b., the legislature specifically gives distinction to monies being spent as originating from those appropriated by the County Board Supervisors and those donated by individuals. It is reasonable to conclude that Sec. 46.22(1)(c) 8.b. authorizes social services and human services departments to accept and expend monetary gifts donated by individuals or private organizations. Most notably, the statutory language permitting expenditure of monetary donations is absent for any requirement that such donations must be appropriated by the County Board of Supervisors.

Our office also observes the language contained in 46.495(1)(d) that determines the calculations for the county's match for the distribution of community aids funds. County matching funds are defined as those from county tax levies, federal and state revenue

sharing funds or private donations to the county that meet the requirements specified in Sec. 51.423(5). It is reasonable to conclude from the underscored language that Wis. Stat. Sec. 59.52(19) and appropriation through the County Board of Supervisors is required to complete the allocation of private donations for matching purposes under Sec. 46.495. Our office knows of no Wisconsin Attorney General opinion that addresses this issue of statewide concern.

It would appear from the specific reference contained in Sec. 46.22 conflicts with the legislative intent found within 46.495 and Sec. 59.52(19).

It has been the past practice of the Polk County Social Services Department and Human Services Department to accept and expend donations received from individuals and private organizations without action by the Polk County Board of Supervisors. That being a matter of statewide concern, our office seeks the legal opinion of the Wisconsin Attorney General as to whether the action of the County Board of Supervisors is required to accept the donation and, further, appropriate such donations for usage by the human services department.

If you require any further information in addressing this issue, please contact me directly at (715) 485-9282. We look forward to your response.

Very truly yours,



Jeffrey B. Fuge
Polk County Corporation Counsel

JBF/lf