

January 2, 2024

TO: County Personnel Policy Board Members

SUBJECT: Personnel Policy Board Meeting
Thursday, January 4, 2024
1:30 p.m., Commissioners Hearing Room
County-City Building, Room 112

A G E N D A

- ITEM 1: Approve Minutes from the December 7, 2023, meeting.
- ITEM 2: Request to amend County Rule 4.8 – Hearings
- ITEM 3: Request to amend County Rule 17.27 – Hiring and Retention Incentive
- ITEM 4: Request to amend County Rule 19.2 - Vacation Leave
- ITEM 5: Request for appeal hearing – IBEW - Steve Slapnicka - Suspension - Engineering.
- ITEM 6: Miscellaneous Discussion

pc: Department Heads
John Corrigan
Ashley Bohnet
Kristy Bauer
Steve Slapnicka

4.8 Hearings [\(Revised 01/24\)](#)

(a) Responsibility of the Board: When an employee shall file an appeal or grievance before the Board, it shall be the duty of the Board to ascertain to the best of its ability the facts of the case and, after weighing all available evidence, to report its findings and decision for such disposition as the Board may deem appropriate and to report its decision to all parties affected.

(b) Date of Hearing: A hearing shall be held within thirty (30) working days after receipt of said appeal or grievance, and at such time and place as shall be fixed by the [Human Resources Director](#). The hearing date may be continued if the parties mutually agree to a continuance or the Board does not have a quorum.

(c) Notice of Hearing: The Human Resources Director shall give the appellant or grievant and the Department Head prompt notice of the time and place set for the public hearing. The notice shall be given at least five (5) working days prior to the hearing. In the case of the appellant or grievant, the notice shall be by certified mail, addressed to ~~him~~[them](#) at ~~his~~[their](#) last known address, as shown by the employee's personnel file, with a return receipt requested unless ~~such notice is waived in writing the grievant has representation. Prior to the hearing, the parties shall identify in writing the individual who will represent them at the hearing.~~

(d) The Board Shall Have Access to Pertinent Data: In order to discharge its function properly in regard to review, the Board members shall have access to any County files, correspondence, memoranda, etc., which they feel might be pertinent to the case unless cause is shown why such files should not be provided at such a hearing. The Board shall have the right to question any officer or employee of the County whom they feel may be able to shed light on the circumstances involving the action in question. No officer or employee shall be subjected to disciplinary action as a result of testimony given.

(e) Witnesses: [Prior to the hearing, the parties shall provide the Board with a written list of the persons expected to be called as witnesses at the hearing.](#) The Board shall have the authority, either upon its own initiative or upon application of any party, to compel any County employee to appear before it for the purpose of giving testimony or otherwise providing relevant evidence. The procedure for compelling the attendance of a County employee before the Board shall be as follows:

(1) If the attendance of a County employee before the Board is sought by one of the parties, that party shall, not less than five (5) working days prior to the date of the meeting at which the employee's attendance is sought, submit to the Board, through the Human Resources Director, a written request to compel the attendance of the witness or witnesses. The party shall also send copies of such request to the opposing party or their attorney.

(2) Such request shall include, for each employee whose attendance is sought, the following information: the name of the employee; the Department in which the employee works; the reason or reasons the employee's presence is being sought; the general subject matter on which the employee is expected to offer evidence; a summary of the testimony, if any, which the employee is expected to give; the substance of any other evidence the employee is expected to give; the date and approximate time at which the employee's attendance is necessary; the approximate amount of time that the employee will need to be present; and any other information pertinent to the request.

(3) Following receipt thereof, any other party may respond to a request to compel the attendance of a County employee before the Board and may supplement their witness list. Any such response shall be in writing and shall be received by the Human Resources Director not later than the

close of business on the second working day after the original request was filed. Copies of any such responses shall also be served upon all the parties.

(4) The parties and Department Heads shall cooperate in order to minimize the amount of time an employee will be required to spend away from his duties as a result of being compelled to appear before the Board.

(5) As soon as the necessary arrangements have been made, the Department Head shall notify all affected employees and order them to appear accordingly. Any employee who fails to comply with any such order without adequate excuse shall be subject to formal discipline pursuant to the provisions of Rule 11.

(6) In the event that an employee fails to comply with an order to appear before the Board, the Board, pursuant to the provisions of NEB.REV.STAT. §23-2522(6), shall immediately issue and cause to be served on the employee a subpoena directing the employee to appear before the Board to give evidence at a date and time to be specified by the Board.

(7) All time spent by an employee, compelled to appear by either party, in a hearing before the Board pursuant to this Rule shall be considered time spent in performance of the employee's duties, and the employee shall be compensated accordingly by the County.

(8) Before testifying, every witness shall be required to declare that they will testify truthfully by oath or affirmation administered by the court reporter.

(f) Exhibits: Prior to the scheduled beginning of the hearing, the parties shall make every attempt to offer joint exhibits to avoid delays at the time of the hearing.

(1) Copies of all exhibits must be provided by each party for each member of the Board in attendance.

(2) Exhibits will be marked by a court reporter at the meeting.

(3) All costs associated with copies of exhibits shall be borne by the responsible party.

(g) -Subpoenas: The Board shall have the power to issue subpoenas to compel the attendance of witnesses or the production of documents as provided in NEB.REV.STAT. § 23-2522(6).

(1) Upon written request by either party, the Human Resources Director shall prepare a subpoena to be issued by the Board, directing the attendance of the named witnesses or the production of documents.

(2) No written request for the preparation or issuance of a subpoena shall be honored unless such written request is received by the Human Resources Director not less than 6 calendar days prior to the date upon which the matter is to be heard by the Board.

(3) Service of subpoenas shall be in strict accordance with NEB.REV.STAT. §25-1223 and §25-1226 except that the subpoena shall be served not less than 48 hours prior to the commencement of the Board meeting. All costs associated with the preparation, issuance and service of a subpoena shall be borne by the requesting

party.

(hf) Scope of the Board's Review: In its review of an employee appeal, the Board shall limit itself to the question of the appropriateness of the action and related matters, and to the following:

(1) Review of Disciplinary Action Appeals: In its review of a disciplinary action, the Board shall limit itself to the following questions (1) whether the employee committed the transgression(s) charged; (2) whether the discipline imposed for the transgression(s) is authorized under the provisions of these Rules or the relevant union contract; and (3) whether the Department Head, in imposing the discipline, considered any mitigating factors which may have existed in connection with the transgression(s).

In such cases, the Board shall affirm the action of the Department Head unless it is clearly established by evidence in the record that: (1) the employee did not commit the transgression(s) charged; or (2) the discipline imposed was not authorized under the provisions of these Rules or the relevant union contract; or (3) the Department Head, in imposing the discipline, failed to take into consideration any mitigating factors which may have existed in connection with the transgression(s).

(2) Review of Grievance: In its review of the Department Head's answer to the employee's grievance, the Board shall limit itself to interpretation of the relevant Rules and/or the relevant union contract cited in the grievance, and the facts which are the basis for the grievance.

~~(gi) Hearings to be Informal: Hearings shall be conducted in an informal manner with every effort made by the Board to avoid the appearance of conducting a trial as in a court of law.~~

(hi) Adjournments: Hearings on appeals or grievances may be adjourned prior to completion of the hearing only upon good cause shown and/or by agreement of the parties.

(hj) Failure to Appear: In the event that the appellant or grievant shall fail to appear in person or by counsel at the time and place set for hearing, the appellant or grievant shall be presumed to have waived his-their right to further hearing, and the Board shall dismiss the appeal or grievance. The Human Resources Director shall inform the party of such dismissal and his-their right to request his-their hearing be rescheduled. The Board may reschedule the hearing upon written presentation, by appellant or grievant or counsel, of evidence of extenuating circumstances which prevented the appearance of appellant or grievant and/or counsel. Such evidence shall be in writing and served upon the Board, through the Human Resources Director, within ten (10) calendar days of the meeting in which the appellant or grievant failed to appear.

(kj) Representation: Appellant or grievant may, at his-their election, be represented by counsel.

(lk) Conduct of Hearings: Hearings before the Board shall be public and shall be conducted in an orderly manner with a view to the presentation of all material facts so that a fair and impartial decision may be made. The Board shall not be bound by the strict rules of evidence and all hearings shall be conducted by the Chair or Vice-Chair, in the absence of the Chair or Vice-Chair, by another member of the Board. The Chair ~~person~~ or Vice Chair of the Board shall have full authority at all times to maintain orderly procedure, including the admission or exclusion of testimony and to reject irrelevant matters and limit the hearings to relevant facts.

(1) Hearings shall be conducted in an informal manner with every effort made by the Board to avoid the appearance of conducting a trial as in a court of law.- Any

member of the Board may question any of the witnesses during the course of the hearing.

(2) The following is the customary order. The Board may vary this order, either on its own initiative or at the request of either party.

- a. —1.—Opening statement by the initiating party or County.
- b. —2.—Opening statement by respondent or appellant.
- c. —3.—Presentation of evidence, witnesses and arguments by the initiating party or County.
- d. —4.—Cross-examination by respondent or appellant.
- e. —5.—Presentation of evidence, witnesses and arguments by the respondent or appellant.
- f. —6.—Cross-examination by initiating party or County.
- g. —7.—Rebuttal evidence, if necessary, by initiating party or County.
- h. —8.—Rebuttal evidence, if necessary, by respondent or appellant.
- i. —9.—Summation by initiating party or County.
- a-j. —10.—Summation by respondent or appellant.

(n) Rebuttal: The scope of rebuttal shall be very narrow. On rebuttal, the Board shall receive only that evidence which: 1) has become relevant or important only as a direct result of evidence introduced by the opposing party, and 2) is offered for the sole purpose of explaining, refuting, contradicting, or disproving said evidence of the opposing party.

(o) Burden of Proof: In hearings which involve suspensions, demotions or dismissals for cause, the burden of proof shall be on the appointing authority. In all other cases, the burden of proof shall be on the grievant.

(p) Transcript: A transcript of any or all of the hearing may be obtained from the court reporter. All costs associated with receipt of a transcript shall be borne by the requesting party.

(q) Decisions: A majority of affirmative votes shall be required to sustain a grievance or appeal. A failure to reach a majority of affirmative votes results in a denial of the grievance or appeal.

(1) Each present Board member will state their decision as well as the reasoning for their decision on the record.

(2) The Board shall reduce its findings and decisions to writing and send copies of the same to each party within fourteen days.

17.27 Hiring and Retention Incentive (~~Created 12/23~~ Revised 1/24)

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, [Nursing Supervisor](#) 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, [Nursing Supervisor](#) 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, [Nursing Supervisor](#) 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, [Nursing Supervisor](#) 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, [Nursing Supervisor](#) 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.

19.2 Vacation Leave (Revised ~~01/17~~01/24)

(a) Probationary and status employees shall earn vacation leave with pay according to the following schedule:

(1) Less than five (5) years of service at the factored hourly equivalent of eighty (80) hours per year.

(2) After five (5) years of service at the factored hourly equivalent of one hundred twenty (120) hours per year.

(3) After ten (10) years of service at the factored hourly equivalent of one hundred fifty-two (152) hours per year.

(4) After fifteen (15) years of service at the factored hourly equivalent of one hundred sixty-four (164) hours per year.

(5) After twenty (20) years of service at the factored hourly equivalent of one hundred ninety-eight (198) hours per year.

(b) Probationary and status employees in a pay grade prefixed by “A” shall earn vacation leave with pay according to the following schedule:

(1) Less than five (5) years of service at the factored hourly equivalent of eighty (80) hours per year.

(2) After five (5) years of service at the factored hourly equivalent of one hundred twenty (120) hours per year.

(3) After ten (10) years of service at the factored hourly equivalent of one hundred fifty-two (152) hours per year.

(4) After fifteen (15) years of service at the factored hourly equivalent of one hundred sixty-four (164) hours per year.

(5) After twenty (20) years of service at the factored hourly equivalent of two hundred (200) hours per year.

(c) Employees shall earn but not be granted vacation leave during the first six (6) months of employment.

(d) Part-time employees shall earn vacation leave based on total hours worked in each pay period.

(e) Vacation leave shall be requested and approved in advance of its use, except in circumstances beyond the employee's control. Each Department Head shall schedule vacation leaves to accord with operating requirements and, insofar as possible, to coincide with the request of the employee.

(f) Accumulation of vacation leave credit shall be on a continuous basis not to exceed two hundred forty (240) hours. Unused vacation leave accumulation shall be paid upon separation. Employment may not be extended by using vacation at the time of separation, [except in the case of retirement, per the Vacation Usage Upon Retirement Personnel Policy Bulletin.](#)

(g) Vacation leave shall not accrue during any leave of absence without pay.

(h) Classified employees who accept permanent appointment to an elected position shall have their vacation balance paid out to them at their rate of pay in the classified position. Such payment shall be made on the paycheck following the employee's last day in their classified position.



OFFICIAL APPEAL

NAME OF EMPLOYEE: Steve Slapnicka
DEPARTMENT: Engineering
CLASSIFICATION: Senior Equipment Operator
WORK LOCATION: Denton

STATEMENT OF APPEAL:

List applicable appeal: On August 30, 2023 Steve was blading near SW Hunters Circle and Deercrest Drive. While making a turn his blade hit the tire causing damage to the motor grader tire. A replacement tire was needed. On June 1, 2023 Steve had a close call with a train, but no damage was done to his motor grader. However he did receive a written reprimand, even though there never was a dollar damage amount ever disclosed when the Union asked about it. Now all of a sudden on the suspension notice letter dated 10/4/2023 there is a damage amount of \$2270.69 done to the train.

Steve has now received a written reprimand and a day of suspension even though there have been other employees that have done consecutive damage to equipment and received no discipline at all. Article 19 section 1 of the CBA clearly states that discipline must be consistent on how others were treated in similar situations.

ARTICLE 19 - DISCHARGE AND DISCIPLINE Section 1.

Disciplinary action shall consist of written reprimand, suspension, demotion and dismissal. The Department Head may discipline an employee for just cause. Just cause shall be defined as a cause which a reasonable employer, acting in good faith, would regard as good and sufficient reason for the level of discipline issued against the employee for the infraction that led to the disciplinary action, and the discipline was consistent with how other employees in similar situations were treated as distinguished from arbitrary whim or caprice. In informing an employee of proposed discipline, the County can refer to the Lancaster County Personnel Rules to set forth the basis for the proposed discipline.

Adjustment required: Change Steve's one day suspension to a written reprimand.

IBEW Local 1536 is the representative to act in the disposition of this appeal.

Date: October 23, 2023

Signature of Union Representative: Rick DeBoer

THIS STATEMENT OF GRIEVANCE IS TO BE MADE OUT IN DUPLICATE.

ORIGINAL TO: Human Resource

COPY: LOCAL UNION GRIEVANCE FILE