

November 30, 2023

NOTE: Special Meeting Time & New Meeting Location.

TO: County Personnel Policy Board Members

SUBJECT: Personnel Policy Board Meeting
Thursday, December 7, 2023
9:00 a.m., Keating, O' Gara Seminar Room
200 South 21st Street, Suite 400.

A G E N D A

- ITEM 1: Approval of Minutes from the October 5, 2023 meeting.
- ITEM 2: Request to amend County Rule 17.24 – Education Loan Forgiveness
- ITEM 3: Request to create County Rule 17.27 – Hiring and Retention Incentive
- ITEM 4: Request to amend County Rule 19.8 - Paid Parental Leave
- ITEM 5: Request for appeal hearing FOP #32 – Scott Schaefer – Termination - Corrections
- ITEM 6: Miscellaneous Discussion

pc: Department Heads
Kristy Bauer
Tom McCarty
Ashley Bohnet
Scott Schaefer

17.24 Education Loan Forgiveness (Revised 9/22)

Effective December 7, 2021, the County will provide education loan forgiveness (“ELF”) to full-time Mental Health Crisis Center Registered Nurses ~~and~~ Nursing Supervisors ~~and Psychologists~~ as an incentive to become and remain County employees. The amount of the loan will be forgiven over a 3-year or 5-year period of full-time employment. This ELF program is subject to the following conditions:

- a) The outstanding educational loan must not be older than 5 years.
- b) The County will provide up to Seventy-Five Thousand Dollars (\$75,000) in loan forgiveness.
- c) The ELF program shall only apply to those degree programs directly related to the nursing ~~or psychologist~~ licensure.
- d) The 3-year or 5-year period for the ELF program shall begin on the employee’s eligibility date which will be determined after the employee successfully completes the probationary period as provided in Lancaster County Personnel Rule 8.2.
- e) The employee shall sign a promissory note prior to any payments being made to the loan institution.
- f) The County will make payments directly to the loan institution.
- g) In the case of resignation or termination prior to the completion of the 3-year or 5-year term, any remaining balance on the loan will be deducted from the employee’s final pay in accordance with the Nebraska Wage Payment and Collection Act and the Fair Labor Standards Act. After such deduction, any remaining balance on the loan, which will include the prevailing interest rate of the original lender, will be reimbursed to the County by the former employee.

The procedure to enroll in the ELF program is as follows:

- a) The employee shall submit documentation detailing the loan institution and any outstanding amount owed to the City of Lincoln-Lancaster County Human Resources Department. The amount owed shall not include any amount previously paid by the employee or covered by scholarships, grants or other means.
- b) Upon receipt of the loan information, the employee will be required to sign a promissory note to Lancaster County for the full amount of the loan prior to payment to the loan institution. Lancaster County will amortize the promissory note over the 3-year or 5-year period according to the following schedule:
 - 1. \$1 to \$45,000 – 3-year promissory note
 - 2. \$45,001 to \$75,000 – 5-year promissory note

- c) After the promissory note has been signed, the County will then distribute payment to the loan institution for the established amount.

17.27 Hiring and Retention Incentive (Created 12/23)

This is a pilot program provided as a result of a Workforce Stabilization Grant through Region V.

- (a) Effective December 13, 2023, the County will provide a \$10,000 bonus for full-time licensed healthcare providers who accept a position in the classification of Mental Health Clinician II or Registered Nurse as an incentive to sign on and remain employed at the Lancaster County Mental Health Crisis Center.

The hiring incentive is subject to the following conditions:

1. The employee will receive a hiring incentive of \$5,000 upon successful completion of their probationary period with the Mental Health Crisis Center. The incentive will be paid on the employee's paycheck for the pay period immediately following the successful completion of their probationary period.
2. The employee will receive an additional retention incentive of \$5,000 upon completing one year of employment with the Mental Health Crisis Center. This incentive will be paid on the employee's paycheck for the pay period immediately following completion of their one year of employment with the County.
3. Employees who are rehired after a break in service for longer than one year are eligible to participate in the incentive.
4. To be eligible, employees need to start working for the Mental Health Crisis Center in the classification of Mental Health Clinician II or Registered Nurse on or before June 30, 2024.

- (b) A \$10,000 retention incentive is available to employees in the classification of Mental Health Clinician II or Registered Nurse as of December 13, 2023.

The retention incentive is subject to the following conditions:

- 1) This incentive shall be paid out over the course of one year, in two payments on January 4, 2024, and December 19, 2024.
 - 2) Employees must be employed by the Mental Health Crisis Center in the classification of Mental Health Clinician II or Registered Nurse for the pay period in which the retention incentive payment is to be made in order to be eligible to receive it.
 - 3) Employees shall not be eligible for partial or pro-rated payments should they leave employment at any point during this pilot program.
 - 4) Any employee who leaves the Mental Health Crisis Center and/or the classification of Mental Health Clinician II or Registered Nurse shall forfeit eligibility for the remainder of the program.
- (c) No employee is eligible to receive more than \$10,000 combined in hiring or retention incentives.
- (d) The incentives are considered taxable income.

19.8 Paid Parental Leave (Revised ~~5/23~~ 12/23)

(a) Effective June 27, 2023, all ~~unrepresented~~ Covered County Employees, -full-time and part-time County employees in the classified service, who are scheduled to work at least 20 hours or more, are eligible to receive up to 240 hours of paid parental leave following the birth of an employee's child/children or when a child/children is/are in the process of being adopted or placed into foster care with an employee.

For the purposes of this policy, the term "Covered County Employees" shall mean (1) all unrepresented, full-time and part-time County employees in the classified service, who are scheduled to work at least 20 hours or more, excluding temporary employees, seasonal employees, on-call employees, probationary employees, and interns; (2) all union-represented employees covered by a collective bargaining agreement that incorporates this paid parental leave policy; and (3) all currently eligible unrepresented employees who form a new bargaining unit and who have not yet finalized the terms of a collective bargaining agreement.

Part-time or alternate scheduled employees will receive prorated leave hours based on their regularly scheduled work week. Temporary employees, seasonal employees, on-call employees, probationary employees, and interns are not eligible for paid parental leave.

(b) Approved paid parental leave may be taken during the 12-month period immediately following the birth of an employee's child/children or when a child/children is/are in the process of being adopted or placed into foster care with an employee.

(1) Eligible employees must meet one of the following criteria:

- (i) Have given birth to a child/children;
- (ii) Be a spouse to a person who has given birth to a child/children or be the biological parent to a child/children that has/have been born;
- (iii) Be in the process of adopting a child/children who is/are 18 years old or younger, with the exception of adoption of a spouse's child/children;
- (iv) Be in the process of a foster care placement of a child/children who is/are 18 years old or younger.

(2) An employee is limited up to 240 hours, or a prorated number of hours for part-time employees, of paid parental leave in a rolling 12-month period regardless of the number of births, or placements for adoption or foster care.

(3) An employee may take paid parental leave intermittently or on a reduced leave schedule:

- i. With the Department Head's approval for bonding purposes. Employees requesting intermittent/reduced schedule leave for bonding purposes must work with the employer to schedule the leave so as not to unduly disrupt operations.
 - ii. With supporting medical documentation of a child/children's serious health condition.
- (4) Paid parental leave is compensated at the employee's regular rate of hourly pay.
- (5) Paid parental leave must be exhausted before an employee may utilize sick leave, vacation leave, or personal convenience holidays for the birth, adoption, or placement of a child/children with the employee.
- (6) If a Holiday as defined in Personnel Rule 18.1(a) occurs while the employee is on paid parental leave, the employee's absence on said holiday will be charged to holiday pay and will not count against the employee's paid parental leave entitlement.
- (7) Upon termination, retirement, resignation, or other separation from employment, employees will not be paid for any unused paid parental leave for which they were eligible.
- (c) An employee requesting paid parental leave shall complete FMLA paperwork or, if not FMLA eligible, the Paid Parental Leave Form at least 30 days prior to the proposed date of leave, or if the leave was not foreseeable, as soon as possible, and provide all documentation as required by the HR department to substantiate the request.
- (d) If an employee is eligible for Family and Medical Leave pursuant to the Family and Medical Leave Act (FMLA) Personnel Policy Bulletin, 2023-1, or becomes eligible for Family and Medical Leave at any time during paid parental leave, the paid parental leave shall run concurrently with FMLA leave and the FMLA Bulletin shall control the employee's use of leave.

KEATING | O'GARA

Gary J. Nedved
Paul J. Peter
Anne E. Winner
Jefferson Downing
Gary L. Young

Joel D. Nelson
Joel Bacon
Thomas P. McCarty
Tara L. Gardner-Williams

Milissa D. Johnson-Wiles
Brenna M. Grasz
Courtney R. Faller

OF COUNSEL:

Doug Peterson

EMERITUS:

Con M. Keating

VIA EMAIL

Barbara McIntyre
Lincoln-Lancaster County Human Resources Director
555 South 10th Street
Lincoln, Nebraska 68508
bmintyre@lincoln.ne.gov

RE: APPEAL OF SCOTT SCHAEFER AND FOP #32

Dear Ms. McIntyre,

This firm represents Fraternal Order of Police, Lodge #32 and Corrections Officer Scott Schaefer ("Grievants"). On October 27, 2023, Lancaster County Department of Corrections Director Brad Johnson issued Officer Scott Schaefer a letter terminating his employment. A true and correct copy of the disciplinary action letter is attached hereto.

Pursuant to Article 8, Section 2 of the bargaining agreement between Lancaster County and FOP #32, Grievants hereby give notice of their appeal of the termination to the Personnel Policy Board, for the reason that the termination of Officer Schaefer is: not supported by just cause; is not necessary to correct employee behavior; is not proportionate to the actions alleged; is not consistent with prior discipline; is not progressive; fails to give consideration to mitigating factors; is arbitrary and capricious; is not based upon substantiated policy violations; and is not based upon substantiated deviation from training.

Since Officer Schaefer has been terminated and is without wages, Grievants request that the hearing be scheduled before the Lancaster County Personnel Policy Board on December 7, 2023, as is their right in accordance with Article 8, Section 2 of the bargaining agreement between FOP #32 and Lancaster County. Please confirm this hearing has been scheduled on December 7, 2023, as soon as possible, so the parties can confirm the hearing date with witnesses.

Sincerely,

/s/Thomas P. McCarty
Thomas P. McCarty

Lancaster County

Department of Corrections

3801 West O Street
Lincoln, NE 68528
(402) 441-1900
Fax: 441-8946

Brad Johnson, Director

October 27, 2023

Scott Schaefer
Correctional Officer
Lancaster County Dept. of Corrections
3801 West O Street
Lincoln NE 68528

RE: Termination

Dear Officer Schaefer:

On October 10, 2023, you received a letter placing you on investigatory suspension and proposing to terminate your employment with the Lancaster County Department of Corrections and the County of Lancaster. On October 26, 2023, you, Tom McCarty, Dan Goodman, Russ Robbins and Jason Cvitanov met with me to discuss the proposed discipline. During the meeting you presented information concerning the alleged violations.

After consideration of the facts before me and the information you presented, I have determined that the mitigating factors you introduced do not justify your use of force and the following policy violations. Therefore, I have decided to terminate your employment with Lancaster County Department of Corrections pursuant to Lancaster County Personnel Rule 11.2(e) and Article 30, Section 4 of the 2021-2024 Bargaining Agreement between Fraternal Order of Police Lodge #32 and the County of Lancaster, effective immediately.

This proposed termination is based upon violations of Lancaster County Department of Corrections Policies, Lancaster County Department of Corrections training, and Lancaster County Personnel Rules. It appears that the following rules, policies, and provisions have been violated:

1. Lancaster County Personnel Rule 11.2 (h)(4), "The employee has engaged in any conduct unbecoming an officer or employee of the County which reflects on the County adversely."; and
2. Lancaster County Personnel Rule 11.2 (h)(5), "The employee has violated any department, division, or institution regulation or order..."; and
3. Lancaster County Personnel Rule 11.2 (h)(8), "The employee has been incompetent or inefficient in the performance of the duties of his position."; and
4. Lancaster County Department of Corrections Policy 2.7 (A)(10), "Employees shall not employ corporal punishment or unnecessary physical force."; and
5. Lancaster County Department of Corrections Policy 2.7 (A)(11), "Employees shall not subject inmates to any form of physical or mental abuse, demean or intentionally humiliate an inmate."; and
6. Lancaster County Department of Corrections Policy 2.7 (B)(1), "Employees are expected to conduct themselves at all times, both on and off duty, in a professional manner that shall reflect favorably on the Department and County..."; and
7. Lancaster County Department of Corrections Policy 2.7 (B)(13), "Employees shall not neglect any required duty as outlined in their job description and shall abide by all department polices, post orders and similar legitimate job requirements"; and
8. Lancaster County Department of Corrections Policy 6.11 (A)(2), "Application of force, mechanical restraints and therapeutic restraints must be consistent with the department's policies, post orders and training."; and
9. Lancaster County Department of Corrections Policy 6.11 (A)(3), "Use of Force, including the use of Mechanical Restraints and the Safety Restraint Chair, will never be applied as discipline or punishment."; and

10. Lancaster County Department of Corrections Policy 6.11 (A)(4), "The use of Excessive Force is strictly prohibited."; and
11. Lancaster County Department of Corrections Policy 6.11 (C)(2), "When implementing the force continuum, staff will assess the inmate's behavior and respond with a level of control that is one level higher than the level of resistance being employed by the inmate."; and
12. Lancaster County Department of Corrections Policy 6.11 (C)(3), "Levels of control are guidelines that will normally be followed in sequential order. However, staff are expected to evaluate each situation on its own merits and, where necessary, respond with the appropriate type of force regardless of its sequence in the force continuum."; and

The facts that have been reported to me are as follows:

On September 21, 2023, you were assigned as a Booking Officer on second shift. On this date, you along with several other ADF staff members attempted to assist the Lincoln Police Department with removing an arrestee from a cruiser and escorting him into the intake area of the facility. During the course of this incident, you employed force against this arrestee that consisted of taking him to the ground, wrestling on the ground with the arrestee, deploying your CED on the arrestee's lower back, adjusting and repositioning the handcuffs on the arrestee, and ultimately assisting with placing the arrestee in a safety restraint chair to control his assaultive behavior.

Once the arrestee was secured in the safety restraint chair with the lap belt and his hands handcuffed behind his back, you and the other staff members present, began wheeling the arrestee toward the intake area of the facility. Upon approaching the Holding A door to enter the intake sallyport, the arrestee again became noncompliant and began thrashing his legs around and pushing his legs against the door to keep from being transported through the door into the sallyport. At this point you again deployed your CED, this time on the arrestee's abdominal area in an effort to gain compliance. The arrestee again began to kick and thrash his legs contacting your right thigh. At this point, you delivered either two or three closed fist strikes to the arrestee's upper body/head area with your left hand. One of your supervisors then pulled you away from the arrestee and the remaining staff members were able to wheel him through the door and into the intake area. Following this use of force incident, you submitted an investigative report indicating that the closed fist strikes that you delivered were to the inmate's head "due to his unresponsiveness to comply to stop his assaultive behavior toward officers". These strikes to the arrestee's upper body/head area were in violation to Lancaster County Department of Correction's policies and training.

The subsequent investigation and review of video of the incident corroborates the facts as stated above. Please make arrangements with Kendra Knauss (402-441-1908) for the return of County property issued to you.

You have the right to appeal this termination to the Lancaster County Personnel Board in accordance with Article 30, Section 4 of the Bargaining Agreement and Lancaster County Personnel Rule 11.2(e).

Sincerely,



Brad Johnson
Corrections Director

cc: Barb McIntyre, Human Resources Director
Ashley Bohnet, Deputy County Attorney
Ken Prey, Jail Administrator
Rick Gray, Jail Administrator
Jane Voboril, Corrections Lieutenant
Personnel File