

May 25, 2023

TO: County Personnel Policy Board Members

SUBJECT: Personnel Policy Board Meeting
Thursday, June 1, 2023
1:30 p.m., Commissioners Hearing Room
County-City Building, Room 112

A G E N D A

ITEM 1: Approval of Minutes from the February 2, 2023 and March 22, 2023 meetings.

ITEM 2: Request to create the following classification:

| <u>CLASS CODE</u> | <u>CLASS TITLE</u> | <u>PAY GRADE</u> |
|-----------------------|------------------------------------|---------------------------------|
| 7876 | Youth Services Program Coordinator | C14 (\$58,864.00 - \$75,397.92) |

ITEM 3: Request to revise the following classification:

| <u>CLASS CODE</u> | <u>CLASS TITLE</u> |
|-----------------------|---|
| 5766 | Community Corrections Drug Screening Technician (A12) |

ITEM 4: Request to amend County Rule 1 - Definitions

ITEM 5: Request to amend County Rule 19.8 – Pregnancy and Parental Leave

ITEM 6: Request to amend County Rule 19.12 – Requirements as to Continuous Service

ITEM 7: Request to create the Protected Family Leave Human Resources Policy Bulletin

ITEM 8: Request to amend the Family and Medical Leave Act Human Resources Policy Bulletin

ITEM 9: Request to amend the Worker’s Compensation Human Resources Policy Bulletin

ITEM 10: Request for appeal hearing IBEW – Shawn Slezak – Suspension - Engineering.

ITEM 11: Request for appeal hearing IBEW – Jared Dickey – Suspension - Engineering.

ITEM 12: Miscellaneous Discussion

pc: Department Heads
Kristy Bauer
Barb McIntyre
John Corrigan
Ashley Bohnet
Pam Dingman
Shawn Slezak
Jared Dickey

LANCASTER COUNTY YOUTH SERVICES PROGRAM COORDINATOR

NATURE OF WORK

This is responsible work coordinating the Behavior Management System within a detention and staff secure facility.

Work involves researching, developing, implementing, evaluating and overseeing the Behavior Management System within the Youth Services Center to ensure resident behavior is affected positively through effective supervision, programming and humane treatment. Primary work functions include managing, overseeing and providing technical assistance to the facility positive behavioral interventions and supports (PBIS) programs, resident behavior management program as well as educational and spiritual programming of residents while placed at the Youth Services Center. Supervision is received from an administrative superior with work reviewed in the form of conferences, reports and results achieved.

EXAMPLES OF WORK PERFORMED

Research, develop and implement a Behavior Management System at the Youth Services Center that aligns with a positive behavioral interventions and supports (PBIS) approach and a multi-tiered system of supports (MTSS) framework.

Oversee the Behavior Management System to ensure resident behavior is affected positively through effective supervision, programming and humane treatment; ensure a safe facility is maintained through effective management and programming while meeting the needs and rights of all residents; annually review the Behavior Management System to make changes, modifications, adjustments and upgrades as needed.

Manage and supervise the implementation of the resident behavior management program; evaluate objectives and stated outcomes; assist with the coordinating, planning, implementing, and evaluation of resident activities and schedules to ensure an effective flow of program operations; oversee and administer compliance regarding access to programming and activities while ensuring safety and security.

Plan, develop and implement services to ensure meeting the individual and group needs of youth as well as State and National Standards are implemented effectively and efficiently; coordinate facility efforts in identifying and utilizing community resources to enhance programming and services; review written and verbal daily investigative reports and procedural problems related to medical and mental health services; assist in the development and review of facility operational policies, procedures and post orders as they relate to medical and mental health services.

Manage, oversee and provide technical assistance to the facility PBIS program to ensure the quality and fidelity of PBIS programs at the Youth Services Center; monitor the facility's PBIS processes and assess resource needs.

Assist in the development, review and implantation of all policies and procedures to ensure federal, state and local laws and regulatory standards are met and to ensure licenses and regulatory approvals are received; communicate new or revised policies and procedures to agency personnel; assist with assessing, planning and obtaining American Correctional Association accreditation; assist in conducting the Annual

Inspections by the Nebraska Jail Standards Board.

Provide management and oversight of the Lancaster County Youth Services Center Training Unit; enhance the training delivery method for new hires as well as in-service staff; review, revise and implement the training curriculum by working in cooperation with the training coordinator; research and implement best practices in training and staff development methods.

Direct and manage educational and spiritual programming of residents placed at the Youth Services Center; maintain complete records and reports on each student's performance and provide a written evaluation to participating colleges and universities; collaborate with chaplaincy program to provide youth with meaningful spiritual resources.

May assume Juvenile Detention Supervisor responsibilities in the absence of key personnel.

DESIRABLE KNOWLEDGE, ABILITIES AND SKILLS

Considerable knowledge of the principles, practices and regulations related to juvenile detention facilities.

Considerable knowledge of facility policy, procedures, rules and regulations.

Considerable knowledge of juvenile behavior and behavior modification techniques utilized in a closed or secure environment.

Considerable knowledge of behavior management systems, multi-tiered systems of support (MTTS) and positive behavioral interventions and supports (PBIS).

Considerable knowledge of federal, state and local laws and regulatory standards relating to juvenile detention facilities.

Knowledge of computer hardware components and general computer software applications.

Knowledge of the local and state juvenile-adult justice system.

Ability to coordinate multiple services and functions among personnel in high stress or emergency situations.

Ability to train, schedule, supervise and evaluate the work of subordinate staff.

Ability to work with community agency and legal representatives, juveniles, co-workers and the general public cooperatively and professionally.

Ability to gather information, synthesize data, prepare reports and maintain records.

Ability to appropriately restrain a juvenile whose behavior is harmful to self or others.

MINIMUM QUALIFICATIONS

Graduation from an accredited college or university with major coursework in criminal justice, human development, behavioral management, social work or the behavioral sciences plus two years of experience in providing juvenile detention or correctional services including six months of supervisory experience or any equivalent combination of training and experience that provides the desirable knowledge, abilities and skills.

NECESSARY SPECIAL REQUIREMENTS

Possession of a valid driver's license. At the time of employment, must meet facility driving record requirements.

Must be a citizen of the United States and be at least twenty-one (21) years of age.

At the time of employment, must be fingerprinted for a Nebraska State Patrol criminal history search; must be free of any convictions of crimes punishable by imprisonment in a state or federal penitentiary for a term of one year or more from which a pardon has not been received; cannot be registered as a Child Abuse or Sexual Offender with the National Child Abuse and Neglect registry.

At the time of employment, must submit to and successfully pass a substance abuse test.

At the time of employment, must pass a physical examination and meet physical and medical requirements of the job classification.

6/23

PS7876

LANCASTER COUNTY
COMMUNITY CORRECTIONS DRUG SCREENING TECHNICIAN

NATURE OF WORK

This is human service work in a community corrections program performing drug screening work with the responsibility of utilizing various testing methods and reporting the results to the designated parties.

Work involves the administration and application of the community corrections drug screening program. Work involves collecting urine specimens from participants and maintaining accountability for specimen identification. Work also involves utilizing various testing methods to determine a preliminary result, documenting and communicating these results to the appropriate personnel, and packaging and sending specimens to testing laboratories if required. Supervision is received from an administrative superior with work being reviewed in the form of evaluations and conferences to determine the quality and efficiency of work performed.

EXAMPLES OF WORK PERFORMED

Collect and dispose of urine specimens in accordance with established standards.

Conduct drug screening utilizing various testing methodologies.

Maintain accountability for specimen identification; take responsibility for chain of custody evidence.

Document results of drug testing for case files.

Communicate on a regular basis with program staff; ~~transports clients.~~

Monitor use of drug testing supplies and equipment; communicate in a timely manner when supplies are low.

Prepares reports, statistics and correspondence as may be required as part of the court and correctional system.

DESIRABLE KNOWLEDGE, ABILITIES AND SKILLS

Knowledge of the Criminal Justice System.

Knowledge of the principles and procedures of community corrections.

Some knowledge of the method or methods of drug testing and screening as it applies to community corrections.

Ability to organize and prioritize daily tasks.

Ability to maintain effective working relationships with clients, co-workers and the general public.

Ability to communicate effectively both orally and in writing.

MINIMUM QUALIFICATIONS

Graduation from high school or equivalent and six months of experience with the criminal justice system either in an employed status or as an intern or any equivalent combination of training and experience that provides the desirable knowledge, abilities and skills.

~~NECESSARY SPECIAL REQUIREMENTS~~

~~Possession of a valid driver=s license when operating a vehicle is required in the performance of assigned duties.~~

~~06/23/17~~

PS5766

RULE 1 – DEFINITIONS (Revised 6/20222023)

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.

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 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, [or their designee](#), 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, on-call 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 under Nebraska state law. This includes marriages performed outside the United States, so long as those marriages could have been legally entered into in at least one state. (06/23)

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)

19.8 Pregnancy and Paid Parental Leave (Revised 8/005/23)

~~(a) A pregnant employee shall request in writing and with a physician's certification that leave be granted at any time during the period of pregnancy and the period immediately following the birth. This leave may be with pay if the employee has sufficient accrued sick leave and/or vacation leave to be allocated as per the employee's directions. Otherwise, the leave will be without pay. It is the responsibility of the employee to obtain a doctor's statement within four (4) weeks following the birth which certifies the date the employee is physically able to return to work.~~

(a) Effective June 29, 2023, all unrepresented, full-time and part-time County employees in the classified service, who are scheduled to work at least 20 hours or more, are eligible to receive up to 240 hours of paid parental leave following the birth of an employee's child/children or when a child/children is/are first placed with an employee for adoption or foster care. Part-time or alternate scheduled employees will receive prorated leave hours based on their regularly scheduled work week. Temporary employees, seasonal employees, on-call employees, probationary employees, and interns are not eligible for paid parental leave.

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

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

(i) Have given birth to a child/children;

(ii) Be a spouse to a person who has given birth to a child/children or be the biological parent to a child/children that has/have been born;

(iii) Be in the process of adopting a child/children who is/are 18 years old or younger, with the exception of adoption of a new spouse's child/children;

(iv) Be in the process of a foster care placement of a child/children who is/are 18 years old or younger.

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

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

i. With the Department Head's approval for bonding purposes. Employees requesting intermittent/reduced schedule leave for bonding purposes

must work with the employer to schedule the leave so as not to unduly disrupt operations.

±.ii. With supporting medical documentation of a child/children's serious health condition.

(4) Paid parental leave is compensated at the employee's regular rate of hourly pay.

(5) Paid parental leave must be exhausted before an employee may utilize sick leave, vacation leave, or personal convenience holidays for the birth, adoption, or placement of a child/children with the employee.

(6) If a Holiday as defined in Personnel Rule 18.1(a) occurs while the employee is on paid parental leave, the employee's absence on said holiday will be charged to holiday pay and will not count against the employee's paid parental leave entitlement.

(7) Upon termination, retirement, resignation, or other separation from employment, employees will not be paid for any unused paid parental leave for which they were eligible.

(c) An employee requesting paid parental leave shall complete FMLA paperwork or, if not FMLA eligible, the Paid Parental Leave Form at least 30 days prior to the proposed date of leave, or if the leave was not foreseeable, as soon as possible, and provide all documentation as required by the HR department to substantiate the request.

(d) If an employee is eligible for Family and Medical Leave pursuant to the Family and Medical Leave Act (FMLA) Personnel Policy Bulletin, 2023-1, or becomes eligible for Family and Medical Leave at any time during paid parental leave, the paid parental leave shall run concurrently with FMLA leave and the FMLA Bulletin shall control the employee's use of leave.

~~(b) Parental Leave for bonding after the birth or adoption of a child may be granted pursuant to the provisions of the Family and Medical Leave Act of 1993.~~

19.12 Requirements as to Continuous Service (~~Revised 11/02 Revised 12/22~~)06/23

Length of service requirements for increased vacation leave and for other purposes, as specified in these Rules, shall be based on the employee's continuous service with the County. Continuous service with the County means employment without a break or interruption; provided that any absence or authorized leave without pay or by reason of layoff for thirty (30) consecutive calendar days or less shall not affect the continuity of service. Leaves without pay and layoffs for a period in excess of thirty (30) consecutive calendar days shall be deducted in computing the total length of service with the County and the employee's eligibility date will be adjusted accordingly. [Absences related to a legally protected leave event including, but not limited to, Family and Medical Leave Act leave, Nebraska Fair Employment Practice leave and Protected Family Leave shall not be deducted in computing total length of service.](#)

Human Resources Policy Bulletin

Lancaster County

Number: 2023-3

Date: August 1, 2023

| Reference: | Title: |
|------------|------------------------|
| | Protected Family Leave |

I. PURPOSE

This purpose of this policy is to provide unpaid job protected leave time for spouses employed by Lancaster County who exhaust Family Medical Leave and/or Paid Parental Leave for the birth, placement, care or bonding of a child within the first year of the child's birth or placement.

II. ELIGIBILITY

Spouses who are both employed by Lancaster County and request leave for the birth, placement, care or bonding of a child within the first year after birth or placement, as well as have both been employed for at least 12-months and have worked at least 1,250 hours during the preceding 12-month leave period.

III. PROTECTED FAMILY LEAVE

- A. Protected Family Leave. If spouses both work for Lancaster County and request leave for the birth, placement, care or bonding of a child within the first year after birth or placement, each spouse will be eligible for up to 12 workweeks of unpaid job protected leave in a 12-month period. The 12 workweeks will include a combination of approved Family Medical Leave, Paid Parental Leave, and Protected Family Leave. Family Medical Leave and Paid Parental Leave must be exhausted prior to using Protected Family Leave.
- B. Effect on Paid Leaves. Protected Family Leave will run concurrently with paid leaves (sick leave, personal holidays, and vacation, accrued and banked). Following the exhaustion of paid leave, any remaining Protected Family Leave will be unpaid.
- C. Application and Eligibility. The FMLA application each employee submits to the Human Resources Leave Manager will be used to request Protected Family Leave. If each spouse qualifies for FMLA leave, the spouses qualify for Protected Family Leave.
- D. Types and Duration of Leave. Protected Family Leave may be taken on a continual leave schedule or an intermittent/reduced leave schedule, based on the qualifying

Human Resources Policy Bulletin

Lancaster County

Number: 2023-3

Date: August 1, 2023

| Reference: | Title: |
|------------|------------------------|
| | Protected Family Leave |

employees' family need. Intermittent/reduced leave must be approved by the Department Head.

- E. Benefits During Leave. During a period of Protected Family Leave, an employee will be retained on the employer's health and dental care plans under the same conditions that applied before leave was commenced. To continue health and dental coverage, the employee must continue to make any contributions the employee made to the plan before taking leave. Failure of the employee to pay the employee share of the health or dental care monthly cost may result in loss of coverage.

If the employee fails to return to work after the expiration of the leave, the employee will be required to reimburse Lancaster County for payment of health/dental care monthly costs incurred during the Protected Family Leave, unless the reason the employee fails to return is the presence of the serious health condition which prevents the employee from performing their job, or other circumstances beyond the control of the employee.

- F. Return to Work. Upon an employee's return to work, an employee may be required to complete a "Notice of Intention to Return to Work" form before the employee can be returned to active status. These forms may be obtained from Human Resources. Notification must be given to the Human Resources Leave Manager as well as notice to the Department Head at least 2 working days prior to the employee's planned return.

- G. Failure to Return From Leave. The failure of an employee to return to work upon the expiration of Protected Family Leave will be considered a resignation unless an extension is granted, other leave is required by applicable law, or other paid leave is available and approved for use. In no circumstances will an extension beyond the 12-week period authorized be granted, unless other leave is required by applicable law or other paid leave is available and approved for use.

IV. CONTINUOUS SERVICE

Any update to eligibility dates for absences related to a Protected Family Leave event shall be governed by County Personnel Rule 19.12.

Human Resources Policy Bulletin

Lancaster County

Number: 2023-3

Date: August 1, 2023

| Reference: | Title: |
|------------|------------------------|
| | Protected Family Leave |

V. DURATION OF POLICY

This policy is effective beginning August 1, 2023 and can be terminated by the County Board of Commissioners at any time.

Barb McIntyre
Human Resources Director

Date

Chair
Board of County Commissioners

Date

Personnel Policy Bulletin

Lancaster County

Number: 2009-1 2023-1

Date: February, 2009
August 1, 2023

| Reference: | Title: |
|---|------------------------------|
| Family and Medical Leave Act of 1993 (FMLA) and C.F.R. Part 825 | FAMILY AND MEDICAL LEAVE ACT |
| Supersedes Personnel Policy Bulletin 2002-3 2009-1 | |

1. Purpose. The purpose of this policy is to ~~define~~ provide a general description of the Lancaster County's family and medical leave procedure with regard to family and medical leave in accordance with the provisions of the Federal Family and Medical Leave Act (FMLA) of 1993 and the federal regulations pertaining thereto. In addition to all applicable Federal and State regulations, this policy adheres to any additional provisions specifically addressed in relevant County labor contracts.
2. Eligibility. Employees who have been employed for at least ~~one year~~ 12 months, and for at least 1,250 hours during the preceding 12-month ~~leave period.~~ period, are eligible for a total of 12 work weeks of FMLA leave per twelve month period. to up to 12 workweeks of unpaid FMLA leave per 12-month leave period.
3. Amount of Leave. An eligible employee is entitled up to 12 workweeks of unpaid FMLA leave per 12-month leave period.
34. Twelve-Month Period. The ~~twelve month~~ 12-month leave period for taking leave shall be measured forward from the first date an employee takes FMLA leave and shall expire twelve months thereafter. defined as a rolling 12-month period measured backwards from the date an employee first uses FMLA leave. Each time an employee takes FMLA leave, the Human Resources Leave Manager or their designee will compute the amount of leave time taken in that 12-month period and subtract it from the 12 weeks of available leave. The balance remaining is the amount the employee is entitled to at that time.
45. Reasons for Leave. The 12 weeks of FMLA leave may be granted for the following reasons:
 - a. For the birth and care of ~~a newborn child of the employee~~ the employee's newborn child within 12 months of birth;
 - b. For placement of a child with the employee for adoption or foster care. Placement with the employee of a child for adoption or foster care within 12 months of placement;

Personnel Policy Bulletin

Lancaster County

Number: 2009-1 2023-1

Date: February, 2009
August 1, 2023

| Reference: | Title: |
|--|------------------------------|
| Family and Medical Leave Act of 1993 (FMLA) and C.F.R. Part 825 Supersedes Personnel Policy Bulletin 2002-3 2009-1 | FAMILY AND MEDICAL LEAVE ACT |

- c. To care for an immediate family member (spouse, child or parent) who has a serious health condition; or Bonding with a child within 12 months of child's birth or placement;
- d. To take personal medical leave when the employee is unable to work because of a serious health condition. To care for a spouse (legal), child (biological, foster, adopted, step, legal ward); in loco parentis – (assumed parental status and responsibilities) or parent (in-laws excluded) who has a serious health condition; or
- e. To take personal medical leave when the employee is unable to work because of a serious health condition.

The entitlement to leave for the birth or placement of a child for adoption or foster-care will expire 12 months from the date of the birth or placement.

56. General Information and Affect Effect on County Paid Leaves.

During an FMLA qualifying event eEmployees are required to use paid leave in the event of an FMLA Leave which includes the following: sick leave, catastrophic leave, personal holidays, vacation leave, paid parental leave, injury leave, and workers' compensation. For purposes of bonding, employees are allowed to use sick leave. The unpaid FMLA leave will run be counted concurrently with other paid leaves (sick leave, personal holidays, vacation, injury leave, Paid Parental Leave workers' compensation leave, and/or catastrophic leave). . . ick leave may be used for any FMLA qualifying events. Therefore, the 12 weeks of leave will be paid to the extent the employee has other paid leave available. After all applicable paid leaves are exhausted Following the exhaustion of applicable paid leave, which is deemed to be any leave balance under 15 minutes, any remaining FMLA leave will be unpaid.

When spouses work for the same employers and each spouse is eligible for FMLA leave, the FMLA limits the combined amount of leave they may take for some, but not all FMLA qualifying leave events. Eligible spouses who work for the same employer are limited to a combined 12 weeks of leave in a 12-month period for the following. FMLA-qualifying events:

Personnel Policy Bulletin

Lancaster County

Number: 2009-1 2023-1

Date: February, 2009
August 1, 2023

| Reference: | Title: |
|---|------------------------------|
| Family and Medical Leave Act of 1993 (FMLA) and C.F.R. Part 825 | FAMILY AND MEDICAL LEAVE ACT |
| Supercedes Personnel Policy Bulletin <u>2002-32009-1</u> | |

- a. The birth of a child and bonding with the newborn child.
- b. The placement of a child with the employee for adoption or foster care and bonding with the newly placed child.
- c. The care of a parent with a serious health condition.

The limitation on the amount of leave for spouses working for the same employer does not apply to leave taken for some qualifying reasons. Eligible spouses are each entitled to up to 12 weeks of FMLA leave in a 12-month period for the following FMLA-qualifying events:

- a. The care of a spouse, or child with a serious health condition.
- b. A serious health condition that makes the employee unable to perform the essential functions of their job.

Reference: Human Resources Policy Bulletin – Protected Family Leave:
<https://www.lincoln.ne.gov/City/Departments/HR/County-PersonnelHuman-ResourcesPolicy-Information>

~~In those cases where a husband and wife are both employed by the County and both are eligible for FMLA leave, they are limited to a combined total of 12 work weeks of leave during any 12-month period if the leave is taken: (1) for birth of the employee's child or to care for the child after birth; (2) for placement of a son or daughter with the employees for adoption or foster care, or to care for the child after placement; or (3) to care for a parent with a serious health condition. If one spouse is ineligible for FMLA leave, the other spouse would be entitled to a full 12 weeks of FMLA leave. If the husband and wife both use a portion of the total 12-week FMLA leave entitlement for one of the purposes enumerated above, the husband and wife would each be entitled to the difference between the amount he or she has taken individually and 12 weeks of FMLA leave for a purpose other than those enumerated above. For example, if each spouse took 6 weeks of leave for the birth of a child, each could later use an additional 6 weeks due to a personal illness, to care for a sick child or to care for the other spouse. (See, 29 C.F.R. 825.202).~~

Personnel Policy Bulletin

Lancaster County

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| Family and Medical Leave Act of 1993 (FMLA) and C.F.R. Part 825 | FAMILY AND MEDICAL LEAVE ACT |
| Supersedes Personnel Policy Bulletin 2002-3 2009-1 | |

67. Intermittent/Reduced Schedule Leave. FMLA leave may be taken on an intermittent basis or to work a reduced schedule when (1) medically necessary to care for a seriously ill family member; or (2) because of the employee's own serious health condition; or (3) with the Department Head's approval when leave is taken for bonding purposes. Employees requesting intermittent/reduced schedule leave for bonding purposes must work with the employer to schedule the leave so as to not unduly disrupt operations. ~~Intermittent or reduced schedule leave may be taken to care for a newborn or newly placed adopted or foster care child *only* with the County's approval Human Resources Leave Manager's approval in conjunction with Department Head notification. Only the amount of leave actually taken while on intermittent/reduced schedule leave may be charged as FMLA leave.~~

If an employee's schedule varies from week to week to the extent that an employer is unable to determine with any certainty how many hours the employee would otherwise have worked, a weekly average of the hours scheduled over the 12 months prior to the beginning of the leave period would be used for calculating the employee's leave entitlement. – Only the amount of leave actually taken while on intermittent/reduced schedule leave may be charged as FMLA leave.

Employees needing intermittent/reduced schedule leave for foreseeable medical treatment must work with their employers to schedule the leave so as not to unduly disrupt the employer's operations, subject to the approval of the employee's health care provider.

78. Serious Health Condition Defined. A serious health condition means an illness, injury, impairment, or physical or mental condition that involves either: ~~(See, 29-C.F.R. 825.114 and 825.800).~~

(1) any period of incapacity or treatment connected with inpatient care (i.e. an overnight stay) in a hospital, hospice, or residential medical-care facility, and any period of incapacity or subsequent treatment in connection with such inpatient care; or

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(2) continuing treatment by a health care provider which includes any period of incapacity (i.e. inability to work, attend school or perform other regular daily activities) due to:

- A. A health condition lasting more than three consecutive, full calendar days, and -any subsequent treatment or period of incapacity relating to the same condition, that also includes: (1) treatment two or more times; within 30 days of the first day of incapacity, unless extenuating circumstances exist, by or under the supervision of a health care provider; or (2) one treatment by a health care provider with a continuing regimen or treatment;
 - (i) The requirement in paragraphs (A)(1) and (2) of this section for treatment by a health care provider means an in--person visit to a health care provider. -The first (or only) in person treatment visit must take place within seven days of the first day of incapacity; or
- B. Pregnancy or prenatal care. A visit to the health care provider is not necessary for each absence; or
- C. A chronic serious health condition which continues over an extended period of time, requires periodic visits (defined as at least twice a year) to a health care provider, and may involve occasional episodes of incapacity (e.g., asthma, diabetes). A visit to a health care provider is not necessary for each absence; or
- D. A permanent or long-term condition for which treatment may not be effective (e.g., Alzheimer's, a severe stroke, terminal cancer). Only supervision by a health care provider is required rather than active treatment; or
- E. Any absence to receive multiple treatments for restorative surgery or for a condition which would likely result in a period of incapacity of

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more than three days if not treated (e.g., chemotherapy or radiation treatments for cancer).

89. Health Care Provider Defined. Health care provider means (1) doctors of medicine or osteopathy authorized to practice medicine or surgery by the state in which the doctors practice; or (2) podiatrists, dentists, clinical psychologists, optometrists and chiropractors authorized to practice, and performing within the scope of their practice, under state law; or (3) nurse practitioners, nurse-midwives and clinical social workers authorized to practice, and performing within the scope of their practice, as defined under state law; or (4) Christian Science practitioners listed with the First Church of Christ, Scientist in Boston, Massachusetts; or (5) any health care provider recognized by the employer's group health care plan manager. ~~(See, 29 C.F.R. 825.118).~~

10. Employer Notification of Rights Requirements. Lancaster County Human Resources will post an FMLA notice, policy, and application materials on the Intranet for employees. Posters will be displayed in general areas for all employees and applicants.

11. Employee Notice of Leave. All employees must submit an application for FMLA leave to the Human Resources Leave Manager or their designee at least 30 days before leave is to begin. When 30 days' notice is not possible, the employee must provide notice as soon as practicable.

912. Application for Leave.

—a. Employee initiated leave. In all cases, an employee requesting leave must complete ~~the attached an~~ "Application for Family or Medical Leave" and "Medical Certification Statement" and return ~~it to the employee's department head for transmittal to the Personnel Director in the City/County Personnel Department~~ both to the Human Resources Leave Manager or their designee. The completed application must state the reason for the leave and the starting and ending dates of the leave. ~~The response to the request for family or medical leave shall be~~ The Human Resource Leave Manager or their designee will provided ~~to~~ the employee with the Notice of Eligibility & Rights and Responsibilities form (WH-381) within ~~five~~ 5 business days of receiving the application for FMLA leave. ~~after the employee gives notice of the need for leave.~~

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b. Human Resources initiated leave. All qualifying events, including employee absences greater than three consecutive calendar days, should be reported to and confirmed by the Human Resources Leave Manager or their designee. Lancaster County may initiate the process of FMLA designation once they learn that an eligible employee has taken leave for a FMLA-qualifying reason.

~~10. Notice of Leave. An employee intending to take family or medical leave because of an expected birth or placement, or because of a planned medical treatment, must submit an application for leave at least 30 days before the leave is to begin. If leave is to begin within 30 days, an employee must give notice to his or her department head and to the City/County Personnel Department as soon as the necessity for the leave arises.~~

~~11.3. Medical Certification for Leave. An employee requesting leave based on a serious health condition of the employee or the employee's spouse, child or parent must have his/her/their health care provider complete a "Medical Certification Statement" form. Copies of the "Medical Certification Statement" forms may be obtained through the Personnel Department Human Resources Leave Manager or their designee. The certification must state the date on which the health condition commenced, the probable duration of the condition, and the appropriate medical facts regarding the condition. If the employee is needed to care for a spouse, child or parent, the certification must so state along with an estimate of the amount of time the employee will be needed. If the employee has a serious health condition, the certification must state that the employee cannot perform the functions of his or her/their job.~~

When submitting a medical certification for Intermittent Leave, the healthcare provider will need to specifically clarify the frequency and period of time the employee will need to be absent.

The employee shall have 15 calendar days to provide the completed Medical Certification Form to the Human Resources Leave Manager or their designee. Failure to provide the Medical Certification Form within 15 calendar days of the request for leave may result in denial of FMLA leave. ~~In the event the medical certification is incomplete or insufficient (vague, ambiguous, or non-responsive), the employee shall~~

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~~have 7 calendar days to cure any deficiency. Failure to cure the deficiencies may result in denial of FMLA Leave.~~

~~The County may require employees to provide subsequent recertifications of the employee's continued need for leave, but not more often than every 30 days. The County may require, at its own expense, a second opinion from an independent health-care provider. If there is a conflict between the two medical opinions, a third and binding medical opinion may be obtained at the County's expense.~~

Within 5 business days after the employee has submitted the completed Medical Certification Form, the Human Resources Leave Manager or their designee will complete and provide the employee and the Department Head with a written FMLA Designation Notice indicating whether or not the FMLA leave is approved.

In the event the medical certification is incomplete or insufficient (vague, ambiguous, or non-responsive), the employee shall have 7 calendar days to cure any deficiency. Failure to cure the deficiencies may result in the denial of FMLA leave.

Lancaster County may require employees to provide subsequent recertifications of the employee's continued need for leave, but not more often than every 30 days. Lancaster County may require, at its own expense, a second opinion from an independent health care provider. If there is a conflict between the two medical opinions, a third and binding medical opinion may be obtained at the employer's expense.

1214. Benefits Coverage During Leave. During a period of FMLA leave, an employee will be retained on the ~~County's employer's~~ health and dental care plans under the same conditions that applied before leave was commenced. To continue health and dental coverage, the employee must continue to make any contributions that ~~he or she~~ they made to the plan before taking leave. Failure of the employee to pay ~~his or her~~ their share of the health or dental care monthly cost may result in loss of coverage.

If the employee fails to return to work after expiration of the leave, the employee will be required to reimburse Lancaster County for payment of health/dental care monthly costs incurred during the FMLA leave, unless the reason the employee fails to return is

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the presence of the serious health condition which prevents the employee from performing ~~his or her~~ their job, or other circumstances beyond the control of the employee. ~~(See, 29 C.F.R. 825.213(a)).~~

~~An employee is not entitled to any seniority or employee benefits that would have accrued if not for the taking of the leave. An employee who takes FMLA leave will not lose seniority or employment benefits that accrued before the date leave began. (See, 29 C.F.R. 825.215(d)(2)). However, an employee's seniority will be lost relative to other employees as their seniority accrues.~~

- ~~1315.~~ 1415. Restoration to Employment. Unless the employee is a "key employee", as defined by the Act, at the end of the FMLA leave, an employee will be restored to ~~his or her~~ their old position or to a position with equivalent pay, benefits, and other terms and conditions of employment. Lancaster County cannot guarantee that an employee will be returned to ~~his or her~~ their original job. A determination as to whether a position is an "equivalent position" will be made by ~~Lancaster County.~~ ~~(See, 29 C.F.R. 825.214 and 825.215)~~ the Human Resources Leave Manager or their designee. A "key employee" is a salaried FMLA-eligible employee who is among the highest paid ten percent of all the employees employed by ~~Lancaster the~~ County. ~~(See, C.F.R. 825.217).~~
- ~~1416.~~ 1416. Return from Leave. An employee must complete a "Notice of Intention to Return to Work" form before ~~he or she~~ they can be returned to active status. These forms may be obtained from the ~~County Personnel Department~~ Human Resources Leave Manager or their designee. If an employee wishes to return to work prior to the expiration of a FMLA leave of absence, notification must be given to the ~~employee's department head~~ Human Resources Leave Manager or their designee in conjunction with the Department Head at least 2 working days prior to the employee's planned return.
- ~~1517.~~ 1517. Failure to Return from Leave. The failure of an employee to return to work upon the expiration of FMLA leave will be considered a resignation unless an extension is granted, other leave is required by applicable law, or other paid leave is available and approved for use. An employee who has requested less than 12 weeks of FMLA leave may request an extension of FMLA leave by submitting a written request to the ~~employee's department head~~ Human Resources Leave Manager or their designee

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setting forth the reasons for the extension, along with a current "Medical Certification Statement" form. This written request should be made as soon as the employee realizes that ~~he or she~~ they will not be able to return at the expiration of the leave. In no circumstances will an extension beyond the 12-week period authorized pursuant to the FMLA be granted, unless other leave is required by applicable law or other paid leave is available and approved for use. However, Lancaster County will review business considerations and the individual circumstances involved to determine if additional unpaid leave is available pursuant to the Americans with Disabilities Act of 1990, as amended.

- ~~4618.~~ Unlawful Acts. It is unlawful for any employer to interfere with, restrain, or deny the exercise of any right provided by the FMLA. It is also unlawful for an employer to discharge or discriminate against any individual for opposing any practice, or because of involvement in any proceeding related to the FMLA.

Mark A. Koller, Personnel Director
Barb McIntyre, Director of Human Resources

Date

Bernie Heier, Chairman
Board of County Commissioners
County Board Chair

Date

Human Resources Policy Bulletin

Number: 2023-2-2013-4

Lancaster County
2013

Date: June 2023, December,

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| Supersedes <u>Supersedes</u> Personnel Policy Bulletin 2013-405-2 | WORKERS' COMPENSATION POLICY |

WORKERS' COMPENSATION POLICY

I. Purpose. To insure fair, equitable and consistent treatment of all County employees, the Lancaster County Risk Management Division complies with the Nebraska Workers' Compensation Act, Union Bargaining Agreements, Lancaster County Personnel Policies, Nebraska Workers' Compensation Court Rules, Human Resources Policy Bulletins and other applicable policies.

~~II.~~ **Workers' Compensation Defined.** Workers' Compensation benefits are provided to eligible employees who sustain injury by accident or occupational disease arising out of and in the course of their employment, and who are not willfully negligent at the time of the injury.

~~III.~~ **Reporting Requirements.** Any job related injury or disease shall be immediately reported to the employee's department head or available supervisor as soon as possible. The department shall immediately report the incident to the County Risk Manager. -A "First Report of Alleged Occupational Injury or Illness", completed by the employee and an "Employee Injury or Illness Report", completed by the injured employee and his/her supervisor, shall ~~also~~ additionally be forwarded to the County Risk Management Officer in all ~~cases.~~ cases. If the employee has a minor injury and did not seek medical treatment, then the "Report of Minor Employment Injury" form shall be completed by the employee and the supervisor and sent to the County Risk Management Office. (See attached sample forms). The employee will have the burden of proof to document the claim by submitting an injury report and medical evidence to support ~~his or her~~ their claim.

~~County Risk Management will investigate the claim to determine if it should be approved as a workers' compensation injury. During this investigation the employee may elect to use other leave options such as sick leave, vacation or personal holiday. If the claim is approved by Risk Management the injured employee's department will convert any sick leave, vacation or personal holiday hours paid to the employee, to injury leave, for hours missed during the first 10 working days. If sick leave, vacation, or holiday pay is paid during a period of Temporary Total Disability beyond 10 working days the employee will be credited for two-thirds (.6667) of all such hours used during the period of disability.~~

~~III.~~ **Medical Documentation.** Employees requesting time off work due to a work-related injury or disease must provide medical documentation that states ~~he/she~~ they are is unable to perform ~~his/her~~ their normal work duties. All medical documentation must be provided to the Risk Manager. -Prior to returning to duty, the employee must provide a ~~full~~ medical release from a medical provider which specifies all restrictions, if any, upon the employee's ability to perform ~~his or her~~ their full range of duties. -Modified Duty ~~may~~ will be allowed only as specified in Paragraph VIII herein.

~~IV.~~ **Injury Leave.** All probationary or status classified employees who are off of work for a compensable injury shall receive injury leave benefits pursuant to County Rule 19.4 - Injury Leave,

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or the employee's applicable labor contract. Such injury leave shall not be deducted from vacation or sick leave credits and will be listed as injury leave on the employee paycheck.

Failure to immediately report an accident which resulted in an injury may cause forfeiture of injury leavethis additional benefit.

Unclassified employees, other than sheriff deputies, are not entitled to injury leave but are entitled to workers' compensation benefits provided in the Nebraska Workers' Compensation Act.

County Risk Management will investigate the claim to determine if it should be approved as a workers' compensation injury. During this investigation the employee may elect to use other leave options such as sick leave, vacation or personal holiday. If the claim is approved by Risk Management the injured employee's department will convert any sick leave, vacation or personal holiday hours paid to the employee, to injury leave, for hours missed during the first 10 working days. If sick leave, vacation, or holiday pay is paid during a period of Temporary Total Disability beyond 10 working days the employee will be credited for two-thirds (.6667) of all such hours used during the period of disability.

V.VI. Temporary Total Disability Benefits. If injury leave has expired and the employee still requires time off work, the employee is eligible to receive Temporary Total Disability workers' compensation benefits (TTD) administered by Risk Management. TTD is based on two-thirds (.6667) of the employee's Average Weekly Wage (AWW) at the time of the injury, with a maximum benefit set each year by the Nebraska Workers' Compensation Act. AWW is established from a wage history covering the time period 26 weeks prior to the date of the injury.

All employees have the option of supplementing the amount of TTD benefits received with sick, vacation or personal holiday hours so that the benefit equals the employee's normal salary for the pay period. It is the employee's responsibility to inform his/her-their department head that he/she-they intends to supplement workers' compensation benefits with paid leave. No employee shall receive a salary (workers' compensation plus regular pay or paid leave) in excess of his/her-their normal wage.

V.VI. Temporary Partial Disability Benefits. If the employee can return to work on a part-time basis and provides the department head written permission from his/her-their medical provider to do so, the employee will receive injury leave, if not yet expired, or Temporary Partial Disability (TPD) if all injury leave has expired, for the amount of time still spent away from work. TPD is calculated as the Average Weekly Wage at the time of the injury minus salary earned for the week(s) in question

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and then multiplied by .6667. Again, employees may opt to supplement their TPD benefits with eligible paid leave benefits in order to equal a full paycheck in the manner described in Paragraph V., above.

VII. Modified Duty and Recovery Time. A department, based upon operational needs and at the department head's discretion, may offer modified duty to status and probationary employees who have suffered a work-related injury. Prior to modified duty being approved, the employee must provide medical documentation from ~~his/her~~ their treating physician which states the employee is unable to perform the essential duties of ~~his/her~~ their current position but is able to work a modified duty assignment. Modified duty is considered temporary and will be reviewed three months after the assignment to determine whether it will be extended beyond the initial three-month period.

The maximum amount of recovery time, including modified duty, should not exceed 6 calendar months from the date of injury. ~~If the employee is unable to cannot~~ return to full duty after 6 months from the date of injury, the employee may be separated from employment. However, if the employee provides medical documentation indicating a strong likelihood that the employee can return to full duty within a reasonable time period, the department head may extend the recovery time depending upon business needs and pursuant to the Americans with Disabilities Act (ADA), if applicable. Likewise, if the employee can perform the essential functions of ~~his/her~~ their position with some modifications, the department will make reasonable efforts to accommodate the employee. ~~If the employee cannot return to full duty and there are no reasonable accommodations available, the employee may be eligible for workers' compensation benefits such as retraining or vocational rehabilitation.~~

VIII. Insurance Premiums ~~And~~ Other Benefits. Health insurance, dental insurance and other applicable insurance benefits will continue with the appropriate employer contribution. Employees must continue to pay the employee share of the insurance premiums and are responsible for coordinating payment of said premiums with the County Clerk's Office.

In order to continue accruing vacation and sick leave hours, and to qualify for holiday pay, an employee must be in a pay status. ~~Vacation and sick leave hours will accrue based upon the number of hours the employee is in a pay status. -To be in a pay status the employee must request that~~ ~~his/her~~ their workers' compensation benefits be supplemented with available paid leave benefits in order to equal a full paycheck in the manner described in Paragraph V. If the employee is not supplementing ~~his-their~~ their workers' compensation benefits with available paid leaves, the employee is in a ~~non-paynon-~~ pay status.

In order to qualify for holiday pay an employee must be in pay status on ~~his/her~~ their regular ~~work~~ workday immediately before and after the holiday. If a holiday occurs during the time period

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injury leave is paid, holiday hours are paid in lieu of injury leave hours. If a holiday occurs after injury leave has expired and the employee is receiving workers' compensation benefits, the employee will receive holiday pay only if the employee is in a pay status on his/her/their regular ~~work day~~workday immediately before and immediately after the holiday. An employee in pay status shall receive enough holiday hours to a figure equivalent to a full ~~work day~~workday for that day. The employee should not receive the full eight hours of holiday pay. An employee on workers' compensation leave who is not supplementing his/her/their leave with paid benefits, is not in a pay status and therefore does not qualify for holiday pay.

Pursuant to County Personnel Rule 19.7, the Personnel Officer must be notified in writing when an employee's leave without pay status exceeds thirty (30) calendar days. Additionally, any employee on leave without pay status exceeding thirty (30) calendar days will have their eligibility date adjusted pursuant to County Personnel Rule 19.12.

IX. Other Provisions. This policy should be read in conjunction and coordinated with all applicable contract provisions, personnel rules and all state and federal laws including, but not limited to, the Nebraska Workers' Compensation Act, the Americans With Disabilities Act (ADA) and the Family and Medical Leave Act (FMLA).

X. Family and Medical Leave Act Benefits

~~Employees areis required to use all accrued paid leave in the event of an FMLA qualifying leave. The unpaid FMLA leave will run concurrently with other paid leaves including injury leave and workers' compensation. Unpaid FMLA leave will run concurrently with paid leaves (sick leave, personal holidays, vacation (accrued and banked)), injury leave, holiday, Paid Family Leave and workers' compensation leave.~~

Barb McIntyre
Human Resources Director

Date

Chair
Board of County Commissioners

Date

Name of Employee: Shawn Slezak

Department: Engineering

Classification: Equipment Mechanic II

Work Location: Main Shop 444 Cherry Creek Road

Grievance Parties: Pam Dingman Ron Bohaty Eduard Lahmann

Aggrieved Party: Shawn Slezak

Statement of Grievance:

List applicable violation: On January 6, 2023, during routine duties using the Aging Partners Bus SC-0017 at the county shop location Shawn hit a Sheriffs car #S-0957 causing damage to the right rear corner of the hatch on S-0957. That Shawn is solely at fault for this accident and his action of hitting S-0957 causing \$734.70 of damages to S-0957. Come to find out the 734.70\$ estimate from the body shop was for worst case scenario to completely finish the rear hatch and replace the Sheriffs decals if need be. Mark from the body shop can also fix just the paint that got damaged for 260\$.

In addition, on September 15, 2021, at approximately 7:03am, Shawn was seen pulling into the parking lot and entering the shop building. At 7:04am, Shawn was seen exiting the shop building with a gallon of County windshield washer fluid in hand. Shawn was then seen filling up his personal vehicle with the County windshield washer fluid. Shawn did not have the authorization to use County property for personal use. Shawns actions resulted in a written reprimand.

This suspension is being issued due to him damaging a Sheriffs car, S-0957, with the Aging Partners Bus SC-0017. With any piece of equipment Shawn was instructed that he needs to review the operation manual before utilizing equipment so that he is confident that he can use the equipment safely and effectively without causing damage.

Remedy Sought: Give back Shawn a written reprimand and remove his one-day suspension, remove the suspension from all files and make him whole again.

Acts of Omission: On January 6, 2023, around 9am Paul Butts from Jones Automotive came to the Lancaster County Shop looking for Cruisers S-0957 and S-0953 to do some electrical work on. The cruisers showed up shortly after and Shawn was going to pull them in, but a county engineering truck was blocking the shop garage door that says "no parking" on it. Shawn had to move the truck to get the deputies vehicles into the building and after moving the truck Shawn seen the deputies waiting in their cruisers and decided to open the shop garage door and let them in and guide them into the shop, they ended up parking in the 2 service bays in front of Shawns work bench. Shawn proceeded to finish another project that another coworker had started due to his coworker being gone sick that day. In the main time Shawn Slezaks supervisor

Shawn Pospisil asked Shawn Slezak to pull in Aging Partners Bus SC-0017. When Shawn Slezak pulled bus SC-0017 into the shop he noticed that the cruisers rear hatches were open sticking out into the driveway through the shop and Paul Butts from Jones Automotive was already working inside of the rear hatch of the cruisers and all of the extra equipment in the rear hatch area of the deputies cruisers was already out on the ground allowing Paul to work on the electrical components in the back of the cruisers. Shawn realized at that point it was going to be a tight fit trying to get Aging Partners Bus SC-0017 onto the drive on lift for service work. Shawn was being careful maneuvering the Bus so he would not hit the deputies cruiser S-0957 of Alex Kelly. Deputy Alex Kelly was standing at the rear of his cruiser helping watch to make sure the Bus didn't come into contact with his cruiser and Shawn could see him through the outside rearview mirror, at one point Shawn witnessed Deputy Kelly closed the rear of his hatch halfway to allow Shawn to back up to allow more room for Shawn to get a straight shot at the drive on lift, while pulling forward with the Bus Shawn saw that Deputy Kelly let his rear hatch come all the way back up and Shawn had assumed that he was clear of the rear hatch and wasn't causing the left rear corner of the Bus came into contact with the right rear corner of the hatch on Deputy Kellys cruiser just catching the last 2-3 inches of the hatch causing the paint to crack. Shawn got out of the Bus and advised Alex Kelly to let his supervisor know about the accident and it just so happened that the other cruiser in the shop S-0953 was driven by Derek Horalek who is Deputy Kellys supervisor and was standing there and witnessed what had happened. Shawn Slezak immediately went and told his supervisor Shawn Pospisil what had happened. Shawn owned what had happened and fully expected a written reprimand but felt like the one day suspension was not consistent with how Pam has disciplined other Lancaster County employees within the Engineering Department. **ARTICLE 18 - 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 the same department and 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.

The September 15, 2021, windshield washer fluid incident is not the same type of violation as the January 6, 2023, accident involving vehicles SC-0017 and S-0957 that resulted in property damage of \$734.70. Pam has always used the rule of anything over 1,000\$ in damage results as one day off unpaid suspension. Also the incidents were 16 months apart and to suspend an employee is unjust and harassment. In the October 2022 Personnel Policy Board hearing Shawn unanimously won his grievance against management regarding the handling of his employee performance evaluation. Pam disregarded the unanimous decision of the Personnel Policy Board to sustain Shawn's grievance and make him whole and turned around and appealed the Personnel Policy Boards decision and filed a lawsuit against Mr. Slezak that is still on going in Lancaster County District Court. Pam disregarded using any coaching and is going for the maximum level of discipline that she can use against Shawn, creating a hostile working environment. **ARTICLE 12 - NON-DISCRIMINATION Section 3.** In addition to the non-discrimination

rights provided above, all employees are entitled to a workplace in which employees treat one another with courtesy, dignity and respect. The County and the Union recognize the respectful, fair treatment of others promotes a work environment and organizational structure that supports and values all members of county employment. **Personnel Policy Bulletin #2001-2** from June 2001, Personnel Policy Rules 2.3 (c) III. Harassment Defined. "Harassment is conduct towards another person or identifiable group of persons including, but not limited to, unwelcome comments or other conduct that unreasonably interferes with an individual's work or creates an intimidating, hostile, or offensive working environment." IV. Harassment Prohibited. "Any conduct which constitutes harassment in the workplace, or which contributes to the existence of a hostile working environment as defined herein is hereby expressly prohibited. Any County employee who engages in such conduct shall be subject to disciplinary action including, but not limited to, suspension, demotion, or termination of employment."

In the suspension paperwork that Shawn was given from management it states that "With any piece of equipment, Shawn needs to ensure that he has reviewed the operation manual before utilizing it and that he is confident that he can use the equipment safely and effectively without causing damage. Safety and awareness of surroundings should always be a priority. He must always pay attention to his surroundings when operating equipment, such as backing equipment up." Shawn was told by Ron Bohaty and Eduard Lahmann to spend no more than 10 minutes to review the operation manual before operating all county vehicles and is not allowed to operate the vehicle unless the operation/owner's manual is in the vehicle and it is effecting his productivity in the shop. Shawn brought this concerned up to Ron and Eduard and Ron said that he contacted Human Resources and HR told Ron that all Shawn needs to operate any county vehicle is a valid driver's license which Shawn already has. Shawn is still being instructed to not operate any county vehicle unless the operators manual is accounted for an reviewed. This disciplinary action is obviously slowing productivity down in the shop as Shawn is one of only two light duty mechanics for all county agency vehicles.



OFFICIAL APPEAL

NAME OF EMPLOYEE: Jared Dickey

DEPARTMENT: Engineering

CLASSIFICATION: Mechanic III

WORK LOCATION: Lincoln Shop

STATEMENT OF APPEAL:

List applicable appeal: On January 18, 2023, Emergency Conditions were declared by the Department Head at approximately 11:00 am. Jared had been working on a truck trying to get it ready for the upcoming storm. At 1:30 pm Jared's supervisor came out to ask Jared if the truck would be done by the end of the day, or if he would be able to stay late if the truck was not yet finished by the end of the day. Jared responded that he was not sure if the truck would be done, but informed his supervisor that he would need to leave at 4:00 pm to pick up his son at daycare. At 3:50 pm Jared went to his supervisor to let him know that the work on the truck would take about an hour longer. Jared showed his supervisor what still needed to be done, and Jared left at 4:00 pm to pick up his son from daycare, while Jared's supervisor finished the work on the truck. On February 21, 2023 Jared received a letter of notice of a one day suspension as a result of that day.

Article 22 section 5 of the CBA Reads:

Section 5. Emergency Conditions. Where Emergency Conditions are present, any hours worked outside the employee's normally scheduled shift will be paid at the rate of one and one-half (1½) times the regular hourly rate of the employee. Work performed during the normally scheduled shift will be paid at straight time unless the employee is in an overtime status.

During Emergency Conditions, management may utilize flex time by agreement with the employee or when the following conditions have been met:

- Day 1 of the Emergency Condition: Employees may be flexed after working at least 12 hours;
 - Day 2 of the Emergency Condition: Employees may be flexed after working at least 12 hours;
 - Day 3 of the Emergency Condition: Employees may be flexed after working at least 12 hours;
 - Day 4 or more of the Emergency Condition: Employees may be flexed after working at least 10 hours; and/or
-
- If for any reason an employee has not had at least 8 hours off between the end of one shift and the start of another, management may elect to flex the employee for that day.

During Emergency Conditions, employees shall be responsible to answer telephone calls from the County during off hours, for scheduling purposes.

For the purposes of this Article, "Emergency Conditions" shall mean (1) an actual or forecasted weather event of freezing rain or fog and/or at least 2 inches of snow in any part of Lancaster County, Nebraska, as forecasted by the Omaha/Valley, NE Forecast Office of the National Weather Service, or (2) other natural disasters or public health emergencies, as declared by the County Engineer, including but not limited to flooding, tornadoes, earthquakes, or acts of terror. The County will operate under Emergency Conditions beginning 24 hours before the weather or emergency event and continuing for 72 hours past the last day of the weather or emergency event.

The CBA is clear that (1) an actual or forecasted weather event of freezing rain or fog and/or at least 2 inches of snow by the NWS out of the Omaha / Valley office triggers an "Emergency Condition" not the County Engineer. It also is clear that the emergency goes into effect beginning 24 hours before the weather or emergency event. If Jared would have been informed the day before as stated in the CBA, he would have been able to make different arrangements for his son at daycare, instead of waiting until 1:00 pm the day. He also would have been able to stay until the truck was finished.

Adjustment required: Give Jared back his one day of suspension and make Jared whole again.

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

Date: March 12, 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