

July 28, 2022

TO: County Personnel Policy Board Members

SUBJECT: Personnel Policy Board Meeting
Thursday, August 4, 2022
12:30 p.m., Commissioners Hearing Room
County-City Building, Room 112

NOTE: Change in start time

A G E N D A

- ITEM 1: Approval of Minutes from the July 7, 2022 meetings
 - ITEM 2: Request to create County Rule 17.26 – Referral Pilot Program
 - ITEM 3: Request to amend the Workplace Response to Covid-19 Human Resources Policy Bulletin
 - ITEM 4: Discussion of tie vote – Jamie Draper – County Engineer
 - ITEM 5: Request for grievance hearing – Steve Slapnicka – County Engineer
 - ITEM 6: Election of Chair
 - ITEM 7: Election of Vice-Chair
 - ITEM 8: Miscellaneous Discussion
- PC: Kristy Bauer
Ashley Bohnet
Rick DeBoer
Jamie Draper
Steve Slapnicka
Pam Dingman
Department Heads

17.26 Referral Bonus Pilot Program (Created 8/22)

Effective September 1, 2022, the County will have a policy regarding a referral bonus pilot program for unrepresented, classified employees with the Lancaster County Sheriff's Office. Referral Programs are a proven, effective method used to recruit and hire contributors who are more likely to have increased longevity in the Agency. The policy is subject to the following conditions:

1. Employees Defined. Unless otherwise stated herein, the benefits described in this policy apply to the following employees with the Lancaster County Sheriff's Office:
 - a. Technology Support Technician
 - b. System Programmer
 - c. Security Technician
 - d. Security Guard Supervisor
 - e. Security Guard
 - f. Records System Supervisor
 - g. Administrative Services Officer
 - h. Administrative Aide I
 - i. Accounting Specialist
2. An employee employed with the Lancaster County Sheriff's Office who refers another person for employment as a commissioned deputy sheriff with the Lancaster County Sheriff's Office is subject to a referral bonus.
3. A referral bonus of \$1000 will be added to the referring employee's paycheck upon the referred employee's successful completion of six months of employment. Another \$1000 will be added to the referring employee's paycheck upon the referred employee's successful completion of one year of employment. Both the referral and referred employees need to be employed by Lancaster County Sheriff's Office at the completion of the referred employee's six and twelve months of employment in order for the referral employee to receive the referral bonus.
4. Employees who hold a position critical to completing the selection process are ineligible for the referral bonus. Referring employees may not participate in the selection process for any candidate they referred.

5. The name of the employee who referred the candidate shall be listed on the referred candidate's application.
6. The referral bonus is considered taxable income.
7. Any disputes or interpretations of this program will be decided by Human Resources and are not grievable.
8. This is a pilot program and any applications need to be received between September 1, 2022 and August 31, 2023.

<https://linclanc.sharepoint.com/sites/HRDept-HRStaff/Shared Documents/HRStaff/Rules/2022/Rule 17.26 - NEW 8-22 Referral Bonus Program.docx>

Human Resources Policy Bulletin

Lancaster County

Number: 2022-12

Date: March~~August~~,
2022

Reference:	Title:
Americans with Disabilities Act, Rehabilitation Act, 29 CFR Part 1630 EEOC Guidance, “Pandemic Preparedness in the Workplace and the Americans With Disabilities Act”, Updated in Response to COVID-19 Pandemic, March 19, 2020 Supercedes Personnel Policy Bulletin 2021-4 <u>2022-1</u>	WORKPLACE RESPONSE TO COVID-19

I. PURPOSE

The purpose of this policy is to help prevent workplace exposures to COVID-19 and to establish criteria for daily symptom self-screening of County employees. This policy is based upon the Centers for Disease Control and Prevention’s guidance for businesses and employers responding to COVID-19¹.

II. POLICY

A. Employees with these symptoms² may be infected with COVID-19:

1. New onset of a sustained persistent nonproductive cough (a dry cough lasting longer than 24 hours)
2. Unresolved or new onset shortness of breath or difficulty breathing
3. Measured temperature of 100.4°F or higher
4. Sustained (longer than 2 hours) chills or repeated shaking with chills
5. Muscle pain or body aches
6. Headache
7. Sore throat
8. New loss of taste or smell
9. Congestion and/or runny nose

¹ <https://www.cdc.gov/coronavirus/2019-ncov/community/workplaces-businesses/index.html>

² Symptoms are based on those the Lincoln-Lancaster County Health Department have identified are most common of those infected in Lancaster County and the CDC’s list of symptoms consistent with COVID-19, which can be found at https://www.cdc.gov/coronavirus/2019-ncov/symptoms-testing/symptoms.html?CDC_AA_refVal=https%3A%2F%2Fwww.cdc.gov%2Fcoronavirus%2F2019-ncov%2Fabout%2Fsymptoms.html.

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- 10. Nausea or vomiting
- 11. Diarrhea

B. Daily Symptom Self-Screening

Regardless of vaccination status, before arriving to work, employees shall self-screen for the following symptoms:

- 1. A fever higher than 100.4 F or, using fever-reducing medications (i.e Tylenol®, Acetaminophen, Advil®, Ibuprofen) in the last 24 hours to control a fever higher than 100.4 F;
- 2. Unresolved or new onset of shortness of breath or difficulty breathing;
- 3. New onset of sustained persistent nonproductive cough (a dry cough lasting longer than 24 hours);
- 4. New onset of loss of taste or smell; and
- 5. Two or more of the following prolonged (symptom(s) lasting for longer than 24 hours) and unexplained (no other reasonable cause) symptoms:
 - i. Sore throat
 - ii. Sustained (longer than 2 hours) chills or repeated shaking with chills
 - iii. Headache
 - iv. Muscle pain
 - v. Congestion and/or runny nose
 - vi. Nausea, vomiting, or diarrhea

If an employee has any of these symptoms, the employee shall not report to work and shall contact their personal physician. The employee should not return to work until the

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employee satisfies any conditions set forth by the City of Lincoln-Lancaster County Health Department, the employee’s health care provider, or the Return to Work Protocol below.

C. Exposures

An Exposure is when an employee has had close contact (been within 6 feet of someone for a cumulative total of 15 minutes or more over a 24-hour period) with someone who has a positive COVID-19 diagnosis. An Exposure does not include close contact and at least one individual was wearing a mask or other forms of Personal Protective Equipment (PPE).

If an employee has had an Exposure, the following protocol applies:

1. If the employee is **fully vaccinated**, they **do not need to quarantine** if they have not developed symptoms. The employee should, however, continue to monitor for symptoms, wear a well-fitting mask as required herein, and get tested 5-7 days after the exposure. **Wearing a well-fitting mask is highly recommended for 10 days after exposure.** Fully vaccinated means:
 - i. Two weeks after a second dose in a 2-dose series, such as the Pfizer or Moderna vaccines; or
 - ii. Two weeks after a single-dose vaccine, such as Johnson & Johnson’s Janssen vaccine.

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A booster shot is not needed to be considered fully vaccinated; however, studies show after getting vaccinated against COVID-19, protection against the virus and the ability to prevent infection with variants may decrease over time. An employee may receive a booster shot at least 6 months after completing their primary Pfizer or Moderna vaccination series, or at least 2 months after completing their primary Johnson & Johnson’s Janssen vaccination.

2. If an employee is **unvaccinated or not fully vaccinated**, they **shall not report to work** and shall contact their personal physician. The employee may not return to work until they have satisfied the conditions set by their personal physician, the City of Lincoln-Lancaster County Health Department, or the Return-to-Work Protocol as provided for below.

D. Return to Work

The employee may return to work as instructed by their personal physician, the City of Lincoln-Lancaster County Health Department, or if they meet the following criteria:

1. At least 5 days have passed since the first day symptom(s) first appeared;
2. They have had a measured temperature < 100.4°F for at least 24 hours without the use of fever-reducing medications;
3. There has been improvement in the remaining symptom(s); and
- E. 4. They wear a mask the first 5 days back in the office when in public areas of any office (e.g. hallways and breakroom) and when interacting with members of the public and any one 1 or more coworkers. Masks

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1. Masks are strongly encouraged to be worn by all employees, including fully vaccinated employees, when interacting with members of the public or in group meetings larger than two (2) people when the COVID-19 community level is ~~substantial or high~~ based on the CDC COVID Data Tracker³, or when required by Sections C & D.
2. County Departments shall have the discretion to require their employees to wear masks regardless of the COVID-19 community level.
3. Employees, including fully vaccinated employees, working at the Lancaster County Department of Corrections, the Youth Services Center, and the Mental Health Crisis Center are required to wear a mask, in addition to other forms of PPE that may be required by the Department or Office policy when interacting with members of the public or in group meetings larger than two (2) people when the COVID-19 community level is medium or high based on the CDC COVID Data Tracker⁴, or when required by Sections C & D. ~~These County Departments may except certain non-custodial settings from this requirement; however, employees working in such non-custodial settings are required to wear masks when interacting with the public or in group meetings larger than two (2) people when community transmission is substantial or high based on the CDC COVID Data Tracker⁴.~~ Masks will be made available to any residents and employees who would like to use them based on their personal preference. When

³ <https://covid.cdc.gov/covid-data-tracker/#datatracker-home>

⁴ <https://covid.cdc.gov/covid-data-tracker/#datatracker-home>

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COVID-19 community level is low based on the CDC COVID Data Tracker, these County Departments shall have the discretion to require their employees to wear masks.

4. Masks should incorporate the following conditions at a minimum:
 - i. Fit snugly against the side of the face;
 - ii. Be secured with ties or ear loops;
 - iii. Include multiple layers of fabric if made of cloth;
 - iv. Allow for breathing without restriction; and
 - v. Be able to be laundered and machine-dried without damage or change to shape if made of cloth.
5. Masks shall be appropriate for the workplace and any inappropriate depictions or materials on them will not be allowed.
6. Masks are not required in workplaces or worksites where the employee is the only occupant, including but not limited to private offices, cubicles, County vehicles or equipment. Masks are also not required in outdoor worksites that maintain adequate physical distance of at least six (6) feet between individuals.
7. If an employee believes he or she is disabled or has been diagnosed with a disability and needs a reasonable accommodation to the requirements in Section D(1) and (2), the employee should contact the City-County Human Resources Department to request a reasonable accommodation.

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V. SANCTIONS

Employees who violate any provision of this policy may be subject to disciplinary action up to, and including, dismissal from employment.

VI. DURATION

This policy is effective upon execution, and hereby rescinds and supersedes previous Workplace Response to COVID-19 Human Resources Policy Bulletin 2021-4. This policy is temporary in nature and may be terminated at any time for any reason by the Lancaster County Board of Commissioners.

Barb McIntyre
Human Resources Director

Date

Deb Schorr, Chair
Board of County Commissioners

Date

From: [Ashley J. Bohnet](#)
To: [Karen Eurich](#)
Cc: [Rick DeBoer](#)
Subject: FW: Jamie Draper - tie decision
Date: Thursday, July 7, 2022 12:27:40 PM

Karen,

Can you forward the email below is my email to the members of the Personnel Policy Board?

Thanks,
Ashley J. Bohnet

From: Ashley J. Bohnet
Sent: Monday, June 13, 2022 3:12 PM
To: Rick DeBoer <ibew1536county@gmail.com>
Subject: Jamie Draper - tie decision

Rick,

Upon my review, I believe that if the board is evenly decided, then the grievance is denied. There is no mention of a evenly split vote in either the County Civil Service Act or the Personnel Rules, but I have based my decision on:

- Roberts Rules of Order - a tie vote is a lost vote since it is not majority. (<https://www.ulm.edu/staffsenate/documents/roberts-rules-of-order.pdf>)
- Caniglia v. City of Omaha, 210 Neb. 404 (1982) – Court has held in other situations where the vote of the members of a tribunal is evenly divided, it is treated as a denial of any affirmative relief. (Upheld by an unpublished opinion, Colburn v. Lancaster County, 1999 WL 236461 (1999)).

It should be noted that higher courts agree with affirming lower courts' decisions if there is not a majority. (see In re Interest of Dale L – in a situation where the Nebraska Supreme Court had a tie, it affirmed the lower court's decision. (<https://caselaw.findlaw.com/ne-supreme-court/1733098.html>)).

I believe that a tie by the Board would mean that the decision is not overturned and remains. If you have any case law or legal authority that indicates otherwise, please let me know.

Thanks,
Ashley J. Bohnet

2022 MAY 26 AM 11:28

OFFICIAL APPEAL FORM

NAME OF EMPLOYEE: Steve Slapnicka

DEPARTMENT: Engineering

CLASSIFICATION: Equipment Operator

WORK LOCATION/DISTRICT: Sprague Shop

STATEMENT OF APPEAL:

List applicable appeal: On 3/23/2022 Steve was injured on the job. Steve's immediate supervisor, Bob Larson drove Steve to LinCare to be evaluated. After Steve was evaluated by the doctor, it was determined that Steve should go on a weight limit restriction. Bob Larson then drove Steve back to the main shop to fill out the necessary paperwork for injury leave. At the main shop Ron Bohaty, the Highway Road Superintendent had a conversation with Steve along with several other supervisors on what Steve could possibly do on light duty. Ron mentioned that Steve could maybe work out of the office and answer phones. Steve replied that he really didn't know if he should do that, because the first person that called in to complain, he probably would not give back a very polite answer, to which Steve and all those around him had a good laugh. Ron Bohaty then replied back to Steve with all the supervisors still around, saying he would see what else is available and get back to Steve, then walked off. Steve was then told by his supervisors that until they hear something back, he would probably be on injury leave.

Ron Bohaty did send an email on 3/23/2022 to Sue Eckley in Risk Management letting her know that there was an option for light duty answering phones, but neither Steve, nor Bob, his direct supervisor was copied in on that email. Not only were Steve and Bob not included in that email, but neither one had any further communication from Mr. Bohaty on what other options were available for Steve to do, so they both assumed Steve was on injury leave until his next Dr. appointment.

On 4/4/2022, Mr. Bohaty sent Bob Larson an email stating that from the conversation that happened by the supervisors office on 3/23/2022, that Steve would rather take vacation than work light duty. Since Steve refused light duty, the four days in question, 3/24/2022, 3/25/2022, 3/28/2022, and 4/1/2022 would have to be charged vacation time instead of injury leave. Steve never said anything about using vacation time instead of light duty. Not only that, but neither Steve, nor his supervisors ever heard back from Mr. Bohaty even though the last thing he said to them was that he would have to find out what was available and get back to them.

Adjustment Required: Change the four days in question from vacation time to injury leave, and anything over the ten days of injury leave, will be considered workmans comp.

I authorize the IBEW Local1536 as my representative to act for me in the disposition of this appeal

SIGNATURE of UNION REPRESENTATIVE: Rick DeBoer

TITLE: Vice President IBEW 1536

DATE: 05/24/2022

THIS STATEMENT OF APPEAL IS TO BE MADE OUT IN DUPLICATE. ALL COPIES ARE TO BE SIGNED BY IBEW REPRESENTATIVE HANDLING THE CASE.

Original: Human Resources

Copy : Local Union Appeal File



Pamela L. Dingman, P.E.
County Engineer

John V. Berry, P.L.S.
Deputy County Surveyor

444 Cherry Creek Road, Bldg. C
Lincoln, Nebraska 68528
Phone: 402-441-7681 Fax: 402-441-8692

May 6, 2022

Steve Slapnicka
2494 County Rd. C
Crete, NE 68333

RE: Grievance received April 21, 2022

Dear Mr. Slapnicka,

This letter will serve as a response to the grievance received on April 21, 2022, via email, regarding an alleged violation of Article 24, Section 2 by denying 32 hours of injury leave between March 24, 2022, and March 30, 2022.

The grievance provides the facts as follows: On or about March 23, 2022, Steve Slapnicka was injured at 0900 hours while at his employment, performing his job duties. He was taken to LinCare for treatment and evaluation. The physician's note from March 23, 2022, stated that Mr. Slapnicka could return to sedentary work, meaning he could lift a maximum of 10 pounds and occasionally lift or carry small items. There was no restriction on his ability to stand, walk or sit at work and it was conveyed that driving was acceptable. Mr. Slapnicka was scheduled for a follow-up appointment set on Wednesday, March 30, 2022. In the follow-up appointment on the 30th of March, the physician wrote that Mr. Slapnicka could participate in sedentary work, but also noted that he should not work until further evaluation. Mr. Slapnicka was given clearance by his physician to return to work without any restrictions on April 20, 2022.

Ron Bohaty sent an email to Sue Eckley, cc'ing Pamela Dingman and Traci Dragoo, on March 23, 2022, at 3:47 p.m. stating that there was an option for light-duty work for Mr. Slapnicka. Mr. Bohaty had a subsequent follow-up with Mr. Slapnicka on March 23, 2022. At that time, Mr. Bohaty talked to Mr. Slapnicka about light-duty work at the office. Mr. Slapnicka declined light-duty work, preferring to take the time as vacation leave.

Mr. Slapnicka was able to return to work for light duty on March 24, 2022 until March 30, 2022. Mr. Slapnicka was informed that he could either return to work in a modified capacity, to include light-duty or that he could take vacation. He communicated to Mr. Bohaty that he preferred to take vacation.

Article 24, Section 2 states that "injury leave shall not be deducted from vacation or sick leave credits." In this case, Mr. Slapnicka was able to return to work for light-duty work on March 24, 2022 until March 30, 2022. Mr. Slapnicka was informed that he could either return to work in a modified capacity, to include light-duty or that he could take vacation. He communicated to Mr.

RE: Grievance received April 21, 2022

Bohatty that he preferred to take vacation rather than work. As such, the time he was gone from work on March 24, 2022, March 25, 2022, March 28, 2022, and March 29, 2022, was not injury leave but correctly marked as vacation time. For these reasons, the grievance is denied.

Sincerely,

A handwritten signature in black ink, appearing to read 'P. Dingman', with a long horizontal flourish extending to the right.

Pamela L. Dingman, P.E.
Lancaster County Engineer

cc: Barb McIntyre, Human Resources Director
Ashley J. Bohnet, Deputy County Attorney



OFFICIAL GRIEVANCE

NAME OF EMPLOYEE: Steve Slapnicka

DEPARTMENT: Engineering

CLASSIFICATION: Equipment Operator

WORK LOCATION: Sprague Shop

STATEMENT OF GRIEVANCE:

List applicable violation: Article 24 section 2 of the CBA

Adjustment required: Change the 4 days (32 hours)

March 24 - March 30, 2022, from vacation leave to injury leave.

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

Date: April 21, 2022

Signature of Union Representative: Rick DeBoer

Disposition of Grievance: On March 23, 2022 Steve was injured on the job. He was taken to LinCare by his supervisor to be evaluated and treated. On that particular day, March 23, Steve's time was entered under Injury Leave. The next four (4) working days, March 24 - March 30 2022, Steve was charged vacation time instead of injury leave. When Steve questioned why those days were charged as vacation instead of injury leave, he was told that it was because he had refused light duty for those days, so he would have to use either vacation or Personal Holiday time.

Ron Bohaty did send an email on March 23, 2022 to Sue Eckley in Risk Management at 3:47 pm informing her that Steve did go home after his appointment, and that there was an option for Steve to come in for light duty answering phones, or other work. The problem is that neither Steve nor his direct supervisor Bob Larson was cc in that email, so they were unaware of that option. Steve did have a follow up appointment with his doctor on March 31, 2022 and was told that he should not work at all for the next four (4) working days. After those four days were up, Steve did go to the office for light duty work.

**THIS STATEMENT OF GRIEVANCE IS TO BE MADE OUT IN
DUPLICATE. COPIES ARE TO BE SIGNED BY THE IBEW
REPRESENTATIVE HANDLING THE CASE.**

ORIGINAL TO: Department Head
COPY: HR