

County Personnel Policy Board Meeting

AGENDA

TO: County Personnel Policy Board Members

SUBJECT: Personnel Policy Board Meeting
Thursday, August 6, 2026; **1:30 p.m.**
County-City Building, 555 S. 10th St., 3rd Floor
303 Conference Room

ITEM 1: Request to change the pay grade of the following classifications:

<u>CLASS CODE</u>	<u>CLASS TITLE</u>	<u>CURRENT PAY GRADE</u>	<u>PROPOSED PAY GRADE</u>
5756	Corrections - Sergeant	C19 (\$78,249.60 - \$100,235.20)	C21 (\$83,990.40 – \$107,598.40)
5758	Corrections Lieutenant	C22 (\$87,006.40 - \$111,467.20)	C24 (\$93,392.00 - \$119,620.80)
5765	Jail Administrator	C27 (\$103,854.40 - \$133,016.00)	C29 (\$111,467.20 - \$142,771.20)

ITEM 2: Request to revise Rule 1 Definitions (Revised 02/2025) of the Lancaster County Personnel Rules.

ITEM 3: Request to revise Rule 8.1 – Nature, Duration, and Purpose (Revised 09/14) of Rule 8 – Probationary Period of the Lancaster County Personnel Rules.

ITEM 4: Request to revise 11.2 - Reprimand, Suspension, Dismissal, Investigative Leave, and Demotion (Revised 02/2025) of Rule 11 – Disciplinary Actions of the Lancaster County Personnel Rules.

ITEM 5: Motion to Dismiss Jasmine Gibson’s grievance appeal.

ITEM 6: Appeal of Jasmin Gibson – IBEW 1536

ITEM 7: Public Comment

ITEM 8: Miscellaneous Discussion

cc: County Agencies
Union Presidents
Barb McIntyre
Kristy Bauer
Candace Berens

RULE 1 – DEFINITIONS (Revised ~~02/2025~~)

The following words and phrases when used in these Rules have the following meanings unless otherwise clearly indicated in the context:

Allocation means the assignment of a position to a class on the basis of the kind, difficulty, and responsibility of work of the position.

Appointment means the designation to a position in the classified service of a person who has qualified for the appointment through appropriate examination or determination of fitness.

Board means the Personnel Policy Board.

Certification means the referral of the names of qualified prospective employees by the Human Resources Director on request of the appointing officer for selection to a position in the classified service.

Chief deputy means an individual who serves as first assistant to, and at the pleasure of an elected official.

Class means a group of positions which are sufficiently similar in kind or subject matter of work performed, level of difficulty and responsibility, and qualification requirements to warrant similar treatment in personnel and pay administration, and the same tests of fitness may be applied to each position in the group.

Class description means the written description of a class including title, statements of the duties and responsibilities, and the minimum requirements of education and experience appropriate upon entrance for satisfactory performance in a position of the class.

Class title means the official title used in the County pay plan.

Classified service shall comprise all positions not specifically included in the unclassified service.

Confidential information means any non-public information obtained, created, maintained, or accessed through County employment that is protected from unauthorized access, use, sharing, or disclosure by applicable federal, state, or local law, court order, privilege, contract, County policy, or legitimate operational need. Such information may be accessed or used only for authorized business purposes. Confidential information includes, but is not limited to, employee records and records of members of the public to the extent they are not subject to public disclosure, medical information, personal identifying information, investigative materials, and other sensitive information protected from disclosure by law, court order, privilege, contract, County policy, or other authorized restriction.

Continuous examinations are open to all competitors who meet the qualifications of the examination announcement. The examination is administered on a continuing basis, and eligibles are placed on the basis of their final score regardless of the examination date.

County means Lancaster County.

County Board means the County Board of Commissioners of Lancaster County.

Date of employment means the date on which an employee begins service with the County. If an individual is reemployed, only the date of their current employment shall serve as the official date of employment for all personnel transactions, except as otherwise provided in these Rules. This section shall in no way affect those employees who have been given credit for interrupted service prior to the adoption of these Rules, nor those who qualify otherwise under the section relating to layoff.

Demotion means a change in the rank of an employee from a position in one class to a position in another class having a lower pay grade.

Department Head or Agency Head means an elected official or an appointed official serving at the pleasure of the County Board to administer one of the major departments of county government and authorized by the County Board or by state statute to make appointments.

Deputy is a working title for one or more individuals so designated by an elected official.

Disadvantaged person means an individual who is a poor person as defined by the U.S. Department of Labor who does not have suitable employment and who is either (1) a school dropout, (2) a member of a minority group, (3) under 22 years of age, (4) 40 years of age or over, or (5) is disabled.

Dismissal means the termination of employment of an employee for cause.

Elected official means a person elected by the popular vote of the people to serve as the administrator of a major County function. These elected officials are the County Attorney, Public Defender, County Sheriff, County Treasurer, Clerk of the District Court, Register of Deeds, County Clerk, County Assessor, and the County Engineer.

Eligibility date is the employee's anniversary date; the date in which the employee receives their annual performance evaluation and potential merit increase. In most circumstances, the eligibility date is the date the employee obtains status in a classified position. (Created 9/01)

Eligible means a person whose name is on an active recall, promotion or eligible list and who may, under these Rules, be certified for appointment to a position in the classified service.

Eligible list means a list of persons arranged in descending order of their ratings on examinations for classes of positions and to which they are qualified for appointment.

Emergency appointment means an appointment without regard to the examination requirements of these Rules to a position by reason of a governmental emergency recognized by the Human Resources Director, which appointment is not to exceed thirty (30) working days in duration and is nonrenewable.

Exempt means an employee who is not eligible for overtime pay as defined in the Fair Labor Standards Act.

Full-time employment means employment in a position which does not normally require less than forty (40) hours work per week or eighty (80) hours every two weeks. (Revised 6/00)

Human Resources Director means the employee designated by the County Board to administer these Rules.

Layoff means the separation of an employee from the classified service which has been made necessary by lack of work or funds or other reasons not related to fault, delinquency, or misconduct on the part of the employee.

Leave of absence means an approved period of time during which the employee is not physically present for work.

Minimum qualifications means the requirements of training and experience, and other qualifications to be measured by any combination of written, oral, or performance examinations, as prescribed for a given class in the County pay plan.

Nonexempt means an employee who is eligible for overtime pay as defined in the Fair Labor Standards Act.

On-call employee means an employee who is employed on an irregular or occasional basis and paid only for actual hours worked.

Part-time employment means employment in a position which normally requires less than forty (40) hours work per week.

Pay grade means the alpha and/or numerical designation assigned to a class in the County pay plan.

Pay period means a two week period of time beginning on Thursday at 0001:00 and ending two weeks later on Wednesday at 2359:00.

Pay status means the eligibility of an employee to receive their regular rate of pay as determined in these Rules.

Personnel file means the electronic file of an employee.

Position description means a collection of duties and responsibilities assigned by the appointing authority to be performed by one individual (whether part-time, full-time, oncall or temporary).

Probationary employee means an employee who has not completed their entrance probationary period after original appointment.

Probationary period means the first designated months of service following appointment to any position in the classified service, an examination period during which the employee can be removed by the Department Head without right to appeal or hearing if their work performance does not meet required standards.

Promotion means a change in rank of an employee from a position of one class to a position of another class having a higher pay grade.

Qualifying for status period means the six months following appointment to a promotional position, as distinguished from a reallocation.

Reallocation means the assignment of a position to a class different from the one to which it was previously assigned.

Recall list means the separate list of names of employees with status who have been laid off through no fault of their own because of lack of funds or work, curtailment of program, or abolishment of organization unit and who have made written request for recall; or the names of persons placed on the list at the discretion of the Human Resources Director in accordance with the provisions of these Rules.

Reprimand means a formal written notice to an employee informing them of the specific manner in which their conduct or work performance does not meet prescribed standards.

Resignation means the termination of employment of an employee made at the discretion of the employee.

Seasonal appointment means an appointment to a position which, although temporary in duration, coincides with a particular season or seasons of the year and may recur regularly from year to year.

Spouse means the other person with whom an individual has entered into a marriage that is defined, recognized, and valid in Nebraska. This includes marriages performed outside the United States, so long as those marriages could have been legally entered into in at least one state.

Status employee means an employee who after satisfactory completion of the probationary period acquires tenure with all the rights and privileges of an employee in the classified service.

Supervisor as distinguished from lead workers or crew leaders, means any person responsible to a superior for directing the work of others.

Suspension means a forced leave of absence without pay for disciplinary purposes.

Temporary appointment means an appointment to a position created for a defined period of time not to exceed one (1) year.

Transfer means the movement of an employee from one position to another position of the same class or of another class having the same maximum pay rate, involving the performance of similar duties, and requiring essentially the same basic qualifications.

Unclassified position means a position which has been specifically excluded from the classified service by Rule 3 of these Rules.

Work cycle for employees not covered by a contract, pursuant to the Fair Labor Standards Act referencing hospitals and nursing facilities, shall consist of a two week period generally aligned with the pay period and consisting of fourteen (14) consecutive twenty-four hour periods. The work period may incorporate eight, ten or twelve hour shifts. (Created 6/00)

Work week means the one-week period of time beginning on Thursday at 0000:01 and ending the following Wednesday at 2400:00. (Revised 6/00)

8.1 Nature, Duration, and Purpose (Revised 9/14)

All new hires shall be required to serve an original probationary or working test period of six (6) months from the date of hire. Correctional Officers and Juvenile Detention Officers shall be required to serve a twelve (12) month probationary period. This probationary period is an essential continuation of the examination process and shall be utilized for the most effective evaluation of new employees, including and for the termination/dismissal of any employee whose performance or conduct does not meet acceptable standards. As defined herein, probationary employees are not afforded the same rights, benefits and privileges afforded to status employees, and may be .-A probationary employee may be separated dismissed at any time during the probationary period for any non-discriminatory reason. In the event of dismissal during the probationary period, a copy of the notice of separation shall be provided to the Human Resources Director at least ten (10) working days prior to the expiration of the employee's probationary period.

11.2 Reprimand, Suspension, Dismissal, Investigative Leave, and Demotion (Revised 02/2025)

(a) The Agency Head shall issue to the employee a notice in writing that the employee's performance is unsatisfactory. This may take the form of a periodic performance evaluation.

(b) Disciplinary action shall consist of written reprimand, suspension, demotion and/or dismissal. An Agency Head may reprimand, suspend, demote and/or dismiss an employee for just cause.

(c) Reprimand: An Agency Head may reprimand an employee for cause. Such reprimand shall be in writing and addressed and presented to the employee for signature. A signed copy or a notation of an employee's signature refusal shall be delivered to the Human Resources Department for inclusion in the employee's personnel file. A status employee may submit an explanation or rebuttal which also shall become a part of the employee's personnel file. Reprimands may not be appealed to the Board. However, a status employee may appeal the reprimand directly to the Human Resources Director. The appeal shall be presented within fifteen (15) working days of receipt of the reprimand. The response to the appeal shall be in writing and shall be issued within fifteen (15) working days of receipt of the appeal. The written decision on the appeal shall be final and binding upon the parties. A status employee may present a written rebuttal to the final decision regarding the appeal within fifteen (15) working days of the date of the decision which shall be attached to and become a part of the file pertaining to the appeal. The rebuttal shall be delivered to the Human Resources Department and a copy transmitted by the Human Resources Department to the Agency Head.

(d) Suspension: An Agency Head may suspend an employee without pay for cause for a period or periods not exceeding thirty (30) working days in any twelve (12) months; however, no single suspension shall be for more than fifteen (15) working days. Prior to a suspension, the Agency Head shall notify the employee in writing that the Agency Head is proposing to suspend the employee and the reasons for the suspension. The employee shall then be given an opportunity to present their side of the story at a meeting with the Agency Head or designated supervisor. The employee shall have an opportunity to be represented at the meeting if the employee desires. After considering all of the information presented, including any mitigating factors, the Agency Head shall inform the employee of their decision. If the Agency Head determines just cause exists 32 Return to Table of Contents for suspension, the Agency Head shall furnish the employee and the Human Resources Director, not later than one (1) working day of such action, with a written statement of the reason for and duration of the suspension. Any status employee who is

suspended may appeal for a hearing, in writing, to the Board within fifteen (15) working days of notice of suspension. Nothing in this section shall prevent [aan](#) Agency Head from electing to administer discipline more lenient than what was originally proposed.

(e) Dismissal: An Agency Head may dismiss any status employee for cause. Prior to a dismissal, the Agency Head shall notify the employee in writing that the Agency Head is proposing to dismiss the employee and the reasons for the dismissal. The employee shall then be given an opportunity to present their side of the story at a meeting with the Agency Head or designated supervisor. The employee shall have opportunity to be represented at the meeting if the employee desires. After considering all of the information presented, including any mitigating factors, the Agency Head shall inform the employee of their decision. If the Agency Head determines just cause exists for dismissal, the Agency Head shall furnish the employee and the Human Resources Director, not later than one (1) working day of such action, with a written statement of the reasons for dismissal. Any employee who is dismissed may appeal, in writing, to the Board within fifteen (15) working days of notice of dismissal. Nothing in this section shall prevent [aan](#) Agency Head from electing to administer discipline more lenient than what was originally proposed.

(f) Investigative Leave: Upon being informed that an employee has been accused of behavior which, if substantiated, would be cause for dismissal, the Agency Head shall have the option of placing an employee on investigative leave without pay for a period not to exceed thirty (30) calendar days for the purpose of investigating the accusation. If the Agency Head determines just cause exists to dismiss the employee, the Agency Head shall notify the employee of the results of the investigation and follow the procedure outlined in Rule 11.2 (e). If the Agency Head determines just cause exists to suspend the employee, the Agency Head shall notify the employee of the results of the investigation and follow the procedure outlined in Rule 11.2 (d). If the Agency Head determines that the accusation cannot be substantiated or does not constitute cause for dismissal, the employee will be reinstated and awarded back pay for any portion of the suspension time not imposed as disciplinary action.

(g) Demotion: An Agency Head may demote an employee for just cause in accordance with Rule 9.3. No demotion shall be made as a disciplinary action unless the employee to be demoted is eligible for employment in the lower class and shall not be made if a status employee in the lower class will be laid off by reason of the action. Any status employee who is demoted for cause may appeal for a hearing, in writing, to the Board within fifteen (15) working days of notice of such action.

(h) Just causes for reprimand, dismissal, demotion or suspension include but are not limited to the following:

(1) The employee has been convicted of a felony or crime which renders him unfit to perform the duties of their position.

(2) The employee has willfully, wantonly, unreasonably, unnecessarily, or through culpable negligence, has engaged in brutality or cruelty to a resident of an institution, to a person in custody, or to other persons, provided the act committed was not necessarily or lawfully done in self-defense, or to protect the lives of others, or to prevent the escape of a person lawfully in custody.

(3) The employee has violated any of the provisions of these Rules.

(4) The employee has engaged in any action unbecoming an officer or employee of the County which reflects on the County adversely.

(5) The employee has violated any Agency, division, or institution regulation or order, or failed to obey any proper direction made and given by a supervisor.

(6) The employee uses intoxicating beverages to excess or unlawfully uses a controlled substance; or is under the influence of alcohol or is unlawfully under the influence of a controlled substance while on duty.

(7) The employee has been insubordinate to their supervisor.

(8) The employee has been ineffective or deficient in the performance of the duties of their position.

(9) The employee has been careless or negligent with the monies or other property of the County.

(10) The employee has used or threatened to use, or attempted to use, personal or political influence in securing promotion, leave of absence, transfer, change of pay rate or character of work.

(11) The employee has induced or has attempted to induce an officer or employee of the County to commit an unlawful act or to act in violation of any Agency, division, or institution regulation or order.

(12) The employee has taken for their personal use from any person any fee, gift, or other valuable thing in the course of their work or in connection with it, when such gift or other valuable thing is given in the hope or expectation of receiving a favor or better treatment than that accorded other persons.

(13) The employee has engaged in outside business activities on government ~~time~~, ~~or time~~ or has used County property for such activity.

(14) The employee has failed to maintain a satisfactory attendance record.

(15) The employee has been absent from duty without leave contrary to these ~~Rules~~, [or Rules or](#) fails to report after leave of absence has expired, or after such leave of absence has been disapproved or revoked and cancelled by the proper authority.

(16) The employee has made a false statement, misrepresentation or omission of material ~~fact~~[facts](#) on their job application or resume.

[\(17\) The employee has improperly accessed, shared, or disclosed confidential information, including employee or records of members of the public, or failed to follow required procedures to protect such information.](#)

(i) The provisions of Nebraska State Laws are applicable in any disciplinary investigation of employee behavior.

LANCASTER COUNTY PERSONNEL POLICY BOARD

IN THE MATTER OF THE		
GRIEVANCE APPEAL OF	)	MOTION TO DISMISS
JASMINE GIBSON IBEW 1536	)	
	)	

COMES NOW, Deputy County Attorney, Candace L. Berens, on behalf of Lancaster County, Rachel Garver, Kristen Anderson, and the Lancaster County Personnel Director, and herby moves to dismiss Jasmine Gibson’s appeal of the County’s Treasurer’s response to Ms. Gibson’s grievance dated March 21, 2025, for the reasons that the Personnel Policy Board does not have the authority to grant the relief requested by Ms. Gibson as it would violate the County Civil Service Act, Neb. Rev. Stat. §§ 23-2517 to 23-2533, and/or would violate the 15-day grievance deadline established in Article 19 of the Local 1536 IBEW Labor Agreement.

Ms. Gibson’s requested relief as stated in her grievance is: **“To have a company with no relation to Lancaster County assess and revise job descriptions and qualifications in the Lancaster County Treasurer Department. To have a company with no relation to Lancaster County administer the application questions and scoring, and the interview questions and scorings for all promotions available in the past six years, as current appointments are invalid.”**

Pursuant to §§23-2520, 23-2523, 23-2524, and 23-2525 of the County Civil Service Act, the Lancaster County Board is charged with the duties of appointing a county personnel officer and maintaining a personnel office within the office of the Board of County Commissioners. The appointed personnel officer is responsible for carrying out the duties of administering the Civil Service Act, including administering applications and examinations. The Lancaster County Board is charged with making appropriations from the general fund to meet the estimated costs of administering the act.

The Personnel Policy Board serves the County Board in an advisory capacity and has no authority to require the County Board to hire an independent body to perform the duties prescribed to the county personnel officer and has no authority to require the County Board to appropriate funds for this purpose.

Further, according to Article 19 of the 1536 IBEW Labor Contract, grievances must be filed within 15 working days from the date on which the employee became aware of or should reasonably have been aware of the incident giving rise to the grievance. Ms. Gibson is requesting the re-administration of applications for all promotional positions hired in the past 6 years. She has not grieved on behalf of all union members, and no other employees who may have applied for promotional positions within the past 6 years have joined in this grievance; and even if they were, it is well past the 15-day grievance deadline established in Article 19.

For these reasons, respondents Lancaster County, Rachel Garver, Kristen Anderson, and the Lancaster County Personnel Director respectfully request that Ms. Gibson's appeal be dismissed.

DATED this 31st day of July, 2026.

ON BEHALF OF LANCASTER
COUNTY, RACHEL GARVER,
KRISTEN ANDERSON, AND THE
LANCASTER COUNTY
PERSONNEL DIRECTOR,

/s/ Candace L. Berens

Candace Berens #23845
Deputy Lancaster County Attorney
605 S. 10th Street

Lincoln, NE 68508
(402) 441-7630
cberens@lancaster.ne.gov

NOTICE OF HEARING

Please take notice that the above and foregoing Motion to Dismiss will be heard before the Lancaster County Personnel Board on August 6, 2026 at 1:30 p.m., County-City Building 555 S. 10th Street, 3rd Floor 303 Conference Room, Lincoln, NE 68508, or as soon thereafter as the same may be heard.

CERTIFICATE OF SERVICE

The undersigned hereby certifies that the foregoing Motion and Notice of Hearing were served on the parties of record and counsel this 31st day of July 2026, by electronically sending notice via e-mail to: Kurt P. Leffler, kurtplefflerlaw@gmail.com.

/s/ Candace L. Berens



OFFICIAL GRIEVANCE

NAME OF GRIEVANT: Jasmine Gibson

RESPONDENTS: Rachel Garver, Kristen Anderson, The Personnel Officer/Human Resources Department Head

DATE OF GRIEVANCE: March 21, 2025

DATE GRIEVANCE OCCURRED: February 28, 2025

CLASSIFICATION: Motor Vehicle Clerk II

WORK LOCATION: 625 N 46th St. Lancaster County Treasurer

STATEMENT OF GRIEVANCE:

Disposition of Grievance: On February 28, 2025, I received a requested list of my last examination scoring and a list of all job postings in the last six years for the Lancaster County Treasurer Department.

- 1) Applications and job descriptions are being manipulated to both ensure pre-chosen employees pass the initial qualifications and to prevent others who qualify from qualifying at all. Currently, on the county website, the Library Summer Intern – Outreach (Para-Professional/Technical Worker) is available with pay of \$13.50 an hour and consists of 18 qualifying questions. The Motor Vehicle Specialist, starting at \$20.28 an hour, didn't have a single qualifying question. The qualifications are a high school diploma and 6 months – 2 years' experience. An email was sent out by the deputy treasurer that HR was told that time employed in the office could replace job experience. This was expected to be a supervisor position. One of the people hired had just completed 2 years of employment. The Office Support Specialist, starting at \$23.28, did not have a single qualification question. The minimum requirements are a high school diploma and 2 years of experience in clerical work. Even though this position has higher pay, the minimum requirements are less than what is required of positions at lower pay. The person hired has been with the County right over a year. The Motor Vehicle Assistant Team Supervisor consisted of 17 questions. Almost all questions were related to work and experience done in the "past 18 months". This position was open only to current Lancaster County employees. There were only three people who were allowed to do the work that was required in the application, and those three people got the position. Even though I qualified for the position, I had to say no to most of the questions and my application was never marked received.

Many employees in the Treasurer's office have stopped applying for positions due to the negative comments made during interviews by the Deputy Treasurer, as well as knowing they will not be selected, regardless of their qualifications. It has become clear in advance who will be chosen for each role.

In summary, while the Personnel Officer and Human Resources staff are responsible for ensuring that hiring processes are fair and competitive, it appears that the Human Resources department is instead aligning with the department head and deputy to ensure their preferred candidate is selected.

- 2) I received my examination and scoring from my latest interview. It was absolutely horrible. I cannot believe that it was accepted and never questioned. Comments from Kristen Anderson included: "She should know more with all her years of experience", "thinks she is the only one capable & smart enough. not a team player. self-centered. toxic in the office", (illegible but from what I can read) "She often ... the problem & then makes them worse" integrity: "none", trustworthiness: "I do not trust her at all for anything – blames everyone else for her actions", "very confusing when she speaks". Comments from Rachel Garver included: "figures things out, has to be her way", "offers excessive assistance", "had phone out, probably recording", "seems to tell me what I want to hear", "struggles with effective communication", "has answers without much substance". An added comment on Rachel's scoring states, "Expectations are high the longer an employee has been in the job".

Out of 190 available points, Rachel Garver gave me 89, Kari Hockemeier gave me 115 (without any comments), and Kristen Anderson gave me 47 points. Under the score – notes/comments section, out of 10 points for each score Kristen Anderson gave me two 4's and the rest were 1's. I work with the public and money daily, yet for integrity and trustworthiness, I was given 1's out of 10 points for each. For communication skills points I received, Kari gave me a 9, Rachel gave me a 5, and of course, Kristen gave me a 1, while again receiving comments that I'm confusing, there is no substance in the things I say, and that I am confusing. For Multi-tasking, Kari gave me a 7, Rachel gave me a 6, and again, of course, Kristen gave me a 1.

Ratings and scorings (including subjective traits) are supposed to be impartial and have a scoring basis. When scores range from the very bottom to almost the very top on the same topic, there is something wrong. When comments like the ones listed are made, again there is something wrong. When interview questions are taken out of an article and mostly based on one subject instead of the actual job position, something is wrong.

- 3) Seniority was not included in the scoring even though it is required through Nebraska law, county personnel rules, and the IBEW contract.
- 4) In October of 2023, I asked if the county treasurer's standard operating procedures manual (SOP) was sent to the Union for review. It was something

every employee was required to sign. There were a few things that didn't align with the union contract and the county personnel rules. One of the areas that didn't align was hiring practices. Six of us had an open appeal regarding the way promotions were handled, and I was afraid they would use it against us in the case if I signed it. I also knew that any changes in rules had to go in front of the personnel board and the union before being put into effect and being required to sign it. I didn't receive a response to my question. I eventually forgot about it. Not signing the SOP was then used against me regarding integrity in my interview.

List applicable violations:

Validity

23-2525. County personnel officer; personnel rules and regulations for classified service. Annotations. **General. Statutory requirements for appointments and promotions under a civil service act are mandatory, and appointing authorities must comply with them for an appointment or promotion to be valid.** Blakely v. Lancaster County, 284 Neb. 659, 825 N.W.2d 149 (2012)

County to Federal Merit and Fitness

23-2532. Federal merit standards; federal Hatch Act provisions; applicable to programs. Whenever federal merit standards or the federal Hatch Act provisions are applicable to programs, the personnel policy board shall take such action as is necessary to assure that all personnel practices in those programs are in accordance with federal regulations, and those practices found not to be in compliance with such regulations shall not be implemented in those programs.

Personal Favoritism

23-2517. Act, how cited: purpose of act. Annotations. Civil service acts promote effective public service by establishing a personnel administration system that provides equal opportunity for public employment and advancement based on merit and fitness principles. By requiring a county to incorporate these principles, the Legislature intended to prohibit the county, as much as practical, from making these decisions based on political control, partisanship, and personal favoritism. Blakely v. Lancaster County, 284 Neb. 659, 825 N.W.2d 149 (2012).

Qualifications and Fair Competition

23-2517. Act, how cited: purpose of act. Annotations. Properly conducted examinations provide the cornerstone of a merit-based civil service system. Blakely v. Lancaster County, 284 Neb. 659, 825 N.W.2d 149 (2012).

23-2531. Discrimination; prohibited; other prohibited acts. (1) Discrimination against any person in recruitment, examination, appointment, training, promotion, retention, discipline, or any other aspect of personnel administration because of political or

religious opinions or affiliations or because of race, national origin, or other nonmerit factors shall be prohibited. Discrimination on the basis of age or sex or physical disability shall be prohibited unless specific age, sex, or physical requirements constitute a bona fide occupational qualification necessary to proper and efficient administration. The rules and regulations shall provide for appeals in cases of alleged discrimination to the personnel policy board whose determination shall be binding upon a finding of discrimination.

23-2517. Act, how cited: purpose of act. Annotations. A county board has no power or authority to bargain or agree that any appointment or promotion shall be based upon anything other than merit and fitness except as provided in the County Civil Service Act. *Blakely v. Lancaster County*, 284 Neb. 659, 825 N.W.2d 149 (2012).

23-2525. County personnel officer; personnel rules and regulations for classified service. Annotations. General. Under this section, a county department head cannot “reassign” a current department employee to fill a new position outside of applicable transfer rules or the competitive examination process. *Blakely v. Lancaster County*, 284 Neb. 659, 825 N.W.2d 149 (2012).

23-2525. County personnel officer; personnel rules and regulations for classified service. Annotations. General. When a vacancy in the classified service is not filled by a transfer or under a statutory exception, subdivisions (3) and (4) of this section require a county to fill it through one of two types of examinations: open competitive examinations or promotional examinations. *Blakely v. Lancaster County*, 284 Neb. 659, 825 N.W.2d 149 (2012).

County Personnel Rules. 5.5. Character of Examinations. (a). Examinations shall be practical in nature and job related, constructed to reveal the capacity of the candidate for the particular class of positions for which he is competing, and shall be rated impartially. Examinations may be assembled or unassembled, and may include written, oral, physical or performable tests, or any combination of these. They may take into consideration such factors as education, aptitude, knowledge, character, personality, or physical fitness as determined by physical and/or medical examination or any other qualifications or attributes which in the judgment of the Human Resources Director enter into the determination of the relative fitness of applicants

Hiring Practices

23-2525. County personnel officer; personnel rules and regulations for classified service. Annotations. 2. Open competitive examinations. Subdivision (3) of this section does not prohibit examiners from evaluating subjective traits if those traits are relevant to an applicant’s fitness for a position. But when oral examinations are used to test an applicant’s subjective traits, the scoring must be guided by measurable standards. That is, the examinations must provide some reasonable means of judicial review. *Blakely v. Lancaster County*, 284 Neb. 659, 825 N.W.2d 149 (2012).

County Personnel Rules. 6.7. Promotion List. Competitive promotional examinations may be limited to a single department or held on a County-wide basis for common classes which are in more than one department. After each competitive promotional examination held in accordance with Rule 9, the Human Resources Director shall prepare a list of persons meeting minimum requirements. All fractional scores shall be rounded off to the nearest whole number. Certification of eligibles for appointment to vacancies shall be in accordance with a formula which limits selection by the hiring department from among the highest ranking available and eligible candidates, but which also permits selective certification under appropriate conditions within the Rules

County Personnel Rules. 9.1. Promotion. (c) In filling a vacancy by promotion, the Human Resources Director shall administer a competitive examination which shall be open to all employees of the County who meet the necessary requirements and who are serving in an appropriate class as determined by the Human Resources Director. A promotional examination may include employees in specific classes in all departments or may be limited to a single department as determined by the Human Resources Director. The Human Resources Director shall prepare an eligible list as provided in Rule 6.7 and shall supply the Department Head with the names of all persons in accordance with a formula which limits selection by the hiring department from among the highest ranking available and eligible candidates

County Personnel Officer and the Human Resource Department

23-2517. Act, how cited: purpose of act. (2) The general purpose of the County Civil Service Act is to establish a system of personnel administration that meets the social, economic, and program needs of county offices. This system shall provide means to recruit, select, develop and maintain an effective and responsive work force, and shall include policies and procedures for employee hiring and advancement, training and career development, position classification, salary administration, fringe benefits, discharge and other related activities. All appointments and promotions under the County Civil Service Act shall be made based on merit and fitness.

23-2517. Act, how cited: purpose of act. Annotations. Civil service acts promote effective public service by establishing a personnel administration system that provides equal opportunity for public employment and advancement based on merit and fitness principles. By requiring a county to incorporate these principles, the Legislature intended to prohibit the county, as much as practical, from making these decisions based on political control, partisanship, and personal favoritism. *Blakely v. Lancaster County*, 284 Neb. 659, 825 N.W.2d 149 (2012).

23-2525. County personnel officer; personnel rules and regulations for classified service. The county personnel officer shall, with the assistance of two advisory groups, one of classified employees and one of department heads, prepare and submit to the personnel policy board proposed personnel rules and regulations for the classified service. He or she shall give reasonable notice thereof to the heads of all agencies,

departments, county employee associations, and institutions affected thereby, and they shall be given an opportunity, upon request, to appear before the board and present their views thereon. The personnel policy board shall submit the rules and regulations for adoption or amendment and adoption by resolution of the board of county commissioners. Amendments thereto shall be made in the same manner. The rules and regulations shall provide

- (1) For a single integrated classification plan covering all positions in the county service except those expressly exempt from the County Civil Service Act, which shall group all positions into defined classes containing a descriptive class title and a code identifying each class, and which shall be based on similarity of duties performed and responsibilities assumed, so that the same qualifications may reasonably be required and the same schedule of pay may be equitably applied to all positions in the same class. After the classification plan has been approved by the personnel policy board, the county personnel officer shall be responsible for the administration and maintenance of the plan and for the allocation of each classified position. Any employee affected by the allocation of a position to a class shall, upon request, be given a reasonable opportunity to be heard thereon by the personnel policy board who shall issue an advisory opinion to the personnel officer
- (3) For open competitive examinations to test the relative fitness of applicants for the respective positions. Competitive examination shall not be required for transferred employees transferring from positions in the state or a political subdivision to positions in the county pursuant to a merger of services or transferred employees transferring from positions in the state or a political subdivision to positions in the county due to the assumption of functions of the state or a political subdivision by the county. The rules and regulations shall provide for the public announcement of the holding of examinations and shall authorize the personnel officer to prescribe examination procedures and to place the names of successful candidates on eligible lists in accordance with their respective ratings. Examinations may be assembled or unassembled and may include various job-related examining techniques, such as rating training and experience, written tests, oral interviews, recognition of professional licensing, performance tests, investigations, and any other measures of ability to perform the duties of the position. Examinations shall be scored objectively and employment registers shall be established in the order of final score. Certification of eligibility for appointment to vacancies shall be in accordance with a formula which limits selection by the hiring department from among the highest ranking available and eligible candidates, but which also permits selective certification under appropriate conditions as prescribed in the rules and regulations
- (4) For promotions which shall give appropriate consideration to examinations and to record of performance, seniority, and conduct. Vacancies shall be filled by promotion whenever practicable and in the best interest of the service, and

preference may be given to employees within the department in which the vacancy occurs

Prohibiting disqualification of any person from taking an examination, from promotion or from holding a position because of race, sex, unless it constitutes a bona fide occupational qualification, or national origin, physical disabilities, age, political or religious opinions or affiliations, or other factors which have no bearing upon the individual's fitness to hold the position

Defeating and Deceiving

23-2531. Discrimination; prohibited; other prohibited acts. (2) No person shall make any false statement, certificate, mark, rating, or report with regard to any test, certification, or appointment made under the County Civil Service Act or in any manner commit or attempt to commit any fraud preventing the impartial execution of the act and the rules and regulations promulgated pursuant to the act.

23-2531. Discrimination; prohibited; other prohibited acts. (4) No employee of the personnel office, examiner, or other person shall defeat, deceive, or obstruct any person in his or her right to examination, eligibility, certification, or appointment under the act, or furnish to any person any special or secret information for the purpose of affecting the rights or prospects of any persons with respect to employment in the classified service.

23-2533. Violations; penalty. Any person who willfully violates any provision of the County Civil Service Act or of the rules and regulations adopted under the act shall be guilty of a misdemeanor, and shall, upon conviction thereof, be fined not more than five hundred dollars, or be imprisoned in the county jail for not more than six months, or be both so fined and imprisoned.

U.S. Merit Systems Protection Board. Prohibited Personnel Practice 6: Granting Any Preference or Advantage Not Authorized by Law. *What is the purpose of the sixth prohibited personnel practice?* This provision supports the first Merit System Principle which asserts that recruitment, selection and advancement should be merit-based. See 5 U.S.C. § 2301(b)(1). This PPP is designed to prevent an agency from giving an improper advantage in promoting an employee or in selecting an applicant for a position in federal employment. See 5 U.S.C. § 2302(b)(6). It complements and supports the same goal of fair competition as do PPPs 4 and 5, which prohibit obstructing the right to compete and influencing a person to withdraw from competition.

U.S. Merit Systems Protection Board. Prohibited Personnel Practice 6: Granting Any Preference or Advantage Not Authorized by Law. *What exactly is prohibited?* To establish a violation of 5 U.S.C. § 2302(b)(6), Merit Systems Protection Board (MSPB or Board) case law requires proof of an intentional or purposeful taking of a personnel action in such a way as to give a preference to a particular individual for the purpose of improving his or her prospects. See *Special Counsel v. Byrd*, 59 M.S.P.R. 561, 570 (1993), *aff'd*, 39 F.3d 1196 (Fed. Cir. 1994) (Table). The preference must be given for the purpose of providing an improper advantage. In other words, an improper

motive must be shown. See *Special Counsel v. Lee*, 114 M.S.P.R. 57, ¶ 21 (2010), *rev'd in part*, 413 F. App'x. 298 (Fed. Cir. 2011). However, it is not necessary that the action actually have resulted in an advantage, only that its purpose be to give an advantage. *Special Counsel v. DeFord*, 28 M.S.P.R. 98, 104 (1985).

U.S. Merit Systems Protection Board. Prohibited Personnel Practice 6: Granting Any Preference or Advantage Not Authorized by Law. *Has the Board recently* issued any significant decisions addressing this PPP? Yes. In *Special Counsel v. Lee*, 114 M.S.P.R. 57 (2010), *rev'd in part*, 413 F. App'x. 298 (Fed. Cir. 2011), OSC brought two complaints before the Board, alleging that Richard F. Lee and Diane L. Beatrez, Human Resource (HR) Specialists for the Coast Guard, violated section 2302(b)(6) when they assisted in promoting a particular individual to a supervisory position. The Board stated that Lee and Beatrez could be held liable under the statute because there was “a pattern of cooperation” between the HR specialists and the supervisor who sought to promote a particular individual. *Id.*, ¶ 25. The Board held that the HR specialists were liable for this PPP under the theory that “conduct that aids and abets another who is violating the statute” also violates section 2302(b)(6). *Id.*, ¶ 32. The Board noted that, by holding the HR specialists liable, they were “mindful of [the Board’s] obligation to faithfully uphold the merit system principles as set forth by Congress”. *Id.*, ¶ 35. As a consequence, the Board imposed a 45-day suspension without pay on Lee and a 10-day suspension without pay on Beatrez. See *id.*, ¶ 50. The Court of Appeals for the Federal Circuit later held on review that there was insufficient evidence to establish that Beatrez had the requisite intent to aid in the commission of a PPP and reversed the action against her. See *Beatrez v. Merit Systems Protection Board*, 413 F. App'x. 298 (Fed. Cir. 2011) (NP). The court did not disagree with the Board’s finding that any of the actions taken by the employees, if done with the requisite intent, would properly constitute a PPP under § 2302(b)(6).

U.S. Merit Systems Protection Board What is the ninth prohibited personnel practice?. Prohibited Personnel Practices (5 USC § 2302(b)). Under the law, any employee who has the authority to take, direct others to take, recommend, or approve any personnel action, shall not, with respect to such authority — take or fail to take, or threaten to take or fail to take, any personnel action against any employee or applicant for employment because of —

(A) the exercise of any appeal, complaint, or grievance right granted by any law, rule, or regulation;

(B) testifying for or otherwise lawfully assisting any individual in the exercise of any right referred to in subparagraph (A)(i) or (ii);

(C) cooperating with or disclosing information to the Inspector General (or any other component responsible for internal investigation or review) of an agency, or the Special Counsel, in accordance with applicable provisions of law; or

(D) for refusing to obey an order that would require the individual to violate a law, rule or regulation.

Seniority

23-2525. County personnel officer; personnel rules and regulations for classified service. (4) For promotions which shall give appropriate consideration to examinations and to record of performance, seniority, and conduct. Vacancies shall be filled by promotion whenever practicable and in the best interest of the service, and preference may be given to employees within the department in which the vacancy occurs;

23-2525. County personnel officer; personnel rules and regulations for classified service. 3. Promotions. Under subdivision (4) of this section, a county is not conducting promotional examinations when it posts a position as available to all county employees and fails to consider seniority. *Blakely v. Lancaster County*, 284 Neb. 659, 825 N.W.2d 149 (2012).

23-2525. County personnel officer; personnel rules and regulations for classified service. 3. Promotions. Under subdivision (4) of this section, the Legislature intended a county to conduct promotional examinations, and appointing authorities must consider records of performance, seniority, and conduct when making promotions. *Blakely v. Lancaster County*, 284 Neb. 659, 825 N.W.2d 149 (2012).

23-2525. County personnel officer; personnel rules and regulations for classified service. 3. Promotions. When a civil service statute requires an appointing authority to consider seniority in making a promotion, that requirement must be respected. *Blakely v. Lancaster County*, 284 Neb. 659, 825 N.W.2d 149 (2012).

County Personnel Rules. 5.7. Seniority Credit. To the total rating score on a promotional evaluation, 1 point for each year of continuous County service shall be added

Employee Environment

23-2522. Personnel policy board; powers; duties. (3) To cooperate with and advise the personnel officer in fostering interest and cooperation of institutions of learning and civic, professional, and employee organizations in the improvement of personnel standards and the development of high public regard for the county as an employer and for careers in the county service

Department Rules

IBEW. Article 8. Section 1. Department rules and regulations shall be posted on department bulletin boards fifteen (15) working days prior to their effective date, except in emergency situations where the County shall make a reasonable effort to notify employees. These department or agency rules, regulations and policies must be exercised consistent with the other provisions of this Agreement. The Agreement, entered into by the County of Lancaster and IBEW Local 1536, supersedes the Rules and department or agency rules, regulations and policies.

IBEW. Article 8. Section 2. The Union shall be provided with a copy of any proposed department rules and/or regulation changes five (5) working days prior to posting. The Union reserves the right to request a special Labor Management meeting to discuss the proposed changes prior to their effective date, except in emergency situations where the meeting shall take place within five (5) working days of the effective date. Employees shall have work area access to a current copy of the department rules.

American Fed. S., C. M. Emp. v. County, Lancaster, 200 Neb. 301, 304 (Neb. 1978). BOSLAUGH, J. The effect of the civil service act is to transfer the control of county employees from the various independent county officers to the board of county commissioners. The county board exercises control through the personnel rules and regulations which it adopts. The policy board is an advisory body only, except in regard to grievance and disciplinary matters. On matters relating to compensation and working conditions, the county board generally may adopt whatever rules it chooses. On matters relating to the appointment and promotion of employees, it is bound by the provisions of the act

Adjustment required: To have a company with no relation to Lancaster County assess and revise job descriptions and qualifications in the Lancaster County Treasurer Department. To have a company with no relation to Lancaster County administer the application questions and scoring, and the interview questions and scorings for all promotions available in the past six years, as current appointments are invalid.

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

Date: March 21, 2025

Signature of Union Representative: Jasmine Gibson

Title: IBEW 1536 Union Steward

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 – Rachel Garver
COPY: Human Resources – Barb McIntyre
LOCAL UNION GRIEVANCE FILE