

**STAFF MEETING MINUTES  
LANCASTER COUNTY BOARD OF COMMISSIONERS  
COUNTY-CITY BUILDING, ROOM 113  
THURSDAY, FEBRUARY 3, 2011  
8:30 A.M.**

Commissioners Present: Deb Schorr, Chair  
Bernie Heier, Vice Chair  
Larry Hudkins  
Jane Raybould

Commissioners Absent: Brent Smoyer

Others Present: Kerry Eagan, Chief Administrative Officer  
Gwen Thorpe, Deputy Chief Administrative Officer  
Dan Nolte, County Clerk  
Cori Beattie, Deputy County Clerk  
Ann Taylor, County Clerk's Office

The Chair opened the meeting at 8:30 a.m.

**AGENDA ITEM**

**1 APPROVAL OF THE MINUTES OF THE THURSDAY, JANUARY 27, 2011 STAFF MEETING**

**MOTION:** Hudkins moved and Raybould seconded approval of the January 27, 2011 Staff Meeting minutes. Hudkins, Raybould and Schorr voted aye. Heier abstained from voting. Smoyer was absent from voting. Motion carried 3-0, with one abstention.

**2 ADDITIONS TO THE AGENDA**

- A. Remodel of Space for the Human Services Department
- B. Access to 2010 Census Data

**MOTION:** Heier moved and Hudkins seconded approval of the additions to the agenda. Hudkins, Raybould, Heier and Schorr voted aye. Smoyer was absent from voting. Motion carried 4-0.

### **3 LEGISLATIVE UPDATE - Gordon Kissel and Joe Kohout, Kissel/E&S Associates**

Gordon Kissel, Kissel/E&S Associates, presented a legislative update (Exhibit A). He also suggested that someone from the County review the following legislation to assess whether there could be hidden costs for the County: 1) LB 675 (Provide and change penalties and enforcement relating to driving under the influence and the duty to stop at motor vehicle accidents and create an offense relating to certain controlled substances); and LB 667 (Change provisions governing motor vehicle homicide, alcohol violations involving minors, driving under the influence of alcohol or drugs, bail, ignition interlock devices, and administrative license revocation).

Joe Kohout, Kissel/E&S Associates, said there was a tremendous amount of pressure put on members of the Revenue Committee to advance LB 383 (Eliminate state aid for municipalities, counties, and natural resources districts) out of committee.

Kissel said the Nebraska Association of County Officials (NACO) is trying to get an amendment introduced that will leave the state aid structure in place so there is a funding formula when the economy recovers.

Schorr noted the Board received an email from Larry Dix, NACO Executive Director, urging counties to contact their senators and ask them to oppose the bill as written and to consider leaving funding options for the future in the bill (Exhibit B).

Kerry Eagan, Chief Administrative Officer, agreed to draft a letter for signature by the Board.

Kissel said he believes personal phone calls to the senators might also be beneficial.

Hudkins said he has already made personal phone calls to Senators Avery, Campbell, Fulton, Haar and Wallman.

Heier said he was contacted by a constituent regarding LB 529 (Change provisions relating to conservation and preservation easements and the Nebraska Environmental Trust) and said the constituent suggested a study of how much revenue is actually lost.

Kissel said he will look at the bill.

Hudkins discussed how LB 81 (Change city and village powers relating to occupation taxes and motor vehicle registration) could impact Lancaster County.

Kohout said the bill has advanced to Select File but said legal concerns have been raised.

Raybould inquired about LB 368 (Change nomination provisions for partisan offices).

**NOTE:** See Exhibit C for a letter submitted by Dave Shively, Election Commissioner, in support of the bill.

Kissel said the bill is still in committee.

Joe Kelly, County Attorney, appeared and gave an overview of LB 115 (Change limitation of action provisions under the Political Subdivisions Tort Claims Act). He said the Nebraska County Attorneys Association opposes the bill.

**MOTION:** Hudkins moved and Heier seconded to oppose LB 115. Heier, Hudkins Raybould and Schorr voted aye. Smoyer was absent for voting. Motion carried 4-0.

Raybould inquired about the status of bills that address the Commission on Industrial Relations (CIR).

Kohout said hearings on the legislation are slated for Monday and said it appears that most of the work on the legislation will be done post-hearing.

Schorr asked whether there would any advantage to providing testimony at the hearings, noting that one of the bills only affects municipalities.

Kissel said he does not believe so, adding the senators are aware that the legislation would have to be expanded to include counties.

Terry Wagner, Lancaster County Sheriff, appeared and expressed concern regarding LB 113 (Prohibit job discrimination based upon credit history) and LB 530 (Adopt the Employee Credit Privacy Act).

Eagan said he has concerns regarding the following bills: LB 451 (Change court fees, procedures, offices and judgeships); LB 457 (Provide for notice of preliminary valuations and in-person meeting relating to property taxes and change certain dates); LB 670 (Authorize court-ordered conditions for dispositions under the Nebraska Juvenile Code); LB 674 (Prohibit or restrict certain electronic monitoring of employees by employers); LB 676 (Change provisions relating to emergency protective custody under the Nebraska Mental Health Commitment Act); LB 685 (Change provisions of the Nebraska Visitors Development Act relating to the use of funds and the members of committees); and LB 688 (Require certain law enforcement officers and firefighters to work until age fifty-five to receive full benefits and prohibit elective officers from receiving retirement benefits).

**NOTE:** Copies of testimony that Eagan plans to provide to the Government, Military and Veterans Affairs Committee on LB 278 (Authorize payment to county officers and employees by electronic funds transfer) and a memorandum that was sent to department heads and elected officials regarding county lobbyist procedures were also disseminated (Exhibits D & E).

**4 BOARD OF CORRECTIONS QUARTERLY MEETING** - Mike Thurber, Corrections Director

Separate minutes.

**5 OVERVIEW OF LABOR RELATIONS** - Mike Thew, Chief Deputy County Attorney; Tom Fox, Deputy County Attorney; Mark Koller, Personnel Director

Mike Thew, Chief Deputy County Attorney, disseminated the following documents (Exhibits F -I):

- Lancaster County Personnel Rules; Nebraska Revised Statutes - Annotated, Chapter 23, County Government and Officers, Article 25, Civil Service Act; Various Personnel Policies
- The agreement with the American Federation of State, County & Municipal Employees (AFSCME) for 2008-2011
- A County Attorney's opinion addressing County Board supervisory authority over employees of other elected officials
- Nebraska Open Meetings Act



Thew said there are two groups of employees: 1) Classified; and 2) Unclassified. There are also several subgroups in the Classified group: Represented; Unrepresented; Exempt; and Non-Exempt. He said Classified employees are governed by the Personnel Rules. Unclassified employees are not, although the Board has made them applicable for most of the unclassified groups. Thew said government employees are very different than private employees and have a property interest in their continued employment and reputations.

Heier expressed concern regarding individuals bringing grievances to the County Board in a public meeting and divulging personal information about employees. He asked Thew how the Board should address that situation.

Thew said he reviewed the videotape of the meeting he believes Heier is referring to and said one of the issues that was raised is whether the Board has been advised not to have direct communication with union representatives. Thew said he only remembers one or two instances in which the County Attorney's Office advised the Board against doing so and said that was because the union wanted to meet to discuss issues that were the subject of ongoing labor negotiations.

Eagan said several members of the union have accused him of advising the Board to not talk to them. He said that is simply not true. Eagan said his advice has been consistent with that of the County's Attorney's Office in that the Board should not communicate with the union during labor negotiations.

Hudkins asked if the union has the right to bring a concern to the Board in an open forum.

Thew said it does. He said they also have the right to phone, write or email any, or all, members of the Board. Thew noted there is a provision in AFSCME's labor agreement for a Labor Management Committee for the express purpose of insuring continued harmonious relations and to bring a better understanding with regard to the County's policies and activities.

Mark Koller, Personnel Director, said a Labor Management Relations Committee is a great tool and a first step in resolving issues.

Heier said he would like to address the issue that Kim Kaspar, AFSCME President, discussed at the January 25, 2011 County Board of Commissioners Meeting. He noted that on another occasion, Kaspar accused the Board of "sweeping things under the rug." Heier asked whether there is a process that Kaspar should be going through to bring forward her concerns.

Thew said there is a grievance procedure available to employees and said if disciplinary action is involved, there is a process in place that provides for a hearing before the Personnel Policy Board. He said in terms of what recourse the union has, they can contact the Board by the methods he outlined earlier or they can ask that the Labor Management Relations Committee be convened. Thew said both of the situations that Heier mentioned involved another elected official and said the Board can not dictate how an elected official should handle a situation.

Koller said the Personnel Department should be involved in these type of issues and said if they are brought directly to the Board, the Board should ask if the proper procedures have been followed.

Hudkins questioned whether the Board has the right to know how a disciplinary matter is being handled if an appointed director is involved.

Thew said appointed directors are required to follow the County's policies.

Schorr asked whether the Board has the right to limit an individual's discussion of confidential personnel matters during a County Board Meeting.

Thew noted the Board has adopted rules about how to conduct its meetings. He said the issue might also be resolved through discussion with the union in a Labor Management Relations Committee.

Raybould asked when the Labor Management Relations Committee was last convened to discuss policies and procedures.

Koller said he is not aware of AFSCME requesting any meetings in the two and a half years that he has served as Personnel Director.

Raybould suggested it may be beneficial to have the Committee meet on a regular basis, perhaps with a focus on broader issues and information sharing.

Koller said the contract is for labor relations, not administrative issues.

Sheli Schindler, Youth Services Center (YSC) Director, appeared and said she was asked once to have a labor relations meeting regarding a specific personnel matter. She said there have also been instances where employees did not want their information shared with the union.

Terry Wagner, Lancaster County Sheriff, appeared and said his department has a Labor Management Relations Committee that meets on a quarterly basis.

**6 OPEN MEETINGS ACT** - Doug Cyr, Chief Administrative Deputy County Attorney

Board consensus was to reschedule the item.

**7 CONTRACT WITH NEBRASKA DEPARTMENT OF HEALTH AND HUMAN SERVICES (HHS) FOR HOLDING STATE YOUTH** - Sheli Schindler, Youth Services Center (YSC) Director; Brittany Behrens, Deputy County Attorney

Brittany Behrens, Deputy County Attorney, said the contract with the Nebraska Department of Health and Human Services (HHS) for the provision of detention services at the YSC for youth committed to, or placed with the State's Office of Juvenile Services has been extended twice. A new contract is being negotiated but there are two issues of contention: 1) HHS has requested a cap of \$1,250,000; and 2) The definitions of secure and staff secure detention.

Sheli Schindler, Youth Services Center (YSC) Director, said staff secure detention is not specifically outlined in the state statutes although there are references to staff secure placement relating to juvenile probation. She said LB 800, which was implemented last year and provided and changed methods of early intervention for children at risk, clearly states that the State encourages counties to have alternatives, including staff secure detention. Schindler said HHS wants staff secure facilities to be licensed as child caring agencies, with separate contracts. She said she does not believe that would be in the County's best interest.

Behrens said they will continue to work on those issues.

**ADMINISTRATIVE OFFICER REPORT**

**C. Mark Hosking's Contract for Emergency Management**

Doug Ahlberg, Emergency Management Director, appeared and said the contract with Mark Hosking, Bio-Terrorism Pandemic Coordinator, Lincoln-Lancaster County Health Department, to provide backup coverage and to carry out the duties of the Emergency Management Director when he is unavailable or out of the area has expired. **NOTE:** Hosking serves as an independent contractor.

Behrens noted the Board had waived the insurance provision in the previous contract and asked if the Board would like to continue to waive the provision moving forward.

Hudkins said he favors including the insurance requirement in Hosking's new contract and adjusting his compensation to reflect those costs.

An estimate of the cost of coverage was requested.

**8 VOLUNTARY BENEFITS COMMITTEE REPORT** - Bill Kostner, City Risk Manager; Sue Eckley, County Risk Manager; Brittany Behrens, Deputy County Attorney

Item was dropped from the agenda.

**9 ACTUARY STUDY** - Sue Eckley, County Risk Manager

Sue Eckley, County Risk Manager, said Milliman USA's contract to perform an actuarial review of the County's Workers' Compensation and General Liability programs has expired. She said Milliman submitted a proposal to continue that service at the same rate (\$12,000) but has since agreed to reduce it to \$9,500 because the scope of services has changed (a projection of costs for Lancaster Manor is no longer required). Eckley noted the provider will also be asked to comment on the County's General Liability reserves and the Sheriff's liability issue involving pursuits. She said she also spoke to Bickmore Risk Services, who performs this service for the City, and said they offered to perform the actuarial review for \$7,500. Eckley said Bickmore is located in California and said most of the actuarial work it has performed for counties is based in that state. Only one county was located in the Midwest. Eckley said she favors Milliman because of its experience and grasp of the issues the County is asking them to comment on.

Hudkins asked whether funds have been reserved for the payment of claims from Lancaster Manor.

Gwen Thorpe, Deputy Chief Administrative Officer, said those claims had been included in the Medicaid and Medicare cost report, but were not reimbursed at 100% because they were considered part of the cost of doing business.

Hudkins asked how future claims will be paid.

Eckley said Dennis Meyer, Budget and Fiscal Officer, plans address that issue at the Mid-Year Budget Review.

Raybould asked whether Bickmore's proposal included the Sheriff's liability component.

Eckley said Bickmore agreed to look at it, although they were not familiar with the statute that addresses this issue. She said she has also asked Continental Western Insurance, the County's underwriter, whether it could insure the County for liability on the Sheriff's vehicles, provided it does not involve a pursuit.

**MOTION:** Raybould moved and Hudkins seconded to direct Sue Eckley, County Risk Manager, to contact Milliman USA one more time to see if they would be willing to meet Bickmore's quote. Hudkins, Raybould and Heier voted aye. Schorr voted nay. Smoyer was absent from voting. Motion carried 3-1.

Eckley was asked to report on Milliman's response at the Mid-Year Budget Review.

## **ADMINISTRATIVE OFFICER REPORT**

### **D. Lancaster Manor Workers' Compensation Reserves**

Hudkins noted there may be ongoing claims related to Lancaster Manor and asked whether the Board should set aside funds out of the Lancaster Manor proceeds to pay those claims.

Eckley said there are adequate funds in the Workers' Compensation Fund to pay current claims for the County and Lancaster Manor. She noted there is a two-year statute of limitations on closed claims and said the County must pay up to five years on permanent impairment of the whole person.

### **10 DISTRICT ENERGY CORPORATION (DEC) FACILITY SERVING THE NEW JAIL** - Don Killeen, County Property Manager; Krishna A. Amancherla, DEC Project Manager

Don Killeen, County Property Manager, gave a brief overview of the District Energy Corporation's (DEC's) background and mission (Exhibit J).

Krishna A. Amancherla, DEC Project Manager, gave an update on the geothermal energy facilities project that will serve the new Lancaster County Adult Detention Facility (LCADF) on Southwest 40<sup>th</sup> Street (Exhibit K). He said the project, which is 60% complete, is the third largest geothermal project in the country and the largest for any detention facility.

In response to a question from Raybould, Amancherla said the building is 20,000 square feet in size and has space for further expansion.

Amancherla also reported on an issue involving the wells for the geothermal wellfield system that will heat and cool the facility. He said inspectors from the Nebraska Department of Health and Human Services (HHS) rejected 145 of the wells that had been drilled as the bore holes did not meet state specifications. The contractor, K2 Construction, was informed those wells must be abandoned and new wells re-drilled,

but has petitioned for a waiver on some, or all, of the wells. Amancherla said the DEC supports the petition.

Killeen explained that the State requires a six inch bore, compared to a number of surrounding states which only have a four inch requirement.

Schorr, who is a member of the Lancaster County Correctional Facility Joint Public Agency (JPC), said that body has received assurances that the well situation won't slow down the LCADF project.

Amancherla said that is correct. He noted the DEC's Section 404 Permit (relates to certain activities in wetlands) will expire in June and said they have requested an extension from the U.S. Army Corps of Engineers.

**MOTION:** Hudkins moved and Heier seconded to direct staff, in conjunction with Don Killeen, County Property Manager, to draft a letter to the Nebraska Department of Health and Human Services (HHS) asking that they expedite the hearing process on the petition. Hudkins, Raybould, Heier and Schorr voted aye. Smoyer was absent from voting. Motion carried 4-0.

**11 HEWLETT PACKARD COMPUTER PURCHASE CONTRACT** - Brittany Behrens, Deputy County Attorney; Bob Walla, Assistant Purchasing Agent; Steve Henderson, Information Services (IS) Manager

Brittany Behrens, Deputy County Attorney, said it has been the practice to purchase computers, primarily Hewlett Packard (HP) computers, by "piggybacking" on a Western States Contracting Alliance (WSCA) contract. She said the current contract has expired and in reviewing the new contract language it was discovered that the limitation of liability in the indemnification provision capped each instance of liability at \$2,000,000. Behrens said it has always been her office's practice to try to remove any limitation of liability and to retain all available legal remedies. However, HP will not agree to unlimited liability.

Steven Henderson, Information Services (IS) Manager, suggested the cap may be appropriate in this situation because the contract is limited to the purchase of computer equipment.

Behrens added that HP has agreed to include all of the clauses that are required for the County's federal grants.

**MOTION:** Heier moved and Raybould seconded to accept the contract, with the limitations that were outlined. Hudkins, Raybould, Heier and Schorr voted aye. Smoyer was absent from voting. Motion carried 4-0.

## **12 ACTION ITEMS**

A. Grant Application for Continuation of Drug Free Community Support Program

**MOTION:** Hudkins moved and Raybould seconded to authorize submission of the grant application with signature by the Chair, if required. Heier, Raybould, Hudkins and Schorr voted aye. Smoyer was absent from voting. Motion carried 4-0.

## **13 CONSENT ITEMS**

There were no consent items.

### **ADDITIONS TO THE AGENDA**

A. Remodel of Space for the Human Services Department

Heier asked who is responsible for the remodel costs.

Schorr said the Public Building Commission (PBC) will pay for the restructure and renovation of space and said the costs will be billed back as part of the department's rent.

B. Access to 2010 Census Data

Raybould asked whether the County has requested access to the data.

Eagan said access will be coordinated through the Planning Department.

### **RETURNING TO ITEM 3**

Brief discussion took place regarding LB 234 (Change provisions relating to county office and service facilities of the Department of Health and Human Services). The Board did not take a position on the bill.

As discussed earlier in the meeting, the Board decided to make personal phone calls to the state senators regarding LB 383 (Eliminate state aid for municipalities, counties, and natural resources districts) and LB 96 (Change state aid to counties). Eagan was asked to draft a letter, for the Chair's signature, opposing the legislation and asking that the Legislature, at a minimum, retain the formula for state aid. It was noted that Schorr had testified before the Legislature's Revenue Committee on January 26<sup>th</sup> in opposition to LB 383 and she agreed to provide other members of the Board with a copy of her testimony.

## **14 ADMINISTRATIVE OFFICER REPORT**

### **A. Press Release Policy**

Board consensus was to schedule the item on the February 7, 2010 County Board of Commissioners Meeting agenda for action.

### **B. Review of County Board Policies**

Eagan said some of the County Board's policies are posted on the Board's website and others need to be updated. He suggested that a review of the policies be scheduled on a future staff meeting.

### **C. Mark Hosking's Contract for Emergency Management**

Item was moved forward on the agenda.

### **D. Lancaster Manor Workers' Compensation Reserves**

Item was moved forward on the agenda.

## **15 PENDING**

There were no pending items.

## **16 DISCUSSION OF BOARD MEMBER MEETINGS**

### **A. Chamber Coffee - Raybould**

Meeting was cancelled.



## 17 EMERGENCY ITEMS AND OTHER BUSINESS

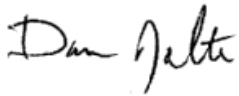
A handout detailing proposed attendance at the 2011 Lincoln Independent Business Association (LIBA) Monthly Breakfast Meetings was disseminated (Exhibit L).

Thorpe reported on the Lincoln Partnership for Economic Development (LPED) meeting. She said sales tax revenues, internships for college students and an effort to "brand" Lincoln were discussed.

Board members expressed support for having internships in county government and the Chair asked that the matter be scheduled for discussion on a Management Team Meeting agenda.

## 18 ADJOURNMENT

**MOTION:** Heier moved and Schorr seconded to adjourn the meeting at 12:09 p.m. Hudkins, Raybould, Heier and Schorr voted aye. Smoyer was absent from voting. Motion carried 4-0.



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Dan Nolte  
Lancaster County Clerk



## Lancaster County Board of Commissioners

Legislative Update

February 3, 2011

Today is the twenty-first day of the ninety-day session.

LB 278 will be heard today by the Government Committee. LB 278 is our bill that authorizes the county to pay their employees via electronic funds transfer also known as direct deposit. Kerry Eagan will provide testimony on our behalf.

This week the Transportation Committee held hearings on a couple of bills of interest to Lancaster County. LB98 authorizes the Department of Roads to implement a federal buyback program with local governments. The bill amends Sec. 39-1307 to authorize DOR, on behalf of the state, to enter into an agreement with a political subdivision to purchase the entity's federal-aid transportation funds. The funds may be purchased at a discount rate at the discretion of DOR. Any funds purchased must be used for the construction, reconstruction, maintenance and repair of an entity's highways, streets, roads, or bridges. The local government is responsible for providing proof that the funds were used for such purposes. The bill also amends Sec. 66-4,100 to authorize funds in the Highway Cash Fund or Roads Operation Cash Fund to be used for the buyback program. Larry Dix testified in support on behalf of NACO, other testifiers included representatives of the League of Municipalities, Greater Chamber of Commerce and others. The bill was advanced to General File on a vote of 8-0.

LR3CA amends the Nebraska Constitution to allow state sales and use tax revenue to be applied to the payment of highway bonds. Currently such bonds can only be repaid with state revenue that is closely related to highways (i.e. gas tax or registration fees). The committee took no action on this one but it is anticipated to advance to the floor. NACO also supported this one.

LB 383 came out of the Revenue Committee. This is the bill that would eliminate state aid programs to counties and cities. NACO is working toward the introduction of an amendment to leave the underlying state aid structure in place so a funding formula is available when the economy recovers. The Governor and others put a lot of pressure to advance the bill on the committee.

There are two bills that could have impact on the County that we would like to have someone review. (LB675 and LB ~~677~~<sup>667</sup>). In our reading of the bills 675 increases the fine for dui to \$1000 which may trigger a jury requirement and ~~677~~<sup>667</sup> could also have some hidden costs as well.

667

**One Hundred Second Legislature - First Session - 2011**

**Introducer's Statement of Intent**

**LB278**

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**Chairperson: Senator Bill Avery**

**Committee: Government, Military and Veterans Affairs**

**Date of Hearing: February 3, 2011**

The following constitutes the reasons for this bill and the purposes which are sought to be accomplished thereby:

LB 278 authorizes the governing bodies of counties to pay their employees via electronic funds transfer, also known as 'direct deposit.'

**Principal Introducer: \_\_\_\_\_**

**Senator Colby Coash**

**LB 278**  
**Testimony of Kerry P. Eagan**  
**Government, Military and Veterans Affairs Committee**  
**February 3, 2011**

Good afternoon, Chairman Avery and members of the Government, Military and Veterans Affairs Committee. My name is Kerry P. Eagan. I am the Chief Administrative Officer for the Lancaster County Board of Commissioners. I am here to testify on behalf of Lancaster County in favor of LB 278.

Since 2002 Lancaster County has maintained a policy of allowing County employees to voluntarily sign up for direct deposit of their paychecks by electronic funds transfer. Although most employees have availed themselves of this opportunity, approximately 100 employees continue to receive paper checks. During last year's budget preparation, the Lancaster County Clerk's Office suggested to the County Board that significant savings could be realized if the Board required all employee paychecks to be paid by direct electronic deposit. The issuance of a paper check costs the County approximately \$2.50. In comparison, payment by direct electronic transfer costs the County less than 5¢ per paycheck. More importantly, payment by electronic funds transfer results in a substantial savings of indirect costs by greatly reducing the amount of time and travel needed to distribute paper checks.

The County Board agreed with the Clerk, and asked the Lancaster County Attorney to draft a resolution establishing a policy of mandatory direct deposit of paychecks. In response, the County Attorney advised the Board counties do not have statutory authority to mandate payment of wages by electronic direct deposit,

and therefore requiring all employees to receive their checks by direct deposit may be vulnerable to legal challenge. In making this argument, the County Attorney noted the State of Nebraska does have explicit authority to pay wages to state employees "...by electronic funds transfer or a similar means of direct deposit." This language is found at Neb. Rev. Stat. §81-1117.05 (Cum. Supp. 2010), a copy of which is included with this testimony. Also included with this testimony is the Slip Law copy of 2009 Neb. Laws LB 167, which removed language from §81-1117.05 requiring the consent of the employee before wages could be paid by direct electronic deposit.

LB 278 simply provides counties with the same discretion enjoyed by the State to pay salaries by direct electronic deposit. Given the challenging fiscal times we are all facing, any measure which can save the tax payers money must be pursued. Lancaster County respectfully requests the Committee to advance LB 278.

**81-1117.05. State employee; payment of wages; methods authorized.**

The Department of Administrative Services may make payments that include, but are not limited to, wages and reimbursable expenses to state employees by electronic funds transfer or a similar means of direct deposit. For purposes of this section, state employee means any person or officer employed by the state who works a full-time or part-time schedule on an ongoing basis.

**Source:** Laws 2001, LB 308, § 1; Laws 2009, LB167, § 2.

## LEGISLATIVE BILL 167

Approved by the Governor March 18, 2009

Introduced by Avery, 28; Pirsch, 4.

FOR AN ACT relating to the Department of Administrative Services; to amend section 81-1117.05, Reissue Revised Statutes of Nebraska; to provide for state employee participation in employee discount programs as prescribed; to change provisions relating to payments by electronic funds transfer; and to repeal the original section.

Be it enacted by the people of the State of Nebraska,

Section 1. Notwithstanding any other provision of law, any state employee may participate in an employee discount program administered by the personnel division of the Department of Administrative Services. Any such program shall be made available to all state employees.

Sec. 2. Section 81-1117.05, Reissue Revised Statutes of Nebraska, is amended to read:

81-1117.05 The Department of Administrative Services may pay wages make payments that include, but are not limited to, wages and reimbursable expenses to state employees by electronic funds transfer or a similar means of direct deposit, if the state employee has consented in writing or electronically to this manner of payment. The department may not require a state employee to use electronic funds transfer or a similar means of direct deposit for payment of wages. For purposes of this section, state employee means any person or officer employed by the state who works a full-time or part-time schedule on an ongoing basis.

Sec. 3. Original section 81-1117.05, Reissue Revised Statutes of Nebraska, is repealed.

**One Hundred Second Legislature - First Session - 2011**

**Introducer's Statement of Intent**

**LR3CA**

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**Chairperson: Senator Deb Fischer**

**Committee: Transportation and Telecommunications**

**Date of Hearing: February 01, 2011**

The following constitutes the reasons for this bill and the purposes which are sought to be accomplished thereby:

LR 3CA amends the Nebraska Constitution to allow state sales and use tax revenue to be applied to the payment of highway bonds. Currently such bonds can only be repaid with state revenue that is closely related to highways (i.e. gas tax or registration fees).

**Principal Introducer:** \_\_\_\_\_

**Senator Deb Fischer**



**ONE HUNDRED SECOND LEGISLATURE - FIRST SESSION - 2011**  
**COMMITTEE STATEMENT**  
**LB98**

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**Hearing Date:** Tuesday February 01, 2011  
**Committee On:** Transportation and Telecommunications  
**Introducer:** Fischer  
**One Liner:** Provide powers relating to federal-aid transportation funds

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**Roll Call Vote - Final Committee Action:**  
Advanced to General File

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**Vote Results:**

**Aye:** 8 Senators Campbell, Dubas, Fischer, Hadley, Janssen, Lautenbaugh,  
Louden, Price

**Nay:**

**Absent:**

**Present Not Voting:**

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**Proponents:**

Senator Deb Fischer  
Larry Dix  
Gary Krumland  
Don Wesely  
Joe Kohout  
Dacia Kruse  
Jackie McCullough  
Karl Fredrickson  
Curt Smith

**Representing:**

Introducer  
Nebraska Association of County Officials  
League of Nebraska Municipalities  
City of Hastings  
United Cities of Sarpy County  
Greater Omaha Chamber  
American Council of Engineering Companies Nebraska  
Lincoln Chamber of Commerce  
Nebraska Chapter Associated General Contractors

**Opponents:**

**Representing:**

**Neutral:**

Monty Fredrickson

**Representing:**

Nebraska Department of Roads

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**Summary of purpose and/or changes:**

LB 98 authorizes the Department of Roads to implement a federal buyback program with local governments.

The bill amends Sec. 39-1307 to authorize DOR, on behalf of the state, to enter into an agreement with a political subdivision to purchase the entity's federal-aid transportation funds. The funds may be purchased at a discount rate at the discretion of DOR.

Any funds purchased must be used for the construction, reconstruction, maintenance, and repair of an entity's highways, streets, roads, or bridges and facilities, appurtenances, and structures.

The local government is responsible for providing proof that the funds were used for such purpose. Such proof shall be determined by DOR.

The bill also amends Sec. 66-4,100 to authorize funds in the Highway Cash Fund or Roads Operation Cash Fund to be

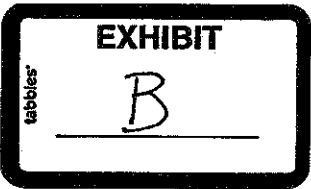
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used for the buyback program.

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Deb Fischer, Chairperson



**Kerry P. Eagan**

**From:** Larry Dix [LarryDix@nacone.org]  
**Sent:** Wednesday, February 02, 2011 12:59 PM  
**To:** 'Larry Dix'  
**Subject:** LB 383 - Urgent action required

**Importance:** Low

**Urgent – Senator contact needed**

LB 383, a bill to eliminate state aid to counties, cities and natural resources districts has been advanced to the floor of the Legislature by the Revenue Committee and designated as a committee priority bill. NACO is working toward the introduction of an amendment to leave the underlying state aid structure in place so a funding formula is available when the economy recovers. Please ask your senator to oppose the bill as written and instead urge your senator to consider the public policy of leaving funding options for the future in the bill, rather than outright repealing state aid to counties.

It is essential that all 93 counties contact their senators. **I do not want a senator to say that state aid to counties doesn't matter because he or she has not heard from county constituents.**

The bill will be scheduled for debate next week so senator contact should be made as soon as possible. Please take a few moments and either call or write your senator and any other senators you know. Please cc NACO on all emails and letters

Phone numbers and Email addresses for senators are available on the Legislature's website at [www.nebraskalegislature.gov](http://www.nebraskalegislature.gov) under the Senators tab.

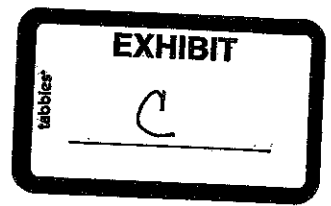
*Larry J. Dix  
NACO Executive Director  
625 South 14th Suite 200  
Lincoln, Nebraska 68508  
Office 402-434-5660 Ext. 226  
Cell 402-202-7358*

[www.nacone.org](http://www.nacone.org)

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**David J. Shively**  
Commissioner  
**Maura Kelly Tolzin**  
Chief Deputy



**Election Commissioner**  
601 North 46<sup>th</sup> Street  
Lincoln, Nebraska 68503-3720

Telephone: (402) 441-7311  
FAX: (402) 441-6379

February 2, 2011

The Honorable Bill Avery, Chair  
Government, Military, and Veterans Committee  
State Capitol, Room 1114  
Lincoln, NE 68509

Dear Senator Avery:

I am writing today in support of LB 368. This bill will clarify when Nebraska's political parties are able to nominate candidates at the state post primary convention.

This bill will continue Nebraska's tradition of political parties only nominating candidates for partisan offices through a primary election.

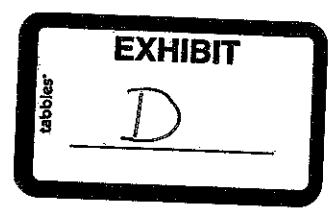
I hope that you will advance this bill to General File. I would appreciate it if this letter would be acknowledged or read into the record at the public hearing on February 2<sup>nd</sup>.

Sincerely,

A handwritten signature in black ink that reads "David J. Shively". The signature is written in a cursive style with a large, prominent "D" and "S".

David J. Shively  
Election Commissioner

DS/s



**LB 278**  
**Testimony of Kerry P. Eagan**  
**Government, Military and Veterans Affairs Committee**  
**February 3, 2011**

Good afternoon, Chairman Avery and members of the Government, Military and Veterans Affairs Committee. My name is Kerry P. Eagan. I am the Chief Administrative Officer for the Lancaster County Board of Commissioners. I am here to testify on behalf of Lancaster County in favor of LB 278.

Since 2002 Lancaster County has maintained a policy of allowing County employees to voluntarily sign up for direct deposit of their paychecks by electronic funds transfer. Although most employees have availed themselves of this opportunity, approximately 100 employees continue to receive paper checks. During last year's budget preparation, the Lancaster County Clerk's Office suggested to the County Board that significant savings could be realized if the Board required all employee paychecks to be paid by direct electronic deposit. The issuance of a paper check costs the County approximately \$2.50. In comparison, payment by direct electronic transfer costs the County less than 5¢ per paycheck. More importantly, payment by electronic funds transfer results in a substantial savings of indirect costs by greatly reducing the amount of time and travel needed to distribute paper checks.

The County Board agreed with the Clerk, and asked the Lancaster County Attorney to draft a resolution establishing a policy of mandatory direct deposit of paychecks. In response, the County Attorney advised the Board counties do not have statutory authority to mandate payment of wages by electronic direct deposit,

and therefore requiring all employees to receive their checks by direct deposit may be vulnerable to legal challenge. In making this argument, the County Attorney noted the State of Nebraska does have explicit authority to pay wages to state employees "...by electronic funds transfer or a similar means of direct deposit." This language is found at Neb. Rev. Stat. §81-1117.05 (Cum. Supp. 2010), a copy of which is included with this testimony. Also included with this testimony is the Slip Law copy of 2009 Neb. Laws LB 167, which removed language from §81-1117.05 requiring the consent of the employee before wages could be paid by direct electronic deposit.

LB 278 simply provides counties with the same discretion enjoyed by the State to pay salaries by direct electronic deposit. Given the challenging fiscal times we are all facing, any measure which can save the tax payers money must be pursued. Lancaster County respectfully requests the Committee to advance LB 278.

**81-1117.05. State employee; payment of wages; methods authorized.**

The Department of Administrative Services may make payments that include, but are not limited to, wages and reimbursable expenses to state employees by electronic funds transfer or a similar means of direct deposit. For purposes of this section, state employee means any person or officer employed by the state who works a full-time or part-time schedule on an ongoing basis.

**Source:** Laws 2001, LB 308, § 1; Laws 2009, LB167, § 2.

## LEGISLATIVE BILL 167

Approved by the Governor March 18, 2009

Introduced by Avery, 28; Pirsch, 4.

FOR AN ACT relating to the Department of Administrative Services; to amend section 81-1117.05, Reissue Revised Statutes of Nebraska; to provide for state employee participation in employee discount programs as prescribed; to change provisions relating to payments by electronic funds transfer; and to repeal the original section.

Be it enacted by the people of the State of Nebraska,

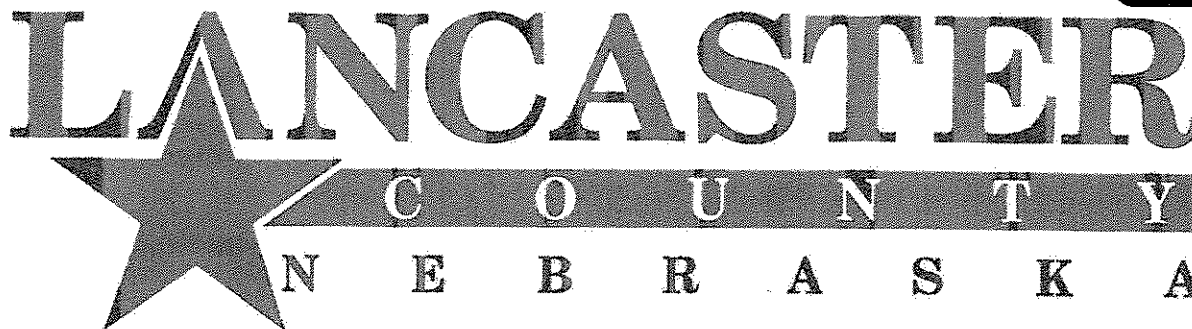
Section 1. Notwithstanding any other provision of law, any state employee may participate in an employee discount program administered by the personnel division of the Department of Administrative Services. Any such program shall be made available to all state employees.

Sec. 2. Section 81-1117.05, Reissue Revised Statutes of Nebraska, is amended to read:

81-1117.05 The Department of Administrative Services may pay wages make payments that include, but are not limited to, wages and reimbursable expenses to state employees by electronic funds transfer or a similar means of direct deposit, if the state employee has consented in writing or electronically to this manner of payment. The department may not require a state employee to use electronic funds transfer or a similar means of direct deposit for payment of wages. For purposes of this section, state employee means any person or officer employed by the state who works a full-time or part-time schedule on an ongoing basis.

Sec. 3. Original section 81-1117.05, Reissue Revised Statutes of Nebraska, is repealed.





## MEMORANDUM

TO: All Department Heads and Elected Officials

FROM: Deb Schorr, Chair *DS*

DATE: January 20, 2011

RE: County Lobbyist Procedures

The 2011 legislative session will provide many challenges for Lancaster County. Given the potential for a reduction of State funding for important County programs, as well as the numerous legislative proposals we have identified, it becomes imperative to maximize the efficiency and effectiveness of our lobbyist, Gordon Kissel, doing business as Kissel/E&S and Associates.

With these objectives in mind, the County Board has established the following policy governing communications with the lobbyist and testimony at the legislature.

### Direct Communications With Lobbyist

Kissel/E&S Associates has designated Joe Kohout to act as its liaison with County department heads and elected officials. Joe will be your primary contact with the lobbyist during the legislative session. He can be reached at:

Kissel/E&S Associates  
Suite 400, Cornhusker Plaza  
301 S. 13<sup>th</sup> Street  
Lincoln, NE 68508-2571  
Office: (402)476-1188, Cell: (402)670-3567, Facsimile: (402)476-6167  
Email: [jkohout@kisseles.com](mailto:jkohout@kisseles.com)

Gordon's email address is [gkissel@kisseles.com](mailto:gkissel@kisseles.com)

### Legislative Updates at the Thursday Staff Meeting

Gordon Kissel and Joe Kohout give a legislative update to the County Board every Thursday Staff Meeting at 8:30 a.m. Department heads and elected officials are welcome to attend and participate in discussions. However, it is extremely important to give advance notice to the lobbyist of any legislative matters you wish to discuss at the Staff Meeting. This procedure will give the lobbyist the opportunity to research the matters which you are asking the Board to support or deny. Again, this information should be provided to Joe Kohout. The information should also be provided to the County Board by notifying either Kerry Eagan or Gwen Thorpe.

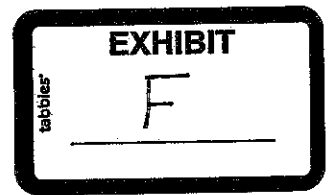
### Testimony Before the Legislature

Finally, any department head who will be testifying before the Legislature must notify the Board as soon as possible. As in previous years, a written summary of the proposed testimony should be given to the Board and directly to Gordon Kissel. If possible, time should be scheduled on the Thursday Staff Meeting for the purpose of discussing the testimony with the Board and Gordon during the legislative update.

If there is insufficient time to review the testimony at the Thursday Staff Meeting, you should still contact the County Board and Gordon prior to testifying. Please provide a written summary of the testimony to the County Board. Written summaries should also be provided directly to Gordon Kissel.

While the above policy applies only to department heads appointed by the County Board, elected officials are also encouraged to follow this process.

As always, the County Board appreciates the assistance of all County officials who testify at the Legislature on behalf of the County. Given the importance of this legislative session, it is more important than ever for the County to maintain a coordinated lobbying effort.



# LANCASTER COUNTY



# PERSONNEL RULES

Revised: September 2001

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## RULE 1 - DEFINITIONS

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 Personnel Officer 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 his 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 his/her 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 Personnel Officer, 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)

**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 his regular rate of pay as determined in these Rules.

**Personnel Officer** means the employee designated by the County Board to administer these Rules.

**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 his 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 his 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 Personnel Officer in accordance with the provisions of these Rules.

**Reprimand** means a formal written notice to an employee informing him of the specific manner in which his 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.

**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)

## **RULE 2 - GENERAL PROVISIONS**

### **2.1 Purpose (Revised 9/01)**

(a) These Rules apply to those County employees who are members of the classified service as defined by the Nebraska State Legislature, Neb.Rev.Stat. §§23-2517 et seq. The purpose of these Rules is to implement and give effect to the intent and requirements of the Legislature to establish a system of personnel administration based on merit principles and professional methods governing the recruitment, examination, appointment, training, promotion, transfer, layoff, removal, discipline, and welfare of employees and other incidents of employment with the County. \*See Appendix A

(b) Employees subject to certified Collective Bargaining Agreements are not covered by these Rules to the extent that wages, hours of work and other terms and conditions of employment are provided for by the bargaining unit's Collective Bargaining Agreement. However, where the Collective Bargaining Agreement is silent, these Rules will apply to represented classified employees provided the Rules are not otherwise inconsistent with the terms and conditions of the Collective Bargaining Agreement.

(c) All references to employees in these Rules designate both sexes and wherever the male gender is used, it shall be considered to include male and female employees, unless the context otherwise requires.

(d) These Rules shall not be construed as limiting in any way the power and authority of any Department Head to make rules and regulations governing the conduct of departmental employees and the performance of departmental functions provided that such departmental rules and regulations shall be consistent with and limited by the provisions of these Rules. Departmental rules and regulations shall be subject to the approval of the Personnel Officer, who shall ensure they are in conformity with these Rules and shall be published in written form with copies submitted to the Board. Such rules and regulations, when approved and published as herein provided, shall have the force and effect of rules and regulations of that department, and disciplinary actions may be based upon the breach of any such rules and regulations.

(e) The County reserves the authority to modify, revoke, interpret, or terminate any or all of the rules and regulations specified in these Rules, in whole or in part, at any time, with or without notice. The provisions of these Rules are not intended and do not create an express or implied contract of employment between the County and its employees.

### **2.2 Certification of Payrolls**

Prior to the payment of any salary, wage, or other compensation for personnel services, the Personnel Officer shall certify that each person named on the payroll has been employed in accordance with the appointment and classification procedures of these Rules and that the salary rates for all positions are those authorized by the County pay plan.

### **2.3 Unlawful Acts Prohibited (Revised 9/01)**

(a) No person shall willfully or corruptly make any false statement, certificate, mark, rating or report in regard to any test, certification, or appointment held or made, or in any manner commit or attempt to commit any fraud preventing the impartial execution of such personnel provisions of these Rules.

(b) No person seeking appointment to, or promotion in, the classified service shall either directly or indirectly give, promise to render, or pay any money, service, or other valuable thing to any person for, or on account of, or in connection with, his test, appointment, promotion, or proposed promotion unless such payment is made to an existing legitimate placement business.

(c) No employee shall receive either directly or indirectly any money, service, or other valuable thing from any person seeking appointment to, or promotion in, the classified service.

(d) No employee of the Personnel Department or any other person shall defeat, deceive, or obstruct any person in his right to examinations, eligibility, certification, or appointment under these Rules, or furnish to any person any special or secret information for the purpose of affecting the rights or prospects of any person with respect to employment in the classified service.

(e) Employees in the classified service are prohibited from using their official authority or influence for the purpose of interfering with or affecting the result of an election or a nomination for office and may not directly or indirectly coerce, attempt to coerce, command, or advise anyone to pay, lend, or contribute anything of value to a party, committee, organization, agency, or person for political purposes.

#### **2.4 Cooperation with Other Merit Systems**

The Personnel Officer may cooperate with the governmental agencies of other jurisdictions whose merit systems operate in conformity with standards comparable to those contained in these Rules. The Personnel Officer may announce and administer joint examinations and establish joint lists from which eligibles shall be certified for appointment in accordance with the provisions of these Rules.

#### **2.5 Equal Opportunity and Affirmative Action Programs (Revised 9/01)**

(a) Equal opportunity in employment shall be provided to all persons. The Personnel Officer shall develop and maintain an affirmative action plan which supports equal opportunity in recruitment and selection, job structure, promotion policies, training to improve job performance and upward mobility, and all other related personnel procedures and practices.

(b) Discrimination against any person in recruitment, examination, selection, appointment, rate of pay, promotion and transfer, retention, daily working conditions, testing and training, awards, compensation and benefits, disciplinary measures, or any other aspect of employment or personnel administration because of race, color, religion, sex, disability, national origin, age, marital status, political opinions or affiliations or other unlawful basis is prohibited. Discrimination on the basis of age, sex or disability is prohibited except where specific age, sex, or physical requirements constitute a bona fide occupational qualification necessary for proper and efficient administration.

(c) Retaliation, intimidation, coercion, or harassment against any applicant for employment or employee who may file a grievance under these Rules and/or who may file a grievance in accordance with existing rights of appeal to appropriate governmental authorities is prohibited.



## **2.6 Delegation of Authority**

For the purpose of administration of these Rules, Department Heads may delegate their authority to subordinates, and the Personnel Officer shall be informed in writing of such delegation.

## **2.7 Personnel Policy Bulletins (Created 9/01)**

From time to time the County may adopt Personnel Policy Bulletins governing the conduct of employees and/or the performance of departmental functions provided that such policies shall be consistent with and limited by the provisions of these Rules and any applicable Collective Bargaining Agreement. Such Personnel Policy Bulletins shall be incorporated herein and shall have the force and effect of these Rules.

## **2.8 Availability of These Rules (Created 9/01)**

Each employee has the right to examine these Rules. Each department and the City-County Personnel Office has a copy of these Rules available for examination by the employees. In addition, a copy of these Rules is available on the City-County Interline website at [www.ci.lincoln.ne.us](http://www.ci.lincoln.ne.us).

**RULE 3 - CLASSIFIED SERVICE AND  
EXCEPTIONS THEREFROM**

The classified service shall comprise all positions not included in the unclassified service. The unclassified service includes:

- (a) County officers elected by popular vote, and persons appointed to fill vacancies in such elective offices.
- (b) The Personnel Officer and Administrative Assistant to the County Board.
- (c) Bailiffs.
- (d) Department Heads and one (1) principal assistant or chief deputy for each County department. When more than one principal assistant or chief deputy is mandated by law, all such positions shall be in the unclassified service.
- (e) Members of Boards and Commissions appointed by the County Board.
- (f) Persons employed in a professional or scientific capacity to make or conduct a temporary and special investigation or examination on behalf of the County Board.
- (g) County Attorneys and Public Defenders.
- (h) Physicians.
- (i) Deputy Sheriffs.

## **RULE 4 - PERSONNEL POLICY BOARD**

### **4.1 Meetings and Procedures**

The Board shall meet at least quarterly and, based upon the recommendations of the Personnel Officer, shall determine the frequency, day, and place of its meetings in order to best carry out the responsibilities entrusted to it.

### **4.2 Organization**

The Board, as appointed and organized in accordance with the provisions of state law, shall not be bound by any rules of order, evidence, or procedure in its meetings, hearings, or investigations, except such as it may itself establish, or is otherwise outlined in these Rules.

### **4.3 Powers and Duties**

The Personnel Policy Board shall have the powers and duties assigned to it by statute and by these Rules.

### **4.4 Quorum**

Four (4) members of the Board shall constitute a quorum for the transaction of business and three (3) affirmative votes shall be required for final action on any matter acted upon by the Board.

### **4.5 Appointment of Members (Created 4/04)**

Board members are appointed pursuant to NEB.REV.STAT. §23-2521. Employees in the classified service will make their appointments to the Board by election. The representatives of classified employees, in cooperation with the Personnel Department, will develop procedures for conducting the election and the cost of the election will be paid by the County. The elected department heads and county commissioners shall develop their own procedures for making appointments to the Board.

### **4.6 Removal of Members**

The County Board may remove any member of the Board for neglect of duty or misconduct in office after first giving the member a copy of the reasons for removal and providing for the member to be heard publicly before the County Board and elected Department Heads. A copy of the charges and a transcript of the record of the hearing shall be filed with the County Clerk.

### **4.7 Minutes**

The Personnel Officer or his authorized representative shall attend all meetings of the Board, act as its secretary, and record its official actions in the minutes. The minutes shall include the following: the time and place of each meeting of the Board; names of the Board members present; all official acts of the Board; the votes of each Board member, except when the acts are unanimous; and, when requested, a Board member's dissent with his reasons. The Personnel Officer shall cause the minutes to be transcribed and presented for approval or amendment at the next regular meeting. The minutes covering formal action of the Board, or a true copy thereof certified by a majority of the Board, shall be open to public inspection.

## 4.8 Hearings

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

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

(c) Notice of Hearing: The Personnel Officer shall give the appellant or grievant and the Department Head prompt notice of the time and place set for the public hearing. The notice shall be given at least five (5) working days prior to the hearing. In the case of the appellant or grievant, the notice shall be by certified mail, addressed to him at his last known address, as shown by the employee's personnel file, with a return receipt requested unless such notice is waived in writing.

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

(e) Witnesses: The Board shall have the authority, either upon its own initiative or upon application of any party, to compel any County employee to appear before it for the purpose of giving testimony or otherwise providing relevant evidence. The procedure for compelling the attendance of a County employee before the Board shall be as follows:

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

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

(3) Following receipt thereof, any other party may respond to a request to compel the attendance of a County employee before the Board, and may supplement their witness list. Any such response shall be in writing and shall be received by the Personnel Officer not later than the close of business on the second working day after the original request was filed. Copies of any such responses shall also be served upon all the parties.

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

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

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

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

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

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

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

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

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

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

(i) Failure to Appear: In the event that the appellant or grievant shall fail to appear in person or by counsel at the time and place set for hearing, the appellant or grievant shall be presumed to have waived his right to further hearing, and the Board shall dismiss the appeal or grievance. The Personnel Officer shall inform the party of such dismissal and his right to request his hearing be rescheduled. The Board may reschedule the hearing upon written presentation, by appellant or grievant or counsel, of evidence of extenuating circumstances

which prevented the appearance of appellant or grievant and/or counsel. Such evidence shall be in writing and served upon the Board, through the Personnel Officer, within ten (10) calendar days of the meeting in which the appellant or grievant failed to appear.

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

(k) Conduct of Hearings: Hearings before the Board shall be public and shall be conducted in an orderly manner with a view to the presentation of all material facts so that a fair and impartial decision may be made. The Chairperson of the Board shall have full authority at all times to maintain orderly procedure and to reject irrelevant matters and limit the hearings to relevant facts.

## **RULE 5 - APPLICATION AND EXAMINATION PROCESS**

### **5.1 Notices of Examinations**

(a) Original appointment to the classified service shall be conducted on an open-competitive basis. The Personnel Officer shall give public notice of all original appointment examinations and shall make every reasonable effort to attract qualified persons to compete in the examinations. For those classes in which there is expected to be a considerable and recurring need for eligibles, the Personnel Officer shall establish a continuous recruitment program which shall be both positive and continuous. Under such programs, applications may be accepted at any time, and examinations held whenever and wherever the Personnel Officer deems it desirable for the service. Notice of examination shall be posted and shall be distributed through such media as the Personnel Officer may determine best suited to the dissemination of information to qualified applicants for the positions in question. The public notice examination shall specify: the title and salary of the class of position; typical duties to be performed; the minimum qualifications required; and all other pertinent information and requirements. The public notice shall include the statement "an Equal Opportunity Employer." In the event a sufficient number of qualified applicants has not made application for an examination, the Personnel Officer may postpone, with the concurrence of the Department Head affected thereby, the last filing date of examinations.

(b) Examinations may be limited to probationary and status employees in the classified service or within a single department where the Personnel Officer, after consultation with the Department Head concerned, determines that there are a sufficient number of qualified candidates within the classified service to provide competition. The Personnel Officer shall make distribution and post notice of such examination. This notice shall specify that information set forth in Rule 5.1(a).

### **5.2 Minimum Qualifications for Filing**

Open-competitive examinations shall be open to all applicants, shall be prepared by or obtained under the direction of the Personnel Officer, and shall include present standards or requirements regarding training, experience, minimum age, physical condition, and such other factors as may be held to relate to the ability of the candidate to perform with reasonable efficiency the duties of the position. Any applicant or present employee taking a written entrance examination for any position with the County and who fails to make a passing grade is eligible to retake the examination after six (6) months following the original date of taking the written examination.

### **5.3 Filing Applications (Revised 10/10)**

(a) All applications shall be made on forms provided by the Personnel Officer and must be filed with the Personnel Officer on or prior to the closing date specified in the announcement. For those classes for which there is to be continuous recruitment, a statement shall be included in the announcement to the effect that applications will be received until further notice. Such applications may require information concerning education, experience, references, and other pertinent information. All applications shall be signed, and the truth of the statements contained therein certified by such signatures. Applicants must meet the minimum qualifications specified in announcements as to training and experience, but in no case shall admittance to the examination constitute assurance of a passing grade in the evaluation of training and experience if the same is a part of the examination.

(b) It shall be the responsibility of applicants to notify the Personnel Department in writing of any change in address or other change affecting availability for employment. However, the Personnel Officer may use any methods to determine at any time the availability of applicants.

#### **5.4 Disqualification of Applicants**

The Personnel Officer may refuse to certify an eligible on a list, remove a name from an eligible list or consult with the Department Head in taking steps to remove such person already appointed if:

(a) It is found that the person does not meet any one of the preliminary requirements established for the examination for the class of positions.

(b) The person is proven to be addicted to the continuous and habitual use of controlled substances or intoxicating liquors without evidence of rehabilitation that is satisfactory to the Personnel Officer and the Department Head.

(c) The person has made a false statement of material fact in the application process.

(d) The person has used or attempted to use political pressure or bribery to secure an advantage in the examination.

(e) The person has directly or indirectly obtained information regarding the examination to which, as an applicant, he or she was not entitled.

(f) The person has failed to submit an application correctly or within the prescribed time limits.

(g) The person has taken part in the compilation, administration, or correction of the examination for which he is an applicant.

(h) The person has previously been dismissed from a position in the County service for cause or has resigned while charges for dismissal for cause were pending.

(i) The person has been convicted of a felony or misdemeanor relating to the responsibility of his position.

(j) The person has otherwise willfully violated the provisions of these Rules or the Departmental Rules previously approved by the Personnel Officer.

(k) The person is not sixteen (16) years of age or older. Exceptions on recommendation of the Department Head may be made for certain part-time, temporary, or seasonal positions to a minimum of fourteen (14) years of age.

(l) The person has established an unsatisfactory employment or personnel record as evidenced by reference check of such nature as to demonstrate unsuitability for employment.

(m) Or for such other reasons considered by the Personnel Officer that employment of such individual would be detrimental to the best interests of the County.



## **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 Personnel Officer enter into the determination of the relative fitness of applicants.

(b) For positions involving unskilled labor, attendant or custodial work, when the character or conditions of employment make it impracticable to supply the needs of the service by appointments made in accordance with the procedures prescribed above, the Personnel Officer may adopt or authorize the use of such other procedures as he determines to be appropriate in order to meet the needs of the service while assuring the selection of such employees on the basis of merit and fitness. Examinations so given shall conform with and utilize such methods, forms, and techniques as the Personnel Officer may require.

## **5.6 Rating Examinations**

(a) In any examination, the minimum rating or standing through which eligibility on a list may be earned shall be determined by the Personnel Officer. Such final rating shall be based upon a weighted average of the various parts of the total examination. All applicants for the same class of position shall be accorded uniform and equal treatment in all phases of the rating procedure. A minimum passing score may apply to the rating of any part of the examination. Candidates may be required to attain at least a minimum score on each part of the examination in order to receive a passing grade or to be rated on the remaining parts of the examination.

(b) When the rating of training and experience forms a part or all of the examination, the Personnel Officer shall determine a procedure for the evaluation of the training and experience qualifications of the applicants. The formula used in appraisal shall give due regard to quantity of experience and the pertinency of the training.

(c) Prior to certification to the eligible list, the Personnel Officer may conduct such investigations of the candidates' education record and work history as is deemed necessary.

## **5.7 Seniority Credit (Revised 8/05)**

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

## **5.8 Veteran's Preference**

The Personnel Officer shall grant veteran's preference to all applicants who are otherwise eligible for County employment and who request such preference on their applications. In order to receive preference, the veteran must submit a copy of his discharge papers and, for disability credit, proof from the United States Veterans' Administration that the disability is at least ten (10) percent. To the passing score of veteran candidates, ten (10) points shall be added to a disabled veteran and five (5) to all other veterans.

## **5.9 Notice of Examination Results**

Each competitor shall be notified of his final status as soon as the rating of the examination has been completed and the eligible list established. Eligibles shall be entitled to information concerning their relative position on the list upon request and presentation of proper identification.

## **5.10 Appeal from Examination Rating**

(a) An applicant, who is a status employee and who has taken an examination may appeal to the Personnel Officer for a review of his rating in any part of such examination to assure that uniform rating procedures have been applied equally and fairly. If dissatisfied with the review, a request may be filed with the Personnel Policy Board for an opinion.

(b) Any applicant, other than a status employee, who has taken an examination may appeal to the Personnel Officer for a review of his rating in any part of such examination to assure that uniform rating procedures have been applied equally and fairly.

## **5.11 Adjustment of Errors**

Candidates may review the results of their examination and any documents related to their examination process, during the ten (10) working day period after receipt of their examination results. An clerical error in the rating of an examination, if called to attention of the Personnel Officer within the ten (10) working days after receipt by the applicant of the notice of examination results, shall be corrected by the Personnel Officer; provided, however, that such correction shall not invalidate any certification and appointment previously made. If a certification has been made on which the applicant would have been included had there been no error, his name should be included on the certificate providing a selection from the certificate has not been made, or on the next certification regardless of rank.

## **5.12 Application And Examination Records**

(a) The Personnel Officer shall be responsible for the maintenance of all records pertinent to the examination process.

(b) The application and examining materials of all applicants shall remain on file for a period of at least two (2) years and may, at the direction of the Personnel Officer be destroyed at the end of two (2) years or in accordance with federal guidelines.

## **RULE 6 - ELIGIBLE LISTS**

### **6.1 Maintenance of Eligible Lists**

The Personnel Officer shall be responsible for the establishment and maintenance of appropriate eligible lists for all positions in the classified service.

### **6.2 Request for Certification of Eligibles**

(a) To fill a vacancy by an open-competitive examination, the Department Head shall submit a request for certification to the Personnel Officer upon forms prescribed by him. The requisition may be for one (1) or more positions within a class. The Department Head shall make such request as far in advance as possible of the date the employee is to begin work.

(b) The life of a certification from which an appointment can be made shall normally be sixty days from the date of issue and may be extended or reduced at the discretion of the Personnel Officer.

### **6.3 Open-Competitive Eligible Lists**

After each open-competitive examination, the Personnel Officer shall certify and submit in writing to the Department Head a list of persons who are best qualified and eligible for the position. 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.

### **6.4 Use of Related Eligible Lists**

If a vacancy exists in a class of positions for which there is no appropriate eligible list, the Personnel Officer may prepare an eligible list for the class from one or more existing related eligible lists. The Personnel Officer shall select eligible lists from similar classes for which the minimum qualifications are comparable to or higher than those required for the class in which the vacancy exists. The Personnel Officer may, if appropriate, re-rate training and experience on the basis of the minimum qualifications required for the class in which the vacancy exists.

### **6.5 Selection of New Employees (Revised 10/10)**

(a) In making appointments from the open-competitive list, the Department Head shall select from the certified list of eligibles, exclusive of the names of those persons:

(1) who decline appointment or request that they not be considered for appointment;

(2) who fail to reply within a specified period of the written request of the Department Head for an interview, or fail to appear for an interview which they have arranged with the Department Head;

(3) who accept an appointment and fail to present themselves for duty at the time and place agreed to without giving reasons for the delay satisfactory to the Department Head;  
or

(4) to whom the Department Head offers an objection in writing based on Rule 5.4, or 6.10, and which objection is sustained by the Personnel Officer.

(b) The certified eligible list may have ten (10) names of eligibles if available, in the case of one (1) vacancy with two (2) additional names for each additional vacancy, plus the names of all individuals who have the same whole number ranking as the individual ranking lowest on the certificate.

(c) The final selection by the Department Head shall be reported to the Personnel Officer. At the same time, the Department Head shall indicate the disposition of the other names listed and shall forward to the Personnel Officer for permanent record evidence of the nonavailability of any eligible passed over for that reason.

(d) If, in the exercise of his choice, the Department Head passes over the name of an eligible on a list in connection with two (2) separate appointments which he has made from the lists, written request may be made of the Personnel Officer that the name of such eligible be omitted from any subsequent certifications from the same list to the same Department Head. If the Personnel Officer sustains such request, the name of such eligible shall thereafter not be certified to that Department Head from that list for other vacancies in that class of positions.

#### **6.6 Recall List**

Any employee with status who has been laid off shall be entitled to have his name placed on a recall list for the class of position from which laid off, provided he so requests in writing. The order in which such names are arranged on each recall list shall be determined by the Personnel Officer, who shall give consideration to qualifications and performance appraisals, conduct, and seniority in service. Eligibility to remain on the recall list shall expire one (1) year from the effective date of the layoff or separation. Whenever a request is received for certification from the open-competitive list, the Personnel Officer shall, if a recall list exists for that class of positions, certify only the names of the persons available on such list. The Department Head may make his selection from any of the names certified from the recall list.

#### **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 Personnel Officer 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.

#### **6.8 Temporary List**

Whenever the services to be rendered by an appointee are for a temporary period not to exceed one (1) year, the Personnel Officer shall certify only the names of those eligibles who have indicated their availability for temporary service who meet the necessary qualifications.

## 6.9 Duration of Eligible Lists

(a) An eligible list shall last for one (1) year. This period may be reduced or extended by the Personnel Officer when it is deemed to be in the best interest of the County. However, in no case shall the name of an eligible remain on any list for a period greater than two years.

(b) An eligible list for those classes requiring continuous recruitment and examination shall last indefinitely, unless terminated by the Personnel Officer. The name of an eligible shall not remain on a continuous recruitment list for a class longer than one (1) year from the date of its entry on the list.

(c) When an eligible list becomes so depleted that the preparation of usable certificates for imminent vacancies of the class is impractical, the eligible list will be considered exhausted. The eligible list which has become exhausted shall be considered expired upon the administration of a superseding examination and the establishment of an eligible list on the basis of that examination.

## 6.10 Removal of Names from the Eligible Lists

(a) The Personnel Officer may remove the name of an eligible from a list:

(1) For any of the causes stipulated in Rule 5.4;

(2) Upon evidence that the eligible cannot be located by telephone, postal authorities, or if the eligible has failed to respond by a specified deadline to a letter of inquiry regarding availability for appointment;

(3) Upon receipt of a statement from the eligible stating that he no longer desires consideration for a position in that class;

(4) If an eligible has received probationary appointment to a position of another class for which the grade is the same or greater than that of the class for which he has been certified.

(5) Declination of an appointment under such conditions as an eligible previously had indicated he would accept.

(6) Consideration for a probationary appointment from one list by three different department heads or three times by one department head and not appointed.

(7) Failure to report for duty within the times prescribed by the department head.

(8) Expiration of the term of eligibility on the eligible list.

(9) In the case of promotion lists, upon termination of County service.

(b) Whenever an eligible's name is removed from a list for reasons cited in 6.10(a) of this Rule, the Personnel Officer shall notify the eligible of this action. The Personnel Officer shall assure that all applicants are treated equitably.

(c) An eligible whose name has been removed from a list for any of the reasons specified in Rule 6.10(a) may appeal to the Personnel Officer for reconsideration.

## **RULE 7 - TYPES OF APPOINTMENT**

### **7.1 Filling of Vacancies**

With the exception of recall, all vacancies in the classified service which are not filled by transfer, promotion or demotion shall be filled by probationary, emergency, temporary, seasonal or on-call appointment.

### **7.2 Probationary Appointment**

The appointment of an applicant to a position in the classified service through certification in accordance with Rule 7 from an open-competitive list shall constitute probationary appointment.

### **7.3 Emergency Appointment**

The appointment of an employee to a position by reason of a governmental emergency without regard to the examination requirements of these Rules. An emergency appointment may not exceed thirty (30) working days in duration and is nonrenewable, and shall be reported to the Personnel Officer prior to payment of the payroll.

### **7.4 Temporary Appointment**

Appointments for temporary employment may be made as is necessary to carry on the government's business. The Personnel Officer may authorize the temporary appointment of any qualified individual to be designated by the Department Head. The length of a temporary appointment shall not exceed 12 consecutive months. The acceptance or refusal by an eligible of a temporary appointment shall not affect his standing on any eligible list. In the event that a temporary employee accepts a probationary appointment after an open-competitive process, the effective date of such probationary appointment shall constitute the employee's date of hire in the classified service and shall not be retroactive. An employee under a temporary appointment may be dismissed by the appointing authority without the right to a review of any kind.

### **7.5 Seasonal Appointment**

Appointment to a position which, although temporary in nature, coincides with a particular season or seasons of the year and may recur regularly from year to year. Names of those persons appointed to a seasonal position may be placed on a reemployment list to be considered for the following season.

### **7.6 On-call Appointment**

Appointment of an employee on an irregular or occasional basis may be made as necessary through certification in accordance with Rule 6 from an open-competitive list. If an on-call employee, after an open-competitive process, subsequently accepts a probationary appointment, the effective date of such probationary appointment shall constitute the employee's date of hire in the classified service and shall not be retroactive.

### **7.7 Appointment of Disadvantaged Persons**

In order to facilitate employment of disadvantaged persons, the Personnel Officer with the approval of the Board may designate "aide" or similar classes for which competition may be limited to such individuals.

### **7.8 Noncompetitive Appointment**

The Personnel Officer may designate one or more classes, the duties of which are mainly unskilled labor in character, which positions shall be filled by noncompetitive appointments. The Personnel Officer shall establish standards for recruitment and selection for noncompetitive positions which shall be as similar to competitive procedure as is practicable.

## **RULE 8 - PROBATIONARY PERIOD**

### **8.1 Nature, Duration, and Purpose (Revised 9/01)**

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 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 and for the termination 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. A probationary employee may be separated at any time during the probationary period for any non-discriminatory reason.

### **8.2 Conditions Preliminary to Status (Revised 9/01)**

(a) If, in the Department Head's opinion, the employee successfully completes his probationary period, the Department Head shall recommend in writing to the Personnel Officer that the employee be given status. The employee's salary will advance to the next higher step in the pay grade for his/her class. The increase in pay shall be effective with the pay period immediately following the date of satisfactory completion of the probationary period. The employee's new eligibility date will be one year from the effective date of obtaining status. Upon successful completion of probation, a position description and evaluation of the employee must be submitted to the Personnel Officer.

(b) An employee who is promoted during the employee's initial probationary period will serve the remainder of his probationary period in the new classification. The employee's rate of pay due to promotion will advance in accordance with Rule 9.1 (d). Consequently, the employee will not receive a pay increase at the completion of his initial probationary period. Upon successfully completing the promotional qualifying for status period, the employee's rate of pay will advance one step and the employee's new eligibility date will be one year from the date of qualifying for status.

(c) A probationary employee who is reallocated to a position in a newly created class with a higher pay grade will serve the remainder of the employee's probationary period in the new classification in accordance with Rule 8.2 (a).

### **8.3 Separation During the Probationary Period (Revised 9/01)**

Employees may be separated at any time during the probationary period if the Department Head determines that the services of the employee have been unsatisfactory. The Department Head shall notify the employee in writing of the date the separation is effective and the reason(s) for the separation. A copy of the notice of separation shall be provided to the Personnel Officer within one (1) working day of such action. Employees who are separated while on probation have no right to a hearing or appeal.



## **RULE 9 - PROMOTION, TRANSFER AND DEMOTION**

### **9.1 Promotion (Revised 11/01)**

(a) Vacancies in the classified service shall be filled by promotion whenever practical and in the best interest of the service. Promotions shall be based upon merit and shall be made in accordance with the procedures established in these Rules.

(b) A promotion is the filling of a vacancy by the advancement of a employee from a position having a lower pay grade to a position having a higher pay grade. An employee may be promoted to a position within his department or to a position in another department. Appropriate consideration will be given to the qualifications, performance appraisals, conduct, and seniority of applicants for promotion.

(c) In filling a vacancy by promotion, the Personnel Officer 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 Personnel Officer. A promotional examination may include employees in specific classes in all departments or may be limited to a single department as determined by the Personnel Officer. The Personnel Officer 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.

(d) In the event of a promotion, the Department Head will recommend to the Personnel Officer that the employee's rate of pay be increased at least to that step in the new pay grade next above his rate of pay prior to promotion.

(e) No employee shall be given status in a promotional position until he shall have satisfactorily completed a qualifying for status period of six (6) months duration. During such qualifying period, the employee may be removed from such position by the Department Head when, in the judgment of the Department Head, he has not demonstrated his fitness for the position. If an employee fails to successfully complete the qualifying for status period, he shall be returned to a position comparable to that held immediately prior to the promotion.

The employee's eligibility date will be the same eligibility date as prior to his promotion. The employee will be placed at the step and pay grade he would have been at had he not been promoted, including any step increase that would have occurred. However, the employee will not receive retroactive pay for any step increase that would have occurred during the qualifying for status period since, during that period, he had already experienced an increase in pay due to the promotion.

(f) At the successful conclusion of the established qualifying for status period, the Department Head will certify to the Personnel Officer that the employee's performance has been satisfactory and the employee's rate of pay shall advance one step. The employee's new eligibility date will be one year from the date of qualifying for status.

### **9.2 Transfer**

(a) A Department Head may transfer an employee from a position of a class to another position of the same class within his organizational unit.

(b) Two (2) Department Heads may transfer an employee from a position of a class to another position in the same class between their respective organizational units upon mutual agreement, including the employee's, and with a report to the Personnel Officer.

(c) The transfer of an employee from a position of a class to a position of another related class of the same pay grade may be made by a Department Head or Department Heads, if two units are involved, subject to the prior approval of the Personnel Officer and only if the classes involved are so related that the experience in, and entrance qualification requirements of one class, are such as to qualify the employee in a reasonable manner for the other class. If the transfer is made between Department Heads, the employee must also consent to the transfer.

(d) The rate of pay for a transferred employee shall remain the same as before the transfer, and the employee shall retain the same eligibility date.

### **9.3 Demotion (Revised 11/01)**

(a) A demotion is moving a status employee to a position having a lower pay grade.

(b) A status employee may be demoted for lack of work in his class, or for cause and in case of the latter, only after the employee has been presented with the reasons for such demotion in writing, and has been allowed at least fifteen (15) working days to reply thereto in writing or, upon request, to appear personally or with counsel and reply to the Department Head. A copy of the statement of reasons and the reply shall be filed with the Personnel Officer. An employee with status may appeal his demotion for cause in accordance with Rule 12.

(c) If, for personal or other reasons, an employee requests in writing that he be assigned to a position of a lower class, the Department Head may make such a demotion provided an opening exists. In such cases, the demotion will be deemed to have been made on a voluntary basis, from which there shall be no appeal, and a report shall be made in writing to the Personnel Officer.

(d) Except in the case of a reduction-in-force, whenever an employee is demoted to a position for which he is qualified, he shall receive a rate in the lower salary grade which results in at least a one (1) step decrease in pay if the action is not for cause, or any appropriate rate in the salary grade if the action is for cause as determined by the Department Head, and approved by the Personnel Officer. The employee's new eligibility date will be one year from the effective date of demotion.

## **RULE 10 - EMPLOYEE CONDUCT AND RELATIONS**

### **10.1 Change of Address**

Employees are required to notify the Personnel Office promptly of any change of address so that employees may be contacted at all times by mail.

### **10.2 Relatives**

Without specific approval by the Personnel Officer, after conferring with the Department Head, no person shall be employed, continued in employment, promoted, or transferred to a department or agency of the County or to a division or section thereof when, as a result, such person would be supervising or receiving supervision from a member of his immediate family. No Department Head shall employ any member of his immediate family in that Department. For purposes of this rule, immediate family shall mean the employee's spouse, child, mother, father, stepmother, stepfather, mother-in-law, father-in-law, brother, sister, grandmother, grandfather or grandchild. This rule will not be applied retroactive to adoption of these Rules.

### **10.3 Outside Employment (Revised 9/01)**

(a) No status employee shall undertake any employment outside of his County employment which is, or can be interpreted to be inconsistent with or detrimental to his County work.

(b) Except as recommended by the Department Head and approved by the Personnel Officer, no status employee shall:

(1) Privately contract to provide services or otherwise be employed in any public or private nonprofit agency to which the County contributes funds or contracts for services, if such service or employment is similar in nature to his County employment.

(2) Engage in private practice or provide fee consultation services within the County, if such private practice or consultation is similar in nature to his County employment.

(c) Any employee desiring to engage in outside employment shall submit a "request for approval" with the recommendation of the Department Head to the Personnel Officer using such form as the Personnel Officer may require. The Personnel Officer shall approve or deny such request.

(d) Employees of the County may not engage in outside business activities while on duty, nor may any governmental property be used at any time for any but government or community functions which are approved by the Department Head.

### **10.4 Attendance**

An employee shall be in attendance at work in accordance with these Rules and general departmental regulations. All departments shall keep daily attendance records of its employees.

### **10.5 Chronic Infectious Disease**

The County will have a policy regarding chronic infectious disease and employees affected thereby. The policy may include screening, risk assessment, and authorization for vaccination. The policy is subject to the Rules and any applicable federal and/or state law.

### **10.6 Employee Management Relations**

Employees of the County shall have the right to organize and join or refrain from joining any organization for the purpose of representation on matters relating to personnel administration in accordance with applicable State of Nebraska laws. The Personnel Officer shall meet and confer with such organizations when requested.

### **10.7 Employee Performance**

The Personnel Officer shall, in cooperation with Department Heads and others, develop, adopt, and maintain a system of appraising the performance of employees in the classified service. This performance evaluation system shall give consideration to the quality and quantity of work done. Such performance evaluation may be used in determining the eligibility for salary adjustments; in discovering employees who should be transferred, promoted, or laid off; in rating suitability for promotion; and in developing necessary training activities. These evaluations shall be made at such times and in such manner as directed by the Personnel Officer.

## RULE 11 - DISCIPLINARY ACTIONS

### 11.1 General Provisions

Except as otherwise provided in these Rules, the tenure of an employee with status shall continue during good behavior and the satisfactory performance of his duties.

### 11.2 Reprimand, Suspension, Dismissal, Investigative Leave, and Demotion (Revised 8/09)

(a) The Department Head shall issue to the employee a notice in writing that his 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. A Department Head may reprimand, suspend, demote and/or dismiss an employee for just cause.

(c) Reprimand: A Department 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 Personnel 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 his personnel file. Reprimands may not be appealed to the Board. However, a status employee may appeal the reprimand directly to the Personnel Officer. 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 Personnel Department and a copy transmitted by the Personnel Department to the Department Head.

(d) Suspension: A Department 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 Department Head shall notify the employee in writing that he is proposing to suspend the employee and the reasons for the suspension. The employee shall then be given an opportunity to present his side of the story at a meeting with the Department Head or designated supervisor. The employee shall have an opportunity to be represented at the meeting if he desires. After considering all of the information presented, including any mitigating factors, the Department Head shall inform the employee of his decision. If the Department Head determines just cause exists for suspension, the Department Head shall furnish the employee and the Personnel Officer, 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 a Department Head from electing to administer discipline more lenient than what was originally proposed.

(e) Dismissal: A Department Head may dismiss any status employee for cause. Prior to a dismissal, the Department Head shall notify the employee in writing that he is proposing to dismiss the employee and the reasons for the dismissal. The employee shall then be given an opportunity to present his side of the story at a meeting with the Department Head or designated

supervisor. The employee shall have opportunity to be represented at the meeting if he desires. After considering all of the information presented, including any mitigating factors, the Department Head shall inform the employee of his decision. If the Department Head determines just cause exists for dismissal, the Department Head shall furnish the employee and the Personnel Officer, 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 a Department 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 Department 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 Department Head determines just cause exists to dismiss the employee, he shall notify the employee of the results of his investigation and follow the procedure outlined in Rule 11.2(e). If the Department Head determines just cause exists to suspend the employee, he shall notify the employee of the results of his investigation and follow the procedure outlined in Rule 11.2(d). If the Department 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: A Department 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 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 his 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 department, 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 his supervisor.

(8) The employee has been incompetent or inefficient in the performance of the duties of his 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 department, division, or institution regulation or order.

(12) The employee has taken for his personal use from any person any fee, gift, or other valuable thing in the course of his 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 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 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 on his job application or resume.

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

## RULE 12 - COMPLAINT, GRIEVANCE AND APPEAL PROCEDURE

### 12.1 Informal Complaints

When an employee feels dissatisfied or annoyed with an aspect of his employment over which he has no control, and when he desires remedial action he is encouraged to complain outside the formal structure of the grievance process. Most complaints can be settled by presenting the problem informally to the immediate supervisor. All employees shall be assured freedom from discrimination, coercion, restraint, or reprisal in presenting complaints. This section shall not suspend the time limitations for the filing of an employee grievance or appeal.

### 12.2 Grievances (Revised 8/00)

(a) It shall be the policy of the County to give status employees an opportunity to discuss their grievances with the County in order to find mutually satisfactory solutions as rapidly as possible. The grievance procedure set forth herein is designed to preserve harmony and friendly relations between the County and its employees. Furthermore, the grievance procedure is to provide a just and equitable method for the resolution of grievances without discrimination, coercion, restraint, or reprisal against any employee who may submit or be involved in a grievance. The grievance procedure shall not be used to change any provisions of the Rules, or filed for the purpose of getting an established policy, standard, or procedure changed.

(b) A grievance is hereby defined to be any disagreement concerning the interpretation or application of the specific and expressed provisions or terms of the Rules relating to compensation, working conditions, or fringe benefits, but disagreements relating to the substantive terms or provisions of those Rules shall not be considered grievances.

(c) In reducing a grievance to writing, the following information must be stated with reasonable clearness: The exact nature of the grievance, the act or acts of commission or omission, the exact date of the act or acts of commission or omission, the identity of the party or parties who claim to be aggrieved, the identity of the party or parties alleged to have caused the grievance, the specific provisions of the Rules that are alleged to have been violated, and the remedy which is sought. For the purpose of this Rule, "working days" shall be defined as Monday through Friday, excluding Saturdays, Sundays, and holidays.

(d) Grievances shall be processed in the following manner:

Step One. The aggrieved employee shall present his grievance in writing to his Department Head within fifteen (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. The Department Head shall respond in writing to the employee presenting the grievance within fifteen (15) working days.

Step Two. If satisfactory settlement is not reached under Step One, the employee or his designated representative shall resubmit the grievance in writing within fifteen (15) working days of receipt of the response from the Department Head to the Personnel Officer or his designated representative for submission to the Board. The Board shall hold a hearing with the employee or his designated representative within thirty (30) working days after receipt of the grievance in an attempt to settle the grievance. The decision of the Board concerning a grievance shall be made within fifteen (15) working days of the final hearing and reduced to



writing, including both findings and decisions, and it shall be filed with the Personnel Officer with a copy to the Department Head and the subject employee.

(e) Decisions of the Board concerning a grievance are binding on all Department Heads and employees in the classified service.

(f) Time limitations as outlined in this Rule may be extended in writing by mutual agreement between the employee or his designated representative and the Department Head.

### **12.3 Appeals (Revised 8/00)**

(a) Any status employee may appeal directly to the Board the following actions: receipt of three (3) written reprimands, involving the same subject matter, within a twelve (12) consecutive month period; suspension; demotion for cause; reduction in classification resulting in loss of pay; lay-off and dismissal.

(b) The employee shall present his appeal in writing to the Personnel Officer or his designated representative within fifteen (15) working days from the date on which the employee became aware of or should have reasonably have been aware of the incident giving rise to the appeal.

(c) The Board shall hold a hearing with the employee or his designated representative within thirty (30) working days after receipt of the appeal. The decision of the Board shall be made within fifteen (15) working days of the final hearing. The decision shall be reduced to writing; shall include the Board's findings; and shall be filed with the Personnel Officer with a copy to the Department Head and the subject employee.

## **RULE 13 - CAREER DEVELOPMENT PROGRAM AND TRAINING**

### **13.1 Programs to Improve the Government Service**

(a) The Personnel Officer shall devise plans for and cooperate with Department Heads, other supervisory officers and employees in the conduct of employee training programs, to the end that the quality of service rendered by County employees may be continually improved. Programs to be developed include employee general and specialized training, retraining, safety, and programs to improve employee morale, work motivation, health, counseling, and welfare.

(b) Employee participation in general training programs during off-duty hours shall be voluntary. Employees who are directed to attend specialized (job-related) training meetings and courses held on the employee's own time shall be compensated in accordance with these Rules. With the approval of the Department Head, either general or specialized training may be held during official working hours.

(c) The Personnel Officer shall assist agencies in determining their training needs and assist agencies in conducting periodic evaluations to determine the effectiveness of such programs.

(d) The Personnel Officer shall provide agency trainers with materials and manuals and offer such advisory help as requested by the agency.

(e) The Personnel Officer shall initiate and encourage needed interagency training programs and shall assist individual County agencies, professional and employee organizations, and State and County educational institutions in carrying out interagency training.

### **13.2 Career Development Program**

The Personnel Officer shall, with the assistance of Department Heads, plan, promote, and implement a career development program designed to meet the continually changing staffing requirements of the various departments and agencies, which shall consist of the following elements: identifying key managerial, professional, scientific, technical, and administrative positions in which the need for replacements can be reasonably anticipated in the next decade; assessing available manpower to determine whether or not highly competent replacements are available or persons of considerable potential are available; determining what is required to develop that potential into high competency; and marshalling the resources of management and personnel management to carry out the steps necessary to develop the competency in potential replacements so that, ultimately, there will be a constant supply available of highly competent manpower prepared to meet the needs of the County.

## **RULE 14 - SEPARATION FROM THE COUNTY SERVICE**

### **14.1 Resignation**

An employee who desires to terminate his service with the County shall submit a written resignation to the Department Head. Resignations shall be submitted at least ten (10) working days before the final work day. The Personnel Officer may make such investigation as he deems warranted for the purpose of verifying reasons for each resignation including the conduct of separation interviews. A copy of an employee's resignation shall be attached to the payroll action affecting the separation and be filed in the employee's service record in the Personnel Department. An employee's resignation shall become effective at the close of the last working day the employee is physically present at work.

### **14.2 Disability or Impairment**

An employee may be separated from employment when for reasons of disability he cannot perform the essential duties of his position, with or without accommodations because of physical or mental impairment, and pursuant to the Americans with Disabilities Act. The Personnel Officer or Department Head may at any time require an employee to be examined by a qualified medical professional for the purpose of determining the employee's ability to perform the essential duties of his position. Such examination, if required by the Personnel Officer or Department Head, shall be made at no expense to the employee.

### **14.3 Retirement (Revised 11/02)**

Retirement shall be as provided in the County Retirement Plan. An employee's retirement date shall be the date specified in writing by the employee. Employees will be eligible for retirement upon attaining age sixty; or upon attaining age fifty-five and completing ten years of service.

### **14.4 Layoff (Revised 12/00)**

(a) A Department Head may lay off a status employee in the classified service whenever he deems it necessary by reason of shortage of funds, shortage of work, abolishment of position, or other material change in duties or organization. The status employee shall be notified at least fifteen (15) calendar days prior to the effective date and shall be given written notice of the reasons for the layoff. The status employee may appeal, in writing, to the Board within ten (10) working days of notice of layoff.

(b) The Personnel Officer shall establish a uniform procedure for layoffs. No status employee is to be separated by layoff while there are probationary, on-call, temporary, or emergency employees serving in the department in the same class.

(c) A new date of employment shall be established for employees who are re-employed in the classified service after a layoff of more than one (1) year.

(d) Layoffs of forty (40) hours duration or less do not require the fifteen (15) working days notice prior to layoff.

(e) When a layoff becomes necessary and the affected employee exercises retreat rights in lieu of layoff, the employee shall be paid at a rate which most nearly approximates the rate of pay immediately prior to the layoff if available in the pay grade. If the rate of pay prior to layoff

is higher than the maximum rate of the lower pay grade, the employee will be paid at the maximum rate of the lower pay grade.

(f) An employee with status who has been laid off may request that his name be placed on a recall list for the class of position from which laid off, provided he so requests in writing. Eligibility to remain on the recall list shall expire one (1) year from the effective date of the layoff or separation.

(g) A recalled employee shall have his service time computed back to his original date of employment minus the time not employed.

(h) An employee who is laid off, and is later recalled within one (1) year, shall have available upon his return such unused sick leave accrual as he may have earned up to the time of his departure.

## **RULE 15 - RECORDS AND REPORTS**

### **15.1 Personnel Forms**

The Personnel Officer shall prescribe personnel forms which Department Heads shall use to maintain properly all employee records and to record and report all personnel actions and status changes. The Personnel Officer shall inform the Department Heads which personnel actions and status changes must be reported to him.

### **15.2 Leave Records**

The Personnel Department shall install and maintain a leave record showing for each employee: (1) annual leave earned, used and unused; (2) sick leave earned, used and unused; and (3) any other leave with or without pay. Such records shall be the basis for periodic reports to the Board and the County Board as they may require.

### **15.3 Official Roster**

The Personnel Officer shall prepare and maintain a record of all employees showing each employee's name, address, title of position, rate of pay, change in status, transfer, and other pertinent data.

### **15.4 Record of the Personnel Department**

- (a) Except as otherwise provided in these Rules and by law, all employee records of the Personnel Department shall be considered confidential.
- (b) Employees may inspect their official personnel folders during working hours.
- (c) An employee's official personnel folder may be inspected by other than the employee only on written authorization of the employee.

**RULE 16 - ADMINISTRATION OF THE CLASSIFICATION  
AND COMPENSATION PLANS**

**16.1 Responsibilities of the Personnel Officer**

The Personnel Officer shall be responsible for the maintenance of the classification and compensation plans, including but not limited to the allocation of new or changed positions, the determination of proper compensation rates within the provisions of the plans, maintenance of up-to-date class descriptions, class lists, and allocation records.

**16.2 Maintenance of the Pay Plan**

The Personnel Officer may review the pay plan whenever he deems it necessary. Such review shall include a comprehensive survey of pay and fringe benefit practices of other employers in the appropriate labor markets, and the development of indicated revisions in the pay and benefit plan and all related provisions of these Rules.

(a) The Board shall make such recommendation as appears desirable relative to wages to the County Board.

(b) Based on prevailing rates of specific common occupations, pay grade changes shall be recommended for individual classes in order that the County may continue to obtain and retain competent employees with due regard to relative values, organizational and occupational relationships among classes.

(c) Based upon any significant change in the predominant benefit practices of other employers in the appropriate labor market, indicated improvements in fringe benefits and working conditions shall be recommended for revisions of the pertinent benefit rules.

(d) The approval of the County Board shall be obtained on any action affecting the pay of employees or other matters included in the compensation plan which are not within the powers and authority of the Personnel Officer as prescribed by the statute.

**16.3 Preparation and Content of Class Descriptions**

(a) The Personnel Officer shall provide and may amend, as provided in these Rules, written descriptions for each class in the classification plan. Each class specification shall include the class title, a description of the duties and responsibilities of the work, and a statement of the qualifications a person shall possess to enable him to perform the duties of a position of the class.

(b) Class descriptions are descriptive and not restrictive. They are intended to indicate the kinds of positions that are allocated to the classes as determined by their duties and responsibilities and are not to be construed as declaring what the duties or responsibilities of any position may be, or as limiting or modifying the power of any Department Head to assign, direct, or control the work of employees under his supervision. The use of a particular expression or illustration as to duties shall not be held to exclude others not mentioned that are of similar kind or quality, nor shall any specific omission necessarily mean that such factor is not included.

(c) In determining the class to which any position should be allocated, the description of each class shall be considered as a whole. Consideration shall be given to the general duties, specific tasks, responsibilities, qualification requirements, and relationships to other classes.

(d) The statement of qualifications required in the descriptions for any class shall constitute the basis and source of authority for the test to be included in examinations for the class and the evaluation of the qualifications of applicants. Qualifications enumerated in a class description shall relate to the reasonable standards of experience and training required at the time of original appointment of a new employee and shall not be construed as representing or measuring qualifications which employees already working in such a class may actually possess.

#### **16.4 Class Titles**

(a) Each of the standard titles specified in the classification plan shall also be used to identify a class of positions and to identify each individual position of the class.

(b) Class titles are generally indicative of the work of the class and of the level of its difficulty and responsibility. Where Roman numerals are affixed at the end of a title to indicate level within an occupational sub-series, the higher numbers represent the higher levels. The Roman numerals affixed to titles in a one sub-series have no relation to those in titles of another sub-series, and different titles with the same Roman numeral may properly be at different pay grade levels.

(c) The class title shall be used to designate positions or employees in all budget estimates, payrolls, personnel records, reports, and other official records, and in internal correspondence or other communications relative to personnel administrative processes.

(d) For purposes of external relations, or other purposes not relating to Personnel Administration, any suitable organizational title, or other title in common use, may be used, provided that such title is not similar to or confused with any standard class title other than the one by which the position involved is officially designated.

#### **16.5 Interpretation and Use of Class Descriptions**

(a) The Personnel Officer shall be charged with the responsibility for the proper continued administration of the classification plan so that it will reflect the duties being performed by each employee in the classified service and the class to which each position is allocated.

(b) Whenever a Department Head desires to add a position, a notice of such proposed action, together with a description of the duties of the new position, shall be submitted to the Personnel Officer in such manner and on such forms as he shall provide. The Personnel Officer shall promptly allocate such position and shall notify the Department Head of the official allocation.

(c) Whenever a Department Head desires to make any permanent and substantial change in the duties or responsibilities of a position, written notification of the proposed change shall be submitted to the Personnel Officer for determination of the proper allocation of the position. After due investigation, the Personnel Officer shall promptly notify the Department Head of such allocation. The Personnel Officer may, upon his own initiative or at the request of a Department Head or status employee, study the duties of any position to determine if its allocation is proper. Following such study, he may reallocate the position to the appropriate class.

(d) A status employee occupying a position which has been reallocated shall continue in the position only if he possesses the qualifications of training and experience requisite for such position. In any case, where an incumbent is ineligible to continue in the position and is not transferred, promoted, or demoted, the layoff provisions of these Rules shall apply.

(e) A status employee occupying a position which has been reallocated may appeal the Personnel Officer's findings, within ten (10) calendar days of notice of the reallocation, to the Board, if the review results in a reallocation to a class with a lower maximum pay rate. Upon a finding by the Board that the reallocation was improper, retroactive pay may be awarded to the first day of the pay period following the original notice of the Personnel Officer's decision.

**16.6 Wage Adjustment (Created 6/03)**

When the Personnel Officer determines that the reallocation of an employee to a higher pay range, or the change in pay grade of a class has been delayed, or is otherwise not in accordance with contract or rule provisions, the Personnel Officer may authorize that the employee be compensated retroactively for up to six months to correct the difference in pay the employee should have received.



**RULE 17 - APPLICATION  
OF THE COMPENSATION PLAN**

**17.1 Salary Schedules and Rates**

The salary of employees occupying graded positions shall be on the basis of the schedules of salary rates prescribed for the respective classes of positions as established by the County Board.

**17.2 Full-Time Salary Rates (Revised 6/00)**

The salary rates for full-time employment are based on forty (40) working hours per week or eighty (80) hours per work cycle, for the respective class of positions.

**17.3 Starting Rate at Original Appointment**

(a) Original appointment to any position shall be made at the minimum rate of a pay grade, and advancement from the minimum rate to the maximum rate within a pay grade shall be based on performance and length of service.

(1) Upon recommendation of the Department Head, the Personnel Officer may approve initial compensation at a rate higher than the minimum rate in the grade for the class when the needs of the service make such action necessary; provided that any such exception is based on the outstanding and unusual character of the employee's experience and ability over and above the qualification requirements specified for the class, or that a critical shortage of applicants exists. In the latter case, any incumbents subject to the same labor market conditions and receiving a lower rate shall have their rates increased to the rate established for entrance of new employees.

(2) The Personnel Officer, upon recommendation of the Department Head, may authorize employment in a trainee capacity provided the needs of the service make such action necessary. Compensation will be established at no greater than fifteen percent below the minimum rate for the class. The trainee shall be given work experience so as to meet minimum qualifications for the entry level position within one (1) year.

(3) When an employee is employed in a class in which he was previously employed up to two years prior, the Personnel Officer may authorize compensation an up to the step of the pay grade corresponding to that which the employee had been receiving upon the termination of his previous service.

**17.4 Starting Rate on Return from Military Service**

In the event of the return to duty of an employee who left the classified service as a result of being involuntarily recalled to Federal active duty, the normal procedure shall be to place him in the step of the pay grade of the previously held position which, in the normal course of events, he would occupy had he not left the classified service.

**17.5 Starting Rate on Return to a Classified Position from an Unclassified Position  
(Revised 9/01)**

Any employee who is granted a leave of absence in accordance with Rule 19.9 and leaves a classified position to accept an unclassified position and who subsequently returns from that leave of absence to the position previously held by him or some other similar position for which

he is fully qualified, shall normally receive the same rate of pay received just prior to returning to the classified service without change in eligibility date. If that rate is below the minimum rate for the class he shall receive the minimum rate of pay for the class. If that rate is above the maximum rate for the class he shall receive the maximum rate of pay for the class.

#### **17.6 Rate of Pay as Result of Reallocation (Revised 1/06)**

In the event of the reallocation of a position to a class which has a higher pay grade, the employee's rate of pay shall be increased to that step in the higher pay grade above his rate of pay prior to reallocation, or to the minimum rate of the higher pay grade, whichever is greater. If the step in the higher pay grade results in an increase of less than two and one-half percent (2.5%), the employee's rate of pay shall be increased to the next higher step in that pay grade, if available. The employee's new eligibility date shall be one year from the date of the reallocation. In the event of the reallocation of a position to a class which has a lower pay grade, the employee's rate of pay shall be decreased one step. If the employee's rate of pay exceeds the maximum rate in the lower pay grade by more than one step, the employee's rate of pay shall be frozen (red-circled) until such time that the maximum rate through general increases, makes sufficient upward movement so that it exceeds the employee's rate of pay. When the maximum rate meets or exceeds the employee's frozen (red-circled) rate through general increases, the employee's frozen rate of pay shall then increase to the maximum rate. In the event of the reallocation of a position to another class with the same pay grade, the employee shall be paid at the same rate in his new class. The effective date of any reallocation shall be the first day of the pay period following notification. There shall be no retroactivity, except as provided in Rule 16.6.

#### **17.7 Rate of Pay as Result of Change in Pay Grade of a Class (Revised 12/98)**

In those cases where a class is allocated to a higher pay grade, the employee in the class shall have his rate of pay increased to that step in the higher pay grade above his rate of pay prior to the change in pay grade of his class, or to the minimum rate of the higher pay grade, whichever is greater. If the step in the higher pay grade results in an increase of less than two and one-half percent (2.5%), the employee's rate of pay shall be increased to the next higher step in that pay grade, if available. The employee's new eligibility date shall be one year from the date of the change in pay grade of his class. In those cases where a class is allocated to a lower pay grade, the employee in the classification shall normally be paid at the same rate in the lower pay grade; or if no rate in the lower pay grade is the same, he shall begin receiving the maximum rate of the lower pay grade. Any change shall be effective the first day of the pay period following the approval of County Board.

#### **17.8 Approval of County Board**

Creation of a New Classification or a Change of Pay Grade shall be effective upon approval by the County Board. An employee who is affected because of the reallocation of his position to a new class or because of the reallocation of his class to another pay grade shall have his pay adjusted with the first full pay period following approval by the County Board.

#### **17.9 Recommendations for Salary Advancement Within a Grade (Revised 01/07)**

(a) All status employees shall have their performance reviewed annually. The Department Head shall recommend in writing to the Personnel Officer the advancement in salary of each employee in his Department who has met the requirements for pay advancement. Such advancement may be made annually until the employee has reached the maximum rate of the pay grade for his position.

(b) A Department Head, with concurrence of the Personnel Officer, may request a salary advancement within a grade or cash award, not to exceed five hundred dollars (\$500), for an employee due to exceptional or unusual circumstances in connection with their class. The reason for such advancement must be explained in detail in writing to the Personnel Officer and must be consistent with the spirit and purpose of the merit system provisions. All salary advancements requested pursuant to this section require the approval of the County Board and become effective the first full pay period following approval by the County Board.

**17.10 Compensation of Temporary, Seasonal, On-call and Emergency Employees**  
(Revised 01/07)

Temporary, seasonal, on-call and emergency employees occupying full-time or part-time positions in the classified service may be employed initially at an hourly rate in the pay grade for the class which meets the needs of the department. Appointments of such employees at other than the hourly equivalent of the entrance rate shall be approved by the Personnel Officer. Temporary, seasonal, on-call and emergency employees shall not be eligible for employee benefits of the classified service. Advancement within the pay grade of the class in which employed may not be granted more than one step annually.

**17.11 Employees Temporarily Assigned to a Higher Classification** (Revised 01/07)

(a) A status employee may be temporarily assigned, in writing, to work in a budgeted position in a class with a higher maximum salary than the maximum salary of his regularly assigned class, when said position is temporarily vacant due to termination, resignation, leave of absence, or initial creation.

(b) Compensation for being temporarily assigned to a higher class shall be at the next higher rate of pay in the higher class above the employee's regular rate, or the first step minimum rate of the higher class he is temporarily filling, whichever is greater.

(c) An employee who is temporarily assigned in writing to work in a higher class must perform all the duties the incumbent employee would have performed in the higher class job description to receive additional compensation. Exceptions to this Rule for receipt of out-of-class pay may be made or approved by the Personnel Director.

**17.12 Compensation for Supervisory Personnel**

All fully qualified supervisors shall be paid at a pay grade higher than the pay grade of those supervised. This higher pay grade shall also apply to fully qualified persons temporarily assigned as supervisors, provided that at the conclusion of such temporary service that person's rate of pay shall revert to his immediate prior grade and step.

**17.13 Partial Compensation Received from Other Sources**

In any case in which part of the compensation for services of any employee is paid by an outside agency or from private sources, such payments shall be deducted from the compensation prescribed for regular full-time services from all sources combined for any period and shall equal the amount prescribed.

**17.14 Employee Recognition Programs and Awards** (Revised 2/01)

With the approval of the Personnel Officer and County Board, agencies may implement Employee Recognition Programs which may include awards such as plaques, certificates of

achievement or other items of value, including monetary awards, within the limits specified below:

(a) Years of Service Recognition Awards: The County may provide an employee recognition program which honors employees based upon years of service.

(b) Achievement Recognition Award within Department: A Department Head may implement an achievement recognition program within his or her own department to honor an employee's superior or exceptional job performance.

(c) Lancaster County Commissioners' Award of Excellence: The County may provide an achievement recognition program wherein an employee is selected by his or her peers. Nominations may be based upon the following criteria: safety, productivity, loss prevention, customer relations and valor.

(d) The cost of a plaque, certificate of achievement or other item of value (other than monetary awards) shall not exceed \$200. Monetary awards of up to \$100 for monthly awards, \$250 for quarterly awards and \$500 for annual awards are allowed. All monetary awards must be approved by the Personnel Officer and County Board.

#### **17.15 Emergency Standby Compensation**

A non-exempt status employee who is required to standby his post and be ready for duty, at the direction and under control of the County shall be paid his regular rate of pay for the actual time he is assigned to standby.

#### **17.16 Emergency On-call Compensation**

A non-exempt employee who is scheduled to be available to return to work, but who is not under the control of the County, shall be paid two (2) hours pay at his regular rate of pay for each twenty-four (24) hour day. In addition, the employee shall receive pay at time and one half (1 1/2) for any actual time worked.

#### **17.17 Total Remuneration**

The salary rate determined for a position or positions in the case where an employee serves part-time in more than one position under these Rules shall represent the total remuneration for the employee, not including reimbursement for official travel or expenses. Except as otherwise provided in these Rules, no employee shall receive pay from the County in addition to the salary authorized under the schedules provided in the compensation plan for services rendered by him, either in the discharge of his ordinary duties or any additional duties which may be imposed upon him or which he may undertake or volunteer to perform except as required by law. No reward, gift, or other form of remuneration in addition to regular compensation shall be received from any source by employees for performance of their duties except as provided in Rule 17.14.

#### **17.18 Longevity**

Status employees not covered by a labor agreement shall annually receive longevity pay based upon the total length of continuous service with the County. Such pay shall be effective beginning with the first full pay period following completion of the specified years of service. Payment shall be made on a prorated basis on each regular pay day. Part-time status employees shall receive longevity pay based upon the total hours worked in each pay cycle.

<u>Completed Years of Service</u>	<u>Annual Pay</u>	<u>Hourly Pay</u>
5 Years (Beginning 6th Year)	\$ 245.44	\$.118
10 Years (Beginning 11th Year)	\$ 386.88	\$.186
15 Years (Beginning 16th Year)	\$ 640.64	\$.308
20 Years (Beginning 21st Year)	\$ 900.64	\$.433
25 Years (Beginning 26th Year)	\$1,000.48	\$.481

There shall be no retroactivity or cumulative building on top of the previous longevity rate.

**17.19 Shift Differential (Revised 9/06)**

Except for Lancaster Manor, Corrections and Community Mental Health employees, status and probationary employees not covered by a labor agreement and who are regularly assigned to second and third shifts shall be paid an additional thirty-five (35) cents per hour. Status and probationary employees not covered by a labor agreement and who are regularly assigned to second and third shifts and who work at Lancaster Manor, Corrections and Community Mental Health shall be paid an additional forty-five (45) cents per hour. The differential pay per hour shall be included as an addition to their current hourly rate. For purposes of shift differential pay, the following conditions shall apply:

(a) To be entitled to shift differential pay, an employee must work a majority of his regularly scheduled hours between 5:00 p.m. and 9:00 a.m. This shall not apply to temporary assignments for shift hours between 5:00 p.m. and 9:00 a.m.

(b) For purposes of computing any shift differential pay, "current hourly rate" shall mean the hourly rate of pay which is applicable to the employee's regularly assigned class.

(c) An employee whose regularly scheduled shift entitles him to shift differential pay shall receive the shift differential pay as a part of his current hourly rate for leaves of absence including vacation, sick leave, holiday pay and funeral leave.

(d) For purpose of computing overtime pay, an employee shall receive his current hourly rate in addition to the thirty-five (35) cents or forty-five (45) cents per hour shift differential.

**17.20 Weekend Differential Pay (Revised 6/06)**

Employees of Lancaster Manor and Community Mental Health who are scheduled to work between the weekend times of 00:01 a.m. on Saturday through 23:59 p.m. on Sunday, will receive an additional seventy-five (75) cents per hour. This payment will be in addition to any other payment and will be included as part of the employee's current hourly rate.

### **17.21 Overtime Administration**

A Department Head may prescribe reasonable periods of overtime work to meet operating needs. Such overtime shall be reported and justified as required by the Personnel Officer. Complete records of overtime of employees shall be maintained in each department. The Personnel Officer shall establish and approve an overtime policy for all county employees.

### **17.22 Callback**

A full-time non-exempt employee who has left his normal place of work and who is called to duty during his off-duty time, and such time does not merge with his tour of duty shall be paid a minimum of two (2) hours at the rate of time and one-half (1 1/2) or one and one-half (1 1/2) times the actual number of hours worked, whichever is greater.

### **17.23 Post Employment Health Plan (PEHP) (Created 9/98; Revised 8/99)**

The County may establish a Post Employment Health Plan on behalf of employees and make bi-monthly contributions to a trust account. The purpose of the contribution is to assist in the payment of future medical expenses and premiums in accordance with the Internal Revenue Code 501C(9).

Upon qualified separation, a percentage of the eligible employee's accumulated sick leave balance as defined in Rule 19.3 will be contributed to the Plan.

## RULE 18 - HOLIDAYS

### 18.1 Compensation for Absence on Holidays (Revised 4/10)

(a) All full-time and part-time status and probationary employees with the exception of those identified in paragraph (c) below shall receive pay for one-fifth (1/5) of their regularly scheduled work week not to exceed eight (8) hours for the following legal holidays or any other day proclaimed by the County Board as a holiday:

New Year's Day	Labor Day
Martin Luther King Jr.'s Day	Veteran's Day
President's Day	Thanksgiving Day
Memorial Day	Day After Thanksgiving
Fourth of July	Christmas Day

(b) In addition to the established holidays listed above, all employees, with the exception of those identified in paragraph (c) below, will receive twenty-four (24) hours of noncumulative personal holiday time on September 1 of each year. Part-time employees will receive personal holiday hours at one-fifth (1/5) of their regularly scheduled work week not to exceed eight (8) hours. Personal holiday hours may be taken anytime between September 1 and August 31 of the following year (or be forfeited), provided the days and times selected by the employee have the prior approval of the Department Head. Employees will be required to use personal holiday hours in increments of not less than two (2) hour blocks of time.

(c) Part-time status and probationary shift employees of facilities open seven (7) days a week or twenty-four (24) hours a day shall earn legal and personal holidays on a prorated schedule at the rate of 0.05 per hour worked which shall be added to the holiday bank each pay period. Accumulated holiday hours must be taken between September 1 and August 31 of the following year (or be forfeited), provided the time selected by the employee has the prior approval of the Department Head.

### 18.2 Compensation for Holiday Falling on a Regularly Scheduled Day Off

(a) Except for employees with an established holiday bank, or for employees regularly scheduled to work on a shift basis, when a holiday listed in Rule 18.1 falls on a Saturday, the preceding Friday shall be observed as the legal holiday; and when the legal holiday falls on Sunday, the following Monday shall be observed as the legal holiday.

(b) For employees regularly scheduled to work on a shift basis, the holiday will be observed as follows: January 1, July 4, November 11 and December 25. All other holidays shall be the same as those observed by other County employees.

### 18.3 Compensation for Work Performed on Holidays

(a) Full-time and part-time probationary, status and trainee (as defined in Rule 17.3(a)(2)) shift employees of facilities open seven (7) days a week or twenty-four (24) hours a day, qualifying for holiday pay and who are scheduled to work and who actually work on one of the holidays listed in Rule 18.1, shall receive pay at time and one-half for hours worked on a holiday in addition to regular holiday pay.

(b) On-call, temporary, seasonal and emergency employees of facilities open seven (7) days a week, or twenty-four (24) hours a day, who are scheduled to work on a day designated as an authorized holiday, shall receive no holiday pay but shall receive pay for hours worked at time and one-half.

(c) Non-shift probationary and status employees, qualifying for holiday pay, who are scheduled to work and actually do work on one of the holidays listed in Rule 18.1 shall receive pay at time and one-half for hours worked on the holiday.

#### **18.4 Qualification for Holiday Pay**

(a) In order to qualify for holiday pay, an employee must be in a pay status for his normal or regularly scheduled hours on his regular work day immediately before and after the holiday.

(b) Any holiday enumerated in Rule 18.1, if falling within a vacation period, shall be paid as holiday and not counted as vacation.

(c) Temporary, seasonal, on-call, and emergency non-shift employees, whether full-time or part-time, who are not scheduled to work on a day designated as an authorized holiday shall receive no holiday pay.



## RULE 19 - LEAVES OF ABSENCE

### 19.1 Request and Approval

All leaves of absence must be requested in writing to, and approved by, the Department Head in advance of leave being taken. Exceptions may be made in an emergency.

### 19.2 Vacation Leave (Revised 08/07)

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

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

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

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

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

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

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

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

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

(e) Accumulation of vacation leave credit shall be on a continuous basis not to exceed two hundred forty (240) hours. Unused vacation leave accumulation shall be paid upon separation. Employment may not be extended by using vacation at the time of separation.

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

### 19.3 Sick Leave (Revised 11/08)

(a) Sick leave is only to be used for sickness, family illness, personal and family medical appointments, injury, disability or funeral leave as outlined in these Rules and for no other purpose. An employee who uses sick leave for any other purpose may be subject to discipline. Each status employee shall earn Sick Leave hours at the factored hourly rate specified to equate to thirteen (13) days per year or one hundred four (104) hours per year for a full-time employee. Sick Leave shall not accrue during any period of absence without pay. Sick

Leave shall be earned, but not granted, during the first six (6) months of employment. No refund of vacation shall be allowed due to illness incurred while on vacation.

Sick Leave for part-time employees will be earned based on the number of hours worked each pay period.

(b) The Department Head may require a doctor's certificate be obtained on an annual basis for the continued medical condition.

(c) An employee may use up to forty (40) hours per calendar year for illness in the immediate family or family medical appointments. Upon written request, the Personnel Director may waive the forty (40) hour limit after reviewing the individual circumstances in support of the request.

(d) Immediate family for the purpose of sick leave usage is defined to be spouse, child, grandchild, parent, step-parent, sister, brother, employee's grandparents and the parents of the employee's spouse. Immediate family will also include any other family member, whether it be by blood or legal marriage, or legal adoption or foster children, residing in the same household.

(e) Accumulation of sick leave credit shall not exceed two thousand eighty (2,080) hours at any one time. Disability retirement shall not be effective until accumulated sick leave has been used. Upon retirement or death the employee shall receive fifty-five percent (55%) of accumulated sick leave, one hundred percent (100%) of which will be distributed into the employee's PEHP premium account. The payment will be at the regular hourly rate of the employee at the time of retirement or death.

(f) An employee who is absent because of sickness shall inform his immediate supervisor of the fact and the reason therefore as soon as possible; failure to do so within a reasonable time may be cause for denial of pay for the period of absence. The Department Head may require a doctor's certificate or other evidence of illness before approving sick leave with pay; such certificates shall be transmitted to the Personnel Officer with the report of sick leave for entry in the employee's records. Sick leave may be denied when the County has facts showing that an employee is abusing sick leave.

(g) An employee, at his discretion, may supplement his worker's compensation payment to bring the total sum of worker's compensation payment and sick leave to a figure equivalent to a full pay check.

(h) An employee who voluntarily separates, other than retirement, from employment with the County after fifteen (15) consecutive years of service with the county shall be paid fifty percent (50%) of their accumulated sick leave balance that is in excess of one thousand hours. This pay out shall be distributed as one-third ( $\frac{1}{3}$ ) cash and two-thirds ( $\frac{2}{3}$ ) PEHP. Payment shall be made based on the employee's current hourly rate of pay.

(i) Once an employee has exhausted all sick leave, the department head may automatically deduct as necessary from any available paid leaves.

#### **19.4 Injury Leave (Revised 8/05)**

Any probationary or status employee who is injured in the performance of his duties shall receive the difference between his regular pay and the worker's compensation payment for a period not to exceed ten (10) working days from date of injury. Failure to immediately report an incident which may have resulted in injury may cause forfeiture of the additional benefit. Such injury leave shall not be deducted from vacation or sick leave credits.

#### **19.5 Leave for Jury Duty**

An employee called to serve jury duty shall receive his regular pay to a maximum of ten (10) working days during one jury term, in addition to the compensation received from the court. For jury service exceeding ten (10) working days during one (1) jury term, employees receive the difference between their regular pay and the compensation received for such jury service.

#### **19.6 Military Leave (Revised 9/01)**

All employees who shall be members of the National Guard, Army Reserve, Naval Reserve, Marine Corps Reserve, Air Force Reserve, and Coast Guard Reserve shall be entitled to leave of absence from their respective duties, without loss of pay, on all days during which they are employed with or without pay under the orders of authorization of competent authority in the active service of the State of Nebraska or of the United States for not to exceed fifteen (15) working days in any one (1) calendar year, for annual training or other active duty assignments. Such leave of absence shall be in addition to the regular vacation and holiday leave of the persons named herein. When the governor of the State of Nebraska shall declare that a state emergency exists and any of the persons named in this section are ordered to active service of the State of Nebraska, an additional leave of absence will be granted until such member is released from active service by competent authority. During the additional leave of absence because of the call of the governor, any official or employee subject to the provisions of this section shall receive such portion of his salary or compensation as will equal loss he may suffer while in active service of the State. Governmental officers serving a term of office shall receive their compensation as provided by law.

#### **19.7 Special Leave (Revised 4/02)**

(a) Leave of absence without pay may be granted status employees by a Department Head. The Personnel Officer must approve any leaves in excess of thirty (30) calendar days. All requests for leave of absence must be made in writing.

(b) A Department Head, with approval of the Personnel Officer, may grant a status employee leave of absence without pay for a period not to exceed one (1) year for travel or study which will render the employee of greater value to the County upon his return to duty. Such leave shall be granted only when it will not result in undue prejudice to the interests of the County as an employer beyond any benefits to be realized. No leave without pay shall be granted primarily in the interests of the employee except in the case of one who has shown by his record of service or by other evidence to be of more than average value to the County, and whose service it is desirable to retain even at such sacrifice. Failure on the part of an employee on leave to report promptly at its expiration, without good cause, shall be considered as a resignation.

(c) Leave with pay for public health or safety duties of an emergency nature may be authorized by the Department Head upon approval of the Personnel Officer. Such leave will not be deducted from vacation or sick leave.

(d) In the event of an emergency as declared by the County Board (such as inclement weather) where an employee is unable to report for work, the employee may request and be granted accrued vacation leave, unused holiday time or authorized leave without pay, with the approval of the Department Head. Provisions may be made whereby attendance of essential or necessary employees is required.

#### **19.8 Pregnancy and Parental Leave (Revised 8/00)**

(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.

(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.

#### **19.9 Leave of Absence Without Pay to Accept Appointment in the Unclassified Service**

A status employee shall be granted leave without pay from his position to accept appointment to a position in the unclassified service. The employee shall return to a comparable position to that which was formerly held in the classified service at any time and will have his rate of pay established in accordance with Rule 17.5.

#### **19.10 Absence Without Leave**

Any unauthorized absence of an employee from duty shall be deemed to be an absence without pay and may be made grounds for disciplinary action by the Department Head. Any employee who absents himself for three (3) or more days without authorized leave shall be deemed to have resigned. Such absence may be excused, however, by the Department Head by a subsequent grant of leave with or without pay where extenuating circumstances are found to have existed.

### **19.11 Funeral Leave (Revised 9/01)**

Funeral leave may be taken upon approval of the Department Head and according to the following:

(a) In the case of death of the employee's spouse, child, mother, father, stepmother, stepfather, stepchild, mother-in-law, father-in-law, brother, sister, grandfather, grandmother, grandchild, or in the case of death of any other relative residing in the immediate household of the employee. Grandfather, grandmother and grandchild include "great" grandfathers, grandmothers and grandchildren. A full-time employee shall be granted funeral leave with pay at the rate of up to twenty-four (24) hours to attend the funeral without deduction from his pay or accumulated sick leave. A part-time employee shall be allowed two-fifths (2/5) of the hours in his normally scheduled work week if scheduled to work the hours requested.

(b) In the case of death of the employee's sister-in-law, brother-in-law, daughter-in-law, son-in-law, aunt, uncle, nephew, niece, or grandparents of the employee's spouse, full-time employees shall be allowed sixteen (16) hours funeral leave with regular pay to attend the funeral without deduction from his pay or accumulated sick leave. Aunt and uncle include "great" aunts and uncles. The part-time employee shall be allowed one-fifth (1/5) of the hours in his normally scheduled work week if scheduled to work the hours requested.

(c) A full-time employee shall be allowed to use up to twenty-four hours (24) hours of his accumulated sick leave in the case of death of any of the above designated persons. A part-time employee may be allowed to use accumulated sick leave up to four-fifths (4/5) of the hours in his normally scheduled work week if scheduled to work the hours requested.

(d) Up to four (4) hours funeral leave shall be granted if a full-time employee attends the funeral of a co-worker or retiree from the department in which the requesting employee is employed. A part-time employee shall be granted one-tenth (1/10) of the hours in his normally scheduled work week if scheduled to work the hours requested.

### **19.12 Requirements as to Continuous Service (Revised 11/02)**

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.

### **19.13 Civil Leave (Created 12/97)**

Civil leave is a leave of absence from duty, without loss of pay or charge to annual leave, to perform election duty for the Lancaster County Election Commissioner Office. In addition to the leave granted, an employee appointed for election duty shall receive an hourly wage in the amount specified by the Nebraska Legislature.

## **RULE 20 - SAVINGS CLAUSE**

If any section in these Rules or any part of a section shall be declared invalid or unconstitutional, such declaration of invalidity shall not affect the validity of the remaining portions thereof.

## RULE 21 - FURLOUGH

### 21.1 Definition (Created 6/10)

A **furlough** is the placement of an employee in a temporary non-duty and non-pay status because of lack of funds or appropriations or shortage of work. Furloughs may be an alternative to layoff.

### 21.2 Voluntary Furloughs (Created 6/10)

- (a) A Department Head may make a request to status employees in the classified service for volunteers, or employees may volunteer, to be placed on unpaid furlough whenever the Department Head deems it necessary by reason of shortage of funds or appropriations or shortage of work.
- (b) A Department Head shall make a request for volunteers to be placed on voluntary unpaid furlough prior to the implementation of a mandatory furlough.
- (c) If voluntary unpaid furlough is taken by an employee, the voluntary unpaid furlough time will be considered in satisfying any subsequent mandatory unpaid furlough requirements within a fiscal year.
- (d) All requests by employees to be voluntarily placed on unpaid furlough must be made in writing.
- (e) Length of Voluntary Furlough: A Department Head may grant a request to be placed on voluntary unpaid furlough. Voluntary unpaid furloughs must be taken in two (2) hour increments. A full day furlough without pay is equal to the employee's normal scheduled work hours on the affected day.
  - (1) Voluntary unpaid furloughs in excess of thirty (30) calendar days must be approved by the Personnel Officer.
  - (2) Voluntary unpaid furlough hours may be scheduled over consecutive days and/or weeks, or non-consecutive days over a period of time (e.g. one work day per month for a twelve month period).
- (f) A Department Head shall schedule furloughs in a manner which minimizes disruption to the efficient operation of the department. A Department Head will work with employees to identify in advance what voluntary furlough days/hours will be taken to maintain effective operations and essential services.

### 21.3 Mandatory Unpaid Furloughs (Created 6/10)

- (a) A Department Head shall make a request for volunteers to be placed on voluntary furlough prior to the implementation of a mandatory unpaid furlough. If there are insufficient volunteers to mitigate the need for mandatory unpaid furloughs and/or if effective operations or essential services are compromised, a Department head may implement mandatory unpaid furloughs.
- (b) A Department Head may furlough status employees in the classified service whenever he deems it necessary by reason of shortage of funds or appropriations or shortage of work. In such case, a Department Head shall establish a uniform

Mandatory Furlough Plan which shall require all employees in the department to take an equal number of hours of leave without pay during a furlough period.

- (c) Notice: When a mandatory unpaid furlough has been implemented, the status employee shall be notified at least fifteen (15) calendar days prior to the effective date of a furlough period.
- (1) The furlough notice will include the following:
    - (A) A general statement of the reason for the furlough (budget shortfall, decrease in appropriations, shortage of work).
    - (B) The effective date of the furlough and the maximum number of furlough hours. If the furlough is due to an emergency situation the number of hours may not be known in advance. If the number of furlough hours becomes known after the onset of the furlough, then reasonable efforts will be made to communicate the information to furloughed employees.
  - (2) In the case of an emergency a furlough notice will be provided as soon as reasonably possible.
- (d) Length of Mandatory Unpaid Furlough:
- (1) A status employee may be placed on mandatory unpaid furlough for a period not to exceed 96 furlough hours during a County fiscal year. Mandatory unpaid furlough hours may be scheduled over consecutive days and/or weeks, or non-consecutive days over a period of time (e.g. one work day per month for a twelve month period).
  - (2) Mandatory unpaid furlough hours must be taken in two (2) hour increments. A full day furlough without pay is equal to the employee's normal scheduled work hours on the affected day.
  - (3) An employee may not be furloughed more than their normal scheduled work day unless requested by the employee and agreed to by the employee and Department Head.
- (e) Scheduling Mandatory Unpaid Furlough:
- (1) The scheduling of mandatory unpaid furloughs shall be at the sole discretion of the Department Head and a Department Head shall schedule furloughs in a manner which minimizes disruption to the efficient operation of the department. However, to the extent possible, employees will be allowed to choose the timing of furlough days/hours.
  - (2) Employees shall not be scheduled for furlough during periods of paid approved leave. Employees may be scheduled for furlough upon return to work from approved leave.
- (f) Essential Services: Departments Heads shall plan mandatory unpaid furlough time in a manner that allows for essential services to be provided. A Department Head will work with employees to identify in advance what furlough days/hours will be



taken during the furlough period and to maintain effective operations and essential services.

**21.4 Fair Labor Standards Act Compliance (Created 6/10)**

- (a) In accordance with the provisions of the Fair Labor Standards Act, non-exempt (hourly) employees shall take unpaid furloughs in the day or hourly increments listed above. Non-exempt employees are not allowed to work during the unpaid furlough days/hours, nor are they allowed to work overtime hours during the week in which the unpaid furlough days/hours are taken.
- (b) In accordance with the provisions of the Fair Labor Standards Act, exempt employees will be considered as non-exempt for the work week in which the unpaid furlough day/hours are taken. Exempt employees are not allowed to work during the unpaid furlough days/hours. Exempt employees may not exceed forty (40) hours in combined furlough and work hours during the week in which the unpaid furlough days/hours are taken unless authorized in advance by the Department Head.

**21.5 Benefits and Seniority During Mandatory or Voluntary Furlough (Created 6/10)**

- (a) Furloughs shall not constitute a break in service of employment and there shall be no loss of seniority.
- (b) Furloughs shall not effect an employee's health insurance, dental insurance, continuous service, length of service or eligibility for longevity increases. However, employees shall be responsible for their normal contributions for benefits.

**21.6 Vacation Leave, Sick Leave, Personal Holidays, and Other Paid Leaves During Mandatory and Voluntary Furlough (Created 6/10)**

- (a) Employees shall continue to accrue vacation and sick leave at their current levels during the furlough period and leave earnings shall not be prorated as a result of a furlough.
- (b) Employees may not substitute paid leave for a period of furlough.

**21.7 Holiday Pay During Mandatory or Voluntary Furlough (Created 6/10)**

- (a) If an unpaid furlough day is scheduled on a holiday, then the employee will not receive holiday pay.
- (b) Unpaid furlough days scheduled immediately before and/or after a holiday, but not scheduled on a holiday, shall not disqualify an employee from receiving holiday pay.

**21.8 Sanctions (Created 6/10)**

Employees are strictly forbidden from performing any County work while on furlough, including but not limited to checking work-related e-mail and voice mail. Employees who perform County work while on furlough may be subject to appropriate disciplinary action up to and including dismissal from employment.

**21.9 Grievances (Created 6/10)**

Employees may grieve a furlough under Lancaster County Personnel Rule 12.

APPENDIX A

NEBRASKA REVISED STATUTES--ANNOTATED  
CHAPTER 23. COUNTY GOVERNMENT AND OFFICERS  
ARTICLE 25. CIVIL SERVICE SYSTEM

Sections 23-2517 to 23-2533 (Cumulative Supplement 2006)

**Sec. 23-2517. Purpose of sections.**

(1) Sections 23-2517 to 23-2533 shall be known and may be cited as the County Civil Service 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.

*Source: Laws 1974, LB 995, Sec. 1; Laws 2006, LB 808 Sec. 7.*

**Sec. 23-2518. Terms, defined.**

For purposes of the County Civil Service Act:

- (1) Appointing authority means elected officials and appointed department directors authorized to make appointments in the county service;
- (2) Board of county commissioners means the board of commissioners of any county with a population of one hundred fifty thousand to three hundred thousand inhabitants;
- (3) Classified service means the positions in the county service to which the act applies;
- (4) County personnel officer means the employee designated by the board of county commissioners to administer the act;
- (5) Department means a functional unit of the county government headed by an elected official or established by the board of county commissioners;
- (6) Deputy means an individual who serves as the first assistant to and at the pleasure of an elected official;
- (7) Elected official means an officer elected by the popular vote of the people and known as the county attorney, public defender, county sheriff, county treasurer, clerk of the district court, register of deeds, county clerk, county assessor, and county surveyor;
- (8) Internal Revenue Code means the Internal Revenue Code as defined in section 49-801.01;

(9) Political subdivision means a village, city of the second class, city of the first class, city of the primary class, city of the metropolitan class, county, school district, public power district, or any other unit of local government including entities created pursuant to the Interlocal Cooperation Act or the Joint Public Agency Act. Political subdivision does not include a contractor with the county;

(10) State means the State of Nebraska;

(11) Straight-time rate of pay means the rate of pay in effect on the date of transfer of employees stated in the resolution by the county board requesting the transfer; and

(12) Transferred employee means an employee of the state or a political subdivision transferred to the county pursuant to a request for such transfer made by the county under section 23-2518.01.

*Source: Laws 1974, LB 995, Sec. 2; Laws 1999, LB 272, Sec. 11; Laws 2006, LB 808, Sec. 8.*

**Sec. 23-2518.01. Transfer of employees to county; state employee; rights.**

(1) The board of county commissioners may, by resolution, request that a state or political subdivision transfer employees to the county (a) if the board of county commissioners finds that direct control over such employees will be of benefit to the county, (b) pursuant to a merger of services, or (c) due to the assumption of functions of the state or a political subdivision by the county. Such resolution shall state an effective date for the transfer of such employees. If the state or political subdivision determines that the transfer of its employees is necessary or desirable and approves the request of the board of county commissioners, the employees who are being transferred shall become county employees on the effective date of the transfer as stated in the resolution of the board of county commissioners requesting such transfer.

(2) No state employees subject to a transfer under subsection (1) of this section is required to become a county employee and may instead exercise all of his or her rights under any contract involving state employees and negotiated pursuant to the Industrial Relations Act and the State Employees Collective Bargaining Act.

*Source: Laws 2006, LB 808, Sec. 9.*

**Sec. 23-2518.02. Transfer of employees; retirement benefits; calculation; funding.**

(1) For transfers involving a retirement system which maintains a defined benefit plan, the transfer value of the transferring employee's accrued benefit shall be calculated by one or both of the retirement systems involved as follows:

(a) If the retirement system of the state or political subdivision maintains a defined benefit plan, an initial benefit transfer value of the employee's accrued benefit shall be determined by calculating the present value of the employee's retirement benefit based on the employee's years of service as of the date of transfer and the other actuarial assumptions of the retirement system of the state or political subdivision so that the effect on the retirement system of the state or political subdivision will be actuarially neutral; and

(b) If the retirement system of the county maintains a defined benefit plan, the final benefit transfer value of the employee's accrued benefit shall be determined by calculating the present value of the employee's retirement benefit as if the employee were employed on the date of transfer and had completed the same amount of service with the same compensation as the

employee actually completed at the state or political subdivision prior to transfer. The calculation shall then be based on the employee's assumed years of service as of the date of transfer and the other actuarial assumptions of the retirement system of the county so that the effect on the retirement system of the county will be actuarially neutral.

(2) An employee of the state or a political subdivision who transfers from a position in the state or a political subdivision to a position in the county, and whose customary employment with the state or a political subdivision was for more than twenty hours per week shall receive credit for his or her years of participation in the retirement system of the state or political subdivision for purposes of membership in the retirement system or the county.

(3) An employee referred to in subsection (2) of this section shall have his or her participation in the retirement system of the state or political subdivision transferred to the retirement system of the county through one of the following options:

(a) If the retirement system of the county maintains a defined contribution plan, the employee shall transfer all of his or her funds by paying to the retirement system of the county from funds held by the retirement system of the state or political subdivision an amount equal to one of the following: (i) If the retirement system of the state or political subdivision maintains a defined benefit plan, an amount not to exceed the initial benefit transfer value, leaving no funds attributable to the transferred employee within the retirement system of the state or political subdivision; or (ii) if the retirement system of the state or political subdivision maintains a defined contribution plan, an amount not to exceed the employee and employer accounts of the transferring employee plus earnings during the period of employment with the state or political subdivision. The employee shall receive vesting credit for his or her years of service in a governmental plan, as defined in section 414(d) of the Internal Revenue Code, maintained by the state or political subdivision. Payment shall be made within five years after employment begins with the receiving entity or prior to retirement whichever comes first, and may be made through direct payment, installment payments, or an irrevocable payroll deduction authorization; or

(b) If the retirement system of the county maintains a defined benefit plan, the employee shall transfer all of his or her funds out of the retirement system of the state or political subdivision to purchase service credits that will generate a final benefit transfer value not to exceed the employee's initial benefit transfer value in the retirement system of the state or political subdivision. After such purchase, the employee shall receive vesting credit in the retirement system of the county for his or her years of service in a governmental plan, as defined in section 414(d) of the Internal Revenue Code, maintained by the state or political subdivision. The amount to be paid by the member for such service credit shall equal the actuarial cost to the retirement system of the county for allowing such additional service credit to the employee. If any funds remain in the retirement system of the state or political subdivision after the employee has purchased service credits in the retirement system of the county, such remaining funds shall be rolled over into another qualified trust under section 401(a) of the Internal Revenue Code, an individual retirement account, or an individual retirement annuity. Payment shall be made within five years after the transfer of services, but prior to retirement, and may be made through direct payment, installment payments, or an irrevocable payroll deduction authorization.

(4) The state or political subdivision, the county, and the employees who are being transferred may be binding agreement determine which parties will provide funds to pay any amount needed to purchase creditable service in the retirement system of the county sufficient to provide a final benefit transfer value not to exceed the employee's initial benefit transfer value, if the amount of the direct rollover from the retirement system of the state or political subdivision is not sufficient to provide a final benefit transfer value in the retirement system of the county.

(5) The retirement system of the county may accept cash rollover contributions from a member who is making payment pursuant to this section if the contributions do not exceed the

amount of payment required for the service credits purchased by the member and the contributions represent (a) all or any portion of the balance of the member's interest in a qualified trust under section 401(a) of the Internal Revenue Code or (b) the interest of the member from an individual retirement account or an individual retirement annuity, all of which is attributable to a qualified total distribution, as defined in the Internal Revenue Code, from a qualified trust under section 401(a) of the code and qualified as a tax-free rollover amount. The member's interest under subdivision (a) or (b) of this subsection shall be transferred to the retirement system within sixty days after the date of the distribution from the qualified trust, individual retirement account, or individual retirement annuity.

(6) Cash transferred to the retirement system of the county as a rollover contribution shall be deposited as other contributions.

(7) The retirement system of the county may accept direct rollover distributions made from a qualified trust pursuant to section 401(a)(31) of the Internal Revenue Code. The direct rollover distribution shall be deposited as all over payments under this section.

(8) The county or its retirement systems shall adopt provisions defining procedures for acceptance of rollovers which are consistent with sections 401(a)(31) and 402 of the Internal Revenue Code.

(9) If the county participates in the Retirement System for Nebraska Counties and the transferred employee participates in the State Employees Retirement System, the transferred employee shall immediately begin participation in the Retirement System for Nebraska Counties under the same benefit which had been elected pursuant to subsection (1) of section 84-1309.02.

*Source: Laws 2006, LB 808, Sec. 10.*

**Sec. 23-2518.03. Transfer of employees; sick leave; annual leave; vacation leave; other benefits; how treated.**

(1) The state or a political subdivision shall transfer all accrued sick leave of the transferred employee up to the maximum number of accumulated hours for sick leave allowed by the county personnel system. The state or political subdivision shall reimburse the county for twenty-five percent of the value of the accrued sick leave hours based on the straight-time rate of pay for the employee.

(2) The transferred employee may transfer the maximum amount of accrued annual leave earned as an employee of the state or a political subdivision allowed by the county personnel system. The state or a political subdivision shall reimburse the county for one hundred percent of the value of the hours of accrued annual leave transferred.

(3) No transferred employee shall lose any accrual rate value of his or her sick leave and vacation leave as a result of becoming a county employee, and a transferred employee may credit years of service with the state or a political subdivision toward the accrual rate for sick leave and vacation leave plans. When accrued sick leave and vacation leave for a transferred employee are at a greater rate value than allowed by the county's sick leave and vacation leave plans, the state or political subdivision shall pay the county the difference between the value of the benefits allowed by the county and the state or political subdivision based on, at the time of the transfer, twenty-five percent of the employee's straight-time rate of pay for the sick leave and one hundred percent of the employee's straight-time rate of pay for vacation leave. A state or political subdivision shall reimburse the county not later than one year after the transfer is complete.

(4) The transferred employee shall not receive any additional accrual rate value for county benefits until the employee meets the qualifications for the increase accrual rates pursuant to the county's requirements.

(5) The transferred employee shall receive credit for time of service with the state or a political subdivision toward participation, coverage by insurance programs for the county, and the waiting period for medical insurance coverage provided by the county.

*Source: Laws 2006, LB 808, Sec. 11.*

**Sec. 23-2518.04. Transfer of employees; credit for time of service; seniority.**

(1) A transferred employee shall be credited for time of service with the state or a political subdivision toward the probationary period in the county:

(a) A transferred employee whose credited time of service with the state or a political subdivision does not satisfy the county's probationary period time requirement shall be a probationary employee of the county and afforded the same rights, benefits, and privileges as are afforded to a probationary employee under the county personnel system; and

(b) A transferred employee whose credited time of service with the state or a political subdivision does not satisfy the county's probationary period time requirement shall successfully complete the remainder of the county's probationary period time requirement before being given status with the county.

(2) Transferred employee shall retain seniority accumulated during service with the state or a political subdivision, and no transferred employee shall lose accumulated seniority as a result of becoming a county employee.

*Source: Laws 2006, LB 808, Sec. 12.*

**Sec. 23-2519. County service; classified and unclassified service, defined; exemptions.**

The county service shall be divided into the classified service and the unclassified service. All officers and positions of the county shall be in the classified service unless specifically designated as being in the unclassified service established by the County Civil Service Act. All county employees who have permanent status under any other act prior to the passage of the County Civil Service Act shall have status under the act without further qualification. Positions in the unclassified service shall not be governed by the act and shall include the following:

(1) County officers elected by popular vote and persons appointed to fill vacancies in such elective offices;

(2) The county personnel officer and the administrative assistant to the board of county commissioners;

(3) Bailiffs;

(4) Department heads and one principal assistant or chief deputy for each county department. When more than one principal assistant or chief deputy is mandated by law, all such positions shall be in the unclassified service;

(5) Members of boards and commissions appointed by the board of county commissioners;

(6) Persons employed in a professional or scientific capacity to make or conduct a temporary and special investigation or examination on behalf of the board of county commissioners;

(7) Attorneys;

(8) Physicians;

(9) Employees of an emergency management organization; and

(10) Deputy sheriffs.

Nothing in the act shall be construed as precluding the appointing authority from filling any positions in the unclassified service in the manner in which positions in the classified service are filled.

*Source: Laws 1974, LB 995, Sec. 3; Laws 1991, LB 117, Sec. 1; Laws 1996, LB 43, Sec. 4; Laws 2006, LB 808, Sec. 13.*

**Sec. 23-2520. Personnel office; created; county personnel officer; board; members; costs of administering.**

There is hereby created a personnel office in the office of the board of county commissioners, the executive head of which shall be the county personnel officer. In such office there shall be a personnel policy board consisting of six members with powers and duties provided in the County Civil Service Act. The board of county commissioners shall make appropriations from the general fund to meet the estimated costs of administering the act.

*Source: Laws 1974, LB 995, Sec. 4; Laws 1987, LB 198, Sec. 1; Laws 2006, LB 808, Sec. 14.*

**Sec. 23-2521. Personnel policy board; members; qualifications; appointment; term; removal; chairperson; meetings; quorum.**

(1) The members of the personnel policy board shall be persons in sympathy with the application of merit principles to public employment and who are not otherwise employed by the county, except that the member employed by the county if serving on such board on May 6, 1987, shall continue to serve until the term of such member expires. No member shall hold during his or her term, or shall have held for a period of one year prior thereto, any political office or a position as officer or employee of a political organization.

(2) Two members of the board shall be appointed by the board of county commissioners, two members shall be appointed by the elected department heads, and two members shall be appointed by classified employees who are covered by the county personnel system.

(3) The first appointments made to the personnel policy board shall be for one, two, three, four, and five years. The board of county commissioners shall initially appoint members for terms of one and five years. The elected department heads shall initially appoint members for terms of two and four years. The classified employees who are covered by the county personnel system shall initially appoint a member for a term of three years. Within three months after May 6, 1987, the classified employees who are covered by the county personnel system shall initially



appoint another member for a term of one year. Thereafter, each member shall be appointed in the same manner for a term of five years, except that any person appointed to fill a vacancy occurring prior to the expiration of a term shall be appointed in the same manner for the remainder of the term. Each member of the board shall hold office until his or her successor is appointed and qualified.

(4) The board of county commissioners and elected department heads may remove any member of the personnel policy board for neglect of duty or misconduct in office after first giving him or her a copy of the reasons for removal and providing for the member to be heard publicly before the commissioners and elected department heads. A copy of the charges and a transcript of the record of the hearing shall be filed with the county clerk.

(5) The personnel policy board shall elect a chairperson from among its members. The board shall meet at such time and place as shall be specified by call of the chairperson or the county personnel officer. At least one meeting shall be held quarterly. Four members shall constitute a quorum for the transaction of business. Board members shall serve without compensation.

*Source: Laws 1974, LB 995, Sec. 5; Laws 1987, LB 198, Sec. 2.*

**Sec. 23-2522. Personnel policy board; powers; duties.**

The powers and duties of the personnel policy board shall be:

(1) To review and make recommendations to the board of county commissioners on the personnel rules and regulations and any amendments thereto prior to the approval by the commissioners;

(2) To advise and assist the personnel officer on matters of personnel policy, administration, and practice;

(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;

(4) To require the personnel officer to make or to make on its own initiative any investigation which it may consider necessary concerning the management of personnel in the county service;

(5) To review any grievance or case of disciplinary action of a classified service employee when appealed by such employee in accordance with approved personnel rules and regulations and issue a determination that is binding on all parties concerned;

(6) To issue subpoenas to compel the attendance of county employees as witnesses and the production of documents and to administer oaths, take testimony, hear proofs, and receive exhibits in evidence in connection with any of the powers and duties of such board. In case of a refusal to obey a subpoena issued to any county employee, the personnel policy board on its own motion, or a party to the proceedings, may make application to the district court of Lancaster County for an enforcement order, and any failure to obey such order may be punished by such court as contempt thereof;

(7) To make annual reports and recommendations to the board of county commissioners;  
and

(8) To perform such other duties as may be expressly set forth in the County Civil Service Act and in the regulations adopted pursuant thereto.

*Source: Laws 1974, LB 995, Sec. 6; Laws 1987, LB 198, Sec. 3; Laws 2006, LB 808, Sec. 15.*

**Sec. 23-2523. County personnel officer; appointment; qualifications.**

The board of county commissioners shall appoint a county personnel officer who shall be a person experienced in the field of personnel administration and in known sympathy with the application of merit principles in public employment.

*Source: Laws 1974, LB 995, Sec. 7.*

**Sec. 23-2524. County personnel officer; duties.**

In addition to other duties imposed upon him or her by or pursuant to the County Civil Service Act, it shall be the duty of the county personnel officer:

- (1) To apply and carry out the act and the rules and regulations adopted thereunder;
- (2) To attend meetings of the personnel policy board and to act as its secretary and keep minutes of its proceedings;
- (3) To establish and maintain a roster of all employees in the classified service, in which there shall be set forth as to each employee the class title, pay, or status, and other pertinent data;
- (4) To appoint such employees of his or her office and such experts and special assistants as may be necessary to carry out effectively the act;
- (5) To foster and develop, in cooperation with appointing authorities and others, programs for the improvement of employee effectiveness, including training, safety, health, counseling and welfare;
- (6) To encourage and exercise leadership in the development of effective personnel administration with the several county agencies, departments and institutions; and
- (7) To perform such other lawful acts as he or she may consider necessary or desirable to carry out the purposes and provisions of the County Civil Service Act.

*Source: Laws 1974, LB 995, Sec. 8; Laws 2006, LB 808, Sec. 16.*

**Sec. 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;

(2) For a compensation plan for all employees in the classified service, comprising salary schedules, hours of work, premium payments, special allowances, and fringe benefits, considering the amount of money available, the prevailing rates of pay in government and private employment, the cost of living, the level of each class of position in the classification plan, and other relevant factors. Initial, intervening, and maximum rates of pay for each class shall be established to provide for steps in salary advancement without change of duty in recognition of demonstrated quality and length of service. The compensation plan and amendments thereto shall be adopted in the manner prescribed for rules and regulations and shall in no way limit the authority of the board of county commissioners relative to appropriations for salary and wage expenditures;

(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;

(5) For the rejection of candidates who fail to comply with reasonable requirements of the personnel officer in regard to such factors as physical conditions, training, and experience or who have been guilty of infamous or disgraceful conduct, who are addicted to alcohol or narcotics, or who have attempted any deception or fraud in connection with an examination;

(6) Prohibiting disqualification of any person from taking an examination, from promotion or from holding a position because of race, sex, except where 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;

(7) For a period of probation not to exceed one year before appointment or promotion may be made complete, and during which period a probationer may be separated from his or her position without the right of appeal or hearing except as provided in section 23-2531. After a probationer has been separated, he or she may again be placed on the eligible list at the discretion of the personnel officer. The rules shall provide that a probationer shall be dropped from the payroll at the expiration of his or her probationary period if, within ten days prior thereto, the appointing authority has notified the personnel officer in writing that the services of the employee have been unsatisfactory;

(8) When an employee has been promoted but fails to satisfactorily perform the duties of the new position during the probationary period, he or she shall be returned to a position comparable to that held immediately prior to promotion at the current salary of such position;

(9) For temporary or seasonal appointments of limited terms of not to exceed one year;

(10) For part-time appointment where the employee accrues benefits of full-time employment on a basis proportional to the time worked;

(11) For emergency employment for not more than thirty days with or without examination, with the consent of the county personnel officer and department head;

(12) For provisional employment without competitive examination when there is no appropriate eligible list available. No such provisional employment shall continue longer than six months, nor shall successive provisional appointments be allowed;

(13) For transfer from a position in one department to a similar position in another department involving similar qualifications, duties, responsibilities, and salary ranges;

(14) For the transfer of employees of the state or a political subdivision to the county pursuant to a merger of services or due to the assumption of functions of the state or a political subdivision by the county;

(15) For layoff by reason of lack of funds or work or abolition of the position, or material change in duties or organization, for the layoff of nontenured employees first, and for reemployment of permanent employees so laid off, giving consideration in both layoff and reemployment to performance record and seniority in service;

(16) For establishment of a plan for resolving employee grievances and complaints;

(17) For hours of work, holidays, and attendance regulations in the various classes of positions in the classified service, and for annual, sick, and special leaves of absence, with or without pay, or at reduced pay;

(18) For the development of employee morale, safety and training programs;

(19) For a procedure whereby an appointing authority may suspend, reduce, demote, or dismiss an employee for misconduct, inefficiency, incompetence, insubordination, malfeasance, or other unfitness to render effective service and for the investigation and public hearing of appeals of such suspended, reduced, demoted or dismissed employee;

(20) For granting of leave without pay to a permanent employee to accept a position in the unclassified service, and for his or her return to a position comparable to that formerly held in the classified service at the conclusion of such service;

(21) For regulation covering political activity of employees in the classified service; and

(22) For other regulations not inconsistent with the County Civil Service Act and which may be necessary for its effective implementation.

*Source: Laws 1974, LB 995, Sec. 9; Laws 2006, LB 808, Sec. 17.*

**Sec. 23-2526. Personal service; classified service; certification of payrolls.**

(1) No county personnel, fiscal or other officer shall make or approve or take any part in making or approving any payment for personal service to any person holding a position in the classified service unless the payroll voucher or account of such pay bears the certification of the county personnel officer or his authorized agent, in the manner he or she may prescribe, that the persons named therein have been appointed and employed in accordance with the County Civil Service Act and the rules and regulations adopted hereunder.

(2) The county personnel officer may, for proper cause, withhold certification from a payroll any specific item or items thereon. The personnel officer shall provide that certification of payrolls be made each year and that such certification shall remain in effect except in the case of an officer or employee whose status has changed after the last certification of his or her payroll, in which case no voucher for payment of salary to such officer or employee shall be issued or payment of salary made without further certification by the personnel officer.

*Source: Laws 1974, LB 995, Sec. 10; Laws 2006, LB 808, Sec. 18.*

**Sec. 23-2527. Reciprocal agreements; county personnel officer; cooperate with other governmental agencies.**

(1) Any county subject to the County Civil Service Act may enter into reciprocal agreements, upon such terms as may be agreed upon, for the use of equipment, materials, facilities, and services with any public agency or body for purposes deemed of benefit to the county personnel system.

(2) The county personnel officer, with the approval of the board of county commissioners, may cooperate with other governmental agencies charged with public personnel administration in conducting personnel tests, recruiting personnel, training personnel, establishing lists from which eligible candidates shall be certified for appointment and for the interchange of personnel and their benefits.

*Source: Laws 1974, LB 995, Sec. 11; Laws 2006, LB 808, Sec. 19.*

**Sec. 23-2528. Tenure.**

(1) An employee in the classified service who has completed his probationary period shall have permanent tenure until he resigns voluntarily or is separated in accordance with the rules and regulations governing retirement, dismissal or layoff.

(2) An employee in the classified service with a probationary, provisional, temporary or emergency appointment shall have no tenure under that appointment and may be separated from employment by his appointing authority without any right of appeal except as provided in section 23-2531.

*Source: Laws 1974, LB 995, Sec. 12.*

**Sec. 23-2529. Veterans preference; passing score.**

Veterans preference shall be granted to all applicants who are otherwise eligible for employment and who request such preference on their applications. In order to receive preference, the veteran must submit a copy of his or her discharge papers and, for disability credit, proof from the United States Department of Veterans Affairs that the disability is at least ten percent. To the passing score of veteran candidates, ten points shall be added for a disabled veteran and five points for all other veterans.

*Source: Laws 1974, LB 995, Sec. 13; Laws 1991, LB 2, Sec. 4.*

**Sec. 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 except where 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.

(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.

(3) No person shall, directly or indirectly, give, render, pay, offer, solicit or accept any money, service or other valuable consideration for or on account of any appointment, proposed appointment, promotion or proposed promotion to, or any advantage in, a position in the classified service.

(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.

*Source: Laws 1974, LB 995, Sec. 15; Laws 2006, LB 808, Sec. 20.*

**Sec. 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.

*Source: Laws 1974, LB 995, Sec. 16.*

**Sec. 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.

*Source: Laws 1974, LB 995, Sec. 17; Laws 2006, LB 808, Sec. 21.*

# Personnel Policy Bulletin

Lancaster County

Number: 2001-4

Date: June, 2001

Reference:	Title:
	Breastfeeding Policy

According to the American Academy of Pediatrics (AAP), extensive research confirms the diverse and compelling health advantages of breastmilk. The AAP's 1997 policy paper on breastfeeding recommends that newborns be fed breastmilk exclusively for 6 months and that breastfeeding continue for at least 12 months.

In addition, The U.S. Surgeon General's 2000 Blueprint on Breastfeeding states that despite multiple health and economic benefits, breastfeeding rates are too low, especially among non-white infants. These low rates amount to a public health challenge as breastfeeding is one of the most important contributors to infant health, as well as being a factor in improving maternal health and contributing economic benefits to the family, the health care system and the workplace.

Breastfeeding is considered a primary factor in reducing infant and maternal illnesses and reducing health care costs. It is also a preventive factor in employee absenteeism as employees who breastfeed miss less work due to sick children at home. Lancaster County can help improve the health of infants and support the growing number of mothers in the workforce who choose to breastfeed, as well as encourage more working mothers to breastfeed. This policy is established to provide guidelines reducing barriers to new mothers in the County workforce who choose to breastfeed their infants.

## I. POLICY

- A. Lancaster County, as an employer, recognizes that working mothers are a vital part of its workforce. It shall be the policy of Lancaster County to support mothers who choose to breastfeed their infants by enabling mothers to express and collect their milk during work hours.
- B. It is the goal of Lancaster County to identify proper private space within each building occupied by County employees for the purpose of allowing mothers to pump breast milk by the end of 2001. These areas should, at a minimum, provide:

- a room with no windows or windows with blinds providing privacy;
- a lock on the door; and
- an electrical 110v outlet.

In the absence of a room that can be set aside, a private office with the above minimum requirements that can be scheduled for 15-20 minute sessions three times per day, may be used.

- C. Mothers who are breastfeeding may use their two 15-minute breaks for pumping breastmilk. These employees will not be penalized when the pumping procedure extends slightly beyond their two 15-minute breaks daily. Appropriate break times will be allotted for new mothers that choose to breastfeed.

## II. PROCEDURE

- A. Employees who have given birth and returned to the workforce should notify their supervisor that they intend to breastfeed their infant and would like to express their milk during work hours.



# Personnel Policy Bulletin


Lancaster County

Number: 2001-4

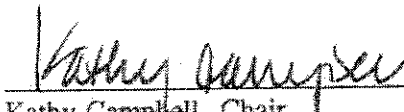
Date: June, 2001

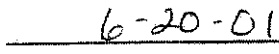
Reference:	Title:
	Breastfeeding Policy

- B. The supervisor should contact the Personnel Department to identify an appropriate space that has been identified in the building for this purpose.
- C. All efforts to flex time for this purpose will be made with the supervisor's approval.

  
\_\_\_\_\_  
Georgia Glass, Personnel Administrator

  
\_\_\_\_\_

  
\_\_\_\_\_  
Kathy Campbell, Chair  
Board of County Commissioners

  
\_\_\_\_\_  
Date

COBRSTFD

# Personnel Policy Bulletin

Number: 2003-2

Lancaster County

Date: February, 2003

Reference:	Title:
State of Nebraska Catastrophic Illness Donation Program	Catastrophic Illness Leave Donation Policy
City of Lincoln Personnel Policy Bulletin 2000-2	
Supersedes Personnel Policy Bulletin 2000-4	

## CATASTROPHIC ILLNESS LEAVE DONATION POLICY

### Introduction:

The County of Lancaster recognizes that there are instances in which an employee may suffer from a catastrophic illness or non-work-related injury requiring extensive medical treatment, rehabilitation, and ultimately the exhaustion of the employee's County-provided paid leaves. The County also recognizes that when these instances occur, co-workers of the employee experiencing a catastrophic illness or non-work-related injury desire to assist the employee until the employee recovers from the illness and can return to work. This policy bulletin is intended to establish guidelines for employees of Lancaster County to donate accrued vacation time and personal convenience holidays to another employee suffering from a catastrophic illness or non-work-related injury to be used as paid sick leave by the employee with the catastrophic illness or non-work-related injury.

### I. POLICY

It shall be the policy of the County of Lancaster to allow employees the opportunity to donate accrued vacation leave and personal convenience holidays to the benefit of another County employee suffering from a catastrophic illness or non-work-related injury.

### II. PROCEDURE

#### A. Employees Covered

All classified and unclassified employees who earn leave and have been employed a minimum of twelve consecutive months shall be eligible to participate in the Catastrophic Leave Donation Program.

#### B. Recipient Employee Eligibility

To be eligible to receive leave donated pursuant to this policy, an employee must meet the following conditions:

# Personnel Policy Bulletin

Number: 2003-2

Lancaster County

Date: February, 2003

Reference:	Title:
State of Nebraska Catastrophic Illness Donation Program City of Lincoln Personnel Policy Bulletin 2000-2 Supercedes Personnel Policy Bulletin 2000-4	Catastrophic Illness Leave Donation Policy

1. The employee must be suffering from a catastrophic illness or non-work related injury which has resulted in the exhaustion of all the employee's paid leave and which extends for at least one week after the exhaustion of such leave.
2. Generally, illnesses which qualify as "serious health conditions" pursuant to the Family Medical Leave Act would be considered as eligible for catastrophic illness leave donation. The illness must be that of the employee personally, not an illness of the employee's child, spouse, or other family member, to be eligible for leave donation.
3. The employee must produce competent medical verification of the illness or non-work related injury satisfactory to the County.
4. The employee must have a minimum of one year of service with the County.
5. The employee must have exhausted all paid leave, including but not limited to sick leave, vacation, and personal holidays.
6. The employee must not have offered anything of value to another employee in exchange for the leave donation.
7. No more than 1,040 hours per 12 month period from date of catastrophic leave approval may be received by the employee.
8. The employee must complete the Catastrophic Illness Donation Request Form and submit the form to the employee's department head, and the Personnel Director, who will certify that the employee is eligible to participate in the leave donation program.

## C. Donor Employee Eligibility

1. The employee must have an accrued vacation leave balance of at least forty hours subsequent to making a leave donation.

# Personnel Policy Bulletin

Number: 2003-2

Lancaster County

Date: February, 2003

Reference:	Title:
State of Nebraska Catastrophic Illness Donation Program	Catastrophic Illness Leave Donation Policy
City of Lincoln Personnel Policy Bulletin 2000-2	
Supercedes Personnel Policy Bulletin 2000-4	

2. The employee must donate Personal Convenience Holidays in only eight-hour increments. Vacation may be donated in four-hour or eight-hour increments.
3. The employee must not have solicited nor accepted anything of value in exchange for the donation.
4. The employee must complete and have witnessed the Catastrophic Illness Donation Form.

## **D. How to Apply For or Donate Leave**

1. An employee who qualifies for catastrophic illness leave shall complete the Catastrophic Illness Donation Request Form and submit it to the department head who shall, in conjunction with the Personnel Director, review it for approval or denial.
2. Upon approval, donor employees shall complete the Catastrophic Illness Donation Form indicating a willingness to donate vacation or Personal Convenience Holiday time and the amount of said time to be donated. This form shall also be signed by a witness to the donor's signature. The completed form should then be forwarded to the payroll person in the department of the ill employee.
3. Employees donating their time are doing so strictly on a voluntary basis and will have their vacation or Personal Convenience Holiday leave balances irrevocably debited for the amount of time transferred to the recipient employee. The transferred time will be placed in the recipient employee's sick leave account.
4. The Personnel and County Payroll Departments will monitor hours donated. The time donated will be on an "hour-for-hour" basis to the recipient employee.
5. Vacation hours transferred are done so in four-hour or eight-hour increments. Personal Convenience Holiday hours transferred are done so in eight-hour increments. Any time donated which is not used by the recipient remains with the recipient.

# Personnel Policy Bulletin

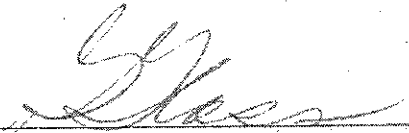
Number: 2003-2

Lancaster County

Date: February, 2003

Reference:	Title:
State of Nebraska Catastrophic Illness Donation Program  City of Lincoln Personnel Policy Bulletin 2000-2  Supercedes Personnel Policy Bulletin 2000-4	Catastrophic Illness Leave Donation Policy

6. Subsequent to the receipt of the leave donation forms and the determination of the total hours donated, the Personnel Department shall credit the recipient employee's sick leave balance on a biweekly payroll basis. An employee who is receiving catastrophic illness leave donated by other employees shall be allowed to accrue vacation and sick leave while in that status, however, all accrued leave shall first be used prior to the use of donated leave time.

  
\_\_\_\_\_  
Georgia Glass, Personnel Director

1-30-03  
\_\_\_\_\_  
Date

co\_cat.wpd

CITY OF LINCOLN -- LANCASTER COUNTY  
**Catastrophic Illness Donation Request Form**

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*(To be completed by Requesting Employee)*

\_\_\_\_\_, an employee in \_\_\_\_\_,  
(Name) (Department)

has requested vacation leave/Personal Convenience Holiday donations under our Catastrophic Illness Program, and meets the conditions of our Catastrophic Illness Program per the attached medical documentation. My signature hereto acknowledges that I agree to release, indemnify, and hold harmless, the City of Lincoln and Lancaster County from any claim I might have relating to the release of only my name to City or County Departments advising them that I am eligible for Catastrophic Illness Donations.

\_\_\_\_\_  
Employee Signature

\_\_\_\_\_  
Date

Social Security Number: \_\_\_\_\_

APPROVED: \_\_\_\_\_  
Department Head

\_\_\_\_\_  
Date

APPROVED: \_\_\_\_\_  
Personnel Director

\_\_\_\_\_  
Date

---

Employee: Forward this request form **and** medical documentation from your physician to your department head.



# Personnel Policy Bulletin

Number: 2002-6

Lancaster County

Date: November, 2002

Reference:	Title:
LB285 Commercial Motor Vehicle Safety Act of 1986 Supercedes Personnel Policy Bulletin 2002-2	Commercial Driver's License and Driver's License Personnel Policy Bulletin

Purpose: To provide guidelines for probationary and status employees to obtain a Commercial Driver's License (CDL) or to renew a driver's license.

Applicability: Any probationary or status employee who is working in a job classification which as a condition of employment must drive equipment or vehicles that requires a CDL or a driver's license to be in accordance with Federal and State Law.

Fees: License: The fees to obtain a learner's permit, a driver's license, a CDL and any endorsement will be the responsibility of the employee. In accordance with AFSCME Contract, Article 25, Section 7, the County will reimburse an employee the difference in cost between a regular drivers license and a Commercial Drivers License, when the employee's position requires a Commercial Drivers License, and only when that license is renewed. Employees must submit a photocopy of the renewed CDL to their supervisor for reimbursement (i.e. \$50 (CDL) - \$18.75 (auto) = \$31.25 reimbursement).

CDL Physical Exam: If the employee's classification and job duties require driving across state lines, which requires a DOT physical examination, the physical exam cost will be paid by the County. Physical exams will be taken at the City-County Health Department or through a physician designated by the County on County time.

Time: Time required to renew a driver's license, take a written CDL exam, retake a failed exam, to renew a CDL, to take a CDL skills test, to obtain endorsement or to take the CDL exam after their operator license expires, will be handled in accordance with standard leave policies.

In accordance with AFSCME Contract, Article 25, Section 7, an employee will be paid at their regular rate of pay to take the initial Commercial Drivers License examination one time (each of the three phases). Time off with pay for repeat examination will be at the Department Head's discretion.

Learner's Permit: A learner's permit will be allowed for individuals applying for a class requiring a CDL for the first time, i.e. a new hire or a promotion. In all instances individuals will be required to satisfactorily complete all testing within 60 days, or within 6 months of appointment for employees in the classifications of Activities Director and Activities Assistant at Lancaster Manor.



# Personnel Policy Bulletin

Number: 2002-6

Lancaster County

Date: November, 2002

Reference:	Title:
LB285 Commercial Motor Vehicle Safety Act of 1986 Supercedes Personnel Policy Bulletin 2002-2	Commercial Driver's License and Driver's License Personnel Policy Bulletin

Failure to complete this requirement as a condition of employment will result in termination in the case of a probationary employee or failure to qualify for status in the case of a promotion.

In no instance will an existing employee who is required to obtain a CDL before license expiration be allowed to use a learner's permit to "buy time."

Expired Licenses: Employees whose CDL or driver's license expires will not be allowed to work until they have obtained the proper driver's license. Employees may request approval to take vacation leave if available in order to take the exam at the State Department of Motor Vehicles Testing Station.

However, upon expiration of that approved leave, failure to report to work with a CDL or driver's license after 3 days leave without pay will be considered an assumed resignation. Contractual provisions will prevail regarding leave provisions.

## Employee

Responsibility For CDL: Drivers of commercial vehicles cannot have more than one license. If this rule is broken a court may fine the individual up to \$5,000 or send them to jail. Possession of more than one license will result in discipline up to and including termination from the County upon discovery.

Drivers of commercial vehicles must notify their employer in writing within 30 days of a conviction for any traffic violation (except parking), regardless of what type of vehicle being driven. A Commercial Driver's License Notification of Traffic Violation form is attached, and may be reproduced as needed.

Drivers of commercial vehicles must notify the Nebraska Motor Vehicle licensing agency in writing within 30 days if convicted in any other state of any traffic violation (except parking), regardless of what type of vehicle being driven.

Failure to properly notify the County of driving convictions or loss of driving privileges will result in discipline, up to and including termination. This applies any time driving privileges are revoked, suspended or limited in any way by any court or the Nebraska Department of Motor Vehicles or any other Administrative agency of the state of Nebraska or any other state jurisdiction.

# Personnel Policy Bulletin

Number: 2002-6

Lancaster County

Date: November, 2002

Reference:	Title:
LB285 Commercial Motor Vehicle Safety Act of 1986 Supercedes Personnel Policy Bulletin 2002-2	Commercial Driver's License and Driver's License Personnel Policy Bulletin


Employee  
Responsibility for  
Driver's License:

Notify my immediate supervisor the next working day following a motor vehicle conviction which results in loss or suspension of my driver's license.

A Driver's License Violation Notification Form is attached, and may be reproduced as needed.

Suspended

CDL or Driver's License: Any employee who occupies a position requiring a CDL or driver's license and whose CDL or driver's license is suspended, will be subject to disciplinary action up to and including termination.

  
\_\_\_\_\_  
Georgia Glass, Personnel Director

11-18-02  
\_\_\_\_\_  
Date

  
\_\_\_\_\_  
Bob Workman, County Board Chairman

11-19-02  
\_\_\_\_\_  
Date

PKD9421

# COMMERCIAL DRIVER'S LICENSE NOTIFICATION OF TRAFFIC VIOLATION

NAME: \_\_\_\_\_ TITLE: \_\_\_\_\_  
DEPARTMENT: \_\_\_\_\_ DIVISION: \_\_\_\_\_

As a holder of a Commercial Driver's License (C.D.L.) I am responsible as follows:

1. I must notify the motor vehicle licensing agency within 30 days, If I am convicted in any other state of any traffic violation (except parking). This is true no matter what type of vehicle I was driving.
2. I must notify my immediate supervisor within 30 days of a conviction for any type of traffic violation which does not result in a loss of driving privilege (except parking). This is true no matter what type of vehicle I was driving.
3. I must notify my immediate supervisor the next working day following a motor vehicle conviction which results in loss or suspension of my driver's license.

Pursuant to that responsibility, I am hereby notifying the City of Lincoln/Lancaster County of the following:

LICENSE NUMBER: \_\_\_\_\_ DATE ISSUED: \_\_\_\_\_

EXPIRATION DATE: \_\_\_\_\_ CLASS: \_\_\_\_\_

TYPE OF TRAFFIC VIOLATION: \_\_\_\_\_

TYPE OF VEHICLE OPERATED (Check one): Personal  C.D.L.

Other (please describe): \_\_\_\_\_

DATE TICKETED: \_\_\_\_\_ CITATION NO.: \_\_\_\_\_

DATE OF CONVICTION: \_\_\_\_\_

DID VIOLATION RESULT IN LOSS OF DRIVING PRIVILEGES:  YES  NO

IF YES, EXPLAIN: \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_

Further, I understand that this document is an official City/County record, and that falsification of this document, or failure to report loss of driving privileges and/or license in the future is grounds for my being disciplined.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_.

\_\_\_\_\_  
EMPLOYEE SIGNATURE

Supervisor Signature: \_\_\_\_\_ Date Received: \_\_\_\_\_

# Personnel Policy Bulletin

Lancaster County

Number: 97-2

Date: April 1, 1997

Reference:	Title:
Drug-Free Workplace Act of 1988 - 41 USC 701  Personnel Policy Bulletin 97-1 Employee Assistance Program Supercedes 94-3	Drug-Free Workplace Act Policy

## OBJECTIVE

It is the objective of Lancaster County to maintain a drug-free workplace for employees.

## SCOPE OF PROBLEM

The use of illegal drugs and unauthorized controlled substances is a nationwide problem that takes a tremendous toll on individuals and their families. It has been estimated that over 10% of American workers regularly use cocaine, marijuana, heroin or some other illegal drug. Use of illegal drugs has been shown to lead to severe health problems, emotional disorders, financial hardships and the break-up of families.

The use of illegal drugs and unauthorized controlled substances by employees jeopardizes the safety and health of themselves, their co-workers and the public that rely on our services. Illegal drug use also results in decreased productivity and quality and increased medical expenses, absenteeism, tardiness, accidents and turnover.

It is the responsibility of the County to maintain a productive work force in a safe work environment and to preserve the quality of services provided by the County.

## POLICIES ON POSSESSION OR USE OF ILLEGAL DRUGS

Employees found to be involved in the use, manufacture, distribution, dispensing or possession of illegal drugs or unauthorized controlled substances while on County premises or in the course of conducting County business will be subject to disciplinary action up to and including termination.

Off-duty use of illegal drugs can also influence an individual's job performance. Employees must report to work in a fit condition for duty. Having used alcohol or drugs which may affect job performance is prohibited and is cause for disciplinary action as defined by Lancaster County's Department of Transportation (DOT) and Non-DOT Anti Drug and Alcohol Programs. The County is concerned about alcohol and drug abuse as it affects job performance, the work environment, and as it undermines the public's confidence in the County.

## EMPLOYEE ASSISTANCE PROGRAM

The County recognizes drug and alcohol use may affect job performance and is a major health and potential safety problem. Therefore, the County provides channels of help for personal problems; however, it is the employee's responsibility to seek and accept help. Employees needing help in dealing with such problems are encouraged to voluntarily use the Employee Assistance Program. To the extent possible, conscientious efforts to seek such help will not jeopardize an employee's job, provided the employee accepts the help, becomes rehabilitated and job performance meets expected levels.

# Personnel Policy Bulletin

Lancaster County

Number: 97-2

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Supervisors and employees can access the Employee Assistance Program in accordance with Personnel Policy Bulletin 97-1.

## REQUIREMENTS OF EMPLOYEES

In accordance with the provision of the Drug-Free Workplace Act of 1988, employees are required as a condition of employment to agree to:

- 1) Abide by the terms of the County's drug-free workplace policies.
- 2) Advise the employer within five (5) days of any criminal drug statute conviction for a violation that occurred on County premises or in the course of conducting County business.

## REQUIREMENTS FOR THE EMPLOYER

In accordance with the provision of the Drug-Free Workplace Act of 1988, employers are required to:

- 1) Establish a drug-free awareness program to inform employees about:
  - a) the dangers of drug abuse in the workplace;
  - b) the policy of maintaining a drug-free workplace;
  - c) available drug counseling, rehabilitation and employee assistance programs;
  - d) penalties that may be imposed upon employees for drug abuse violations.
- 2) Provide a copy of the policy to each employee engaged in the performance of a federal contract.
- 3) Notify the employee engaged in the performance of a federal contract that as a condition of employment, the employee will abide by the terms of the policy.
- 4) Notify the contracting agency within 10 days after receiving notice of any criminal drug statute conviction occurring in the workplace.
- 5) Impose a sanction on or requiring the satisfactory participation in a drug abuse assistance or rehabilitation program by any employee who is convicted of a criminal drug statute occurring in the workplace.
- 6) Make a good faith effort to continue to maintain a drug free workplace.

# Personnel Policy Bulletin

Lancaster County

Number: 97-2

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## SANCTIONS

Each contract awarded by a Federal Agency shall be subject to suspension, termination or debarment in accordance with the requirements of the Drug-Free Workplace Act of 1988 if it is determined that:

- 1) The County has made a false certification.
- 2) The County violates the certification by failing to carry out the requirements.
- 3) Such a number of employees of the County have been convicted of violations of criminal drug statutes for violations in the workplace as to indicate that the County has failed to make a good faith effort to provide a drug-free workplace.

  
\_\_\_\_\_  
Ron Todd  
Personnel Administrator

April 1, 1997  
\_\_\_\_\_  
Date

PKH1867

# Personnel Policy Bulletin

Lancaster County

Number: 2005-1

Date: July, 2005

Reference:	Title:
Lancaster County Rules Appendix A, Nebraska Revised Statutes, Sec. 23-2521 (2) Personnel policy board; members; qualifications; appointment; term; removal; chairperson; meetings; quorum.	Election of Personnel Policy Board Members by Classified Employees

## (1) Definitions:

**Classified employees** who comprise all positions not specifically included in the unclassified service.

**Personnel Policy Board Members** are persons in sympathy with the application of merit principles to public employment and who are not otherwise employed by the County. No member shall hold during his or her term, or shall have held for a period of one year prior thereto, any political office or a position as officer or employee of a political organization.

**Term of appointment:** Each member shall be appointed in the same manner for a term of five years, except that any person appointed to fill a vacancy occurring prior to the expiration of a term shall be appointed in the same manner for the remainder of the term. Each member of the board shall hold office until his or her successor is appointed and qualified.

## (2) Nomination Procedure

- a) The Presidents of the bargaining units for classified employees and the Chairperson of the Employee Advisory Team will be notified when a vacancy exists of a Personnel Policy Board position which would be appointed by the classified employees. For purposes of the nomination process, the Employee Advisory Team shall represent the opinions of only those employees who are unrepresented, classified employees. The opinions of classified employees represented by either of the bargaining units shall be presented by the bargaining unit's President. These individuals will meet and submit, in writing, names to the Personnel Director to be placed onto the official ballot by a pre-established deadline. Before a name is placed on a ballot, the individual to be nominated should be contacted by the nominator to insure they are interested and willing to accept the appointment, if elected.
- b) The Personnel Director will establish an official ballot, placing on that ballot the names submitted by the predetermined deadline, with a brief description of the candidate's qualifications. A deadline for voting will be noted. The Lancaster County Election Commissioner or his designee will initial each official ballot. Ballots submitted which do not bear such initials, or appear to be photocopied, will not be counted.

# Personnel Policy Bulletin

Lancaster County

Number: 2005-1

Date: July, 2005

Reference:	Title:
Lancaster County Rules Appendix A, Nebraska Revised Statutes, Sec. 23-2521 (2) Personnel policy board; members; qualifications; appointment; term; removal; chairperson; meetings; quorum.	Election of Personnel Policy Board Members by Classified Employees

### (3) Election Procedure

- a) The Lancaster County Election Commissioner will oversee the election process and certify the results of the election. A majority of votes received will constitute the winner.
- b) Each classified employee will receive a ballot. The Personnel Department will generate labels to be used to send the ballot to employees via interoffice mail.
- c) Each ballot will have a deadline date and time. All ballots received after the deadline will not be counted. The voting process will be completed within a two-week period.
- d) Each ballot will be sent out with a return interoffice envelope that is addressed to the Lancaster County Election Commissioner. Where possible, the ballots will be sent and returned via interoffice mail.
- e) The cost of supplies to conduct the election will be paid by the Lancaster County Board of Commissioners.
- f) Upon receiving certified election results from the Lancaster County Election Commissioner, the Personnel Director will publish the results to the individuals on the ballot, to the President of the classified unions and the Chair of the Employee Advisory Team, the Lancaster County Board of Commissioners, and Lancaster County Department Heads. Thirty (30) days following a certified election, the ballots will be destroyed.
- g) The effective date of the appointment will be the first Personnel Policy Board Meeting following the expiration of the term of office; or the first Personnel Policy Board Meeting following the election if the term has already expired or in the event of a resignation.
- h) A sample ballot is attached for reference.



Don Taute, Personnel Director

8/2/05  
Date



Larry Hudkins, Chair  
Board of County Commissioners

8-5-05  
Date



**LANCASTER COUNTY  
SAMPLE PERSONNEL POLICY BOARD BALLOT**

The Lancaster County Personnel Policy Board is a six member board that reviews employee grievances and disciplinary appeals, and recommends personnel rule changes and amendments to the Personnel Department and County Board. Pursuant to state law, classified employees appoint two members to the Personnel Policy Board to serve five-year terms. One of these terms has expired and the County Board has agreed to sponsor a county-wide election to give all classified employees the opportunity to vote for the appointment.

Listed below are two individuals that have been nominated by AFSCME, Local 2468, FOP, Lodge 32, and the Employee Advisory Team. You may vote for **one** of the individuals listed below by placing an "X" on the line beside the person for which you wish to vote. Please use the enclosed addressed envelope to mail your ballot to the Election Commissioner's Office. The ballot may be mailed through the County inter-office mail.

**Do not copy this ballot. Only an original of this ballot will be considered valid. All ballots must be received by the Election Commissioner no later than the close of business Friday, Date**

_____ Name #1 – Brief description of qualifications
_____ Name #2 – Brief description of qualifications

Election Commissioner Certification of Authenticity \_\_\_\_\_

# Personnel Policy Bulletin

Lancaster County

Number: 2000-3

Date: August, 2000

<b>Reference:</b>	<b>Title:</b>
Contract signed with Continuum Supercedes: Personnel Policy Bulletin 97-1	Employee Assistance Program

In accordance with County Board Resolution, Lancaster County recognizes that there is a need for the Employee Assistance Program to aid in counseling employees who have personal problems which affect their job performance. EAP offers counseling in such areas as alcohol and drug abuse, family, marital, emotional and legal concerns. This policy bulletin is intended to establish guidelines for participation in this program and is fully supported by the County Board.

## I. POLICY

- A. Lancaster County, as an employer, recognizes a wide range of personal problems that may affect job performance. It shall be the policy of Lancaster County to encourage employees to seek assistance for their personal problems which may affect job performance. Job security or promotional opportunities will not be jeopardized by requesting or receiving assistance for personal problems. These EAP resources are intended to help retain and rehabilitate valuable County employees. To the extent possible, the County will encourage self-referral. Enlightened attitudes and acceptance of human problems is acknowledged and endorsed by Lancaster County to encourage an employee to take advantage of this service.
- B. In accordance with the Drug Free Workplace Act of 1988 the Employee Assistance program will be utilized to facilitate employee rehabilitation and preventive educational training, in accordance with Personnel Policy Bulletin 97-2. In addition, the Employee Assistance Program will provide Substance Abuse Professional services in accordance with Department of Transportation (DOT) mandated drug and alcohol testing and non-DOT programs.

## II. PROCEDURE

### A. *Internal EAP Resource*

Services provided by Continuum (formerly the Lincoln EAP, Inc.) will be coordinated and monitored by the City/County Personnel Department.

The City/County Personnel Department will designate an internal EAP liaison. This person may be the initial contact for the employees and families in need of assistance and may provide ongoing support and follow-up, as appropriate, to meet the needs of the employee and the County.

### B. *External EAP Resource*

Continuum will provide professional EAP counseling services for County employees and their family members. Continuum services include initial assessment, motivational counseling, referral to an appropriate community resource for continued care, consultation and follow-up as needed.

# Personnel Policy Bulletin

Lancaster County

Number: 2000-3

Date: August, 2000

Reference:	Title:
Contract signed with Continuum Supercedes: Personnel Policy Bulletin 97-1	Employee Assistance Program

## C. *Types of Referrals*

Referrals to both the internal and external EAP resources may be as 1) self-referral by the employee; 2) a supervisory referral by the supervisor because of unsatisfactory job performance; or 3) a self-referral by an immediate family member of the employee.

## D. *Confidential*

All information given to the internal EAP liaison regarding personal problems will remain confidential. All information given to Continuum will be kept confidential within statutory guidelines. Information from Continuum may only be obtained by the County with written permission from the employee.

## E. *EAP Orientation for Employees*

Orientation programs for employees covering services offered by Continuum will be coordinated and scheduled by the City/County Personnel Department as part of an ongoing in-service training program.

## F. *Supervisory Training and Ongoing Consultation*

Assistance is available from the internal EAP liaison and Continuum to all supervisory personnel involved with an employee with job performance problems. Formal EAP training shall be provided to all supervisory personnel on how to work effectively with employees with unsatisfactory work performance, when to take internal disciplinary action, and how to refer to Continuum. Ongoing consultation services include assistance in documenting job performance problems, preparing for a corrective interview and monitoring job performance after an EAP contact. Formal EAP training sessions will be a joint effort of the City/County Personnel Department and Continuum.

## G. *Supervisory Referrals*

### 1. *Responsibility of Supervisory Personnel*

Supervisory personnel throughout the County shall be responsible to promote the availability of the EAP resources to employees. It is recognized that supervisors do not have the professional qualifications to assess specific personal problems. Necessary referral to EAP will be based on documented unsatisfactory work performance.

### 2. *Procedures for Making a Supervisory Referral*

- a. When a notice of disciplinary action or unsatisfactory performance is completed, the supervisor may inform the employee of the availability of EAP. Depending upon the

# Personnel Policy Bulletin

Number: 2000-3

Lancaster County

Date: August, 2000

<b>Reference:</b>	<b>Title:</b>
Contract signed with Continuum Supercedes: Personnel Policy Bulletin 97-1	Employee Assistance Program

severity of the job performance problem, the supervisor or department head may require the employee to contact Continuum for assistance.

- b. It is recommended that all supervisory referrals be routed first through the internal EAP liaison in the Personnel Department.
- c. A referral to Continuum will occur simultaneously with standard disciplinary action for unsatisfactory job performance or the notice of unsatisfactory job performance.
- d. The County will require the employee to sign a limited release form allowing Continuum to report back to the EAP liaison and the supervisor: 1) the dates of contact with Continuum; and 2) the verification that the employee is following through with the recommended course of action.
- e. Initial assessment/counseling time with Continuum will be considered "County time" for **supervisory** referrals only. Leave time for follow-up sessions with Continuum and/or referral agencies will be handled in accordance with standard leave policies.

### 3. *Responsibility of the Employee*

The employee has the responsibility to follow through with the supervisor's recommendation to contact the internal EAP liaison and/or Continuum to cooperate with the recommended course of action. Employees who refuse assistance or who do not respond to or fail to **successfully complete** the recommended course of action will be handled in accordance with standard disciplinary procedures for unsatisfactory job performance.

### H

Employees are encouraged to seek assistance from the EAP in a manner which minimizes the interruption of their department responsibilities. Sick leave and/or vacation may be granted to employees (if available) for EAP consultation, or treatment by a certified alcohol and drug counselor, licensed mental health professional or a medical practitioner in accordance with standard leave policies.

### I

Fees for services provided by Continuum will be paid for by Lancaster County. Lancaster County will not be obligated to pay fees of referral references beyond EAP except to the extent that employee health plans provide for insurance coverage.

# Personnel Policy Bulletin

Lancaster County

Number: 2000-3

Date: August, 2000

Reference:	Title:
Contract signed with Continuum Supercedes: Personnel Policy Bulletin 97-1	Employee Assistance Program

## J. Dependents

Since an employee's work performance may be affected adversely by the problems of his or her spouse or other dependents; the program is available to families of the employee at no charge.

## K. Contract Coverage


Renewal will be reviewed based on program performance and employee needs. This bulletin will be revised accordingly or as procedures require.

## L. EAP Service Provider

Continuum (formerly Lincoln Employee Assistance Program)  
1135 M Street, Suite 400  
Lincoln, NE 68508  
Phone: (402) 476-0186

## M. Internal EAP Provider

Patricia A. Kant, Personnel Coordinator  
City-County Personnel  
Phone: (402) 441-7880

  
Georgia Glass  
Personnel Administrator

8-28-00  
Date

COEAP

# Personnel Policy Bulletin

Lancaster County

Number: 2009-1

Date: February, 2009

Reference:	Title:
Family and Medical Leave Act of 1993 (FMLA) and 29 C.F.R. Part 825	FAMILY AND MEDICAL LEAVE ACT
Supersedes Personnel Policy Bulletin 2002-3	

1. Purpose. The purpose of this policy is to define Lancaster County's procedure with regard to family and medical leave in accordance with the provisions of the Family and Medical Leave Act (FMLA) of 1993 and the federal regulations pertaining thereto.
2. Eligibility. Employees who have been employed for at least one year, and for at least 1,250 hours during the preceding 12-month period, are eligible for a total of 12 work weeks of FMLA leave per twelve month period.
3. Twelve-Month Period. The twelve month period for taking leave shall be measured forward from the first date an employee takes FMLA leave and shall expire twelve months thereafter.
4. 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;
  - b. For placement of a child with the employee for adoption or foster care;
  - c. To care for an immediate family member (spouse, child or parent) who has a serious health condition; or
  - d. 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.

5. General Information and Affect on County Paid Leaves.

FMLA leave will be counted concurrently with other paid leaves (sick leave, personal holidays, vacation, injury leave, workers' compensation leave and/or catastrophic leave). Therefore, the 12 weeks of leave will be paid to the extent the employee has other paid leaves available. After all applicable paid leaves are exhausted, any remaining FMLA leave will be unpaid.

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

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Supersedes Personnel Policy Bulletin 2002-3	

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).

6. 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. 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. 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.
7. 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

(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;

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Supercedes Personnel Policy Bulletin 2002-3	

- (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 more than three days if not treated (e.g., chemotherapy or radiation treatments for cancer).
8. 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).
9. Application for Leave. In all cases, an employee requesting leave must complete the attached "Application for Family or Medical Leave" and return it to the employee's department head for transmittal to the Personnel Director in the City/County Personnel Department. 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



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Reference:	Title:
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Supercedes Personnel Policy Bulletin 2002-3	

medical leave shall be provided to the employee within five business days after the employee gives notice of the need for leave.

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. 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 health care provider complete a "Medical Certification Statement" form. Copies of the "Medical Certification Statement" forms may be obtained through the Personnel Department. 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 job.

The employee shall have 15 calendar days to provide the completed Medical Certification Form. 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 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.

12. Benefits Coverage During Leave. During a period of FMLA leave, an employee will be retained on the County'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 made to the plan before taking leave. Failure of the employee to pay his or her share of the health or dental care monthly cost may result in loss of coverage.

# Personnel Policy Bulletin

Lancaster County

Number: 2009-1

Date: February, 2009

Reference:	Title:
Family and Medical Leave Act of 1993 (FMLA) and 29 C.F.R. Part 825  Supercedes Personnel Policy Bulletin 2002-3	FAMILY AND MEDICAL LEAVE ACT

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 the presence of the serious health condition which prevents the employee from performing his or her 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.

13. 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 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 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). A "key employee" is a salaried FMLA-eligible employee who is among the highest paid ten percent of all the employees employed by Lancaster County. (See, C.F.R. 825.217).
14. Return from Leave. An employee must complete a "Notice of Intention to Return to Work" form before he or she can be returned to active status. These forms may be obtained from the County Personnel Department. 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 at least 2 working days prior to the employee's planned return.
15. 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. 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 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 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. However, Lancaster County will review business considerations and the individual circumstances involved to determine if additional

# Personnel Policy Bulletin

Lancaster County

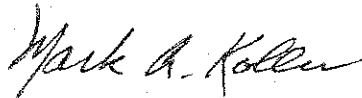
Number: 2009-1

Date: February, 2009

Reference:	Title:
Family and Medical Leave Act of 1993 (FMLA) and 29 C.F.R. Part 825	FAMILY AND MEDICAL LEAVE ACT
Supercedes Personnel Policy Bulletin 2002-3	

unpaid leave is available pursuant to the Americans with Disabilities Act of 1990, as amended.

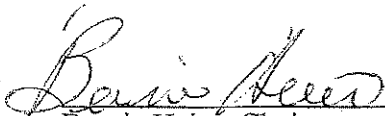
16. Unlawful Acts. It is unlawful for any employer to interfere with, restrain, or deny the exercise of any right provided by the FMLA. It is also unlawful for an employer to discharge or discriminate against any individual for opposing any practice, or because of involvement in any proceeding related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



Mark A. Koller, Personnel Director

2-12-09

Date



Bernie Heier, Chairman  
Board of County Commissioners

February 10, 2009

Date

Client: **Stutzman, Jonathan J.**

File #: **AC 11-0000696**

Docket:

Attorney: **Jason M. Bergevin**

Bond recommendation: \$5000%, no contact with Taylor Boz

No FTAs noted; domestic assault charge in Saline County 09, unknown disposition

Defendant attacked victim after seeing other numbers on her phone

Note Date: 02/02/2011 10:11 AM Jason Bergevin

Assigned to:

Completed

---

**LANCASTER COUNTY  
APPLICATION FOR FAMILY OR MEDICAL LEAVE**

Name of Employee: \_\_\_\_\_

Social Security Number: \_\_\_\_\_

Department: \_\_\_\_\_

Home Address: Street: \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_

Start Date of Anticipated Leave: \_\_\_\_\_

Expected Date of Return to Work: \_\_\_\_\_

Reason for Leave (Mark One):

\_\_\_\_\_ A serious health condition that renders me unable to perform the essential functions of my job; or

\_\_\_\_\_ A serious health condition affecting my \_\_\_ spouse, \_\_\_ child, or \_\_\_ parent for which I am needed to provide care; or

\_\_\_\_\_ The birth of a child, or the placement of a child with me for adoption or foster care.

**Note:** A leave request based upon an employee's serious health condition or the serious health condition of an employee's spouse, child or parent must be accompanied by a verifying medical certification from a health care provider.

I hereby authorize Lancaster County to contact my health care provider to verify the reason for my requested leave, or to authenticate and/or clarify any information contained in my medical certification statement concerning my requested family and medical leave.

I understand that to maintain my health insurance benefits during this leave I must continue to pay my share of my health insurance as it comes due.

I understand that failure to return to work at the end of my leave period may be treated as a resignation unless an extension has been agreed upon and approved in writing by Lancaster County.

Employee's Signature: \_\_\_\_\_ Date: \_\_\_\_\_

Approved By:

\_\_\_\_\_  
Department Head or Designee

\_\_\_\_\_  
Date

\_\_\_\_\_  
Personnel Director

\_\_\_\_\_  
Date

**FAMILY & MEDICAL LEAVE  
MEDICAL CERTIFICATION STATEMENT  
(EMPLOYEE'S Own Serious Health Condition)  
TO BE COMPLETED BY HEALTH CARE PROVIDER**

**HEALTH CARE PROVIDER:** Please keep in mind this form is to be completed to reflect the period of time the employee is to be off work. Answer, fully and completely, all applicable parts. Your answer should be your best estimate based upon your medical knowledge, experience, and examination of the patient. Be as specific as you can; terms such as "lifetime," "unknown," or "indeterminate" may not be sufficient to determine FMLA coverage. Limit your responses to the condition for which the employee is seeking leave.

1. Name of employee: \_\_\_\_\_
2. Date condition began: \_\_\_\_\_ Or Date of Surgery: \_\_\_\_\_
3. Expected date of return to work due to this condition: \_\_\_\_\_ Or next scheduled appointment: \_\_\_\_\_
4. a. The opposite page describes what is meant by a "serious health condition" under the Family and Medical Leave Act. Does the employee's condition qualify under any of the categories described. If so, please check the appropriate category.  
(1)  (2)  (3)  (4)  (5)  (6) , or None of the above
- b. If you checked #2 in (a) above – Dates you have treated the patient for this condition:  
DATE: \_\_\_\_\_ DATE: \_\_\_\_\_ DATE: \_\_\_\_\_
5. Describe the medical facts that support your certification, including a brief statement as to how the medical facts meet the criteria of the category indicated above.  
\_\_\_\_\_  
\_\_\_\_\_  
a. If the condition is for pregnancy, please indicate expected due date for delivery: \_\_\_\_\_  
b. If the condition is for pregnancy, please indicate how long **after** delivery the employee needs to remain off work: \_\_\_\_\_
6. Describe the regimen of treatment to be prescribed (Indicate the number of visits, general nature and duration of treatment, including referral to other provider for health services.)  
a. By primary health care provider: \_\_\_\_\_  
b. By another health care provider, if referred by you: \_\_\_\_\_
7. Describe the employee's ability to work. (**Answer the following after reviewing the essential functions of the employee's position, or, if none provided, after discussing with the employee.**)  
a. If medical leave is required for the employee's absence from work because of the employee's own serious health condition, is the employee able to work?  YES  NO  
b. If able to perform some work, is the employee able to perform all of the essential functions of the employee's job?  YES  NO If no, list the essential functions the employee is *unable* to perform.  
\_\_\_\_\_  
\_\_\_\_\_
8. a. Will the employee need to attend follow-up treatment appointments or work part-time or on a reduced or intermittent schedule because of the employee's medical condition?  YES  NO  
b. Estimate treatment schedule, if any, including the dates of any scheduled appointments and the time required for each appointment, including any recovery period: \_\_\_\_\_  
c. Estimate the part-time or reduced work schedule the employee needs, if any:  
\_\_\_\_\_ Hour(s) per day; \_\_\_\_\_ Days per week from \_\_\_\_\_ through \_\_\_\_\_  
d. If the medical condition will cause episodic flare-ups preventing the employee from performing his/her job duties, estimate the following:  
Frequency: \_\_\_\_\_ times per \_\_\_\_\_ week(s) \_\_\_\_\_ month(s)  
Duration: \_\_\_\_\_ hours or \_\_\_\_\_ day(s) per episode

Printed Name \_\_\_\_\_

Type of Practice \_\_\_\_\_

Signature of Health Care Provider \_\_\_\_\_

Date \_\_\_\_\_

Telephone Number \_\_\_\_\_

A "**Serious Health Condition**" means an illness, injury, impairment, or physical or mental condition that involves one of the following:

1. **Hospital Care** Inpatient care (i.e., an overnight stay) in a hospital, hospice, or residential medical care facility, including any period of incapacity [FN1] or subsequent treatment in connection with or consequent to such inpatient care.

2. **Absence Plus Treatment** A period of incapacity [FN1] of more than three consecutive calendar days (including any subsequent treatment or period of incapacity [FN1] relating to the same condition), that also involves:

(1) Treatment [FN2] two or more times by a health care provider, within 30 days of the first day of incapacity, unless extenuating circumstances exist, by a nurse or physician's assistant under direct supervision of a health care provider, or by a provider of health care services (e.g., physical therapist) under orders of, or on referral by, a health care provider; or

(2) Treatment by a health care provider on at least one occasion which results in a regimen of continuing treatment [FN3] under the supervision of the health care provider. (i) The requirements of paragraphs 2.(1) and 2.(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.

3. **Birth of a Child/Pregnancy** Any period of incapacity due to pregnancy, birth of a child, or placement of a child for adoption or foster care, or for prenatal care.

4. **Chronic Conditions Requiring Treatments** A chronic condition which:

(1) Requires periodic visits (defined as at least twice a year) for treatment by a health care provider, or by a nurse or physician's assistant under direct supervision of a health care provider;

(2) Continues over an extended period of time (including recurring episodes of a single underlying condition); and

(3) May cause episodic rather than a continuing period of incapacity [FN1] (e.g., asthma, diabetes, epilepsy, etc.).

5. **Permanent/Long-term Conditions Requiring Supervision** A period of incapacity [FN1] which is permanent or long-term due to a condition for which treatment may not be effective. The employee or family member must be under the continuing supervision of, but need not be receiving active treatment by, a health care provider. Examples include Alzheimer's, a severe stroke, or the terminal stages of a disease.

6. **Multiple Treatments (Non-Chronic Conditions)** Any period of absence to receive multiple treatments (including any period of recovery therefrom) by a health care provider or by a provider of health care services under orders of, or on referral by, a health care provider, either for restorative surgery after an accident or other injury, or for a condition that would likely result in a period of incapacity [FN1] of more than three consecutive calendar days in the absence of medical intervention or treatment, such as cancer (chemotherapy, radiation, etc.), severe arthritis (physical therapy), kidney disease (dialysis).

[FN1] "Incapacity," for purposes of FMLA, is defined to mean inability to work, attend school or perform other regular daily activities due to the serious health condition, treatment therefor, or recovery therefrom.

[FN2] Treatment includes examinations to determine if a serious health condition exists and evaluations of the condition. Treatment does not include routine physical examinations, eye examinations, or dental examinations.

[FN3] A regimen of continuing treatment includes, for example, a course of prescription medication (e.g., an antibiotic) or therapy requiring special equipment to resolve or alleviate the health condition. A regimen of treatment does not include the taking of over-the-counter medications such as aspirin, antihistamines, or salves; or bed-rest, drinking fluids, exercise, and other similar activities that can be initiated without a visit to a health care provider.

**FAMILY & MEDICAL LEAVE — MEDICAL CERTIFICATION STATEMENT**  
**(FAMILY MEMBER'S Serious Health Condition)**  
**TO BE COMPLETED BY HEALTH CARE PROVIDER**

**INSTRUCTIONS TO THE HEALTH CARE PROVIDER:** Answer, fully and completely, all applicable parts below. Your answer should be your best estimate based upon your medical knowledge, experience, and examination of the patient. Be as specific as you can; terms such as "lifetime," "unknown," or "indeterminate" may not be sufficient to determine FMLA coverage. Limit your responses to the condition for which the patient needs leave.

1. Name of employee: \_\_\_\_\_
2. Name of patient: First \_\_\_\_\_ Last \_\_\_\_\_  
Relation to employee: \_\_\_\_\_
3. Date condition began: \_\_\_\_\_
4. Expected duration of the condition: \_\_\_\_\_
5. Is the medical condition pregnancy? \_\_\_\_\_ NO \_\_\_\_\_ YES If so, expected delivery date: \_\_\_\_\_
6. a. The opposite page describes what is meant by a "serious health condition" under the Family and Medical Leave Act. Does the patient's condition qualify under any of the categories described. If so, please check the appropriate category.  
(1) \_\_\_\_\_ (2) \_\_\_\_\_ (3) \_\_\_\_\_ (4) \_\_\_\_\_ (5) \_\_\_\_\_ (6) \_\_\_\_\_, or None of the above \_\_\_\_\_  
b. If you checked #2 in (a) above – Dates you have treated the patient for this condition:  
DATE: \_\_\_\_\_ DATE: \_\_\_\_\_ DATE: \_\_\_\_\_
7. Describe the medical facts that support your certification, including a brief statement as to how the medical facts meet the criteria of the category indicated above. \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_
8. Does the patient require assistance for basic medical or personal needs or safety, or for transportation? \_\_\_\_\_ NO \_\_\_\_\_ YES.  
If no, would the employee's presence to provide psychological comfort be beneficial to the patient or assist in the patient's recovery?  
\_\_\_\_\_ NO \_\_\_\_\_ YES.
9. Estimate the period of time care is needed or the employee's presence would be beneficial. \_\_\_\_\_  
\_\_\_\_\_
10. Will the patient require care on an intermittent or reduced schedule basis, including any time for recovery? \_\_\_\_\_ NO \_\_\_\_\_ YES  
Estimate the hours the patient needs care on an intermittent basis, if any:  
\_\_\_\_\_ hour(s) per day; \_\_\_\_\_ days per week from \_\_\_\_\_ through \_\_\_\_\_
11. Explain the care needed by the patient, and why such care is medically necessary: \_\_\_\_\_  
\_\_\_\_\_

Printed Name of Health Care Provider

Type of Practice

Signature of Health Care Provider

Telephone Number

Date

Address

**To Be Completed By the Employee Needing Family Leave to Care for a Family Member:**

State the care you will provide and an estimate of the period during which care will be provided, including a schedule if leave is to be taken intermittently or if it will be necessary for you to work less than a full schedule. (Attach additional pages if necessary.)

Employee's Signature

Date



A "**Serious Health Condition**" means an illness, injury, impairment, or physical or mental condition that involves one of the following:

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2. **Absence Plus Treatment** A period of incapacity [FN1] of more than three consecutive calendar days (including any subsequent treatment or period of incapacity [FN1] relating to the same condition), that also involves:

(1) Treatment [FN2] two or more times by a health care provider, within 30 days of the first day of incapacity, unless extenuating circumstances exist, by a nurse or physician's assistant under direct supervision of a health care provider, or by a provider of health care services (e.g., physical therapist) under orders of, or on referral by, a health care provider; or

(2) Treatment by a health care provider on at least one occasion which results in a regimen of continuing treatment [FN3] under the supervision of the health care provider. (i) The requirements of paragraphs 2.(1) and 2.(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.

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(2) Continues over an extended period of time (including recurring episodes of a single underlying condition); and

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**LANCASTER COUNTY  
NOTICE OF INTENTION TO RETURN TO WORK**

This form is to be completed by your health care provider no more than one week prior to your scheduled return to work, and must be submitted to your department head at least 2 working days prior to your planned return.

Name of Employee: \_\_\_\_\_

Social Security Number: \_\_\_\_\_

Supervisor: \_\_\_\_\_

Date Leave Commenced: \_\_\_\_\_

Date of Planned Return: \_\_\_\_\_

I understand that my restoration to employment is subject to the following conditions:

1. Where leave was granted based upon my own serious health condition, as a condition of restoration to my employment, I must provide a written certification from my health care provider stating that I am able to resume working.
2. Every attempt will be made to restore me to my original position. If my original position is unavailable, I understand I will be placed in an equivalent position with equivalent pay and benefits.
3. I understand that as an employee returning from family and medical leave I will not be entitled to accrual of any seniority or employment benefits during the period of leave.

Employee's Signature: \_\_\_\_\_ Date: \_\_\_\_\_

**FITNESS FOR DUTY CERTIFICATION OF HEALTH CARE PROVIDER**

I have examined said employee and can certify that she/he is fully able to resume working

on \_\_\_\_\_  
Date

Health care provider's signature: \_\_\_\_\_ Date: \_\_\_\_\_

# Personnel Policy Bulletin

Lancaster County

Number: 2001-2

Date: June, 2001

Reference:	Title:
<ul style="list-style-type: none"><li>— Lancaster County Personnel Rules 2.3 (c) Unlawful Acts Prohibited</li><li>— Civil Rights Act of 1991</li><li>— Age discrimination in Employment Act</li><li>— Americans With Disabilities Act</li><li>— Supercedes Policy Bulletin 2000-1</li></ul>	Harassment based on sex, national origin, disability, race, religion or age.

## HARASSMENT IN EMPLOYMENT

- I. Policy Statement. It is the policy of the Lancaster County that all employees are entitled to a workplace free of harassment and that all employees will treat each other with courtesy, dignity and respect. Harassment in the workplace is a form of discrimination and is prohibited by state and federal law. This policy addresses harassment based upon race, color, national origin, religion, age, disability and sex, as well as harassment resulting from an individual's opposition to discrimination or participation in complaint proceedings. All harassment complaints will be taken seriously and will be investigated appropriately. Corrective action will be taken as warranted by the facts.
- II. Scope. This policy applies to all County employees in the classified and unclassified service. This policy also applies to members of the public, contractors, customers or other persons conducting business with the County or on County owned or leased property.
- 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. Such conduct does not have to be addressed toward the complaining party. In third party situations, the victim does not have to be the person harassed but could be anyone affected by the offensive conduct of others.
  - A. Sexual Harassment. Unwelcome sexual advances, requests for sexual favors, and other verbal, physical or visual conduct of a sexual nature constitute sexual harassment when:
    1. Submission to such conduct is either an explicit or implicit term or condition of employment; or
    2. Submission to or rejection of such conduct is used as a basis for employment decisions affecting the person involved; or
    3. Such conduct has the purpose or effect of substantially interfering with an individual's work performance or creating an intimidating, hostile or offensive working environment. Hostile environment sexual harassment is defined as unwelcome sexual conduct that is sufficiently severe or pervasive that it alters the conditions of employment and creates an environment that a reasonable person would find intimidating, hostile, offensive or humiliating. This definition goes beyond casual, infrequent or isolated instances.

# Personnel Policy Bulletin

Lancaster County

Number: 2001-2

Date: June, 2001

Reference:	Title:
— Lancaster County Personnel Rules 2.3 (c) Unlawful Acts Prohibited — Civil Rights Act of 1991 — Age discrimination in Employment Act — Americans With Disabilities Act — Supercedes Policy Bulletin 2000-1	Harassment based on sex, national origin, disability, race, religion or age.

B. Sexual Intimidation. Unreasonable behavior, verbal or non-verbal, which has the effect of subjecting members of either sex to humiliation, embarrassment or discomfort because of their gender.

Examples of sexual harassment or behavior that constitutes a hostile working environment based on gender include, but are not limited to the following: verbal harassment, abuse or teasing of a sexual nature, including the use of sexually offensive language, characterizations or humor; subtle pressure or requests for sexual activity; unnecessary touching of an individual, e.g., patting, pinching, hugging, repeated brushing up against another employee's body; leering or ogling at an individual; requesting or demanding sexual favors accompanied by implied or overt threats concerning an individual's employment status; or requesting or demanding sexual favors accompanied by implied or overt promise of preferential treatment with regard to an individual's employment status.

C. Harassment Based on National Origin, Race, Color, Religion, Disability, or Age. This type of harassment consists of conduct that creates or perpetuates a hostile working environment based on national origin, race, color, religion, disability or age. A hostile working environment is defined as vicious, offensive, frequent and reprehensible instances of harassment constituting a concerted pattern of harassment. This definition goes beyond casual, infrequent or isolated instances. Examples of conduct which may create a hostile working environment may include such actions as verbal harassment or abuse, posting or distributing derogatory bulletins, pictures, or cartoons, or offensive language, characterizations or humor.

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.

V. Reporting. Individuals who believe they have experienced or witnessed harassment or related retaliation, should report it to his/her supervisor or department head immediately. Individuals who do not feel comfortable reporting harassment to their supervisors or department heads should report the harassment or related retaliation to the City-County Personnel Director, the Affirmative Action Officer, County Board Member, or other person of authority if those listed are unavailable. Complaints may be either written or verbal.

Allegations of harassment or related retaliation shall be investigated and dealt with in a fair, unbiased and timely manner. If the complaint is found to be invalid, all involved parties will be so notified. If

# Personnel Policy Bulletin

Lancaster County

Number: 2001-2

Date: June, 2001


Reference:	Title:
<ul style="list-style-type: none"><li>— Lancaster County Personnel Rules 2.3 (c)</li><li>— Unlawful Acts Prohibited</li><li>— Civil Rights Act of 1991</li><li>— Age discrimination in Employment Act</li><li>— Americans With Disabilities Act</li><li>— Supercedes Policy Bulletin 2000-1</li></ul>	Harassment based on sex, national origin, disability, race, religion or age.

the complaint is found to have merit, corrective action will be implemented. Such action shall include but is not limited to eliminating any prohibited conduct or conditions, and imposing appropriate disciplinary sanctions up to and including suspension, demotion, or termination of employment.

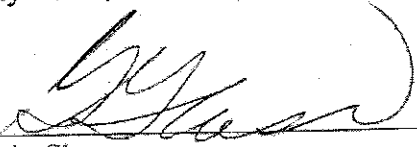
- VI. Duty to Report. Supervisors and administrators who knowingly condone, fail to report, or fail to take action to remedy incidents of harassment or retaliation may themselves be subject to discipline.
- VII. Confidentiality. Confidentiality is required so individuals feel free to come forward and so that reputations may be protected. Confidentiality is important to the fair investigation of a harassment complaint and all parties to the complaint are encouraged to maintain confidentiality at all times.

However, complete confidentiality cannot be guaranteed in all instances. In order to conduct an effective investigation and, when necessary, to impose appropriate sanctions, it may be necessary to reveal information regarding the complaint to the alleged harasser and potential witnesses. Appropriate supervisors will be informed about the progress of the complaint and/or investigation strictly on a need to know basis.

- VIII. Retaliation Prohibited. This policy is intended to encourage individuals to report incidents of harassment. Retaliation against an individual for reporting or complaining of harassment or enforcing this policy is strictly prohibited. For purposes of this policy, retaliation means adverse actions against individuals because they have, in good faith, reported instances of harassment or alleged harassment, or participated in or have been witnesses in any procedure to redress a complaint of harassment.

  
Kathy Campbell, Chair  
County Board of Commissioners

6-20-01  
Date

  
Georgia Glass  
Personnel Director

6-21-01  
Date

PS2744CO

# R E C E I P T

FOR

**LANCASTER COUNTY PERSONNEL POLICY BULLETIN**

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**HARASSMENT POLICY**

**Number 2001-2**

I hereby acknowledge that I have received and read a copy of the County's Harassment Policy, Personnel Policy Bulletin No. 2001-2.

\_\_\_\_\_  
Print Name

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Social Security Number

\_\_\_\_\_  
Department

\_\_\_\_\_  
Date

**Please forward completed form to the Personnel Department.**

# Personnel Policy Bulletin

Lancaster County

Number: 2001-5

Date: November, 2001

Reference:	Title:
Personnel Rule 10.5 Americans with Disabilities Act of 1990 Supersedes Personnel Policy Bulletin 88-2	LANCASTER COUNTY INFECTIOUS DISEASE POLICY

## Definition:

Infectious disease refers to persistent conditions which are communicable in nature and are able to produce serious illness in another person. The nature of the infectious disease and its means of transmission must be considered for each specific illness.

## Policy:

The County recognizes its responsibility for providing a safe environment for employees. The County bases all procedures for management of infectious disease on the current recommendations of the Centers for Disease Control.

All blood and body fluids should be considered infectious and persons coming in contact with these fluids should take recommended precautions. The City/County Health Department will assess the risk of any infectious disease and authorize any appropriate vaccination if necessary.

Employees with infectious disease are subject to the same working conditions and performance requirements as any other employee. If an employee is unable to perform assigned duties, a Department Head request for medical evaluation may be required to determine fitness for work. Such examination would be at the expense of the County and performed on business time by a physician selected by the County. Employees with infectious disease are entitled to personnel benefits to the extent they are otherwise eligible subject to any disqualifications by life and health insurance companies and equal employment opportunity policies to the extent provided for in federal and/or state law.

## Employment Duties and Responsibilities:

Employment decisions should be made on the basis of the job related criteria. No employee or applicant who is qualified and able to perform their job responsibilities without threatening the safety of themselves or others will be denied employment, deprived of employment benefits, denied promotions or be discharged as a result of a diagnosis of an infectious disease.

# Personnel Policy Bulletin

Lancaster County

Number: 2001-5

Date: November, 2001

Reference:	Title:
Personnel Rule 10.5 Americans with Disabilities Act of 1990 Supersedes Personnel Policy Bulletin 88-2	LANCASTER COUNTY INFECTIOUS DISEASE POLICY

No Department, Board or Agency shall require routine screening of employees or applicants for the antibody to the AIDS virus as a requirement of employment.

If their condition affects their ability to perform assigned duties, employees with infectious disease are to be treated as any other disabled employee in accordance with the Americans with Disabilities Act and any other applicable federal and/or state law.

Any employee who is diagnosed as having an infectious disease which may, according to the Center of Disease Control recommendations, be transmitted in the work place should inform his/her supervisor of such within a reasonable time after diagnosis with a written statement from their physician documenting the employee's ability or inability to perform assigned duties without transmitting that infectious disease. In this regard, one (1) calendar day or prior to the next scheduled work shift is considered to be reasonable time.

When the Department Head or Personnel Director has a reasonable cause to believe that an employee is unable to perform duties or is endangering the health and safety of others because of an infectious disease, he/she may request a medical exam to clarify the employee's status and to guide future decisions regarding the employee. The results of such a medical exam will be held strictly confidential. To insure strict confidentiality such information should be limited to the Department Head, Personnel Director and employee with the exception that the County Attorney may be consulted should the situation warrant. All records of such exam must be kept in a file separate from all other personnel files in accordance with the Americans with Disabilities Act.

Employees with infectious disease are entitled to all employment benefits to the extent they are otherwise eligible subject to any disqualifications by life and health insurance companies.

## Work Place Safety:

Should an employee(s) express concern over personal safety and health because of a person with an infectious disease in the work place, supervisory staff will contact the City-County Health Department for specific information and recommended precautions.



# Personnel Policy Bulletin

Lancaster County


Number: 2001-5

Date: November, 2001

Reference:	Title:
Personnel Rule 10.5 Americans with Disabilities Act of 1990 Supersedes Personnel Policy Bulletin 88-2	LANCASTER COUNTY INFECTIOUS DISEASE POLICY

This information should be shared or presented to employees in that Department as appropriate. An employee who refuses to work because of their belief that such work puts them at risk of exposure to infectious disease, when reasonable risk cannot be demonstrated, should be advised that such action constitutes an unwarranted fear and should be instructed to proceed with his/her job responsibilities. The supervisor should also direct the employee to knowledgeable professionals who can discuss etiology, transmission, and employee concerns. Similarly all staff shall carry out their assigned duties so as to insure that all services are provided.

Employees should be advised that refusal to work with a person with an infectious disease is not a valid excuse from completing work responsibilities if/when no reasonable risk of disease transmission can be demonstrated. If an employee fails to execute his/her normally assigned duties following a lawful order to do so, the Department Head may proceed with appropriate disciplinary action as authorized by these rules and/or appropriate labor contract. Adequate documentation to support disciplinary action taken against an employee shall be maintained in the Department's Personnel files as well as the City-County Personnel files.

  
\_\_\_\_\_  
Georgia Glass, Personnel Director

11-9-01  
\_\_\_\_\_  
Date

RUY128

# Personnel Policy Bulletin

Lancaster County

Number: 99-1

Date: June, 1999

Reference:	Title:
	INTERNET AND E-MAIL USAGE POLICY

## INTERNET AND E-MAIL USAGE POLICY

Effective performance of computer and telecommunications networks, whether local or global, relies upon users adhering to established standards of proper conduct. This policy sets forth general principles to be applied to all county employees who access the Internet and/or e-mail services by using county computer equipment or via county paid access methods.

Internet access is a county resource and electronic mail messages are considered county work product. These services are publicly funded and should be used to facilitate county business. **Any employee found abusing the privilege of Internet access or electronic mail use will be subject to discipline up to and including possible termination of employment.**

### *Internet Use:*

1. Use of Internet resources must be related to organizational objectives and be consistent with Lancaster County business.
2. Users must abide by copyright, contract or other local, state, or federal laws, county resolutions and individual county departmental policies.
3. Use of Internet resources for commercial use is prohibited.
4. Internet accounts shall be accessed only by the authorized owner of the account. Confidentiality of passwords and user accounts must be protected. Individual users can be held accountable for use of their account by others.
5. Intentional use of Internet resources to access, transmit or retrieve any material or communications that are obscene, pornographic or sexually explicit; of a discriminatory or harassing nature or which are derogatory to any individual or group; or are threatening in nature is prohibited, except where such use is job-related. (e.g. law enforcement investigation).
6. Intentional use of the Internet to access, transmit or download files that are knowingly dangerous to the integrity of the network is prohibited.

# Personnel Policy Bulletin

Lancaster County

Number: 99-1

Date: June, 1999

Reference:	Title:
	INTERNET AND E-MAIL USAGE POLICY

7. The County reserves the right, in its discretion, to monitor Internet usage patterns to the extent necessary to ensure that the system is being used in compliance with this policy and other local, state or federal laws: (e.g. site accessed, on-line length, times of day accessed).

### *E-mail Use and Privacy Issues:*

1. Electronic mail is a county resource and is provided as a business communication tool.
2. The County reserves the right, in its discretion, to review any employee's electronic work product and messages and resource usage to the extent necessary to ensure that the system is being used in compliance with this policy and any other local, state or federal law. Such review will only be allowed by authorized personnel.
3. All users of e-mail should be aware that confidentiality of electronic mail cannot be assured and that any communications which need to remain confidential should not be sent over county provided e-mail systems. People tend to speak freely through e-mail because they falsely assume their messages are private and will be read only by the person receiving it. Even when an e-mail message is erased, it is still retained for a period of time. There are now firms in existence that specialize in finding incriminating or sensitive information in computer systems, including files deleted months or years prior, that still reside inside backup tapes, diskettes or hard drives.

### *E-mail Etiquette* - Users of E-mail should consider the following guidelines when sending E-mails:

1. Do not send offensive jokes, frivolous messages or anything which is or could be construed as discriminatory in nature.
2. Do not write anything you do not want repeated. E-mail can be forwarded to hundreds of people within or outside of the City or County.
3. Protect your password and always log off when not using the system.
4. Ask yourself: Would I want a member of the public or a jury to read this E-mail message?

# Personnel Policy Bulletin


Lancaster County

Number: 99-1

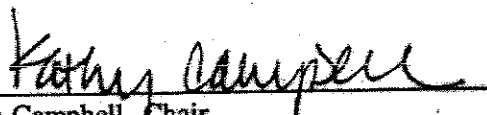
Date: June, 1999

Reference:	Title:
	INTERNET AND E-MAIL USAGE POLICY

Management and users of Internet and electronic mail are jointly responsible for understanding the terms of this policy and monitoring the continued applicability of this resource to the user's assigned duties and responsibilities. Violations of this policy should be reported to the employee's supervisor, Department Head or the Director of Personnel.

  
Georgia Glass, Personnel Administrator

6-14-99  
Date

  
Kathy Campbell, Chair  
Board of County Commissioners

June 15, 1999  
Date

INTERNET.WPD

# R E C E I P T

FOR

## LANCASTER COUNTY PERSONNEL POLICY BULLETIN

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### INTERNET AND E-MAIL USAGE POLICY

Number 99-1

*To be filled out by each employee whose job allows Internet and/or E-Mail access.*

I hereby acknowledge that I have received and read a copy of the County's Internet and E-mail Usage Policy, Personnel Policy Bulletin No. 99-1.

\_\_\_\_\_  
Print Name

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Social Security Number

\_\_\_\_\_  
Department

\_\_\_\_\_  
Date

**Please forward completed form to the Personnel Department.**

# Personnel Policy Bulletin

Lancaster County

Number: 2009-2

Date: August, 2009

Reference:	Title:
Supercedes Personnel Policy Bulletin 98-1 Nebraska Revised Statutes §§ 60-6,196 - 60-6,211.05	LOSS OF DRIVING PRIVILEGES POLICY

Many positions in the classified service of Lancaster County require possession of a valid, current Nebraska motor vehicle operator's license to engage in the operation of a County vehicle as a regular part of the job. Each employee holding a position for which a valid, current motor vehicle operator's license is required has the responsibility to report the loss of an operator's license and/or driving privileges as soon as such loss occurs. ***Failure to promptly report the loss of driving privileges will result in discipline up to and including termination.*** This applies ***any time driving privileges are revoked, suspended or limited in any way by any court or the Nebraska Department of Motor Vehicles or any other administrative agency of the State of Nebraska or any other state or jurisdiction.***

Lancaster County realizes that on occasion employees may temporarily lose their driving privileges. It is the County's desire to assist such employees and to protect the County's investment in trained and experienced personnel. In this regard, Lancaster County is prepared to make certain accommodations when it is possible.

The following guidelines shall be effective on the date of execution by the Lancaster County Board of Commissioners and the Personnel Director:

1. If an employee who is in a position which requires the possession of a valid motor vehicle operator's license to satisfactorily perform the duties of the job loses his/her motor vehicle operating license for a specific period of time; and if the employee promptly reports such loss to his/her supervisor; then management will meet with that employee and review all the circumstances surrounding such loss.
2. When an employee promptly reports the loss of his/her motor vehicle operating license to his/her supervisor, or the department discovers the loss of driving privileges otherwise, the department head shall notify the County's Risk Manager. The Risk Manager shall subsequently notify the County's automobile insurance provider of the employee's loss of driving privileges.
3. In accordance with Nebraska Revised Statutes §§ 60-6,196 through 60-6,211.05, an employee whose position does not require a commercial driver's license (CDL) and who is subject to automatic license revocation for 90 days must apply for and receive an employment driving permit after 30 days in order to drive while at work pending a final determination by the court. The ability to drive at work with an employment driving permit is contingent upon being insurable under the County's automobile insurance policy. An employee whose position does require a commercial drivers license (CDL) is not eligible for an employment driving permit (See Nebraska Revised Statutes § 60-4,129) and must therefore obtain leave in accordance with Paragraph 4 below.
4. If the loss of operating privileges is for a period of time of 90 days or less including the automatic license revocation period, the employee will be relieved of duty for the duration of the loss unless the employee is eligible to receive a driving permit and the employee is insurable under the County's automobile insurance policy. The employee will be allowed to utilize accrued

# Personnel Policy Bulletin

Lancaster County

Number: 2009-2

Date: August, 2009

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Supercedes Personnel Policy Bulletin 98-1 Nebraska Revised Statutes §§ 60-6,196 - 60-6,211.05	LOSS OF DRIVING PRIVILEGES POLICY

vacation time and personal holidays during the time the employee is relieved of duty. Additionally, if the loss is the result of a DUI conviction and the employee is attending as scheduled treatment with a certified alcohol and drug counselor, licensed mental health professional or medical practitioner while relieved of duty or the loss is related to a temporary medical disability, accrued sick leave may be utilized by the employee. The balance of the duration of the loss not covered by vacation and/or sick leave may be covered by a county-approved leave without pay when requested in writing by the employee.

5. If the loss of operating privileges is for a period of time longer than 90 days including the automatic license revocation period, the employee will be relieved from duty and will be subject to separation from the County service upon satisfaction of all necessary administrative requirements, except as provided in Paragraph (6). Likewise, if an employee is not insurable under the County's automobile insurance policy for a period of time longer than 90 days, the employee will be relieved from duty and subject to separation from the County service upon satisfaction of all necessary administrative requirements, except as provided by Paragraph (6).

6. If the loss of operating privileges is for longer than 90 days, or if the employee is not insurable under the County's automobile insurance policy for a period of time longer than 90 days, and there exist vacant positions within the County service, the employee will be allowed to make application for those positions for which he/she possesses all the current necessary qualifications whether the positions applied for are in higher or lower classifications or would constitute a lateral transfer. Additionally, if the loss of license is for 90 days or less and the employee does not wish to utilize the provisions of Paragraph (4) herein, the employee may apply to vacant positions within the County service for which he/she possesses all the current necessary qualifications whether the positions applied for are in higher or lower classifications or would constitute a lateral transfer. In the event the employee has demoted, the employee will not be able to move back to their previous position of employment until there is an opening in the higher classification, the employee's driving privileges have been restored, the employee is insurable under the County's automobile insurance policy, and the employee has applied for the position in the higher classification. Applications for vacant positions made in accordance with this paragraph will be reviewed on an equal basis with all other applications and no special consideration will be given to any current employee who has suffered a license suspension or revocation.

  
Bernie Heier, Chair  
County Board of Commissioners

8/18/09  
Date

  
Mark A. Koller  
Personnel Director

8.19.09  
Date

# Personnel Policy Bulletin

Lancaster County

Number: 2009-3

Date: April, 2009

Reference:	Title:
Family and Medical Leave Act of 1993 (FMLA), as amended, and 29 C.F.R. Part 825	<b>MILITARY FAMILY LEAVE UNDER THE FAMILY AND MEDICAL LEAVE ACT</b>

1. Purpose. The purpose of this policy is to define Lancaster County's procedure with regard to Military Family Leave in accordance with the provisions of the Family and Medical Leave Act (FMLA) of 1993 and the federal regulations pertaining thereto.
2. Eligibility. Employees who have been employed for at least one year, and for at least 1,250 hours during the preceding 12-month period, may be eligible for either 12 weeks of call to duty leave per twelve month period, or 26 weeks of leave to care for injured service members during a single 12-month period.
3. Leave Period. The period for taking Military Family Leave shall be measured forward from the first date an employee takes leave and shall expire twelve months thereafter.
4. Reasons for Leave.
  - A. Call to Duty Leave - An eligible employee is entitled to a total of 12 weeks because of any "qualifying exigency" arising out of the fact that the spouse, son, daughter, or parent of the employee is on active duty, or has been notified of an impending call or order to active duty, in the Armed Forces in support of a contingency operation.
    1. "Qualifying exigency" includes the following categories:
      - a. Short-notice deployment (leave taken for this purpose can be used for a period of 7 calendar days beginning on the date a covered military member is notified of an impending call or order to active duty);
      - b. Military events and related activities (including family support or assistance programs and informal briefings);
      - c. Childcare and school activities (e.g., to arrange for alternative childcare, provide childcare on an urgent, immediate-need basis or to attend meetings at a school or daycare facility);
      - d. Financial or legal arrangements (e.g., to prepare and execute powers of attorney, enroll for military health care or to prepare a will or living trust);
      - e. Counseling (non-medical, for oneself, the military member, or a child);
      - f. Rest and recuperation (e.g., to spend time with a covered military member who is on short-term, temporary, rest and recuperation leave during the period of deployment; eligible



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- employees may take up to 5 days of leave for each instance of rest and recuperation); and
- g. Post-deployment activities (e.g., to attend ceremonies and briefings for a period of 90 days or to address issues arising from the military member's death).
  2. This period of leave is available during any 12-month period.
  3. This period of leave also includes leave for other circumstances covered by the already existing 12 weeks of FMLA leave, as provided in Personnel Policy Bulletin 2009-1. For example, if an employee takes two weeks of call to duty leave, he or she would only have 10 weeks of FMLA leave remaining for all other purposes during that 12-month period.
- B. Care for Injured Service Member Leave - An eligible employee who is the spouse, son, daughter, parent, or next of kin of a covered service member who is recovering from a serious illness or injury sustained in the line of duty on active duty is entitled to a combined total of 26 weeks of leave during a single 12-month period to care for the service member.
1. This period of leave shall only be available once during a single 12-month period. If an eligible employee does not utilize all of his or her 26 workweeks of leave entitlement to care for a covered service member during this "single 12-month period," the remaining part of his or her 26 workweeks of leave entitlement to care for the covered service member is forfeited.
  2. The leave entitlement in this section is to be applied on a per-covered service member, per-injury basis such that an eligible employee may be entitled to take more than one period of 26 workweeks of leave if the leave is to care for different covered service members or to care for the same service member with a subsequent serious injury or illness, except that no more than 26 workweeks of leave may be taken within any "single 12-month period."
  3. This period of leave also includes leave for other circumstances covered by the already existing 12 weeks of FMLA leave, as provided

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in Personnel Policy Bulletin 2009-1. For example, an employee might qualify for 12 weeks of non-military related FMLA leave for his or her own serious health condition, and an additional 14 weeks of FMLA leave to care for a covered service member. However, in no circumstances will an employee have leave protection for more than a combined total of 26 weeks during a 12-month period. Additionally, in no circumstances will an employee take more than 12 weeks of non-military related FMLA leave, even if the employee takes fewer than 14 weeks of FMLA leave to care for an covered service member.

5. Active Duty Defined. Active duty means duty under a call or order to active duty (or notification of an impending call or order to active duty) in support of a contingency operation. Covered military members on active duty include members of the reserve components (Army National Guard, Army Reserve, Marine Corps Reserve, Air National Guard, Air Forces Reserve, and Coast Guard Reserve), or a retired member of the Regular Armed Forces. A call to active duty for purposes of leave taken because of a qualifying exigency refers to a Federal call to active duty, not a State call to duty. Active duty excludes reservists who are injured in the course of performing their regular reserve duties, such as monthly weekend service or during their two weeks of annual training. (See, 29 C.F.R. 825.126(b)(2)).
6. Contingency Operation Defined. A military operation qualifies as a contingency operation if it (i) is designated by the Secretary of Defense as an operation in which members of the armed forces are or may become involved in military action, operations, or hostilities against an enemy of the United States or against an opposing military force; or (ii) results in the call or order to, or retention on, active duty of members of the uniformed services under Section 688, 12301(a), 12302, 12304, 12305, or 12406 of Title 10 of the United States Code, Chapter 15 of Title 10 of the United States Code, or any other provision of law during a war or during a national emergency declared by the President or Congress. (See, 29 C.F.R. 825.126(b)(3)).
7. Covered Service Member. Covered service member means a member of the Armed Forces, including a member of the National Guard or Reserves, who is undergoing medical treatment, recuperation, or therapy, is otherwise in outpatient status, or is otherwise on the temporary disability retired list, for a serious injury or illness. Eligible employees may not take leave under Paragraph 4(B) to care for former members of the Armed Forces, former members of the National Guard and Reserves, and members on the permanent disability retired list. (See, 29 C.F.R. 825.127(a)).

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8. Outpatient Status. Outpatient status, with respect to a covered service member, means the status of a member of the Armed Forces assigned to either a military medical treatment facility as an outpatient; or a unit established for the purpose of providing command and control of members of the Armed Forces receiving medical care as outpatients. (See, 29 C.F.R. 825.127(a)(2)).
9. Parent of a Covered Service Member. A “parent of an injured service member” means a covered service member’s biological, adoptive, step or foster father or mother, or any other individual who stood in loco parentis to the covered service member. This term does not include parents “in law.” (See, 29 C.F.R. 825.127(b)(2)).
10. Next of Kin. Next of kin of a covered service member means the nearest blood relative, other than the covered service member’s spouse, parent, son, or daughter, in the following order of priority: blood relatives who have been granted legal custody of the service member by court decree or statutory provisions, brothers and sisters, grandparents, aunts and uncles, and first cousins, unless the covered service member has specifically designated in writing another blood relative as his or her nearest blood relative for purposes of military caregiver leave under the FMLA. When this designation is made, that relative is deemed the only next of kin eligible to take military caregiver leave. (See, 29 C.F.R. 825.127(b)(3)).
11. Serious Injury or Illness. Serious injury or illness, in the case of a member of the Armed Forces, including a member of the National Guard or Reserves, means an injury or illness incurred by the member in line of duty on active duty that may render the member medically unfit to perform the duties of the member’s office, grade, rank, or rating. (See, 29 C.F.R. 825.127(a)(1)).
12. Son or Daughter. A “son or daughter on active duty or call to active duty status” and a “son or daughter of a covered service member” means the employee’s biological, adopted, or foster child, stepchild, legal ward, or a child for whom the employee stood in loco parentis, who is on active duty or call to active duty status, and who is of any age. (See, 29 C.F.R. 825.126(b)(1), 825.127(b)(1)).
13. General Information and Affect on County Paid Leaves.

Military Family Leave under the FMLA will be counted concurrently with other applicable paid leaves (family sick leave, personal holidays, and/or vacation). Therefore, the 12 or 26 weeks of leave will be paid to the extent the employee has

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Lancaster County

Number: 2009-3

Date: April, 2009

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other paid leaves available. After all applicable paid leaves are exhausted, any remaining Military Family Leave under the FMLA leave will be unpaid.

In those cases where a husband and wife are both employed by the County and both are eligible for Military Family Leave under the FMLA, they are limited to a combined total of 26 work weeks of leave during a single 12-month period if the leave is taken to care for an injured service member, as described in Paragraph 4(B) of this Bulletin. If one spouse is ineligible for Military FMLA leave, the other spouse would be entitled to a full 26 workweeks of leave to care for an injured service member.

14. Intermittent/Reduced Schedule Leave. Military Family Leave under the FMLA may be taken on an intermittent basis or on a reduced leave schedule when medically necessary to care for an injured service member. Employees needing intermittent/reduced schedule leave for planned medical treatment must work with their employers to schedule the leave so as not to unduly disrupt the employer's operations. If an employee requests intermittent leave or leave on a reduced leave schedule, that is foreseeable based on planned medical treatment, the County may require such employee to transfer temporarily to an available alternate position that has equivalent pay and benefits, and better accommodates periods of leave than the regular employment position of the employee.

Intermittent or reduced schedule leave may also be taken for a qualifying exigency (call to duty leave) only if the employee has given proper notice for the necessity of such leave, as provided in Paragraph 16 of this Bulletin, and has provided a certification pursuant to Paragraph 17 of this Bulletin.

15. Application for Leave. In all cases, an employee requesting leave must complete the attached "Application for Military Family Leave" and return it to the employee's department head for transmittal to the Personnel Director in the City/County Personnel Department. 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 Military Family Leave shall be provided to the employee within five business days after the employee gives notice of the need for leave.
16. Notice of Leave. An employee intending to take call to duty leave, as described in Paragraph 4(A) of this Bulletin, must submit an application for leave at least 30 days before the leave is to begin if the necessity for the leave is foreseeable. If the leave is to begin within 30 days, an employee must give notice to his or her department head

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Lancaster County

Number: 2009-3

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and to the City/County Personnel Department as soon as the necessity for the leave arises.

An employee intending to take leave to care for an injured service member, as described in Paragraph 4(B) of this Bulletin, must submit an application for leave at least 30 days before the leave is to begin. If the 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.

17. Certification for Leave Taken Because of a Qualifying Exigency. An employee requesting call to duty leave, for a qualifying exigency, as described in Paragraph 4(A) of this Bulletin, must provide a copy of the service member relative's active duty orders or other documentation issued by the military, showing the service member's active duty or call to active duty status in support of a contingency operation, and expected dates of active duty service. The employee must also provide certification for each qualifying exigency leave requested during the period of the relative's active duty service. The certification shall include a statement or description, signed by the employee, of the appropriate facts regarding the qualifying exigency for which Military FMLA leave is requested. The certification shall also include the approximate dates and purpose of the absence, and if for reduced or intermittent leave, an estimate of the frequency and duration of the qualifying exigency.

The employee shall have 15 calendar days to provide the certification described in this section. Failure to provide the requested certification within 15 calendar days of the request for leave may result in denial of Military Family Leave.

18. Certification for Leave Taken to Care for an Injured Service Member. An employee requesting leave to care for an injured service member, as described in Paragraph 4(B) of this Bulletin, must have the health care provider of the employee's spouse, son, daughter, parent, or next of kin complete a "Medical Certification Statement for Military Caregiver Leave" form. For purposes of this section, any one of the following health care providers may complete such certification: (i) a United States Department of Defense ("DOD") health care provider; (ii) a United States Department of Veterans Affairs ("VA") health care provider; (iii) a DOD TRICARE network authorized private health care provider; or (iv) a DOD non-network TRICARE authorized private health care provider. Copies of the "Medical Certification Statement for Military Caregiver Leave" forms may be obtained through the Personnel Department.

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<b>Reference:</b>	<b>Title:</b>
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The employee shall have 15 calendar days to provide the completed Medical Certification Form. Failure to provide the Medical Certification Form within 15 calendar days of the request for leave may result in denial of Military Family 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.

19. Benefits Coverage During Leave. During a period of Military Family Leave under the FMLA, an employee will be retained on the County'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 made to the plan before taking leave. Failure of the employee to pay his or her 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 leave, the employee will be required to reimburse Lancaster County for payment of health/dental care monthly costs incurred during the period of Military Family Leave under the FMLA, unless the employee has taken leave to care for an injured service member and fails to return because the injured service member has a continuing or recurring serious injury or illness. (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.

20. Restoration to Employment. Unless the employee is a "key employee", as defined by the Act, at the end of any Military FMLA leave, an employee will be restored to his or her 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 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). A "key employee" is a salaried FMLA-eligible employee who is among the highest paid ten percent of all the employees employed by Lancaster County. (See, 29 C.F.R. 825.217).
21. Failure to Return from Leave. The failure of an employee to return to work upon the expiration of Military FMLA leave will be considered a resignation unless an extension is granted. An employee who has requested less than 12 weeks of qualifying

# Personnel Policy Bulletin

Number: 2009-3

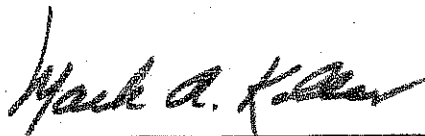
Lancaster County

Date: April, 2009

<b>Reference:</b> Family and Medical Leave Act of 1993 (FMLA), as amended, and 29 C.F.R. Part 825	<b>Title:</b> MILITARY FAMILY LEAVE UNDER THE FAMILY AND MEDICAL LEAVE ACT
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exigency leave may request an extension of leave by submitting a written request to the employee's department head setting forth the reasons for the extension, along with a certification detailing the reason for additional qualifying exigency leave. An employee who has requested less than 26 weeks of military caregiver leave may request an extension of leave by submitting a written request to the employee's department head setting forth the reason for the extension, along with a "Medical Certification Statement for Military Caregiver Leave" form. These written requests should be made as soon as the employee realizes that he or she will not be able to return at the expiration of the leave. In no circumstances, will an extension beyond the 12-week period for qualifying exigency leave, or 26-week period for military caregiver leave, authorized pursuant to the FMLA be granted.

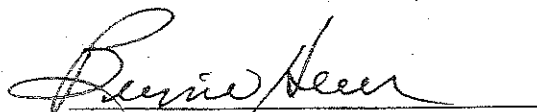
22. Unlawful Acts. It is unlawful for any employer to interfere with, restrain, or deny the exercise of any right provided by the FMLA. It is also unlawful for an employer to discharge or discriminate against any individual for opposing any practice, or because of involvement in any proceeding related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



Mark A. Koller, Personnel Director

4.8.09

Date



Bernice Heier, Chair  
Board of County Commissioners

4-9-09

Date

COMILITARYFMLA.wpd

**LANCASTER COUNTY  
APPLICATION FOR MILITARY FAMILY LEAVE**

Name of Employee: \_\_\_\_\_

Social Security Number: \_\_\_\_\_

Department: \_\_\_\_\_

Home Address: Street: \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_

Start Date of Anticipated Leave: \_\_\_\_\_

Expected Date of Return to Work: \_\_\_\_\_

Reason for Leave (Mark One):

\_\_\_\_\_ For a qualifying exigency arising out of the fact that my \_\_\_\_\_ spouse, \_\_\_\_\_ child, or \_\_\_\_\_, parent is on active duty, or has been notified of an impending call or order to active duty

\_\_\_\_\_ To care for my \_\_\_\_\_ spouse, \_\_\_\_\_ child, \_\_\_\_\_, parent, or \_\_\_\_\_ next of kin, who is a covered service member and has sustained a serious injury or illness in the line of duty while on active duty in the Armed Forces; or

**Note:** A leave request for qualifying exigency leave must be accompanied by a copy of the service member relative's active duty orders or other documentation issued by the military, showing the service member's active duty or call to active duty status in support of a contingency operation, and expected dates of active duty service.

A leave request to care for an employee's spouse, child, parent, or next of kin, who is a covered service member and has sustained a serious injury or illness in the line of duty, must be accompanied by a verifying medical certification issued by the health care provider of the employee's spouse, child, parent, or next of kin.

I hereby authorize Lancaster County to contact the Department of Defense to verify my military member's active duty or call to active duty status, and to contact my covered service member's health care provider to seek authentication or verification of the medical certification.

I understand that to maintain my health insurance benefits during this leave I must continue to pay my share of my health insurance as it comes due.

I understand that failure to return to work at the end of my leave period may be treated as a resignation unless an extension has been agreed upon and approved in writing by Lancaster County.

Employee's Signature: \_\_\_\_\_ Date: \_\_\_\_\_

Approved By:

\_\_\_\_\_  
Department Head or Designee Date

\_\_\_\_\_  
Personnel Director Date





**MILITARY FAMILY LEAVE  
CERTIFICATION FOR SERIOUS INJURY  
OR ILLNESS OF COVERED SERVICEMEMBER**

**HEALTH CARE PROVIDER:** For completion by a UNITED STATES DEPARTMENT OF DEFENSE ("DOD") HEALTH CARE PROVIDER who is either: (1) a United States Department of Veterans Affairs ("VA") health care provider; (2) a DOD TRICARE network authorized private health care provider; or (3) a DOD non-network TRICARE authorized private health care provider. The employee listed has requested leave under the FMLA to care for a family member who is a member of the Regular Armed Forces, the National Guard, or the Reserves who is undergoing medical treatment, recuperation, or therapy, is otherwise in outpatient status, or is otherwise on the temporary disability retired list for a serious injury or illness. For purposes of FMLA leave, a serious injury or illness is one that was incurred in the line of duty on active duty that may render the servicemember medically unfit to perform the duties of his or her office, grade, rank, or rating.

A complete and sufficient certification confirming that the covered servicemember's injury or illness was incurred in the line of duty on active duty and that the covered servicemember is undergoing treatment for such injury or illness by a health care provider listed above. Answer, fully and completely, all applicable parts. Your answer should be your best estimate based upon your medical knowledge, experience, and examination of the patient. Be as specific as you can; terms such as "lifetime," "unknown," or "indeterminate" may not be sufficient to determine FMLA coverage. Limit your responses to the condition for which the employee is seeking leave.

1. Name of Employee Requesting Leave to Care for Covered Servicemember:

\_\_\_\_\_

First

\_\_\_\_\_

Last

2. Name of Covered Servicemember (for whom employee is requesting leave to care):

\_\_\_\_\_

First

\_\_\_\_\_

Middle

\_\_\_\_\_

Last

3. Relationship of Employee to Covered Servicemember Requesting Leave to Care:

\_\_\_\_\_ Spouse    \_\_\_\_\_ Parent    \_\_\_\_\_ Son    \_\_\_\_\_ Daughter    \_\_\_\_\_ Next of Kin

4. Is the Covered Servicemember a Current Member of the Regular Armed Forces, the National Guard, or Reserves?    \_\_\_\_\_ YES    \_\_\_\_\_ NO

If yes, please provide the covered servicemember's military branch, rank and unit currently assigned to:

\_\_\_\_\_

5. Is the Covered Servicemember on the Temporary Disability Retired List (TDRL)?    \_\_\_\_\_ YES  
\_\_\_\_\_ NO

6. Describe the Care to Be Provided to the Covered Servicemember and an Estimate of the Leave Needed to Provide the Care:

\_\_\_\_\_

\_\_\_\_\_

7. Covered Servicemember's medical condition is classified as (Check One of the Four Appropriate Alternatives):

\_\_\_\_\_ **(VSI) Very Seriously Ill/Injured** – Illness/Injury is of such a severity that life is imminently endangered. Family members are requested at bedside immediately. (Please note this is an internal DOD casualty assistance designation used by DOD healthcare providers.)

\_\_\_\_\_ **(SI) Seriously Ill/Injured** – Illness/injury is of such severity that there is cause for immediate concern, but there is no imminent danger to life. Family members are requested at bedside. (Please note this is an internal DOD casualty assistance designation used by DOD healthcare providers.)

\_\_\_\_\_ **OTHER Ill/Injured** – a serious injury or illness that may render the servicemember medically unfit to perform the duties of the member's office, grade, rank, or rating.

\_\_\_\_\_ **NONE OF THE ABOVE** (Note to Employee: if this box is checked, you may still be eligible to take leave to care for a covered family member with a "serious health condition" under § 825.113 of the FMLA. If such leave is requested, you will be required to complete an employer-provided form seeking more information.)

8. Was the condition for which the Covered Servicemember is being treated incurred in line of duty on active duty in the armed forces? \_\_\_\_\_ YES \_\_\_\_\_ NO

9. Approximate date condition commenced: \_\_\_\_\_

10. Probable duration of condition and/or need for care: \_\_\_\_\_

11. Is the covered servicemember undergoing medical treatment, recuperation, or therapy?  
\_\_\_\_\_ YES \_\_\_\_\_ NO If yes, please describe medical treatment, recuperation or therapy:  
\_\_\_\_\_

12. Will the covered servicemember need care for a single continuous period of time, including any time for treatment and recovery? \_\_\_\_\_ YES \_\_\_\_\_ NO

If yes, estimate the Start Date: \_\_\_\_\_ and End Date: \_\_\_\_\_ for this period of time.

13. Will the covered servicemember require periodic follow-up treatment appointments? \_\_\_\_\_ YES  
\_\_\_\_\_ NO

If yes, estimate the treatment schedule: \_\_\_\_\_

14. Is there a medical necessity for the covered servicemember to have periodic care for other than scheduled follow-up treatment appointments (e.g. episodic flare-ups of medical condition)?  
\_\_\_\_\_ YES \_\_\_\_\_ NO If yes, please estimate the frequency and duration of the periodic care:

\_\_\_\_\_ hour(s) per day; \_\_\_\_\_ days per week from \_\_\_\_\_  
through \_\_\_\_\_

**HEALTH CARE PROVIDER INFORMATION:**

I am \_\_\_\_\_ a DOD health care provider

\_\_\_\_\_ a VA health care provider

\_\_\_\_\_ a DOD TRICARE network authorized private health care provider; or

\_\_\_\_\_ a DOD non-network TRICARE authorized private health care provider

\_\_\_\_\_  
Printed Name of Health Care Provider

\_\_\_\_\_  
Type of Practice/Medical Specialty

\_\_\_\_\_  
Signature of Health Care Provider

\_\_\_\_\_  
Telephone Number

\_\_\_\_\_  
Date

\_\_\_\_\_  
Address

# Personnel Policy Bulletin

Lancaster County

Number: 2004-1

Date: July, 2004

Reference:	Title:
Lancaster County Personnel Policy Bulletin 2003-2	Natural Disaster Leave Donation Policy

## NATURAL DISASTER LEAVE DONATION POLICY

### Introduction:

The County of Lancaster recognizes that there are instances in which an employee may personally suffer significant losses of property from a natural disaster requiring an employee to be absent from work. The County also recognizes that when these instances occur, co-workers of the employee who personally experienced a significant property loss as the result of a natural disaster desire to assist the employee until the employee can return to work. This policy bulletin is intended to establish guidelines for employees of Lancaster County to donate accrued vacation time and personal convenience holidays to another employee who personally suffered a significant property loss as a result of a natural disaster to be used as paid leave by the employee who personally suffered the significant property loss.

### **I. POLICY**

In the event the Governor of the State of Nebraska declares a state of emergency as the result of a natural disaster, it shall be the policy of the County of Lancaster to allow employees the opportunity to donate accrued vacation leave and personal convenience holidays to the benefit of another County employee who personally suffered a significant property loss as the result of the natural disaster.

### **II. PROCEDURE**

#### **A. Employees Covered**

All classified and unclassified employees who earn leave and have been employed a minimum of twelve consecutive months shall be eligible to participate in the Natural Disaster Leave Donation Program.

#### **B. Recipient Employee Eligibility**

To be eligible to receive leave donated pursuant to this policy, an employee must meet the following conditions:

1. The employee must have personally suffered a significant loss of property, as the result of a natural disaster, including but not limited to, the physical destruction of or a significant damage to the employee's personal residence.
2. The employee must provide a verification of the significant property loss or damage satisfactory to the County.
3. The employee must have a minimum of one year of service with the County.

# Personnel Policy Bulletin

Lancaster County

Number: 2004-1

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Lancaster County Personnel Policy Bulletin 2003-2	Natural Disaster Leave Donation Policy

4. The employee must not have offered anything of value to another employee in exchange for the leave donation.
5. No more than 80 hours of natural disaster leave may be received by the employee for any given state of emergency.
6. The employee must complete the Natural Disaster Donation Request Form and submit the form to the employee's department head, and the Personnel Director, who will certify that the employee is eligible to participate in the leave donation program.

## **C. Donor Employee Eligibility**

1. The employee must have an accrued vacation leave balance of at least forty hours subsequent to making a leave donation.
2. The employee must donate Personal Convenience Holidays in only eight-hour increments. Vacation may be donated in four-hour or eight-hour increments.
3. The employee must not have solicited nor accepted anything of value in exchange for the donation.
4. The employee must complete and have witnessed the Natural Disaster Donation Form.

## **D. How to Apply For or Donate Leave**

1. An employee who qualifies for natural disaster leave shall complete the Natural Disaster Leave Donation Request Form and submit it to the department head who shall, in conjunction with the Personnel Director, review it for approval or denial.
2. Upon approval, donor employees shall complete the Natural Disaster Donation Form indicating a willingness to donate vacation or Personal Convenience Holiday time and the amount of said time to be donated. This form shall also be signed by a witness to the donor's signature. The completed form should then be forwarded to the payroll person in the department of the requesting employee.
3. Employees donating their time are doing so strictly on a voluntary basis and will have their vacation or Personal Convenience Holiday leave balances irrevocably debited for the amount of time transferred to the recipient employee. The transferred time will be placed in the recipient employee's vacation leave account.
4. The Personnel and County Payroll Departments will monitor hours donated. The time donated will be on an "hour-for-hour" basis to the recipient employee.

# Personnel Policy Bulletin

Lancaster County

Number: 2004-1

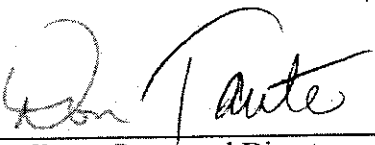
Date: July, 2004

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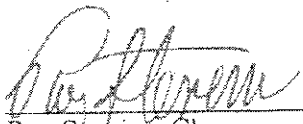
5. Vacation hours transferred are done so in four-hour or eight-hour increments. Personal Convenience Holiday hours transferred are done so in eight-hour increments. All time donated must be used by the recipient for recovery from the property loss associated with the natural disaster. In no event shall the employee be allowed to utilize time donated pursuant to this policy as an addition to the employee's approved vacation balance.
6. Subsequent to the receipt of the leave donation forms, the Personnel Department shall credit the recipient employee's vacation leave balance. An employee who is receiving natural disaster leave donated by other employees shall be allowed to accrue vacation and sick leave while in that status, however, all donated leave shall first be used prior to the use of the employee's accrued vacation leave time.

### III. RETROACTIVE

The Natural Disaster Leave Donation Policy shall be retroactive to May 24, 2004.

  
\_\_\_\_\_  
Don Taute, Personnel Director

7/8/04  
\_\_\_\_\_  
Date

  
\_\_\_\_\_  
Ray Stevens, Chair  
Board of County Commissioners

7/8/04  
\_\_\_\_\_  
Date

**CITY OF LINCOLN -- LANCASTER COUNTY**  
**Natural Disaster Leave Donation Request Form**

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*(To be completed by Requesting Employee)*

\_\_\_\_\_, an employee in \_\_\_\_\_  
(Name) (Department)

has requested vacation leave/Personal Convenience Holiday donations under our Natural Disaster Leave Donation Program and meets the conditions of our Natural Disaster Leave Program per the attached verifying documentation. My signature hereto acknowledges that I agree to release, indemnify, and hold harmless, the City of Lincoln and Lancaster County from any claim I might have relating to the release of only my name to City or County Departments advising them that I am eligible for Natural Disaster Leave Donations.

\_\_\_\_\_  
Employee Signature Date

Social Security Number: \_\_\_\_\_

APPROVED: \_\_\_\_\_  
Department Head Date

APPROVED: \_\_\_\_\_  
Personnel Director Date

---

Employee: Forward this request form *and* verifying documentation to your department head.

CITY OF LINCOLN -- LANCASTER COUNTY  
Natural Disaster Leave Donation Form

*(To be completed by Donating Employee)*

To be eligible to donate vacation leave/Personal Convenience Holiday (PCH):

1. Personal Convenience Holiday may be donated in only eight-hour increments.
2. Vacation may be donated in four-hour or eight-hour increments.
3. Must not have solicited nor accepted anything of value in exchange for the donation.
4. Must have remaining to his/her credit at least 40 hours of accrued vacation leave.

Name of employee you are contributing to: \_\_\_\_\_

Number of hours you are donating: \_\_\_\_\_  
Vacation Hours PCH Hours

I understand my vacation leave/Personal Convenience Holiday balance(s) will be decreased by the hours I am donating and that my vacation leave/Personal Convenience Holiday hours shall be irrevocably credited to the recipient's vacation leave account.

Your Signature \_\_\_\_\_ ( \_\_\_\_\_ )  
please print name

Your Social Security Number \_\_\_\_\_

Witness Signature \_\_\_\_\_

Date \_\_\_\_\_

Employee: Forward this donation form to the payroll person in the department of the employee you are contributing the hours to.

FOR PERSONNEL DEPARTMENT USE ONLY

Adjusted balances as of: \_\_\_\_\_



# Personnel Policy Bulletin

Lancaster County

Number: 2003- 3

Date: November, 2003

Reference:	Title:
Personnel Rule 17	OVERTIME PAY POLICY
Supercedes Personnel Policy Bulletin 2001-6	

## OVERTIME PAY

A Department Head may prescribe reasonable periods of overtime work to meet operating needs. Overtime pay may not be used to affect pay adjustments nor in payment for work that can be scheduled in a routine manner. Only employees allocated to non-exempt classifications are eligible to receive overtime pay. Overtime must be approved by the appropriate Department Head prior to it being worked.

Unless otherwise specifically provided for in a collective bargaining agreement or other provisions of this Personnel Policy Bulletin, overtime shall be compensated by monetary payment and not time off, i.e. compensatory time. Any County Department wanting to authorize the use of compensatory time first must gain the written approval of the County Board and Personnel Director.

Overtime will be paid only if such time has been previously approved by the appropriate Department Head. No employee, by his/her own volition will work any time prior to or immediately following his/her normally scheduled working hours without the approval of his/her supervisor. No employee who is non-exempt will be permitted to conduct the County's business while on their authorized lunch break. Any employee who elects to forego his/her authorized rest breaks shall not be entitled to payment for overtime for breaks not taken. An employee who, without supervisor approval, works either before or after his/her scheduled hours or during an authorized lunch break, will be subject to progressive discipline. The employee's work week is hereby defined as Thursday at 0001 through the following Wednesday at 2359.

Employees in any of the classifications set forth in this Personnel Policy Bulletin may work in more than one department if approval to do so is granted, in writing, by both Department Heads, provided however, that in no event shall the total time in pay status exceed forty (40) hours per week.

The County supports the concept of a flexible working schedule where it can be implemented by Department Heads in a manner which improves the delivery of services to the public. An essential requirement is that all work positions be adequately staffed during the normal business or regular hours. Where less than full-time (i.e., less than 40 hours per week) employees are used, they shall be paid at the straight time hourly rate established for their classification unless they exceed 40 hours per week which will be compensated at one and one-half times regular rate. Flex time must be arranged during the work week or paid if it exceeds forty (40) hours.

The Personnel Officer will determine overtime pay eligibility and assign classifications to either non-exempt or exempt status. The Personnel Officer may develop a reporting system which will be used in all County Departments to report overtime usage. Department Heads will be responsible for the proper administration of the overtime provisions.

# Personnel Policy Bulletin

Lancaster County

Number: 2003- 3

Date: November, 2003

Reference:	Title:
Personnel Rule 17	OVERTIME PAY POLICY
Supercedes Personnel Policy Bulletin 2001-6	

## NON-EXEMPT CLASSIFICATIONS

Employees allocated to classifications identified in the pay plan index as non-exempt are eligible to receive pay for overtime work in accordance with the provisions of the Fair Labor Standards Act, this Personnel Policy Bulletin, the applicable collective bargaining agreement, or the Lancaster County Personnel Rules.

### A.F.S.C.M.E. ('A' PAY GRADES) AND EXCLUDED X ('X' PAY GRADES) NON-EXEMPT CLASSIFICATIONS

Work performed by employees in excess of forty (40) hours per work week (except Lancaster Manor) shall be compensated at the rate of one and one-half (1 ½) times the regular hourly rate of the employee. No overtime work or compensation will be allowed without prior approval by the Department Head or his designee. All paid leaves of absence shall be counted as hours worked in computing overtime, with the exception of sick leave, which shall not count as hours worked for the purpose of computing weekly overtime.

In accordance with Union contract Article 22 and 29 U.S.C. 207 (j) work performed by Lancaster Manor employees in excess of eight (8) hours per day or eighty (80) hours in the fourteen (14) day work cycle shall be compensated at the rate of one and one-half (1 ½) times the regular rate of the employee. All paid leaves of absence shall be counted as hours worked in computing overtime with the exception of sick leave which will not count as hours worked for the purpose of computing weekly overtime.

Hours paid at a premium rate during the work week will offset other overtime hours due in accordance with the Fair Labor Standards Act. If an employee is called to duty during his off-duty time, and such time does not merge with his scheduled work week, the employee will be paid for a minimum of two (2) hours at one and one-half times his regular hourly pay or one and one-half times the actual hours worked, whichever is greater. All such call-back hours will be paid as overtime hours regardless of the number of paid leaves of absence during the employee's work week.

### FRATERNAL ORDER OF POLICE, LODGE 32, NON-EXEMPT CLASSIFICATIONS

Work performed by employees in excess of forty (40) hours in any work week shall be compensated at the rate of one and one-half (1 ½) times the regular hourly rate of the employee. No overtime work or compensation will be allowed without prior approval by the Department Head or his designee. The Department will develop a standard operating procedure for the granting of voluntary and mandatory overtime.

# Personnel Policy Bulletin

Lancaster County

Number: 2003- 3

Date: November, 2003

Reference:	Title:
Personnel Rule 17 Supercedes Personnel Policy Bulletin 2001-6	OVERTIME PAY POLICY

Vacation and holiday leaves shall be counted as time worked in computing overtime with the exception of sick leave. If an employee is called to duty during his off-duty time, and such time does not merge with his scheduled tour of duty, the employee will be paid for a minimum of two (2) hours at a rate of one and one-half (1 ½) times his regular hourly pay or one and one-half (1 ½) times the actual hours worked, whichever is greater. In such cases, all call-back hours will be paid as overtime regardless of the number of paid leaves of absence during the employee's work week.

## UNREPRESENTED ('C' PAY GRADES) AND EXCLUDED E ('E' PAY GRADES) NON-EXEMPT CLASSIFICATIONS

Work performed by employees in excess of forty (40) hours in any work week (except Lancaster Manor) shall be compensated at the rate of one and one-half (1 ½) times the regular hourly rate of the employee. No overtime work or compensation will be allowed without prior approval by the Department Head or his designee. All paid leaves of absence shall be computed as hours worked in computing overtime, with the exception of sick leave, which shall not count as hours worked for the purpose of computing overtime.

In accordance with 29 U.S.C. 207 (j) work performed by nonexempt employees working at Lancaster Manor in excess of eight (8) hours per day or eighty (80) hours in the fourteen (14) day work cycle shall be compensated at the rate of one and one-half (1 ½) times the regular rate of the employee. All paid leaves of absence shall be counted as hours worked in computing overtime with the exception of sick leave which will not count as hours worked for the purpose of computing weekly overtime.

## EXEMPT CLASSIFICATIONS

Employees who are determined to be Exempt from the requirements of the Fair Labor Standards Act and who are identified in the pay plan index as exempt are presumed to be paid for the complete job and are not eligible to receive compensation for additional hours. Employees may work more or less than forty (40) hours per week at the discretion of the Department Head. In addition a Department Head may grant additional time off in recognition of extra work but under no circumstance will time be granted on a one-for-one basis or hours counted after forty (40) per week. Exceptions to this overtime policy may be granted by the Personnel Officer when requested by the Department Head after demonstrating the exception to this policy is in the best interest of the County.

Employees in the unclassified service, with the exception of those represented by the Deputy Sheriff's Association, are not eligible to receive compensation for work in excess of forty (40) hours per week, and are not covered by this Personnel Policy Bulletin.

# Personnel Policy Bulletin

Lancaster County

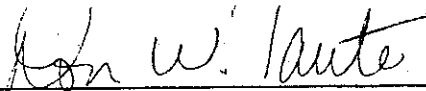
Number: 2003- 3

Date: November, 2003

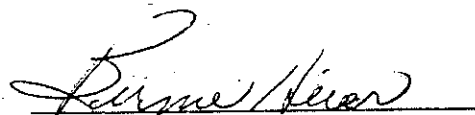
Reference:	Title:
Personnel Rule 17 Supercedes Personnel Policy Bulletin 2001-6	OVERTIME PAY POLICY

## EXEMPT AND NON-EXEMPT CLASSIFICATIONS

For a current listing of Exempt and Non-Exempt Classifications, please refer to the City-County home page at [www.ci.lincoln.ne.us](http://www.ci.lincoln.ne.us). Under Lancaster County, click on 'Agency.' Click on 'Personnel Department.' Under County Information, click on 'County Rules, Contracts & Pay Plans.' Finally, click on 'Alphabetic Title Listing.' This listing will be updated as changes occur. For employees who do not have access to the internet, they can find a listing in the Lancaster County Pay Plan that is distributed to each Department.

  
\_\_\_\_\_  
Don Taute, Personnel Director

11/21/03  
\_\_\_\_\_  
Date

  
\_\_\_\_\_  
Bernie Heier, Chair  
Board of County Commissioners

11-25-03  
\_\_\_\_\_  
Date

COPPB

# Personnel Policy Bulletin

Lancaster County

Number: 2003-1

Date: January, 2003

<b>Reference:</b>	<b>Title:</b>
Resolution # R-02-0154	COUNTY REDUCTION IN FORCE POLICY FOR NON-UNION CLASSIFIED EMPLOYEES

## COUNTY REDUCTION IN FORCE POLICY FOR NON-UNION CLASSIFIED EMPLOYEES

In compliance with Lancaster County Personnel Rule 14.4, the following procedures apply to a reduction-in-force due to shortage of funds or work, abolishment of position, or other material change in duties or organization. This Policy applies to classified employees, not covered by a labor agreement.

### I. GENERAL CONSIDERATIONS

For purposes of this policy a reduction-in-force (RIF) shall mean any reduction in an employee's normally scheduled work week.

No full-time or part-time status employee shall be RIF'd as long as there are provisional, temporary, seasonal intermittent, emergency, on-call, or probationary employees working in the affected classification.

Full-time status employees do not compete with part-time status employees and vice-versa. Full-time employment means employment in a position which does not normally require less than 40 hours work per week. Part-time employees may not retreat into positions which require a greater number of regularly scheduled hours than the employee normally is scheduled to work.

### II. HIGHLY SPECIALIZED STATUS

Highly specialized means a unique set of responsibilities or functions not found in any other job description within a class and which no other person in that class could perform those responsibilities without additional extensive experience and training.

### III. COMPETITIVE LEVEL

The competitive level is the class of position to which the employee is regularly assigned and in which he/she performs duties a majority of the time while in a pay status.

### IV. COMPETITIVE AREA

The competitive area is the department in which the employee is regularly assigned, and in which he/she performs duties a majority of the time while in a pay status.

# Personnel Policy Bulletin

Lancaster County

Number: 2003-1

Date: January, 2003

Reference:	Title:
Resolution # R-02-0154	COUNTY REDUCTION IN FORCE POLICY FOR NON-UNION CLASSIFIED EMPLOYEES

## V. DETERMINATION OF EMPLOYEE STATUS

Once it is determined which positions are to be eliminated, the following criteria will apply:

- A. An affected employee's two most recent annual performance evaluation scores will be averaged to create the employee's average overall performance score.
- B. Evaluations that were due to be administered or that were not submitted to Personnel at least six months prior to the effective date of the RIF may not be used. This is designed to provide for a fair assessment of work over a longer period of time.
- C. An employee with less than two years of service will have the benefit of only 95% of his/her evaluation scores for RIF purposes. For example an average score of 140 for RIF purposes would be 133.
- D. The following categories will be used once the average evaluation score is determined:

136 to 150  
121 to 135.99  
106 to 120.99  
90 to 105.99  
89 and below

For example, a 138 average evaluation score would not automatically take precedence over a 136 average evaluation score because both are in the same category and are therefore, considered equal.

- E. Employees with the highest average evaluation scores by category in the class to be reduced will be retained. If the employees are in the same evaluation score category, seniority will become the determining factor. For example, Employee X's average evaluation score is 106 and Employee Y's average evaluation score is 120. Employee X was hired on 01/01/96 and Employee Y was hired on 01/01/97. Employee Y will be RIF'd because X has more seniority.
- F. If there is a one point or less difference in average evaluation scores *between categories*, seniority will become the determining factor. For example,

# Personnel Policy Bulletin

Lancaster County

Number: 2003-1

Date: January, 2003

<b>Reference:</b>	<b>Title:</b>
Resolution # R-02-0154	COUNTY REDUCTION IN FORCE POLICY FOR NON-UNION CLASSIFIED EMPLOYEES

Employee X's average evaluation score is 106 and Employee Y's average evaluation score is 105. Employee X was hired on 01/01/97 and Employee Y was hired on 01/01/96. Employee Y would be retained even though Y is in the lower evaluation score category because there is only a one point difference in scores causing Y to be in the lower category and Y has more seniority.

- G. Seniority shall be determined by computing total length of continuous service with the County as defined in Personnel Rule 19.12. Service in more than one County department shall count toward total County service.
- H. It is assumed positions are properly classified in accordance with present class specifications. Where certain individuals perform highly specialized work within a class from which a position is to be eliminated, said individuals may be considered as best qualified to perform the available work, but only after submission of written justification to, and approval of, the Personnel Director.

## VI. RETREAT RIGHTS

In the competitive area (department) an employee may retreat (1) to another class related to the competitive level (such as a class series); (2) to a position previously held for one year or more; or (3) to a position presently supervised by the employee, provided the employee is qualified and pursuant to the performance and seniority criteria described in Paragraph V.

An employee will not have retreat rights when the class of position is highly specialized and the employee does not possess the necessary qualifications.

There shall be no retreat rights into bargaining units by non-represented employees and vice versa.

## VII. NOTICE OF REDUCTION IN FORCE

In accordance with Personnel Rule 14.4, the Personnel Department and Department Head shall jointly notify employees who are subject to a reduction-in-force at least fifteen (15) calendar days prior to the effective date. The notification shall state the reason for the reduction-in-force and the employee's right to appeal the decision to the Lancaster County Personnel Policy Board within ten (10) days of receipt of such notification.

# Personnel Policy Bulletin

Lancaster County

Number: 2003-1

Date: January, 2003

Reference:	Title:
Resolution # R-02-0154	COUNTY REDUCTION IN FORCE POLICY FOR NON-UNION CLASSIFIED EMPLOYEES

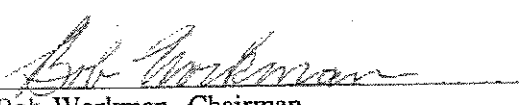
## VIII. RECALL

A status employee who is subject to a reduction-in-force may request in writing that his/her name be placed on a recall list for the class of the position from which laid off. Recall shall be in reverse order of layoff and shall expire one (1) year from the effective date of the layoff or separation. An individual offered recall to a vacancy in the class of the position from which laid off has the right to refuse the offer and remain on the recall list. Recall lists shall be utilized county-wide and shall not be applicable only to the department from which the employee was laid off.

An employee who is recalled within one (1) year shall have his service time computed back to his original date of employment minus the break in service. Any unused sick leave that accrued up to the date of layoff will be reinstated. Accrual rates for vacation and sick leave will be established at the level based upon the revised service time. An employee who is recalled is eligible for enrollment in the health, dental and life insurance programs without waiting periods and reinstatement in the retirement program.

  
\_\_\_\_\_  
Georgia Glass, Personnel Director

1-13-03  
\_\_\_\_\_  
Date

  
\_\_\_\_\_  
Bob Workman, Chairman  
Board of County Commissioners

1/14/03  
\_\_\_\_\_  
Date

RIFCO



# Personnel Policy Bulletin

Lancaster County

Number: 93-3

Date: October, 1993


Reference:	Title:
	Use of Cellular Phone Policy

County employees may carry personal cellular phones with them while on County time or while using County equipment subject to the following restrictions:


Prior to carrying personal cellular telephones during working hours, employees will inform their immediate supervisors. Further, employees' cellular telephone numbers will be given to immediate supervisors; employees will provide supervisors with subsequent telephone number changes.

2. All phone calls will be received or made during scheduled break periods or lunch periods only.
3. Except for break periods, employees will take no incoming nor make any outgoing calls during work hours.
4. Employees will not use cellular telephones while operating any County vehicles or equipment.
5. The County assumes no liability for loss or damage to employees' personal property, including cellular telephones, carried in County vehicles or left on County property. Employees assume the risk of loss or damage to cellular phones or other electronic devices carried by employees during their work day.
6. Employees will be held personally and financially responsible for all damages and litigation in the event of an accident involving County owned equipment resulting from employees' use of cellular telephones. Use of cellular telephones during County work hours is considered outside the employees' scope of employment.
7. Anytime a supervisor or department head receives a complaint or suspects that an employee is violating this policy, that supervisor or department head may require the employee to furnish cellular telephone records for the time frame in question for the department to verify or negate the complaint or the suspected abuse.

Department heads will ensure that all employees are aware of the above restrictions before allowing them to carry cellular telephones during the work day.

  
\_\_\_\_\_  
Marcia Malone, Chair  
County Board of Commissioners

10-15-93  
\_\_\_\_\_  
Date

  
\_\_\_\_\_  
Ron Todd  
Personnel Administrator

10-15-93  
\_\_\_\_\_  
Date

# Personnel Policy Bulletin

Lancaster County

Number: 2005-2

Date: August, 2005

Reference:	Title:
Supersedes Personnel Policy Bulletin 2002-5	WORKERS' COMPENSATION POLICY

## WORKERS' COMPENSATION POLICY

**I. 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.

**II. 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 department and an "Employee Injury or Illness Report", completed by the injured employee and his/her supervisor, should be forwarded to the County Risk Manager in all cases. (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 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 from the date of the accident 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 is unable to perform his/her 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 full range of duties. Modified Duty will be allowed only as specified in Paragraph VII herein.

**IV. Injury Leave.** All probationary or status classified employees shall receive the difference between his/her regular pay and the workers' compensation payment for a period not to exceed 10 working days from the date of injury. FOP, Lodge 29, employees shall receive the difference between his/her regular pay and the workers' compensation payment for a period not to exceed 60 calendar days from the date of injury. 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 this additional benefit. Unclassified employees,

# Personnel Policy Bulletin

Lancaster County

Number: 2005-2

Date: August, 2005

<b>Reference:</b>	<b>Title:</b>
Supercedes Personnel Policy Bulletin 2002-5	WORKERS' COMPENSATION POLICY

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

**V. 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 vacation or personal holiday hours so that the benefit equals the employee's normal salary for the pay period. Unrepresented classified employees, unclassified employees and members of the FOP, Lodge 29 (Deputy Sheriffs), FOP, Lodge 32 (Corrections) and AFSCME, Local 2468, bargaining units may also supplement their workers' compensation benefits with sick leave hours. It is the employee's responsibility to inform his/her department head that he/she 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 normal wage.

**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 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 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 treating physician which states the employee is unable to perform the essential duties of his/her 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 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

# Personnel Policy Bulletin

Lancaster County

Number: 2005-2

Date: August, 2005

<b>Reference:</b>	<b>Title:</b>
Supercedes Personnel Policy Bulletin 2002-5	WORKERS' COMPENSATION POLICY

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 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 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 workers' compensation benefits with available paid leaves, the employee is in a non pay status.

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


# Personnel Policy Bulletin

Lancaster County

Number: 2005-2

Date: August, 2005

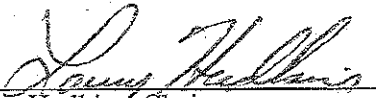
Reference:	Title:
Supercedes Personnel Policy Bulletin 2002-5	WORKERS' COMPENSATION POLICY



Don Taute, Personnel Director

8/23/05

Date



Larry Hudkins, Chairman  
Board of County Commissioners

9-8-05

Date

WCOMP

Lancaster County  
Safety & Training Office

Report of Minor Employment Injury

Incident # \_\_\_\_\_

This report is to be used only when the employee incurs a minor job injury that requires only first aid or personal treatment at the time of the injury. This form should be completed immediately and given to the appropriate department authority for placement in employee's department personnel file.

If the employee seeks medical care or has lost time as a result of this accident and after this initial report has been filed, a Worker's Compensation First Report of Alleged Occupational Injury or Illness Report must be completed and sent to the Lancaster County Safety & Training Office. A copy of the Report of Minor Employment Injury should be attached to the Worker's Compensation First Report.

Injured Employee's Name: \_\_\_\_\_

Department: \_\_\_\_\_ Phone: \_\_\_\_\_

Accident Date: \_\_\_\_\_ Time: \_\_\_\_\_ AM/PM

Place where injury occurred: \_\_\_\_\_

Nature and extent of injury: \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Description of how injury occurred: \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_

What first aid was given or applied: \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Signatures

Employee: \_\_\_\_\_ Date: \_\_\_\_\_

Supervisor: \_\_\_\_\_ Date: \_\_\_\_\_

Any questions regarding reporting of injuries should be referred to:

Sue Eckley, Safety & Training Office  
441-6510 or via SYSM to SECKLEY.

# Personnel Policy Bulletin

Lancaster County

Number: 2002-1

Date: April, 2002

Reference:	Title:
	WORKPLACE VIOLENCE PREVENTION POLICY

- I. Policy Statement.** It is the policy of Lancaster County to promote and maintain a work environment free from violence, threats of violence, harassment, intimidation, and other disruptive behavior. Lancaster County will not tolerate such behavior committed by or against County employees or members of the public on County owned or leased property or while conducting County business. All reports of workplace violence will be taken seriously and will be investigated appropriately. Corrective action will be taken as warranted by the facts.
- II. Scope.** This policy applies to all threats or acts of violence committed by or against County employees on County owned or leased property or while conducting County business. This policy may not apply with respect to incidents involving law enforcement officials, security guards, correctional and detention officers, mental health technicians, health care professionals or other county employees, who are acting in the course of their duties and, due to the nature of their positions, are at times confronted with violent behavior or are required to exercise reasonable force pursuant to their department's operating procedures and all applicable State and Federal laws.
- III. Examples of Prohibited Conduct.** Workplace violence may include oral or written statements, gestures or expressions that communicate a direct or indirect threat of physical harm. Specific examples of conduct that may be considered workplace violence prohibited under this policy, may include but are not limited to, the following:
- \* Hitting, shoving or otherwise physically assaulting an individual.
  - \* Stalking an individual.
  - \* Throwing objects or pounding on a desk, wall or door, in a manner that would be reasonably perceived as being threatening.
  - \* Threatening to harm an individual or his/her family, friends, associates or their property.
  - \* Intentional destruction or threat of destruction of property owned, operated, or controlled by Lancaster County.
  - \* Making/sending harassing or threatening telephone calls, letters, faxes or other forms of written or electronic communications.
  - \* Unauthorized possession or inappropriate use of firearms, weapons, ammunition, explosives or any other dangerous devices on County owned or leased property, County vehicles, or in any personal vehicle which is being used for County business.
  - \* Attempting to coerce an employee to do wrongful acts that would affect the interests of the County.
- IV. Reporting Requirements.** All employees are encouraged to be alert to the possibility of violence on the part of employees, former employees, members of the public, contractors, customers and acquaintances. Employees should include safety as among their highest concerns, and are encouraged to report all acts of violence and threats of violence which they have experienced or witnessed. Employees are encouraged to report to their

# Personnel Policy Bulletin

Lancaster County

Number: 2002-1

Date: April, 2002

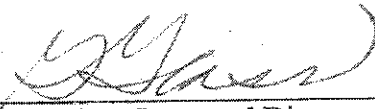
Reference:	Title:
	WORKPLACE VIOLENCE PREVENTION POLICY

supervisors situations that occur outside of the workplace which may affect workplace safety, i.e. instances where protection orders have been issued, etc.


Employees who believe they have experienced or witnessed workplace violence, are encouraged to immediately report such behavior to his/her supervisor, Department Head, the City-County Personnel Director, or other person of authority. In emergency situations in which serious injury occurs, emergency responders such as Police, Sheriff, Fire or Ambulance personnel should be immediately notified.

Department Management, with the assistance of the Personnel Director and, if appropriate, in conjunction with law enforcement authorities, shall assess and investigate the incident and determine the appropriate action to be taken. If law enforcement is involved, the investigation shall be conducted in such a manner that does not interfere with the law enforcement investigation.

- V. **Employee Assistance Program.** The employee assistance program is available to assist employees and departments in coping with the effects of a workplace violence incident. Employees who have committed or threatened to commit an act of workplace violence may be referred to the employee assistance program for assistance.
- VI. **Sanctions.** Employees who violate any provision of this policy may be subject to appropriate disciplinary action up to and including dismissal from employment. Employees and non-employees who commit or threaten to commit an act of violence in violation of this policy may be subject to criminal penalties and/or asked to leave County property if warranted by the facts.
- VII. **Retaliation.** This policy prohibits retaliation against any employee who, in good faith, reports a violation of this policy or is a witness in an investigation involving a violation of this policy.

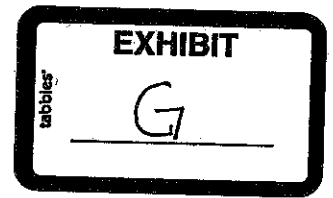
  
\_\_\_\_\_  
Georgia Glass, Personnel Director

4-16-02  
\_\_\_\_\_

  
\_\_\_\_\_  
Bob Workman, Chairman  
Board of County Commissioners

4-17-02  
\_\_\_\_\_  
Date





AGREEMENT

between

County of Lancaster

and

Local 2468 of the American Federation of State, County,  
and Municipal Employees, AFL-CIO

2008-2011

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## PREAMBLE

This Agreement entered into by the County of Lancaster, hereinafter referred to as the County, and Local 2468 of the American Federation of State, County, and Municipal Employees, AFL-CIO, hereinafter referred to as the Union, has as its purpose the promotion of harmonious relations between the County and the Union; the establishment of an equitable and peaceful procedure for the resolution of differences; and the establishment of rates of pay, hours of work, and other conditions of employment.

ARTICLE 1  
RECOGNITION

**Section 1.** The County hereby recognizes the Union as the exclusive representative of employees in all those job classifications named on Appendix "A" attached hereto and made a part hereof as fully as though set out herein, but excluding those employees set out in Appendix "B" attached hereto and made a part hereof as fully as though set out herein.

The Union may bargain for the employees in those classifications listed in Appendix "A" with respect to wages, hours of work, and working conditions.

**Section 2.** The County will not aid, promote, or assist any labor group or organization which purports to engage in collective bargaining or make any agreement with any individual, group, or organization for the purpose of undermining the Union, or which is in conflict with this Agreement.

**Section 3.** Definitions. Definitions shall be as provided in Rule 1, of the Personnel Rules of Lancaster County, Nebraska. In addition, the following definitions shall apply:

- A. DEPARTMENT shall mean any department of Lancaster County, Nebraska, in which are employed persons represented by the bargaining unit.
- B. EMPLOYEE shall mean any status employee working twenty (20) or more hours per week who, by classification definition in Appendix "A," is a member of the bargaining unit. All references to employees in this Agreement shall designate both sexes and wherever the male gender is used, it shall be considered to include male and female employees, unless the context otherwise requires.
- C. RULES shall mean the Personnel Rules of Lancaster County, Nebraska, as they are now in existence or as they may be changed in the future by the County Board as per the provisions of Nebraska Revised Statutes, Sections 23-2517 to 23-2533 (Reissue 1983).
- D. UNION shall mean the American Federation of State, County, and Municipal Employees, AFL-CIO, Local 2468.

## ARTICLE 2

### UNION ACTIVITIES

**Section 1.** The Union recognizes its responsibility as bargaining agent and agrees to represent all employees in the job classifications as set forth in Appendix "A" of this Agreement.

**Section 2.** The Union agrees that its members will not solicit membership in the Union or otherwise carry on Union activities during working hours.

**Section 3.** An accredited representative of the Union shall have access to County departments at reasonable times during regular business hours, (8:00 a.m. - 4:30 p.m., Monday through Friday) to perform Union responsibilities outlined in this Agreement, provided that they obtain prior approval from the Department Head involved or his designated representative. Such approval shall not be unreasonably withheld.

**Section 4.** An accredited representative of the Union shall present himself to the facility management and will be provided space to conduct business in accordance with Section 3 of this Article. Access shall not be unreasonably denied. An accredited representative shall mean a principal officer of the local Union, or an AFSCME international representative.

**Section 5.** The Union president or his designated representative may be allowed to absent themselves from work without pay for up to one (1) work day per month in order to attend to Union business provided a forty-eight (48) hour notice is presented in writing by the president or his representative to, and is approved by, the Department Head and the Personnel Officer. Approval shall not be unreasonably denied.

**Section 6.** The Union president and/or his designated representative may be granted up to sixteen (16) hours pay per year or a maximum of two (2) representatives with eight (8) hours pay each per year, to attend educational conferences and seminars mutually agreed upon by the Department Head and the Union. Further, the Union may request not to exceed two (2) from each chapter to attend educational conferences and seminars without pay. This will be prorated for part-time employees.

Application for any such leave shall be made no later than one (1) week in advance of the conference or seminar and shall be reviewed by the Personnel Officer and shall not be unreasonably denied.

**Section 7.** This section is to provide for fair representation by allowing any Union member of Local 2468 that is elected to represent AFSCME in the State of Nebraska to be absent from his duties for the length of his term in office.

A written request for leave without pay shall be presented to the Personnel Officer and copies will be provided to the County Board. Such request shall not be unreasonably denied.

Upon return to the County work force, the employee shall have all seniority, former sick leave accrual, any benefits in the existing Agreement and any benefits that have been entered into hereafter. The employee shall also return at the same classification, grade and step that he was earning at the time of his leave of absence from County service.

## ARTICLE 3

### UNION STEWARDS

**Section 1.** Employees within the bargaining unit shall be represented by stewards in the manner set forth in this Article. Employees, however, shall have the option of representing themselves. The Union shall furnish management a list of the stewards' names, their assigned areas, telephone number where they may be contacted and shall keep a list current at all times. Alternate stewards may be appointed by the Local Union President to serve in the absence of the regular stewards.

**Section 2.** When requested by an employee, either a steward, chief steward, or the president may investigate any alleged or actual grievance in his assigned work area and assist in its presentation. He shall be allowed time during working hours in accordance with Section 4 of this Article upon notification and approval of his Department Head or the Department Head's designated representative; provided however, the Department Head shall not unreasonably withhold approval. It is understood that the chief steward or the Union President may substitute for the shop steward at any hearing in the grievance procedure.

**Section 3.** When an employee presents his own grievance without intervention of a Union steward, the steward shall be given an opportunity to be present if requested by the employee who is processing his own grievance, and shall be allowed the time therefor, in accordance with Section 4 of this Article, upon notification and approval of his Department Head or the Department Head's designated representative; provided, however, the Department Head shall not unreasonably withhold approval.

In the event the employee waives his right in writing to have a Union representative present, it shall not be necessary that a Union representative be present. Upon being so advised, the Department Head shall immediately transmit a copy of the waiver to the Union President.

**Section 4.** Stewards who use time during their regular shift hours for investigating grievances or attending grievance meetings will be paid their regular hourly rate for such time used, up to a maximum of one and one-half (1 ½) hours per grievance but not to exceed a total of three (3) hours per week. All stewards will be considered on a regular eight (8) hour shift as far as grievance pay is concerned. A steward who spends time representing an employee at a Board hearing shall be paid for time spent during his regular shift at his regular rate.

The Union president or his designated representative shall be allowed to attend meetings as requested by department heads. These meetings may be for the purpose of the supporting and implementation of increasing department productivity and maintaining safe work places. This time is in addition to any time already granted in the agreement.

**Section 5.** No steward, chief steward, or other Union Officer shall leave his regularly assigned work in order to investigate a grievance without first obtaining approval of his Department Head or the Department Head's designated representative, and, provided further, such approval shall not be unreasonably withheld. A maximum of twenty-one (21) stewards shall be allowed. They shall be assigned as needed.



**Section 6.** The County agrees to provide new employees, in the County New Employee Packet, written material (approved by the Personnel Officer) regarding AFSCME Local 2468, as may be made available to the County.

## ARTICLE 4

### CHECK OFF

**Section 1.** The County shall deduct regular bi-monthly Union dues from the pay of each employee covered by this Agreement, provided, that at the time of such deduction there is in the possession of the County a current written assignment, executed by the employee in the form and according to the terms of the authorization form.

**Section 2.** Previously signed and unrevoked written authorizations shall continue to be effective as to employees reinstated following layoff, leave of absence, or suspension not exceeding sixty (60) days; previous authorizations of other employees rehired or reinstated shall not be considered to be effective.

**Section 3.** Such authorized deductions shall be made from the first payroll period of each calendar month and will be remitted to the duly designated Union official within ten (10) days following the issuance of pay warrants for that pay period. The Union shall advise the County in writing of the name of such official.

**Section 4.** If the County receives revocation of authorization by an employee during the ten (10) days prior to July 1 of each year, no deduction will be made from subsequent payroll periods.

**Section 5.** At the time of execution of the Agreement, the Union shall advise the County in writing the exact amount of regular monthly Union dues to be deducted from each member's paycheck. If the Union requests the County to deduct additional monthly Union dues, such request shall be effective only upon written assurance by the Union to the County that the amounts are regular Union dues duly approved in accordance with the Union's constitution and by-laws.

**Section 6.** The County or any of its officers, agents or officials shall not be liable for the remittance payment of any sums other than those constituting actual deductions made; and if for any reason it fails to make a deduction for any employee as above provided, it shall make that deduction from the employee's next pay period in which Union dues are normally deducted after written notification to the County of the error. If the County makes an overpayment to the Union, the County will deduct that amount from the next remittance to the Union. If the County inadvertently makes a deduction from an employee who has not authorized said deduction or who has revoked said authorization in accordance with Section 4 of this Article, the Union agrees to refund said deduction to the affected employee. The Union further agrees to indemnify and hold the County harmless against any and all claims, suits, orders or judgments brought or issued against the County as a result of any action taken or not taken by the County under the provisions of this Article.

## ARTICLE 5

### BULLETIN BOARDS

**Section 1.** The County agrees to make available to the Union certain bulletin board facilities in County departments in the following facilities. The Department Head will assign the space for the board. By mutual agreement, bulletin boards will be provided in any future buildings.

- A. County-City Complex
  - 1. County-City Building
  - 2. Hall of Justice
  - 3. Corrections Department
- B. Lancaster Manor, 1001 South Street
- C. Shop areas
  - 1. Roca
  - 2. Waverly
  - 3. Lincoln
  - 4. Sprague
  - 5. Raymond
- D. Mental Health
  - 1. Community Mental Health Center
- E. Youth Services Center

**Section 2.** Approved Notices.

- A. Notices of the Union's recreational, educational, and social affairs.
- B. Notices of Union elections, appointments and results of Union elections.
- C. Notices of Union meetings.
- D. Educational and organizing material.

**Section 3.** A Union member employed in a County department that does not have a Union bulletin board may contact the Department Head and request permission to post a notice as defined in Section 2.

Approval shall be at the discretion of the Department Head. If approved, the notice shall have a posting and removal date and shall be removed by the same person who posted the notice.

**Section 4.** All notices other than those listed above shall be presented to the Personnel Officer or his designated representative for approval. Such approval shall not be unreasonably withheld. Such notices, if approved, shall indicate both posting and removal dates. The Union will be responsible for the posting and removal of all Union notices.

**Section 5.** If the aforementioned conditions are not adhered to, the personnel officer may revoke the privilege set forth in this Article; providing the Union has been

given ample opportunity to correct the problem and has failed to do so in a timely manner.

## ARTICLE 6

### MANAGEMENT RIGHTS

**Section 1.** All management rights, functions, responsibilities, and authority not specifically limited by the express terms of this Agreement are retained by the County and remain exclusively within the rights of the County.

**Section 2.** The Union acknowledges the concept of inherent management rights. However, such rights must be exercised consistent with the other provisions of this Agreement. These rights, powers, and authority of the County include, but are not limited to, the following:

- A. The right to determine, effectuate, and implement the objectives and goals of the County.
- B. The right to manage and supervise all operations and functions of the County.
- C. The right to establish, allocate, schedule, assign, modify, change, and discontinue County operations, work shifts, and working hours.
- D. The right to establish, modify, change, and discontinue work standards.
- E. The right to hire, examine, classify, promote, train, transfer, assign, and retain employees; suspend, demote, discharge, or take other disciplinary actions against employees for just cause; and to relieve employees from duties due to lack of work or funds.

The County has the right to create the classifications necessary to continue the County's operation during the term of this agreement. The right to classify shall include the County's right to create new classifications and assign a temporary pay range until such time as the pay range is negotiated.

- F. The right to increase, reduce, change, modify, and alter the composition and size of the work force.
- G. The right to determine, establish, set, and implement policies for the selection, training, and promotion of employees.
- H. The right to create, establish, change, modify and discontinue any County function, operation, and department.
- I. The right to establish, implement, modify, and change financial policies, accounting procedures, prices of goods or services, public relations, and procedures and policies for the safety, health, and protection of County property and personnel.
- J. The right to adopt, modify, change, enforce, or discontinue any existing rules, regulations, procedures, and policies which are not in conflict with any provision of this Agreement.
- K. The right to determine and enforce employee's quality and quantity standards.

- L. The County will not abolish or change any bargaining unit classifications for the purpose of depriving the bargaining unit employees of their benefits under this Agreement.

## ARTICLE 7

### CONTRACTING AND SUBCONTRACTING

The Union recognizes that the right of contracting and subcontracting is vested in the County. The right to contract or subcontract shall not be used for the purpose or intention of undermining the Union, nor to discriminate against any employee.

## ARTICLE 8

### DEPARTMENT OR AGENCY WORK RULES

**Section 1.** Department rules and regulations shall be posted on department bulletin boards ten (10) working days prior to their effective date, except in emergency situations where the County shall make a reasonable effort to notify employees. Referring to Article 6, Section 2 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 AFSCME Local #2468, supercedes the Rules and department or agency rules, regulations and policies.

**Section 2.** Each Local 2468 Executive Board Member shall be provided with and each employee shall have work area access to a current copy of the Rules. Executive Board members will be added to the mailing list for revision of the Rules as they occur. Annually, one copy of the current updated policy Rules will be provided in addition to the mailing of revisions. As a matter of record, an up-to-date list of Local 2468 Executive Board Members shall be on file in the Personnel Department.



## ARTICLE 9

### PRODUCTIVITY

The parties recognize that delivery of essential County services in the most efficient and effective manner is a common goal of the County and the Union. Individual effectiveness and productivity may be maintained and improved through orientation, primary function training, maintenance of attendance, and performance review. Management effectiveness and efficiency of operations may be maintained and improved through management training and performance review.

It shall be a combined effort of the County and the Union to obtain the ability to achieve maximum yield out of allocated resources by effective management and measurement, cross-training, achievement-oriented employees and supervisors and utilization of modern technology.

The Union will support and assist in the implementation of methods of increasing department productivity and maintaining safe work places. The County will endeavor to develop policies with Union assistance to increase department productivity, maintain safe work places and otherwise increase and maintain the morale of employees.

Upon the request of the employee, the employee's supervisor shall within a reasonable period of time inform the employee of his strengths and/or weaknesses in relationship to the employee's performance on the job.

## ARTICLE 10

### LABOR MANAGEMENT COMMITTEE

**Section 1.** To insure continued harmonious relations and to bring about a better understanding with regard to the County's policies and activities, a Labor Management Committee is hereby established. The Committee shall consist of three (3) members of the Union to be designated by the Union, and three (3) members for the County to be designated by the County. Either the County or the Union may designate or change the membership of its Committee.

**Section 2.** The purpose of this Committee shall be to identify and attempt to resolve through meaningful discussion, those matters of general interest to employees and management. It will not be within the province of the Committee to deal with individual grievances or with amendments to, or interpretation of, contractual provisions.

**Section 3.** The Committee will hold periodic meetings, and may be convened at the request of either party. The party requesting such meeting shall submit an agenda for said meeting.

**Section 4.** The meetings shall be jointly chaired by a member of management and a member of labor.

**Section 5.** The Committee shall keep minutes of each meeting, which shall be signed by each party involved.

ARTICLE 11  
SAFETY COMMITTEE

**Section 1.** In the interest of safety, departmental Safety Committees may be established. In departments forming Safety Committees, the committee shall consist of three (3) members of the bargaining unit who are employed by the Department establishing the committee and selected designees of the Department Head. Union committee members shall be selected by the Union.

**Section 2.** Where committees are established, the committee shall meet as needed. The Department Head will schedule and chair safety meetings within ten (10) working days of notification of a problem. An agenda for the Safety Committee meeting will be mutually prepared by the Department Head and the Union representative. The committee shall make recommendations regarding the safety of employees in writing to the County Board, Personnel and Risk Management.

Risk Management shall be notified by the Department Head of all safety meetings. Attendance by a representative from their agency shall be at their discretion.

**Section 3.** The final or prime responsibility for programs relating to safety lies with the Department Head or his designated representatives.

**Section 4.** This provision shall not take the place of any Safety Committee or safety program currently in force.

**Section 5.** Minutes of Safety Committee meetings shall be distributed to all committee members, the Department/Agency Head involved, and the Personnel Officer.

## ARTICLE 12

### NON-DISCRIMINATION

**Section 1.** The parties hereby agree not to discriminate against any employee because of race, color, creed, sex, disability, religious or political affiliations, national origin, age, marital status, receipt of public assistance, or Union or non-Union membership.

**Section 2.** The parties hereby agree that no officers, agents, representatives, members or anyone connected with either party shall in any manner intimidate, coerce, restrain, or interfere with the rights of employees to form, join, or assist labor organizations, or to refrain from any of these activities, including the right of employees to withdraw, revoke, or cancel Union membership.

**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.

## ARTICLE 13

### STRIKES AND OTHER DISRUPTIONS OF NORMAL WORK ROUTINE

**Section 1.** The protection of the public health, safety, and welfare demands that neither the Union, nor any individual County employee in the bargaining unit, or any person acting in concert with them will cause, sanction, or take part in any strike, walkout, sitdown, slowdown, stoppage of work, retarding of work, abnormal absenteeism, withholding of services, or any other interference with the normal work routine. The provisions of this Section 1 of this Article apply as long as this Agreement, or during any renewal or extension thereof, is in effect.

**Section 2.** Violation of any provision of this Article by the Union will be cause for the County to terminate this Agreement upon the giving of written notice to this effect to the President of Local 2468, American Federation of State, County, and Municipal Employees, AFL-CIO, in addition to whatever other remedies may be available to the County at law or in equity.

**Section 3.** Violation of any of the provisions of this Article by any individual County employee in the bargaining unit shall be just cause for the immediate discharge of that employee in addition to whatever other remedies may be available to the County at law or in equity. No County employee in the bargaining unit shall receive any portion of his salary and/or other fringe benefits while engaging in activity in violation of this Article.

**Section 4.** The County agrees that it shall not lock out any employee because of a labor dispute or invoke Section 2 or Section 3 of the Article without just cause.

## ARTICLE 14

### CLASSIFIED SERVICE

All employees covered by this Agreement shall be in the County's Civil Service System and all of the provisions of the Rules and Regulations, orders and resolutions of Lancaster County passed pursuant thereto from time to time, not otherwise inconsistent with the terms of this Agreement, shall apply.

## ARTICLE 15

### PERSONNEL FILE

An employee or his designated representative with written authorization shall upon request be permitted to examine his personnel file in the Personnel Department in the County-City Building. Any copies employees or representatives ask for shall be provided by the County at cost to the employee.

## ARTICLE 16

### SENIORITY

**Section 1.** Seniority means the total months of continuous service with the County since the last date of hire.

**Section 2.** New employees shall be added to the seniority list upon the successful completion of their six (6) month probationary period. The probationary period will apply toward seniority.

The Personnel Department will on a quarterly basis provide the AFSCME Local 2468 president with a list of names and classifications of all newly hired employees to be represented by the bargaining unit on a department basis. The Union will keep the lists confidential.

**Section 3.** An employee's continuous service record shall be broken by voluntary resignation, discharge for just cause, or retirement. An employee's continuous service record shall not be broken by mutually agreeable leaves of absence of less than thirty (30) consecutive calendar days. However, leaves of absence of thirty (30) consecutive calendar days or longer without pay shall be deducted from an employee's continuous service record and seniority.

**Section 4.** Within two (2) months after the execution of this Agreement, the Department shall post on all bulletin boards a list showing the seniority of each employee in the Department or Division covered by Appendix "A" of this Agreement. A copy of the seniority list shall be furnished to the local Union when it is posted. The Union shall have fifteen (15) days following such posting to challenge the list, after which the list shall stand. This will not apply to Departments or Divisions with less than five (5) employees.

**Section 5.** In case of layoff, if any elected Union Officers are affected by such layoff, they will be allowed to continue to function in their official Union capacity in dealing with the County for a period of ninety (90) days unless other employment has been secured prior to the end of the ninety (90) day period, or unless they are replaced or removed from their elected office by the local Union.

Laid off stewards shall be covered by the same provisions.

**Section 6.** Classification seniority is defined as an employee's continuous length of service in his job classification.

**Section 7.** Provided there are no significant differences in the qualifications of the employees in the classification involved, seniority as defined in Section 1 of this Article, shall be a primary consideration in shift preference.

**Section 8.** Provided the employee is qualified, seniority as defined in Section 1 of this Article shall be the determining factor in layoff and recall.



**Section 9.** The County recognizes the value of continued employment with the County and the additional experience employees gain during their years of service. In recognition for an employee's years of service, each employee will be given 1 point for each year of service rounded up to the next full year on each job rating for each promotional position the employee applies for. In consideration of promotions, the County will not deduct for any leaves of absence for less than a six month period. In addition, all part time employees will be given full credit. In granting promotions, appropriate consideration will be given to relevant examinations, record of performance, seniority and conduct. Vacancies shall be filled by promotion whenever practical and in the best interest of the service, and preference may be given to employees within the department in which the vacancy occurs.

## ARTICLE 17

### PROMOTIONS, TRANSFERS AND DEMOTIONS

**Section 1. Promotion.** A promotion is the filling of a vacancy by the advancement of an employee from a position having a lower pay grade to a position having a higher pay grade.

When a promotional position is posted internally, the County Personnel Officer 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 Personnel Officer.

After each competitive promotional examination, the County Personnel Officer shall prepare a list of the highest ranking persons meeting the minimum requirements for selection by the Department Head. 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.

**Section 2. Transfer.** A transfer is the movement of an employee from a position of a class to another position of the same class. The transfer may be by a Department Head, if in the same Department, or by both Department Heads and the employee, if between Departments. The rate of pay of an employee who transfers shall remain the same, and the employee shall retain the same eligibility date.

A Department Head may transfer an employee from a position of a class to another position of the same class within his organizational unit. Two (2) Department Heads may transfer an employee from a position of a class to another position in the same class between their respective organizational units upon mutual agreement, including the employee's, and with a report to the Personnel Officer.

The transfer of an employee from a position of a class to a position of another related class of the same pay grade may be made by a Department Head or Department Heads, if two units are involved, subject to the prior approval of the Personnel Officer and only if the classes involved are so related that the experience in, and entrance qualification requirements of one class, are such as to qualify the employee in a reasonable manner for the other class. If the transfer is made between Department Heads, the employee must also consent to the transfer.

**Section 3. Demotion.** A demotion is moving a status employee to a position having a lower pay grade. A demotion may be voluntary, for lack of work or for cause. A voluntary demotion shall be made by the employee in writing to an existing vacancy. The employee who is demoted for cause or as a result of lack of work in his class may receive notice in writing at least fifteen (15) working days in advance. He may make a reply in writing or request to appeal personally to the Department Head. An employee with status may appeal a demotion for cause to the Personnel Policy Board. The appeal must be filed with the Personnel Officer no later than fifteen (15) days after notice.

Except in the case of a reduction in force, whenever an employee is demoted to a position for which he is qualified, he shall receive the rate of pay in the lower pay

grade which is at least a one (1) step decrease in pay. If for cause, the employee may be placed on any step in the range which is requested and approved by the Personnel Officer.

**Section 4.** Any bargaining unit vacancies not filled by transfers or demotions shall be posted in the County job listing as a vacancy open to all County employees. If no current probationary or status employee is selected, then the position shall be posted to the general public. Positions filled through continuous recruitment will be posted internally and to the general public simultaneously. Any vacancy may be filled by a promotion, transfer or demotion.

## ARTICLE 18

### LAYOFF AND RECALL

- Section 1.** When it is determined that a reduction in force is necessary, the County shall notify the Union as soon as possible. The order of layoff shall be by seniority. The employee with the least seniority shall be the first laid off.
- Section 2.** No full-time status employees shall be laid off as long as there are provisional, part-time, temporary, seasonal, intermittent, emergency, on-call or probationary employees working in the affected classifications. Furthermore, when an employee in a classification in a Department has been laid off, the Department shall not hire any provisional, part-time, temporary, seasonal, intermittent, emergency, on-call or probationary employees to conduct any work that was previously conducted in that classification for a one (1) year period from the date of layoff unless the County has first attempted to recall all laid off employees in such class, pursuant to this Article.
- Section 3.** An employee who has received notice of layoff shall have the privilege of bumping an employee in the same class in his Department with less continuous County service. If there are no employees in the same class with less continuous County service, he may move to the next lower classification in the class family in the employee's department.
- Section 4.** The names of status employees who have been laid off shall be placed on a layoff list, and shall be eligible for recall for a period of one (1) year, and the County shall rehire in the reverse order of layoff. A laid off employee subject to recall who is employed elsewhere shall not be required by the County to report until after the expiration of two (2) weeks from the date of the notice. If such employee is not employed elsewhere, he shall be required to report to work at the beginning of the next pay period following recall. The County shall provide employees subject to recall with written certified notice of recall mailed to their last known address on record in the Personnel Department. Employees on the layoff list shall be responsible for making their current address available to the City-County Personnel Office. The County shall present the Union with the layoff list and any changes as soon as possible.
- Section 5.** An employee subject to layoff shall be provided with notice of layoff in writing at least fifteen (15) calendar days prior to the layoff.
- Section 6.** When an employee exercises retreat rights in lieu of layoff, the employee shall be paid at a rate which most nearly approximates his rate of pay immediately prior to the layoff if available in the pay grade. If the employee's rate of pay prior to the layoff is higher than the maximum of the lower pay grade, the employee will be paid at the maximum of the lower pay grade.
- Section 7.** No new employees shall be hired into a classification in the Department where employees have been laid off from that classification until all employees on layoff status in that Department and classification desiring to return to work have been notified of vacancies.
- Section 8.** Employees displaced by the elimination of jobs through consolidation (combining of two jobs or more), the installation of new equipment or machinery, the curtailment or replacement of existing facilities or for any other reason, shall

be permitted to exercise their seniority rights to bump into another position in their class family in their Department for which they are qualified.

**Section 9.** (a) In the event of a recall of a laid off employee within one (1) year of a layoff, the recalled employee shall have his/her service time computed from the employee's original date of employment to the date of layoff.

(b) An employee who is laid off, and is later recalled within one (1) year, shall have available upon his/her return such unused sick leave accrual as he/she may have earned up to the time of his/her departure (Article 24, § 1. K). Further, accrual rates for vacation and sick leave will be established at the level based upon the revised service time set forth in subsection (a) above. An employee who is recalled, is eligible for enrollment in the health, dental and life insurance programs without waiting periods and reinstatement in the retirement plan at the percentage of vesting at the time of layoff.

## ARTICLE 19

### DISCHARGE AND DISCIPLINE

**Section 1.** Disciplinary action shall consist of written warning, written reprimand, suspension, demotion and dismissal. A Department Head may suspend, demote or dismiss 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, 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.

Written warnings may not be grieved or appealed, however, an employee who receives a written warning may make a written rebuttal to be added to the Personnel file. Provisions for disciplinary actions should be limited to those listed above. Other solutions may be obtained through mutual consent by management, the Union and the employee.

At any meeting that may result in disciplinary action, the employee has the right to have legal counsel or a Union steward present. The employee may only waive their right to representation under this section in writing. The Union will provide a waiver form for the employee's convenience (see Appendix C).

Management reserves the right to investigate employee conduct, potential violations of rules and/or standards of employment. Whenever a Department Head has information that may be cause for suspension without pay, dismissal or involuntary demotion, as soon as possible the employee shall be entitled to written notice of the charges against him which shall identify the rule or policy violated and include an explanation of the agency's evidence against him. The written notice shall include at least five (5) working days notice of the date, time and place for a pre-disciplinary meeting where the employee will have an opportunity to respond to the charges and present mitigating evidence and/or reasons why disciplinary action should not be taken. The employee shall have the right to be represented by counsel or a union representative at the meeting. The employee may only waive their right to representation under this section in writing. The Union will provide a waiver form for the employee's convenience. (See Appendix C.)

After the pre-disciplinary meeting, if disciplinary action is deemed warranted by the Department, the employee will be presented with the disciplinary action in writing within a reasonable time after said disciplinary meeting. The employee will receipt the same without implying agreement or admitting to the infraction. The employee or his/her representative may present a written rebuttal to the final decision which shall be attached to the disciplinary action.

**Section 2.** A Department Head may reprimand any employee for cause. Such reprimand shall be in writing and addressed and presented to the employee who will initial receipt. The employee may grieve the reprimand directly to the Personnel Officer or his designated representative. The grievance shall be presented within fifteen (15) working days of receipt of the reprimand. The response to the grievance shall be in writing and shall be issued within fifteen (15) working days of receipt of the grievance. The written decision on the

grievance shall be final and binding upon the parties to the grievance. The grievance procedure as outlined in Article 20 shall not apply to this Section. The employee may present a written rebuttal to the final decision regarding the grievance within fifteen (15) working days of date of decision which shall be attached to and become a part of the file pertaining to the grievance. The rebuttal shall be delivered to the Personnel Department and a copy transmitted by the Personnel Department to the Department Head who wrote the reprimand.

**Section 3.** Written reprimands, written warnings and rebuttals or explanations thereof shall be removed from an employee's personnel file, including such files within a Department, one year after the filing thereof provided there is a written request for removal from the affected employee and further provided there have been no additional disciplinary actions taken against the employee for the same or similar violations.

Suspensions shall be removed from an employee's personnel file, including such files within a Department, five (5) years after the filing thereof provided there is a written request for removal from the affected employee and further provided there have been no additional disciplinary actions taken against the employee for the same or similar violations.

**Section 4.** A Department 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, except for the investigative suspension as defined in Section 6 of this Article. The Department Head shall notify the employee concerned and the Personnel Officer in writing no later than one (1) working day after the date of suspension is made effective. Such notice shall include the reasons for and the 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.

**Section 5.** A Department Head may dismiss any employee with status only for cause at any time and at the time of dismissal shall furnish the employee with a written statement of other reasons for the dismissal and within one (1) working day of such action, furnish the Personnel Officer with a written statement of the reasons for the dismissal. Any employee who is dismissed may appeal, in writing, to the Board within fifteen (15) working days of notice of dismissal.

**Section 6.** Upon being informed that an employee has been accused of behavior which, if substantiated, would be cause for dismissal, the Department Head shall have the option of suspending an employee without pay for a period not to exceed thirty (30) calendar days for the purpose of investigation of the accusation, provided that if after investigation the Department Head determines to dismiss the employee, he shall give written notice of the dismissal in accordance with Section 5, and if after investigation the Department Head determines that the accusation cannot be substantiated or does not constitute cause for dismissal, the employee be reinstated and awarded back pay for any portion of the suspension time not imposed as disciplinary action.

**Section 7.** An employee who receives three (3) or more reprimands within a twelve (12) consecutive month period shall be authorized to utilize the appeal procedure outlined in Article 20 of this Agreement. In the event that an employee appeals the third or additional reprimand during a twelve (12) consecutive month period,

documents relating to the preceding like reprimands shall be admissible in the appeal procedure.



## ARTICLE 20

### GRIEVANCE AND APPEAL PROCEDURE

A grievance is hereby defined as any disagreement arising during the term of this Agreement which is expressly limited to matters of interpretation or uniform enforcement of express provisions of this Agreement, the Rules, and any and all conditions of employment. The Union may file a grievance on behalf of any represented employee(s) or the employee(s) may individually file a grievance.

**Section 1.** Grievances. It shall be the policy of the County to give status employees an opportunity to discuss their grievances with the County in order to find mutually satisfactory solutions as rapidly as possible. The grievance procedure set forth herein is designed to preserve harmony and friendly relations between the County and its employees. Furthermore, the grievance procedure is to provide a just and equitable method for the resolution of grievances without discrimination, coercion, restraint, or reprisal against any employee who may submit or be involved in a grievance. The grievance procedure shall not be used to change any provisions of this Agreement or the Rules, or filed for the purpose of getting an established policy, standard or procedure changed unless it is in conflict with the provisions of this Agreement.

In reducing a grievance to writing, the following information must be stated with reasonable clearness: the exact nature of the grievance, the act or acts of commission or omission, the exact date of the act or acts of commission or omission, the identity of the party or parties who claim to be aggrieved, the identity of the party or parties alleged to have caused the grievance, the specific provisions of this Agreement that are alleged to have been violated, and the remedy which is sought.

For the purposes of this Article, "working days" shall be defined as Monday through Friday, excluding Saturdays, Sundays and holidays.

Grievances shall be processed in the following manner:

**Step 1.** The aggrieved employee shall present in writing his grievance to his Department Head within fifteen (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. The Department Head shall respond in writing to the employee presenting the grievance within fifteen (15) working days.

**Step 2.** If satisfactory settlement is not reached under Step 1, the employee or his designated representative shall resubmit the grievance in writing within fifteen (15) working days of receipt of the response from the Department Head to the Personnel Officer or his designated representative for submission to the Board. The Board shall hold a hearing with the employee or his designated representative within thirty (30) working days after receipt of the grievance in an attempt to settle the grievance. The decision of the Board concerning a grievance shall be made within fifteen (15) working days of the final hearing and reduced to writing, including both findings and decisions, and it shall be filed with the Personnel Officer with a copy to the Department Head, the subject employee and the Union President.

Decisions of the Board concerning a grievance are binding on all Department Heads and employees in the bargaining unit.

Time limitations as outlined in Step 1 may be extended in writing by mutual agreement between the employee or his designated representative and the Department Head.

**Section 2.** Appeals. Any status employee may appeal directly to the Board the following actions: Receipt of three (3) written reprimands within a twelve (12) consecutive month period, suspension, demotion for cause, reduction in classification resulting in loss of pay, and dismissal.

The appeal shall be processed in the following manner:

Within fifteen (15) working days of the notice of the third written reprimand, suspension, demotion for cause, reduction in classification resulting in loss of pay, or dismissal, the employee may request to appeal the action to the Board.

Intent to appeal must be submitted in writing to the Personnel Officer or his designated representative for submission to the Board. The Board shall hold a hearing with the employee or his designated representative within thirty (30) working days after receipt of the appeal. The decision of the Board shall be made within fifteen (15) working days of the final hearing and reduced to writing, including both findings and decisions, and it shall be filed with the Personnel Officer with a copy to the Department Head, the subject employee and the Union President.

## ARTICLE 21

### HOURS OF WORK

**Section 1.** For all except "continuous operations" employees the regular hours of work each day shall be consecutive except that they may be interrupted by a lunch hour not to exceed one (1) hour.

**Section 2.** Work week shall mean the number of hours regularly scheduled to be worked during any seven (7) consecutive days by an individual employee. The work week shall begin at 0001 Thursday and end the following Wednesday at 2359.

**Section 3.** Generally eight (8) hours shall constitute a work day and forty (40) hours or five (5) days shall constitute a work week for full-time employees. Effort will be made to give full-time employees a five (5) day week and an eight (8) hour day from 8:00 a.m. to 4:30 p.m. with one-half ( $\frac{1}{2}$ ) hour for lunch. However, it sometimes may be necessary for a full-time employee to work his forty (40) hours in more or less than five (5) days by working more or less than eight (8) hours per day, or those working eight (8) hours per day may be required to start the day some other time than 8:00 a.m. and complete the day some other time than 4:30 p.m.

For purposes of scheduling only, eight (8) hours or ten (10) hours per day shall constitute a work day for full-time shift employees and forty (40) hours including Saturday, Sunday, and holidays shall constitute a work week for full-time shift employees. The hours worked per day and the days worked per week shall be consecutive as nearly as possible. Shift schedules shall be posted two (2) weeks in advance.

**Section 4.** Shift assignments will be granted according to work needs and, when possible, employee preference.

**Section 5.** No employee's work schedule will be changed without at least two (2) weeks' notice unless an emergency exists. Temporary work schedule changes shall not be made for the purpose of avoiding overtime.

**Section 6.** Work schedules showing the employee's shifts, work days, and hours shall be posted on all department bulletin boards at all times.

**Section 7.** Employees engaged in continuous operations are defined as being any employee or group of employees engaged in an operation for which there is regularly scheduled employment for twenty-four (24) hours a day, seven (7) days a week.

**Section 8.** All employees' work schedules shall provide for a fifteen (15) minute rest period during each one-half ( $\frac{1}{2}$ ) shift. The rest period shall be scheduled at the approximate middle of each one-half ( $\frac{1}{2}$ ) shift.

Employees who for any reason work beyond their regular quitting time into the next shift shall be granted the regular rest periods that occur during the shift.

**Section 9.** All except "continuous operations" employees shall be granted a lunch period during each work shift. Whenever possible, the lunch period shall be scheduled at the middle of the shift.

**Section 10.** If an employee is contacted by telephone, pager, or other means by any supervisory employee during their off duty time, for any reason other than scheduling, the employee shall receive one-half ( $\frac{1}{2}$ ) hour of pay during an eight (8) hour period or actual time spent on work in response to any telephone call or follow-up calls, whichever is greater.

**Section 11.** On-call, Lancaster Manor. When an employee of Lancaster Manor, specifically the Maintenance Repair Worker I and II and Maintenance Electrician, is officially designated to be on-call by his Department Head or Division Manager, the employee shall receive two (2) hours of pay at his regular rate of pay for each twenty-four (24) hour day.

## ARTICLE 22

### OVERTIME

**Section 1.** General Employees - Work performed by employees in excess of forty (40) hours in any work week shall be compensated at the rate of one and one-half (1 ½) times the regular hourly rate of the employee.

**Section 2.** No overtime work or compensation will be allowed without prior approval by the Department Head or his designee.

**Section 3.** All paid leaves of absence shall be counted as hours worked in computing overtime with the exception of sick leave which will not count as hours worked for the purpose of computing weekly overtime.

The above paragraph does not apply to call-back, call-in, stand-by, or emergency situations.

If an employee is called to duty during his off-duty time, and such time does not merge with his scheduled tour of duty, such employee shall be paid for a minimum of two (2) hours at the rate of time and one-half (1 ½) or one and one-half (1 ½) times the actual number of hours worked, whichever is greater.

**Section 4.** Comp Time. In lieu of payment for overtime hours worked, the employee may request to take compensatory time off. Approval shall be at the discretion of the Department Head. If the request is approved by the Department Head, one and one-half (1 ½) hours of compensatory time shall be credited for each overtime hour worked. A maximum accrual of compensatory time shall be twenty (20) hours.

Flex Time. The County recognizes and supports the concept of Flex time. Flex time is allowed within the work week as it is defined in Article 21, Section 2 of this contract. If an employee requests, an employee and their department head may agree to allow an employee to flex their schedule. However, in some departments and under some circumstances flex time may not be feasible and will not be permitted. No employee shall be required to take flex time off in order to avoid the payment of overtime or as a condition of continued employment.

**Section 5.** All 24-hour facilities - An overtime sign-up sheet will be posted quarterly.

**Section 6.** Lancaster Manor - An overtime sign-up sheet will be posted quarterly (September 1, December 1, March 1, June 1) for five (5) calendar days for employees to sign indicating a desire to work overtime. Upon completion of the sign-up, employees will be listed in order of total County seniority. An employee may elect to have his name added to the sign-up list upon completion of thirty (30) days employment. Seniority, however, will determine the position of the employee on the sign-up list.

As an overtime requirement is developed, the most senior employee on the sign-up list will be offered overtime provided that the employee possesses the skills and abilities necessary to perform the duties of the job. If the employee declines the offer, overtime will be offered to the second most senior employee. Assuming that the second most senior employee accepts the overtime, and a new overtime requirement is developed, the most senior employee will be offered

overtime. If the offer is again declined, the third most senior employee will be offered overtime. The procedure repeats itself as the supervisor works through the list on the basis of seniority. Each employee on the list is thus insured an opportunity to work overtime.

When the list has been exhausted and no employee has accepted the offer of overtime, the seniority list will be called starting with the least senior employee. Overtime then becomes mandatory for the first employee contacted. If the employee refuses to work overtime, the next employee contacted will be directed to work overtime. The supervisor will work the seniority list in reverse order until the overtime requirement is satisfied. In the event a new overtime requirement is developed and the sign-up list is exhausted, the supervisor will contact the employee on the seniority list whose name is directly above the individual who satisfied the previous overtime requirement. The person so contacted will be directed to work overtime. The procedure repeats itself as the supervisor works through the seniority list.

To preclude an employee from continuously refusing to work mandatory overtime, three (3) instances of refusal within a six (6) month period will result in the issuance of a letter of reprimand. The six (6) month period begins with the posting of the September 1, 1990, sign-up sheet. At the end of six (6) months, the employee's record as to refusals to work overtime will be destroyed. This, however, does not apply to the letter of reprimand which has become a part of the employee's official personnel file. A new record of employee refusals will then be established concurrent with the posting of the March 1 sign-up sheet.

The above criteria will apply only when overtime is available in blocks of four (4) hours or more and will not apply to extensions of duty shifts.

## ARTICLE 23

### HOLIDAYS AND VACATION

**Section 1.** Compensation for Absence on Holidays. All holidays shall not exceed eight (8) hours in duration. The following shall be considered legal holidays:

New Year's Day	Labor Day
Martin Luther King Jr.'s Day	Veterans Day
Presidents' Day	Thanksgiving Day
Memorial Day	Day After Thanksgiving
Fourth of July	Christmas Day

In addition, the County will provide three (3) non-cumulative personal holidays to all eligible employees. The personal holidays may be taken at any time between September 1 and August 31 of the following year (or be forfeited), provided the day selected by the employee has the prior approval of the Department Head. Full-time employees will be required to use each personal holiday in eight (8) hour increments.

In lieu of all holidays identified in Section 1, part-time shift employees and part-time employees of facilities open seven (7) days a week shall earn legal and personal holidays at the rate of 0.05 per hour worked, which shall be added to the holiday bank each pay period. Holiday bank hours must be taken as scheduled leave time as approved by the Department Head and under no circumstances will holiday bank hours be compensated with pay. All holiday bank hours must be taken during the contract year or be forfeited. Holiday bank time in lieu of named legal holidays identified in Section 1 may be taken prior to the date of the legal holiday if approved by the Department Head; however, if the employee separates service from the County prior to the date of the legal holiday(s) and has been granted paid unearned time off, the County will deduct paid time in lieu of unearned time off from the employee's final pay.

Employees who are scheduled to work and who actually work on a legal holiday, and who work in a seven day a week or twenty-four hour a day operation, shall be paid one and one-half (1 ½) times the hourly rate for such hours worked in addition to holiday pay. All hours worked on the holiday, within an employee's regular scheduled work week, shall be used in computation of weekly overtime; provided that an employee shall not be paid time and one half twice on the same hours.

**Section 2.** Compensation for Holiday Falling on a Regularly Scheduled Day Off. Except for employees regularly scheduled to work on a shift basis, when a holiday listed in Section 1 of this Article falls on a Saturday, the preceding Friday shall be observed as the legal holiday and when the legal holiday falls on Sunday, the following Monday shall be observed as the legal holiday.

For employees who are regularly scheduled to work on a shift basis, the holiday will be observed as follows: January 1, July 4, November 11, and December 25. All other holidays will be the same as observed by the rest of the County employees.

**Section 3.** Compensation for Work Performed on Holidays. Any non-shift employee who is eligible for holiday pay and who shall be required to perform work or to render services on one of the holidays listed in Section 1 of this Article shall receive pay at time and one-half (1 ½) for hours worked. The employee shall have the option of requesting equivalent time off with the permission of the Department Head.

**Section 4.** Qualification for Holiday Pay. In order to qualify for holiday pay, an employee must be in a pay status on the regular work days immediately before and after the holiday.

Any holiday listed in Section 1 of this Article falling within a vacation period shall not be considered working days in determining a vacation period.

**Section 5.** Vacation Leave. Employees shall earn vacation leave with pay according to the following schedule:

- A. Less than five (5) years of service — At the factored hourly equivalent of eighty (80) hours per year.
- B. After five (5) years of service — At the factored hourly equivalent of one hundred twenty (120) hours per year.
- C. After ten (10) years of service — At the factored hourly equivalent of one hundred fifty-two (152) hours per year.
- D. After fifteen (15) years of service — At the factored hourly equivalent of one hundred sixty-four (164) hours per year.
- E. After twenty (20) years of service — At the factored hourly equivalent of one hundred ninety-eight (198) hours per year.

Vacation leave shall be earned but not granted during the first six (6) months of employment.

It shall be at the discretion of supervisory personnel to grant vacation leave without prior request/approval. The supervisors may request proof of circumstances beyond control. Without adequate proof of circumstances, employee may be put on leave without pay. Such vacation leave shall not be unreasonably denied.

Accumulation of vacation leave credit shall be on a continuous basis not to exceed two hundred forty (240) hours. Unused vacation accumulation shall be paid upon termination of employment.

Each Department Head shall schedule vacation leaves to accord with operating requirements and, insofar as possible, to coincide with the request of the employee. For those positions which regularly require financial transactions and/or the handling of money in the performance of the job, the Department Head may require that the employee use at least one forty (40) hour block of vacation per year.

Vacation leave shall not accrue during any period of absence without pay or without leave.



When an employee at Lancaster Manor or the Youth Services Center requests vacation in blocks of sixteen (16) hours or more, at least two (2) weeks in advance, and it is approved by the Department Head, the employee is not responsible for finding his replacement.

## ARTICLE 24

### SICK LEAVE AND INJURY LEAVE

#### Section 1. Sick Leave.

- A. Sick Leave shall be earned at the factored hourly equivalent of four (4) hours per pay period of service. Accumulation of sick leave credit shall not exceed two thousand eighty (2080) hours at any one time. Disability retirement shall not be effective until accumulated sick leave has been used. Upon retirement or death the employee shall receive fifty-five percent (55%) of accumulated sick leave (distributed into the employee's PEHP account). The payment will be at the regular hourly rate of the employee at the time of retirement. No refund of vacation shall be allowed due to illness incurred while on vacation leave.
- B. An employee eligible for sick leave with pay may use such sick leave for absence due to sickness, family illness, personal and family medical appointments, disability, non-work related injury, exposure to contagious disease or funeral leave as outlined in this article and for no other purpose. An employee who uses sick leave for any other purpose may be subject to discipline.
- C. An employee may use up to forty (40) hours per calendar year from his sick leave balance for illness in the immediate family or family medical appointments. Immediate family is defined to be spouse, child, parent, stepparent, sister, brother, employee's grandparents and the parents of the employee's spouse. Immediate family will also include any other family member, whether it be by blood or marriage, or legal adoption or foster children, residing in the same household. Upon written request, the Personnel Director may waive the forty (40) hour limit after reviewing the individual circumstances in support of the request.
- D. At the employee's discretion, he/she may supplement their Worker's Compensation payment to bring the total sum of the Worker's Compensation payment and sick leave to a figure equivalent to a full pay check.
- E. An employee who is absent because of sickness shall first attempt to inform his immediate supervisor, if on duty, or any supervisor on duty at the employee's usual work location of the fact and the reason therefore as soon as possible; failure to do so within a reasonable time may be cause for denial of pay for the period of absence. The Department Head may require a doctor's certificate or other evidence of illness before approving sick leave with pay.
- F. Sick leave may be denied when the County has facts showing that an employee is abusing sick leave.
- G. Once an employee has exhausted Sick Leave the County shall automatically deduct as necessary from any available paid leaves.
- H. It is mutually agreed that it is the responsibility of the Union and the County to monitor sick leave usage. When either party feels that an

employee is excessively using or abusing sick leave, that party shall notify the other. It shall then become the responsibility of the Union to counsel that employee in an effort to avoid possible disciplinary action.

- I. Disability retirement shall not be effective until accumulated sick leave has been used. Upon retirement or death the employee shall receive fifty-five percent (55%) of accumulated sick leave into the employee's PEHP account.
- J. The County agrees to pay an employee who voluntarily separates from employment after fifteen (15) consecutive years of service with Lancaster County fifty percent (50%) of their sick leave balance which is greater than 1000 hours. The hours will be based on their current eight (8) hours of pay. This pay out shall be distributed as one-third ( $\frac{1}{3}$ ) cash and two-thirds ( $\frac{2}{3}$ ) PEHP.
- K. Any employee who is laid off, and is later recalled within one (1) year, shall have available upon his return such unused sick leave accrual as he may have earned up to the time of his departure.
- L. The Union and County agree to comply with the rules and regulations of the Family and Medical Leave Act of 1993 and the County's policy governing the application of the Act.

**Section 2. Injury Leave.** Any employee who is injured in the performance of his duties shall receive the difference between his regular pay and the Worker's Compensation payment for a period not to exceed ten (10) working days. Failure to immediately report an accident which may result in injury may cause forfeiture of the additional benefit.

Such injury leave shall not be deducted from vacation or sick leave credits.

The County will provide a long term disability policy in order to provide some relief from lost wages due to sickness, injury or disability.

## ARTICLE 25

### FUNERAL LEAVE

- A. Funeral Leave. In the case of the death of the employee's spouse, child, step-child, mother, father, stepmother, stepfather, mother-in-law, father-in-law, brother, sister, grandfather, grandmother, grandchild, or in the case of death of any other relative residing in the immediate household of the employee. Grandfather, grandmother and grandchild will include "great" grandfathers, grandmothers and grandchildren. A full-time employee shall be allowed twenty-four (24) hours funeral leave with regular pay to attend the funeral without deduction from his pay or accumulated sick leave. The part-time employee shall be allowed two-fifths (2/5) of the hours in his normally scheduled work week if scheduled to work the hours requested.
- B. In the case of the death of the employee's sister-in-law, brother-in-law, daughter-in-law, son-in-law, aunt, uncle, nephew, niece, or the grandparents of an employee's spouse, the full-time employee shall be allowed sixteen (16) hours funeral leave with regular pay to attend the funeral without deduction from his pay or accumulated sick leave. Aunt and uncle will include "great" aunts and uncles. The part-time employee shall be allowed one-fifth (1/5) of the hours in his normally scheduled work week if scheduled to work the hours requested.
- C. Further, the full-time employee may also be allowed to use up to twenty-four (24) hours of his accumulated sick leave in the case of death of any of the above designated persons. The part-time employee may also be allowed to use accumulated sick leave up to four-fifths (4/5) of the hours in his normally scheduled work week if scheduled to work the hours requested.
- D. Upon the request, through normal administrative procedure, up to four (4) hours paid leave may be granted if a full-time employee attends the funeral of a co-worker or retiree from the department in which the requesting employee is employed. The part-time employee shall be allowed one-tenth (1/10) of the hours in his normally scheduled work week if scheduled to work the hours requested.

## ARTICLE 26

### OTHER LEAVES

**Section 1.** Leave for Jury Duty. Any employee called to serve jury duty shall receive his regular pay in addition to the compensation received for ten (10) working days of jury service. For jury service exceeding ten (10) work days during one (1) jury term, the employee shall receive the difference between his regular pay and the compensation received for such jury service.

**Section 2.** Military Leave. All employees who shall be members of the National Guard, Army Reserve, Naval Reserve, Marine Corps Reserve, Air Force Reserve, and Coast Guard Reserve, shall be entitled to leave of absence from their respective duties, without loss of pay, on all days during which they are employed with or without pay under the orders or authorization of competent authority in the active service of the State of Nebraska or of the United States, but not to exceed fifteen (15) work days in any one (1) calendar year. Such leave of absence shall be in addition to the regular annual leave of the persons named herein. When the Governor of the State of Nebraska shall declare that a state of emergency exists, and any of the persons named in this section are ordered to active service of the State of Nebraska, an additional leave of absence will be granted until such member is released from active service by competent authority. During the additional leave of absence because of the call of the Governor, any official or employee subject to the provisions of this section shall receive such portion of his salary or compensation as will equal the loss he may suffer while in active service of the State. Governmental officers serving a term of office shall receive their compensation as provided by law. No employee shall be treated any differently than as outlined in Federal statutes addressing military leave.

**Section 3.** Special Leave. In addition to leaves authorized above, a Department Head may authorize an employee to be absent without pay for personal reasons for a period or periods not to exceed thirty (30) working days in any calendar year, provided he has used all accumulated vacation leave. The Personnel Officer must approve any leaves in excess of thirty (30) calendar days. All requests for leave of absence must be made in writing.

A Department Head, with approval of the Personnel Officer, may grant such employee leave of absence without pay for a period not to exceed one (1) year for travel or study which will render the employee of greater value to the County upon his return to duty. Such leave shall be granted only when it will not result in undue prejudice to the interests of the County as an employer beyond any benefits to be realized. No leave without pay shall be granted except upon written request of the employee. No such leave shall be granted primarily in the interests of the employee except in the case of one who has shown by his record of service or by other evidence to be of more than average value to the County, and whose service it is desirable to retain even at such sacrifice. Failure on the part of an employee on leave to report promptly at its expiration, without good cause, shall be considered as a resignation.

Leave with pay for public health or safety duties of an emergency nature may be authorized by the Department Head upon approval of the Personnel Officer. Such leave will not be deducted from vacation or sick leave.

**Section 4.** Pregnancy and Parental Leave. A pregnant employee shall request in writing and with a physician's certificate 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.

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.

**Section 5.** Leave of Absence Without Pay to Accept Appointment in the Unclassified Service. An employee may be granted leave without pay from his status position to accept appointment to a position in the unclassified service. The employee may return to a comparable position for which he has status at any time and shall be entitled to receive the rate of salary of the previously held classified position he would have received had he not left to serve in the unclassified position. In the event the rate paid in the position to which he was returned is below the top rate of the grade, he shall be entitled to advance in accordance with Rule 19.9 without change in anniversary date.

**Section 6.** Absence Without Leave. Any unauthorized absence of an employee from duty shall be deemed to be an absence without pay and may be made grounds for disciplinary action by the Department Head. In the absence of such disciplinary action, any employee who absents himself for three (3) or more days without authorized leave shall be deemed to have resigned. Such absence may be excused, however, by the Department Head by a subsequent grant of leave with or without pay where extenuating circumstances are found to have existed.

**Section 7.** Leaves of Absence. All leaves of absence must be requested in writing to and approved by the Department Head in advance of leave being taken. Exceptions may be made in an emergency.

## ARTICLE 27

### ATTENDANCE IN COURT, CONFERENCES AND OTHER MEETINGS

If an employee is required to attend a court hearing or other meeting directly related to official duties, other than Union activities, during off-duty periods, he shall be compensated at a minimum of two (2) hours at straight time or one and one-half (1 ½) times the number of hours for actual time in attendance, whichever is greater.

## ARTICLE 28

### WAGES

Reference to Rules in this Article shall mean the Rules of Lancaster County, Nebraska, as they are now in existence or as they may be changed in the future by the County Board as per the provisions of Nebraska Revised Statutes, Sections 23-2517 to 23-2533 (Reissue 1983).

**Section 1.** The scale of wages for job classifications covered by this Agreement shall be prescribed by a resolution adopted by the County Board which shall be in accord with Appendix "A" so far as said resolution relates to job classifications covered by this Agreement. Wages as set forth in Appendix "A" become effective August 14, 2008 and reflect a three percent (3%) increase. Said wages shall be increased by three and quarter percent (3.25%) effective fiscal year 2009-2010 and by three and one-half percent (3.5%) effective fiscal year 2010 - 2011.

**Section 2.** Upon agreement between the bargaining committees of the County and the Union, the County through its Personnel Officer or other designated representative will take the necessary procedural steps mandated by statute for ratification of the Agreement and presentation of the Agreement to the County Board.

**Section 3.** Administration of the Compensation Plan shall be as provided in Rule 17, where such provisions do not conflict with this agreement or where this agreement is silent.

**Section 4.** In addition to an employee's base salary, each employee shall annually receive longevity pay based upon the total length of continuous service with the County. Such pay shall be effective beginning with the first full pay period following completion of the specified years of service. Payment shall be made on a prorated basis on each regular pay day. Part-time employees shall receive longevity pay based upon the total hours worked in each pay cycle.

COMPLETED YEARS OF SERVICE	ANNUAL PAY	HOURLY PAY
5 Years (Beginning 6th Year)	\$ 245.44	\$.118
10 Years (Beginning 11th Year)	\$ 386.88	\$.186
15 Years (Beginning 16th Year)	\$ 640.64	\$.308
20 Years (Beginning 21st Year)	\$ 900.64	\$.433
25 Years (Beginning 26th Year)	\$1,000.48	\$.481

There shall be no retroactivity or accumulative building on top of the previous longevity rate.



**Section 5.** Retirement: The County will provide a retirement plan as outlined in the following manner:

Each status employee who is eligible to make contributions to the retirement plan will contribute five and two-tenths percent (5.2%) of his wages and the County will match with one hundred fifty percent (1.5) times the employee contribution.

**Section 6.** Shift Differentials. All employees who are regularly assigned to second and third shifts shall be paid an additional thirty-five (35) cents per hour. The differential pay per hour shall be included as an addition to their current hourly rate.

Lancaster Manor or Corrections: Employees of Lancaster Manor or nursing staff at Corrections who actually work on Saturday and/or Sunday will receive an additional seventy-five (75) cents per hour. Both shift and weekend differential pay per hour shall be included as part of the employee's current hourly rate.

Lancaster Manor or Corrections nursing staff: All employees who are regularly assigned to second and third shifts shall be paid an additional forty-five (45) cents per hour. The differential pay per hour shall be included as an addition to their current hourly rate, and any other hourly amount for which they may qualify under this section.

For purposes of this Section 6, the following conditions shall apply:

- A. To be entitled to shift differential pay, an employee must work a majority of his regularly scheduled shift hours between 5:00 p.m. and 9:00 a.m.
- B. For purposes of computing any shift differential pay, "current hourly rate" shall mean the regular hourly rate set forth in Appendix "A", attached to this Agreement.
- C. An employee whose regularly scheduled shift entitles him to shift differential pay shall receive the shift differential pay as a part of his current hourly rate for leaves of absence including vacation, sick leave, holiday pay and funeral leave.
- D. For purpose of computing overtime pay, an employee shall receive his current hourly rate in addition to the corresponding differential pay.

**Section 7.** An employee will be paid at their regular rate of pay to take the initial Commercial Drivers License examination one time (each of the three phases). Time off with pay for repeat examination will be at the Department Head's discretion. The County will reimburse an employee the difference in cost between a regular drivers license and a Commercial Drivers License, when the employee's position requires a Commercial Drivers License, and only when that license is renewed.

**Section 8.** Post Employment Health Program (PEHP). The PEHP will be considered by both parties as part of the total compensation for computation of wages and benefits. Beginning with this Agreement, the County will contribute for each eligible employee the amount of \$18.50 per pay period. If any contribution is an amount other than an equal dollar amount per eligible employee, that contribution will be deposited in the eligible employee's Premium Payor Account, otherwise

the equal contribution per eligible employee will be deposited in the eligible employee's Universal Payor Account pursuant to the terms and conditions of the PEHP Plan.

**Section 9.** The County shall enclose any payroll check in an envelope in the event the check isn't personally delivered to the employee.

## ARTICLE 29

### TEMPORARY ASSIGNMENT TO A HIGHER CLASSIFICATION

Temporary assignment out of class shall mean assignment to an out of class position which is temporarily vacant due to termination, resignation, leave of absence, or initial creation. In the event an employee is directed by management personnel to engage in work having substantially similar duties and responsibilities as those of another permanent position (classification) with a higher maximum salary (out of class work), that employee shall receive at least a step increase in pay during the period he is so engaged in that activity, provided the following is accomplished:

- A. The employee obtains written authorization to engage in the out of class work either prior to commencement of that activity or within twenty-four (24) hours of the commencement of the out of class work;
- B. The employee is authorized to perform the full range of duties of the out of class work, even though he may not actually perform the full range of duties during the term of that activity; and
- C. The employee must perform the out of class work eight (8) or more consecutive hours before being eligible for out of class pay. The employee shall then be compensated for the original eight (8) consecutive hours worked plus any additional consecutive hours he is engaged in the out of class work.

In the event an employee is performing out of class work and requests and receives approval for paid leave, such paid leave shall be compensated at the employee's rate of pay prior to the assignment of the out of class work.

Examples of out of class pay are for demonstrative purposes, and are not inclusive of all instances when out of class pay may be paid to an employee.

Examples of out of class pay might include an employee working four (4) hours out of class at the end of a shift, returning to work the next day and working an additional four (4) hours out of class. In this example, the employee would be paid out of class pay for the eight (8) consecutive hours of work.

In another scenario, an employee may be assigned to perform out of class work for an eight (8) hour work day. The beginning of the following work day the employee is assigned and performs two (2) hours of out of class work resulting in ten (10) consecutive hours of out of class work. The employee would be paid ten (10) hours of out of class pay in this example.

Exceptions to this Article for receipt of out of class pay may be made or approved by the Personnel Director.

## ARTICLE 30

### INSURANCE

**Section 1. Health Insurance.** The County shall maintain a group health insurance policy. The County shall contract annually with one or more carriers to provide this coverage.

The County shall contribute one hundred percent (100%) of the carrier single premium cost, eighty-five percent (85%) of the carrier 2/4 premium cost, and eighty-five percent (85%) of the carrier family premium cost.

All retired members of the bargaining unit may participate in the Group Health Insurance program for active County employees until age sixty-five (65), provided that each retiree so desiring will execute the required forms in a timely fashion, and further provided that each retiree will be required to pay the full monthly premium at the then current rates subject to any rate increases which may occur from time to time. Such payments will be made by the retiree to the insurance carrier.

**Section 2. Dental Insurance.** The County agrees to provide a comprehensive dental program. The County will pay seventy-five percent (75%) of the monthly premium for Dental Insurance. The employee will pay the remaining twenty-five percent (25%) of the premium. This applies to the single, 2/4 party and family plans.

**Section 3. Life Insurance.** The County will pay the full premium on \$30,000 group term life insurance coverage for the employee upon adoption of the addendum to the present Guaranteed Mutual Life Insurance contract. Additional coverage and dependent coverage may be purchased and the employee will pay one hundred percent (100%) of the monthly premium.

## ARTICLE 31

### EYEGLOSS REPLACEMENT

An employee whose eyeglasses are broken or lost in the performance of duty shall submit a written report before the end of his duty shift explaining what caused said glasses to break. The County shall provide safety lens, scratch resistance and tinting as requested by the employee as replacement lens. Replacement frame cost shall not exceed two hundred dollars.

## ARTICLE 32

### RETENTION OF BENEFITS

Any and all current privileges and benefits enjoyed by the employees prior to the date of this Agreement will not be denied them because of the execution of this Agreement unless the parties, through collective bargaining, mutually agree to change or have specifically waived any of these privileges.

## ARTICLE 33

### SAVINGS CLAUSE

**Section 1.** If any provision of this Agreement is subsequently declared by the proper legislative or judicial authority to be unlawful, unenforceable, or not in accordance with applicable statutes or ordinances, all other provisions of this Agreement shall remain in full force and effect for the duration of this Agreement.

**Section 2.** Should any Article, Section or portion thereof, of this Agreement be held unlawful and unenforceable by any court of competent jurisdiction, such decision of the court shall apply only to the specific Article, Section, or portion thereof directly specified in the decision; upon the issuance of such a decision, the parties agree to negotiate a substitute for the invalidated Article, Section, or portion thereof.

## ARTICLE 34

### UNION BARGAINING COMMITTEE

- Section 1.** The Union bargaining committee will include not more than five (5) employees of the County. It may also include two (2) non-employee representatives of AFSCME Local 2468, AFL-CIO. The Union will provide Personnel with the names of its employee representatives on the bargaining committee in writing.
- Section 2.** There will be no discrimination against any employee because of his duties as a Union Official, Steward, or Committee Member.
- Section 3.** Employee members of the bargaining committee will be paid by the employer for time spent in negotiations with management, a cumulative total of fifty (50) straight time hours that they would otherwise have worked their regular schedule. None of the time spent in negotiations shall be used to compute hours worked for overtime compensation.



## ARTICLE 35

### INFECTIOUS DISEASE

**Section 1.** The County, through its Health Department, will establish a list of positions in the County which are at risk for exposure to Hepatitis B. Once risk is established, the County shall, at the County's expense, offer vaccinations for Hepatitis B to those employees in the positions identified as being at risk. The County will provide the employees with educational material and, after the employee has completed the education phase, the employee may accept or reject the vaccination.

**Section 2.** The County recognizes the risk of exposure to contagious diseases of employees and residents of Lancaster Manor and Corrections Department. Therefore, the County will annually provide (1) mandatory tuberculosis screening to all Lancaster Manor and Corrections employees, and (2) voluntary influenza vaccinations for all Lancaster Manor and Corrections employees. It shall be the responsibility of the County to develop, implement and manage this program.

## ARTICLE 36

### BUS PASS

The County will pay one half ( $\frac{1}{2}$ ) the monthly cost of the StarTran Passport bus fare for interested employees who have signed up for such program. The employee will pay the other half ( $\frac{1}{2}$ ).

## ARTICLE 37

### LICENSES AND CREDENTIALS

In the event that an employee is required to maintain a license or other credential pursuant to the qualification requirements in their job description, each Department Head shall maintain a record of the status of the license or credential, and the dates for required renewals. The status of an employee's license or credential shall also be reviewed with the employee during the employee's annual evaluation.

The County agrees to pay for required continuing education classes for LPN's. The County will pay a maximum of \$250 per employee over any two (2) year period. If the employee separates during the first year, he will be required to reimburse the County for any amount paid during that period.

## ARTICLE 38

### SHIFT BID – YOUTH SERVICES CENTER (ONLY)

**Section 1.** All shifts and days off held by Juvenile Detention Officers will be open for bid on a semi-annual basis. Schedules that are bid will take effect beginning the first pay period in April and October of each year. This process will exclude the position (shift/days off) of Transport assignments.

The department reserves the right to assign or re-assign shift positions.

**Section 2.** The Department and jail standards require a minimum of two (2) male Juvenile Detention Officers and two (2) female Juvenile Detention Officers per shift per day.

Therefore, staff will be distributed in such a manner that at least two (2) male Juvenile Detention Officers and two (2) female Juvenile Detention Officers are scheduled on the official shift schedule each day of the week.

**Section 3.** Juvenile Detention Officers will be allowed to select shifts and days off. Shift bids will be based on seniority. The Department reserves the right to insure the necessary experience and skills are on each shift. Persons that are affected by an involuntary shift change shall be exempt from an involuntary shift change on the next semi-annual bid. In such situations, the department will require the involuntary shift change to be made by the next least senior Juvenile Detention Officer(s) from the shift that has adequate coverage so that it will not create further shift transfers to fill the required shift.

**Section 4.** The schedule will be posted on the board two weeks prior to the bid process. Each Officer will have a date and time that they must call in and make their selection for shift and days off. They must make their selection at that time. The bid process will be in order of seniority, starting with the most senior officer, to select their shift and days off from the remaining openings.

Any Officer who does not call in at their prescribed time will be placed at the end of the process for their selection. If they fail to call in at all by the end of the bid process as posted, then a selection will be made for them by the department.

**Section 5.** During the period between bid processes, if a vacancy occurs, management will determine how the shift and days off are filled at its discretion.

**Section 6.** The County may implement the 207(k) exemption set forth in the Fair Labor Standards Act, 29 U.S.C. section 207(k) and 29 C.F.R. part 533 as follows: The Department may create a maximum of six (6) shifts of 12 hour duration. The employees who bid for those shifts and days off would be paid overtime on a fourteen (14) day, eighty (80) hour basis. Participation in a 12 hour shift shall be voluntary. In the event that an employee shall not have any bid slot available other than 12 hour shift, the department shall convert available 12 hour shifts to 8 hour or 10 hour shifts and an employee shall be permitted to bid either an eight (8) or ten (10) hour shift. All holiday, vacation hours and other accrued benefits are treated the same as all 8 hour shifts. These changes to hours of work are exceptions to Article 21 section 4 of this agreement.

## ARTICLE 39

### THE NATURAL DISASTER LEAVE DONATION POLICY

#### Section 1. Introduction.

The County of Lancaster recognizes that there are instances in which an employee may personally suffer significant losses of property from a natural disaster requiring an employee to be absent from work. The County also recognizes that when these instances occur, co-workers of the employee who personally experienced a significant property loss as the result of a natural disaster desire to assist the employee until the employee can return to work. This policy bulletin is intended to establish guidelines for employees of Lancaster County to donate accrued vacation time and personal convenience holidays to another employee who personally suffered a significant property loss as a result of a natural disaster to be used as paid leave by the employee who personally suffered the significant property loss.

#### Section 2. POLICY

In the event the Governor of the State of Nebraska declares a state of emergency as the result of a natural disaster, it shall be the policy of the County of Lancaster to allow employees the opportunity to donate accrued vacation leave and personal convenience holidays to the benefit of another County employee who personally suffered a significant property loss as the result of the natural disaster.

#### Section 3. PROCEDURE

##### A. Employees Covered

All classified and unclassified employees who earn leave and have been employed a minimum of twelve consecutive months shall be eligible to participate in the Natural Disaster Leave Donation Program.

##### B. Recipient Employee Eligibility

To be eligible to receive leave donated pursuant to this policy, an employee must meet the following conditions:

1. The employee must have personally suffered a significant loss of property, as the result of a natural disaster, including but not limited to, the physical destruction of or a significant damage to the employee's personal residence.
2. The employee must provide a verification of the significant property loss or damage satisfactory to the County.
3. The employee must have a minimum of one year of service with the County.
4. The employee must not have offered anything of value to another employee in exchange for the leave donation.

5. No more than 80 hours of natural disaster leave may be received by the employee for any given state of emergency.
6. The employee must complete the Natural Disaster Donation Request Form and submit the form to the employee's department head, and the Personnel Director, who will certify that the employee is eligible to participate in the leave donation program.

**C. Donor Employee Eligibility**

1. The employee must have an accrued vacation leave balance of at least forty hours subsequent to making a leave donation.
2. The employee must donate Personal Convenience Holidays in only eight-hour increments. Vacation may be donated in four-hour or eight-hour increments.
3. The employee must not have solicited nor accepted anything of value in exchange for the donation.
4. The employee must complete and have witnessed the Natural Disaster Donation Form.

**D. How to Apply For or Donate Leave**

1. An employee who qualifies for natural disaster leave shall complete the Natural Disaster Leave Donation Request Form and submit it to the department head who shall, in conjunction with the Personnel Director, review it for approval or denial.
2. Upon approval, donor employees shall complete the Natural Disaster Donation Form indicating a willingness to donate vacation or Personal Convenience Holiday time and the amount of said time to be donated. This form shall also be signed by a witness to the donor's signature. The completed form should then be forwarded to the payroll person in the department of the requesting employee.
3. Employees donating their time are doing so strictly on a voluntary basis and will have their vacation or Personal Convenience Holiday leave balances irrevocably debited for the amount of time transferred to the recipient employee. The transferred time will be placed in the recipient employee's vacation leave account.
4. The Personnel and County Payroll Departments will monitor hours donated. The time donated will be on an "hour-for-hour" basis to the recipient employee.
5. Vacation hours transferred are done so in four-hour or eight-hour increments. Personal Convenience Holiday hours transferred are done so in eight-hour increments. All time donated must be used by the recipient for recovery from the property loss associated with the natural disaster. In no event shall the employee be allowed to utilize time donated pursuant to this policy as an addition to the employee's approved vacation balance.

6. Subsequent to the receipt of the leave donation forms, the Personnel Department shall credit the recipient employee's vacation leave balance. An employee who is receiving natural disaster leave donated by other employees shall be allowed to accrue vacation and sick leave while in that status, however, all donated leave shall first be used prior to the use of the employee's accrued vacation leave time.

ARTICLE 40

DURATION

**Section 1.** This Agreement shall be effective as of the 14<sup>th</sup> day of August, 2008, and shall remain in full force and effect until the beginning of the first pay period in September, 2011.

This Agreement shall be automatically renewed from year to year thereafter unless either party shall notify the other in writing no later than April 1, 2009, that it desires to modify this Agreement in any part thereof. In the event such notice is given, negotiations shall not begin later than May 1, 2011. Prior to the first meeting, all proposals in completed form must be submitted to the County by the Union, and to the Union by the County.

**Section 2.** In the event either party desires to terminate this Agreement, written notice must be given to the other party no less than ten (10) days prior to the desired termination date, which shall not be before the expiration date set forth above.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement this \_\_\_\_ day of \_\_\_\_\_, 2008.

LOCAL NO. 2468, AMERICAN  
FEDERATION OF STATE, COUNTY  
AND MUNICIPAL EMPLOYEES,  
AFSCME, AFL-CIO

LANCASTER COUNTY, NEBRASKA

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WITNESSES

COUNTY COMMISSIONERS

\_\_\_\_\_  
COUNTY CLERK

APPROVED AS TO FORM THIS \_\_\_\_\_  
DAY OF \_\_\_\_\_, 2008.

\_\_\_\_\_  
LANCASTER COUNTY ATTORNEY



## APPENDIX "B"

Employees in the following departments will not be included in the bargaining unit:

1. All County Board of Commissioner Office employees.
2. All County Attorney Department employees.
3. All Public Defender Department employees.

In addition, employees in certain positions in selected classifications will not be included in the bargaining unit.

1. Confidential secretaries to Department Heads.
2. Personnel section employees, Lancaster Manor.
3. All employees in the unclassified service.
4. All professional employees.
5. All supervisors (as distinguished from lead men or crew leaders).
6. All part-time employees scheduled to work less than twenty (20) hours per week.
7. All employees holding the following appointments: entrance probationary, provisional, emergency, temporary, intermittent.

APPENDIX "C": Waiver of Representation

I am a member of the AFSCME Local 2468 bargaining unit and as such I recognize that I have certain rights.

I acknowledge that I am about to enter a meeting with Lancaster County management. The meeting will be for the purpose of investigating a matter involving or handing out discipline to me.

I recognize that I have the option of delaying the meeting and requesting that I be represented by a union steward or by the union attorney.

I freely and voluntarily waive my right to be represented in the meeting. In doing so, I realize that the outcome of the meeting could range from no disciplinary action up through termination of employment.

I understand that the purpose of this meeting is to discuss only matters relating to the following incident:

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Employee Signature: \_\_\_\_\_

Date: \_\_\_\_\_

This form shall be transmitted to the AFSCME Union President at:

Gary Young  
Attorney at Law  
530 S. 13<sup>th</sup> Street, Suite 100  
Lincoln, NE 68508-2795

GARY LACEY  
LANCASTER COUNTY ATTORNEY  
575 South 10th Street  
Lincoln, Nebraska 68508-2810  
402.441.7321 / TELECOPIER 402.441.7336



December 22, 2010

Joe Kelly, Chief Deputy

Board of County Commissioners  
of Lancaster County  
County-City Building  
555 So. 10<sup>th</sup> St.  
Lincoln, NE 68508

Re: County Board Supervisory Authority Over Employees of Other Elected Officials

Dear Members of the Board:

You have requested the opinion of our office regarding the authority of the County Board with respect to disciplinary actions or potential disciplinary actions involving employees of other Lancaster County elected officials. Specifically you have asked whether the County Board has authority to take disciplinary action against an employee of another county elected official if the elected official fails to do so under circumstances in which the County Board believes that disciplinary action would be appropriate. In connection with that inquiry you have also asked whether the County Board has authority to require that the results of a disciplinary investigation, including any written reports prepared as a result of the investigation, be disclosed to the County Board. It is the opinion of our office that the County Board lacks the authority to take either of the actions about which it has inquired.

The starting point for our analysis is the opinion of the Nebraska Supreme Court in Bass v. County of Saline, 171 Neb. 538, 106 N.W.2d 860(1960). In that case the Court was asked to decide the meaning of Neb. Rev. Stat. §23-1111, which stated, "The county officers in all counties shall have the necessary clerks and assistants for such periods and at such salaries as they may determine with the approval of the county board . . . ." In that case the clerk of the county court argued that the statutory language authorized her to determine the salary to be paid to her employees. The county board took the position that because the statute made the salary subject to the board's approval, it was the county board that was authorized to set the salary. The Supreme Court rejected the county board's position citing earlier case law holding that, "County commissioners possess no powers except such as are expressly granted or are incidentally necessary to carry such powers into effect." Id. at 541, 106 N.W.2d at 863, citing Ahern v. Richardson County, 127 Neb. 659, 256 N.W. 515(1934).

A similar holding was made by the Court in Sarpy County Public Employees Association v. County of Sarpy, 220 Neb. 431, 370 N.W.2d 495(1985). There the Court decided that absent the existence of a labor organization, individual elected county officials, and not the county board, were the officials with the authority to set salaries and working conditions for their respective employees. In reaching that result the Court specifically held that, "It has long been the recognized rule in this

jurisdiction that a county board is without authority, in the absence of a grant, to perform the duties which are part of the official duties of other officials or boards." Id. at 434, 370 N.W.2d at 198.

The specific situation you have inquired about, however, is somewhat different from the fact situations present in the above cited cases due to the existence of a labor organization, and the applicability of statutory civil service provisions. In American Federation of State, County and Municipal Employees, AFL-CIO v. County of Lancaster, 200 Neb. 301, 263 N.W.2d 471(1978), the Supreme Court pointed out that Lancaster County is subject to the civil service provisions embodied in Neb. Rev. Stat. §§23-2517 to 23-2533. It went on to state that:

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. . . . 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.

Id. at 304, 263 N.W.2d at 473.

The Court then enumerated a variety of topics on which the county board was free to negotiate with the union. It concluded, however, by stating that:

There were other topics included in the package bargaining agreement which were controlled by the civil service act to some extent, such as promotions, discipline, grievance procedure, nondiscrimination, and termination. To the extent that the civil service act contains specific and mandatory provisions relating to such matters, the county board is not free to bargain.

Id. at 304-305, 263 N.W.2d at 474.

With respect to the subject of discipline, Neb. Rev. Stat. §23-2525(19) requires that the county board adopt personnel rules which provide:

For a procedure whereby an appointing authority may suspend, reduce, demote, or dismiss an employee for misconduct, inefficiency, incompetence, insubordination, malfeasance, or other unfitness to render effective service and for the investigation and public hearing of appeals of such suspended, reduced, demoted, or dismissed employee.

Neb. Rev. Stat. §23-2518(1), in turn, states, "Appointing authority means elected officials and appointed department directors authorized to make appointments in the county service."

Thus, the provisions of state law dictate that discipline of employees remain the exclusive province of the elected officials for whom they work. In compliance with that requirement, both the Lancaster County Personnel Rules and the labor agreement with AFSCME Local 2468 specifically provide that the authority to discipline employees lies with the department head. In that regard we have attached hereto copies of Rule 11 of the Personnel Rules, which governs disciplinary actions, and the corresponding provisions found in Article 19 of the labor agreement.

Because the authority to discipline employees remains exclusively with elected officials, we believe that the County Board likewise lacks the authority to require elected officials to disclose to it the results of disciplinary investigations. Obviously, that power is not expressly granted to county commissioners, and, in almost all cases, it would not be incidentally necessary to carry out powers that have been specifically granted to the County Board. While it may be conceivable that a situation would arise in which information garnered from a disciplinary investigation would be essential to the County Board to enable it to carry out a duty that is expressly granted to it, we believe that such situations would be exceptionally rare. In addition, as a practical matter, the only sanction available to the County Board to attempt to enforce such a requirement would be institution of proceedings to remove the elected official from office pursuant to the provisions of Neb. Rev. Stat. §23-2001. That would generally require a showing of substantially more than errors of judgment or disagreements regarding the exercise of discretion. In that regard we would note that §23-2525(19), as well as Personnel Rule 11 and Article 19 of the labor agreement, all utilize the term "may" in connection with the authority of a department head to discipline employees. That is significant because Neb. Rev. Stat. §49-802 provides that the use of the term "may" presumes discretionary action.

We are hopeful that the foregoing analysis adequately addresses your inquiries. If you have any further questions regarding this matter or if we can be of any further assistance, please contact our office.

Very truly yours,

GARY E. LACEY  
Lancaster County Attorney



Thomas W. Fox  
Deputy County Attorney



Michael E. Thew  
Deputy County Attorney

GL/MET/TF/kc

Enclosure

## RULE 11 - DISCIPLINARY ACTIONS

### 11.1 General Provisions

Except as otherwise provided in these Rules, the tenure of an employee with status shall continue during good behavior and the satisfactory performance of his duties.

### 11.2 Reprimand, Suspension, Dismissal, Investigative Leave, and Demotion (Revised 8/09)

(a) The Department Head shall issue to the employee a notice in writing that his 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. A Department Head may reprimand, suspend, demote and/or dismiss an employee for just cause.

(c) Reprimand: A Department 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 Personnel 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 his personnel file. Reprimands may not be appealed to the Board. However, a status employee may appeal the reprimand directly to the Personnel Officer. 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 Personnel Department and a copy transmitted by the Personnel Department to the Department Head.

(d) Suspension: A Department 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 Department Head shall notify the employee in writing that he is proposing to suspend the employee and the reasons for the suspension. The employee shall then be given an opportunity to present his side of the story at a meeting with the Department Head or designated supervisor. The employee shall have an opportunity to be represented at the meeting if he desires. After considering all of the information presented, including any mitigating factors, the Department Head shall inform the employee of his decision. If the Department Head determines just cause exists for suspension, the Department Head shall furnish the employee and the Personnel Officer, 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 a Department Head from electing to administer discipline more lenient than what was originally proposed.

(e) Dismissal: A Department Head may dismiss any status employee for cause. Prior to a dismissal, the Department Head shall notify the employee in writing that he is proposing to dismiss the employee and the reasons for the dismissal. The employee shall then be given an opportunity to present his side of the story at a meeting with the Department Head or designated

supervisor. The employee shall have opportunity to be represented at the meeting if he desires. After considering all of the information presented, including any mitigating factors, the Department Head shall inform the employee of his decision. If the Department Head determines just cause exists for dismissal, the Department Head shall furnish the employee and the Personnel Officer, 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 a Department 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 Department 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 Department Head determines just cause exists to dismiss the employee, he shall notify the employee of the results of his investigation and follow the procedure outlined in Rule 11.2(e). If the Department Head determines just cause exists to suspend the employee, he shall notify the employee of the results of his investigation and follow the procedure outlined in Rule 11.2(d). If the Department 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: A Department 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 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 his 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 department, 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 his supervisor.

(8) The employee has been incompetent or inefficient in the performance of the duties of his 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 department, division, or institution regulation or order.

(12) The employee has taken for his personal use from any person any fee, gift, or other valuable thing in the course of his 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 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 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 on his job application or resume.

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



## ARTICLE 19

### DISCHARGE AND DISCIPLINE

**Section 1.** Disciplinary action shall consist of written warning, written reprimand, suspension, demotion and dismissal. A Department Head may suspend, demote or dismiss 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, 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.

Written warnings may not be grieved or appealed, however, an employee who receives a written warning may make a written rebuttal to be added to the Personnel file. Provisions for disciplinary actions should be limited to those listed above. Other solutions may be obtained through mutual consent by management, the Union and the employee.

At any meeting that may result in disciplinary action, the employee has the right to have legal counsel or a Union steward present. The employee may only waive their right to representation under this section in writing. The Union will provide a waiver form for the employee's convenience (see Appendix C).

Management reserves the right to investigate employee conduct, potential violations of rules and/or standards of employment. Whenever a Department Head has information that may be cause for suspension without pay, dismissal or involuntary demotion, as soon as possible the employee shall be entitled to written notice of the charges against him which shall identify the rule or policy violated and include an explanation of the agency's evidence against him. The written notice shall include at least five (5) working days notice of the date, time and place for a pre-disciplinary meeting where the employee will have an opportunity to respond to the charges and present mitigating evidence and/or reasons why disciplinary action should not be taken. The employee shall have the right to be represented by counsel or a union representative at the meeting. The employee may only waive their right to representation under this section in writing. The Union will provide a waiver form for the employee's convenience. (See Appendix C.)

After the pre-disciplinary meeting, if disciplinary action is deemed warranted by the Department, the employee will be presented with the disciplinary action in writing within a reasonable time after said disciplinary meeting. The employee will receipt the same without implying agreement or admitting to the infraction. The employee or his/her representative may present a written rebuttal to the final decision which shall be attached to the disciplinary action.

**Section 2.** A Department Head may reprimand any employee for cause. Such reprimand shall be in writing and addressed and presented to the employee who will initial receipt. The employee may grieve the reprimand directly to the Personnel Officer or his designated representative. The grievance shall be presented within fifteen (15) working days of receipt of the reprimand. The response to the grievance shall be in writing and shall be issued within fifteen (15) working days of receipt of the grievance. The written decision on the

grievance shall be final and binding upon the parties to the grievance. The grievance procedure as outlined in Article 20 shall not apply to this Section. The employee may present a written rebuttal to the final decision regarding the grievance within fifteen (15) working days of date of decision which shall be attached to and become a part of the file pertaining to the grievance. The rebuttal shall be delivered to the Personnel Department and a copy transmitted by the Personnel Department to the Department Head who wrote the reprimand.

**Section 3.** Written reprimands, written warnings and rebuttals or explanations thereof shall be removed from an employee's personnel file, including such files within a Department, one year after the filing thereof provided there is a written request for removal from the affected employee and further provided there have been no additional disciplinary actions taken against the employee for the same or similar violations.

Suspensions shall be removed from an employee's personnel file, including such files within a Department, five (5) years after the filing thereof provided there is a written request for removal from the affected employee and further provided there have been no additional disciplinary actions taken against the employee for the same or similar violations.

**Section 4.** A Department 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, except for the investigative suspension as defined in Section 6 of this Article. The Department Head shall notify the employee concerned and the Personnel Officer in writing no later than one (1) working day after the date of suspension is made effective. Such notice shall include the reasons for and the 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.

**Section 5.** A Department Head may dismiss any employee with status only for cause at any time and at the time of dismissal shall furnish the employee with a written statement of other reasons for the dismissal and within one (1) working day of such action, furnish the Personnel Officer with a written statement of the reasons for the dismissal. Any employee who is dismissed may appeal, in writing, to the Board within fifteen (15) working days of notice of dismissal.

**Section 6.** Upon being informed that an employee has been accused of behavior which, if substantiated, would be cause for dismissal, the Department Head shall have the option of suspending an employee without pay for a period not to exceed thirty (30) calendar days for the purpose of investigation of the accusation, provided that if after investigation the Department Head determines to dismiss the employee, he shall give written notice of the dismissal in accordance with Section 5, and if after investigation the Department Head determines that the accusation cannot be substantiated or does not constitute cause for dismissal, the employee be reinstated and awarded back pay for any portion of the suspension time not imposed as disciplinary action.

**Section 7.** An employee who receives three (3) or more reprimands within a twelve (12) consecutive month period shall be authorized to utilize the appeal procedure outlined in Article 20 of this Agreement. In the event that an employee appeals the third or additional reprimand during a twelve (12) consecutive month period,

documents relating to the preceding like reprimands shall be admissible in the appeal procedure.

## APPENDIX "C": Waiver of Representation

I am a member of the AFSCME Local 2468 bargaining unit and as such I recognize that I have certain rights:

I acknowledge that I am about to enter a meeting with Lancaster County management. The meeting will be for the purpose of investigating a matter involving or handing out discipline to me.

I recognize that I have the option of delaying the meeting and requesting that I be represented by a union steward or by the union attorney.

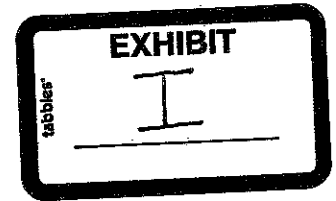
I freely and voluntarily waive my right to be represented in the meeting. In doing so, I realize that the outcome of the meeting could range from no disciplinary action up through termination of employment.

I understand that the purpose of this meeting is to discuss only matters relating to the following incident:

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## Nebraska Open Meetings Act

The Nebraska Open Meetings Act guarantees that every meeting of a public body shall be open to the public in order that citizens may exercise their democratic privilege of attending and speaking at meetings of public bodies. The information below details NEB. REV. STAT. §§ 84-1407 TO 84-1414 (2008, Supp 2009)

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### BASIC PROVISION

The basic statement of our state policy on public meetings is found at Neb. Rev. Stat. § 84-1408. That statute provides, "[i]t is hereby declared to be the policy of this state that the formation of public policy is public business and may not be conducted in secret. Every meeting of a public body shall be open to the public in order that citizens may exercise their democratic privilege of attending and speaking at meetings of public bodies, except as otherwise provided by the Constitution of the State of Nebraska, federal statutes, and the Open Meetings Act."

**History.** Section 84-1408 was passed as a part of LB 325 in 1975. That bill repealed previously existing public meetings provisions and substituted new provisions which were intended to preserve the features of the previous law and strengthen and expand their authority. Government Committee Statement on LB 325, 84th Nebraska Legislature, First Session (1975). LB 325 was passed to ensure that all meetings of public bodies would be open to the public, except when protection of the public interest clearly called for a closed session concerning specific matters. *Id.* 2004 Neb. Laws LB 821, § 34 formally established the name of §§ 84-1407 through 84-1414 as the "Open Meetings Act."

**Purpose.** The Nebraska open meetings laws are a statutory commitment to openness in government. *Wasikowski v. The Nebraska Quality Jobs Board*, 264 Neb. 403, 648 N.W.2d 756 (2002); *Steenblock v. Elkhorn Township Board*, 245 Neb. 722, 515 N.W.2d 128 (1994); *Grein v. Board of Education of the School District of Fremont*, 216 Neb. 158, 343 N.W.2d 718 (1984). Their purpose is to ensure that public policy is formulated at open meetings of the bodies to which the law is applicable. *Dossett v. First State Bank, Loomis, NE*, 261 Neb. 959, 627 N.W.2d 131 (2001); *Marks v. Judicial Nominating Commission for Judge of the County Court of the 20th Judicial District*, 236 Neb. 429, 461 N.W.2d 551 (1990); *Pokorny v. City of Schuyler*, 202 Neb. 334, 275 N.W.2d 281 (1979). In Nebraska, the formation of public policy is public business, which may not be conducted in secret. *Johnson v. Nebraska Environmental Control Council*, 2 Neb. App. 263, 509 N.W.2d 21 (Neb. Ct. App. 1993).

**Construction.** The open meetings laws should be broadly interpreted and liberally construed to obtain their objective of openness in favor of the public. *State ex rel. Upper Republican Natural Resources District v. District Judges of the District Court for Chase County*, 273 Neb. 148, 728 N.W.2d 275 (2007); *State ex rel. Newman v.*

*Columbus Township Board*, 15 Neb. App. 656, 735 N.W.2d 399 (Neb. Ct. App. 2007); *Alderman v. County of Antelope*, 11 Neb. App. 412, 653 N.W.2d 1 (Neb. Ct. App. 2002); *Rauert v. School District I-R of Hall County*, 251 Neb. 135, 555 N.W.2d 763 (1996); *Grein, supra*. The beneficiaries of the openness sought by the Open Meetings Act include citizens, members of the general public, and reporters or other representatives of the news media. *State ex rel. Newman v. Columbus Township Board*, 15 Neb. App. 656, 735 N.W.2d 399 (Neb. Ct. App. 2007).

**Exceptions.** Section 84-1408 requires open meetings except "as otherwise provided by the Constitution of the State of Nebraska, federal statutes, and the Open Meetings Act." The Attorney General has concluded that the Nebraska Legislature is not covered under the open meetings statutes because the Nebraska Constitution separately provides for public access to that body. Op. Att'y Gen. No. 120 (July 25, 1985).

**Subsequent legislative limitations.** The Legislature holds the power to decide the scope of citizen access to governmental meetings. As a result, the Legislature has the right to limit access to public meetings and the effect of the Open Meetings Act through later statutory provisions which provide that certain information in the possession of government should remain confidential without exception or limitation. *Wasikowski v. The Nebraska Quality Jobs Board*, 264 Neb. 403, 648 N.W.2d 756 (2002).

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## PUBLIC BODIES WHICH ARE COVERED

Under § 84-1409(1), public bodies covered by the public meetings statutes include: (1) governing bodies of all political subdivisions of the State, (2) governing bodies of all agencies of the executive department of state government created by law, (3) all independent boards, commissions, bureaus, committees, councils, subunits, or any other bodies created pursuant to law, (4) all study or advisory committees of the executive department of the state whether of continuing or limited existence, (5) advisory committees of the governing bodies of political subdivisions, of the governing bodies of agencies of the executive branch of state government, or of independent boards, commissions, etc., and (6) "instrumentalities exercising essentially public functions."

1. **History.** The initial portion of § 84-1409(1) defining public bodies was originally part of LB 325 passed in 1975. It has been amended several times to add additional entities to the list of bodies covered, and the Certificate of Need Review Committee was removed in 1997. See 1997 Neb. Laws LB 798; 1989 Neb. Laws LB 429 and LB 311; 1983 Neb. Laws LB 43. The language concerning "instrumentalities exercising essentially public functions" was added in 1989 to reach entities such as the Nebraska Investment Finance Authority. Floor Debate on LB 311, 91st Nebraska Legislature, First Session, May 9, 1989, at 6039, 6040.
2. **Cases and Opinions.** A number of cases and opinions of the Attorney General deal with various aspects of the definitions of public body found in § 84-1409(1).
  - a. "Political subdivision" is not defined within the public meetings statutes. However, the Attorney General has indicated that generally the term denotes any subdivision of a state which has as its purpose carrying out functions of the state which are inherent necessities of government and which have always been regarded as such by the public. 1979-80 Rep. Att'y Gen. 140 (Opinion No. 98, dated April 25, 1979). Presumably, this term includes cities, counties, villages, etc., and their governing boards are covered by the open meetings statutes.
  - b. In *Nixon v. Madison County Agricultural Society*, 217 Neb. 37, 348 N.W.2d 119 (1984), the Court held that a county agricultural society,

- organized under the Nebraska statutes, was subject to the provisions of the open meetings law. The Court noted that, although the society at issue resembled a private corporation in some respects, the fact that it had the right to receive support from the public revenue gave it a public character. The agricultural society apparently was an "independent board . . . created by constitution, statute, or otherwise pursuant to law." Based upon the *Nixon* case, the Attorney General concluded that county extension services which have the right to receive support from public revenues are subject to the open meetings law. Op. Att'y Gen. No. 219 (July 24, 1984). Also based upon the *Nixon* case, the Attorney General has indicated that county agricultural societies are subject to the open meetings statutes. Op. Att'y Gen. No. 91007 (January 28, 1991). In addition, Neb. Rev. Stat. § 2-238 requires that result.
- c. In *Marks v. Judicial Nominating Commission for Judge of the County Court of the 20th Judicial District*, 236 Neb. 429, 461 N.W.2d 551 (1990), the Court held that the open meetings statutes do not apply to the activities of a judicial nominating commission which is meeting to select nominees for judicial vacancies. Such a nomination procedure does not involve the formulation of public policy subject to the act.
- d. The Nebraska Court of Appeals, in *Johnson v. Nebraska Environmental Control Council*, 2 Neb. App. 263, 509 N.W.2d 21 (Neb. Ct. App. 1993), held that the open meetings statutes apply to the governing bodies of all agencies of the executive branch of government, including the Nebraska Environmental Control Council.
- e. In *State ex rel. Newman v. Columbus Township Board*, 15 Neb. App. 656, 735 N.W.2d 399 (Neb. Ct. App. 2007), the Nebraska Court of Appeals concluded that the electors of a Nebraska township, when assembled at the township's annual meeting, constitute a governing body of the township which is subject to the Open Meetings Act and its provisions concerning notice and preparation of an agenda.
- f. The Nebraska Court of Appeals indicated in *Wolf v. Grubbs*, 17 Neb. App. 292, 759 N.W.2d 499 (Neb. Ct. App. 2009) that a county board of equalization is a public body as defined in § 84-1409. The court also held in that case that when two boards are made up of the same members, the duties and functions of the two boards, rather than their membership, determine if they are the same or separate and distinct bodies.
- g. Committees of faculty, administration and students created by the Board of Regents of the University of Nebraska to advise the Chancellor of the University in his administrative/management function with respect to budget cuts were part of the management structure of the University and not public bodies subject to the open meetings statutes. Op. Att'y Gen. No. 92020 (February 12, 1992).
- h. In Op. Att'y Gen. No. 11 (January 20, 1983), the Attorney General indicated that the Environmental Control Council is a public body subject to the open meetings law. On the other hand, the Department of Environmental Control is not. Section 84-1409 applies to governing bodies of state agencies, not the agencies themselves.
- i. An employee grievance appeal hearing conducted by a hearing officer is not a meeting of a public body since the word "body" is commonly understood to refer to a group or number of persons, and thus does not include an individual conducting a hearing. Op. Att'y Gen. No. 210 (May 16, 1984).

- j. In 1989, the Attorney General indicated that the Central Low-Level Radioactive Waste Compact Commission was not subject to the Nebraska open meetings law because it was a multi-state body which was not created by constitution or statute and which was not a governing body of a Nebraska state agency. Op. Att'y Gen. No. 89008 (February 14, 1989). However, Neb. Rev. Stat. § 71-3521 (the Waste Compact agreement itself) provided that meetings of the Compact Commission must be open to the public with reasonable advance publicized notice, and that the Compact Commission must adopt by-laws consistent in scope and principle with the open meetings law of the host state. Section 71-3521 was repealed by 1999 Neb. Laws LB 530, § 2, and Nebraska withdrew from the Central Low-Level Radioactive Waste Compact.
- k. A county welfare board is subject to the open meetings law as an independent board created by statute. 1979-80 Rep. Att'y Gen. 351 (Opinion No. 244, dated March 4, 1980).
- l. In Op. Att'y Gen. No. 95014 (February 22, 1995), the Attorney General indicated that the Mayor's Citizen Review Board, appointed by the Mayor of Omaha to advise the Mayor with respect to alleged misconduct of police officers, was not subject to the open meetings statutes because it did not fall under the definition found in § 84-1409(1), and because the board was essentially an administrative body which was part of the management structure of the City.
- m. In Op. Att'y Gen. No. 93065 (July 27, 1993), the Attorney General concluded that parole reviews under Neb. Rev. Stat. § 83-1,111 may be closed, and are not subject to open meetings requirements.
- n. The Excellence in Education Council created to make recommendations to the Governor regarding selection of projects for Education Innovation grants is a public body which is subject to the open meetings statutes, and its decisions concerning specific recommendations must be done in open session. Op. Att'y Gen. No. 94092 (November 22, 1994).
- o. The Division of Rehabilitation Services of the State Department of Education is a public body, and its business must be conducted in compliance with the provisions of the open meetings statutes. Op. Att'y Gen. No. 93091 (October 22, 1993).
- p. The Quality Jobs Board created under the Quality Jobs Act, Neb. Rev. Stat. §§ 77-4901 through 77-4935 is a public body subject to the Open Meetings Act. Op. Att'y Gen. No. 96071 (October 28, 1996).
- q. A County Hospital Authority formed under the Hospital Authorities Act, Neb. Rev. Stat. §§ 23-3579 through 23-35,120 is a public body which is subject to the Open Meetings Act. Op. Att'y Gen. No. 97012 (February 14, 1997).
- r. The Nebraska State Board of Agriculture (the State Fair Board) is not a public body which is subject to the Open Meetings Act, primarily because it has no statutory right to public revenue and also because of case law which indicates that it is a private corporation. Op. Att'y Gen. No. 01038 (November 27, 2001).
- s. A county clerk, county attorney and county treasurer acting as a group under § 32-567 (3) to make an appointment to fill a vacancy on a county board constitute a public body which is subject to the Open Meetings Act. Op. Att'y Gen. No. 97050 (September 18, 1997).



- t. The Attorney General has indicated informally that the Nebraska Board of Pardons and the Board of Inquiry and Review created under Neb. Rev. Stat. §§ 80-317 through 80-319 to receive and act upon applications submitted for membership in Nebraska Veterans Homes are subject to the state's open meetings statutes.
3. **Other Statutes.** Neb. Rev. Stat. § 2-238 requires county agricultural societies and county fair boards to comply with the open meetings statutes. Under Neb. Rev. Stat. § 85-1502 all coordination activities conducted by the association of community college area boards are subject to the open meetings statutes.
4. **Exceptions.** The latter portion of § 84-1409(1) provides that two entities are not public bodies for purposes of the Open Meetings Act:
- a. **Subcommittees.** Subcommittees of the various bodies described earlier in § 84-1409 are not public bodies under the Open Meetings Act unless a quorum of the public body attends a subcommittee meeting, or unless those subcommittees are holding hearings, making policy or taking formal action on behalf of the parent body. For example, in *Meyer v. Board of Regents of the University of Nebraska*, 1 Neb. App. 893, 510 N.W.2d 450 (Neb. Ct. App. 1993), the court indicated that meetings of an executive subcommittee of the University of Nebraska Board of Regents with the University President to discuss his tenure were not subject to the open meetings laws because of that portion of the statute.
- i. In *City of Elkhorn v. City of Omaha*, 272 Neb. 867, 880-881, 725 N.W.2d 792, 805-806 (2007), the court indicated that, while "subcommittee" is not defined in the Open Meetings Act, a subcommittee is generally a "group within a committee to which the committee may refer business." In addition, "making policy," which subjects a subcommittee to the Open Meetings Act under § 84-1409, apparently includes "receiving background information about a policy issue to be decided." *Id.* In contrast, "nonquorum gatherings" of members of a public body "intended to obtain information or voice opinions" do not seem to involve violations of the Act. *Id.*
- ii. The language applying the open meetings statutes to certain subcommittee meetings when there is a quorum of the public body present was added to § 84-1409(1) as a result of LB 1019 passed by the Legislature during the 1992 regular session.
- b. **Entities Conducting Judicial Proceedings.** Entities conducting judicial proceedings are not public bodies under the Open Meetings Act unless the court or other judicial body is exercising rule making authority, deliberating, or deciding upon the issuance of administrative orders. LB 325, the original open meetings statute of 1975, was directed strictly at policy making bodies which were legislative or quasi-legislative. Floor Debate on LB 325, 84th Nebraska Legislature, First Session, May 14, 1975, at 4618.
- i. In *McQuinn v. Douglas County School District No. 66*, 259 Neb. 720, 612 N.W.2d 198 (2000), the Nebraska Supreme Court held that a hearing before a school board on the question of the nonrenewal of a probationary certificated teacher's contract where the matters before the board pertained solely to disputed adjudicative facts involved a judicial function, and on that basis, the hearing was not subject to the open meetings statutes. In that context, a

- school board exercises a judicial function if it decides a dispute of adjudicative fact or if a statute requires it to act in a judicial manner. Adjudicative facts are those ascertained from proof adduced at an evidentiary hearing which relate to a specific party. The *McQuinn* case is discussed further in *Bligh v. Douglas County School District No. 0017*, 2008 WL 2231063, 2008 Neb. App. LEXIS 106 (Neb. Ct. App. 2008) (Not approved for publication).
- ii. The Attorney General has determined that hearings before various agencies are judicial and not subject to the open meetings law: 1975-76 Rep. Att'y Gen. 127 (Opinion No. 105, dated July 14, 1975) (hearing before a County Board of Mental Health); Op. Att'y Gen. No. 184 (January 31, 1984) (hearing before the Nebraska Equal Opportunity Commission); Op. Att'y Gen. No. 210 (May 16, 1984) (hearing before a hearing officer appointed by the State Personnel Board); Op. Att'y Gen. No. 02016 (May 21, 2002) (contested case hearing before the Power Review Board on application of electricity suppliers for construction or acquisition of generation facilities); Op. Att'y Gen. No. 05014 (October 19, 2005) (appeal hearing regarding the Nebraska Veterans' Aid Fund before the Nebraska Veterans' Advisory Commission). But, the Attorney General has concluded that a hearing before the Certificate of Need Review Committee is covered by the open meetings statutes. Op. Att'y Gen. No. 87019 (February 13, 1987).
  - iii. Parole hearings conducted by the Board of Parole are judicial in nature and not subject to the open meetings statutes. However, other statutes specifically pertaining to operation of the Board of Parole require that such parole hearings be conducted with elements of notice and in a manner open to the public. Op. Att'y Gen. No. 93065 (July 27, 1993).
  - iv. When the State Board of Education holds hearings in contested cases under the state Administrative Procedure Act, such hearings are not subject to the Open Meetings Act. The Board is not required to give notice of such hearings to the public under those statutes, and it may conduct its deliberations and decision-making process for such hearings by a telephone conference call. Op. Att'y Gen. No. 99046 (November 15, 1999).

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## MEETING DEFINED

Under § 84-1409(2), meetings, for purposes of the open meetings statutes, are defined as "all regular, special, or called meetings, formal or informal, of any public body for the purposes of briefing, discussion of public business, formation of tentative policy, or the taking of any action of the public body." Section 84-1410(5) also provides that the open meetings statutes shall not apply to "chance meetings or to attendance at or travel to conventions or workshops of members of a public body at which there is no meeting of the body then intentionally convened, if there is no vote or other action taken regarding any matter over which the public body has supervision, control, jurisdiction, or advisory power."

1. The legislative history of LB 325, from 1975, indicates that meetings of a public body do not include social meetings or meetings which were not called by the body. Government Committee Hearing on LB 325, 84th Nebraska Legislature, First Session (1975) at 3.

2. However, § 84-1409 was amended by LB 43 in 1983 to include "formal or informal" meetings. The legislative history of that bill indicates that a meeting between a state senator and the members of a local school board to discuss legislation would constitute an "informal called meeting." Government, Military and Veterans' Affairs Committee Hearing on LB 43, 88th Nebraska Legislature, First Session (1983) 5-8.
3. The provision of § 84-1410(5) pertaining to "chance" meetings, etc., was added by LB 43 in 1983.
4. The legislative history of LB 43 from 1983 indicates that a "meeting" does not occur absent a quorum. Government Military and Veterans' Affairs Committee Hearing on LB 43, 88th Nebraska Legislature, First Session (1983) at 19. In addition, the Attorney General has concluded that the presence of a majority of the members of a public body is necessary for a meeting to occur. 1975-76 Rep. Att'y Gen. 150 (Opinion No. 116, dated August 29, 1975). In *Johnson v. Nebraska Environmental Control Council*, 2 Neb. App. 263, 509 N.W.2d 21 (Neb. Ct. App. 1993), the Nebraska Court of Appeals indicated that "private quorum conferences" are an evasion of the law. The Nebraska Supreme Court also indicated that subgroups of the Omaha City Council constituting less than a quorum of that body were not public bodies on that ground. *City of Elkhorn v. City of Omaha*, 272 Neb. 867, 725 N.W.2d 792 (2007).
5. In *Johnson v. Nebraska Environmental Control Council*, 2 Neb. App. 263, 509 N.W.2d 21 (Neb. Ct. App. 1993), the Court of Appeals held that informational sessions where the Council heard reports from staff of the Department of Environmental Control were briefings which were subject to the requirements of the open meetings statutes. The Court stated that listening and exposing itself to facts, arguments and statements constitutes a crucial part of a governmental body's decision making. As a result, receiving information triggers the requirements of the statutes, and the open meetings law applies to meetings at which briefing or the formation of tentative policy takes place, as well as to meetings where action is contemplated or taken.
6. *Rauert v. School District I-R of Hall County*, 251 Neb. 135, 555 N.W.2d 763 (1996), involved allegations by the plaintiff that a quorum of the defendant school board met in the office of the superintendent of schools on a regular basis for "clandestine" meetings before the beginning of most scheduled board meetings where business was discussed and decided and checks were signed to pay claims which had not been approved in public session. The board then allegedly moved and voted on business at its public meeting with little or no discussion in order to deprive the public of the right to be fully informed. The Supreme Court held that the District Court properly failed to find a violation of the Open Meetings Act with respect to those allegations in the absence of any evidence as to the specific dates and details of the alleged "clandestine" meetings.
7. The Attorney General has indicated that an "emergency meeting" may be conducted by electronic and telecommunications equipment including radio and telephone conferences. 1975-76 Rep. Att'y Gen. 150 (Opinion No. 116, dated August 29, 1975). On the other hand, the open meetings statutes do not generally authorize the use of telephone conference calls for non-emergency meetings of a public body, and absent members of a public body may not be counted to achieve a quorum through the use of a conference call. Op. Att'y Gen. No. 92019 (February 11, 1992). [Section 84-1411 has been amended a number of times to allow specified public bodies including the governing body of an entity formed under the Interlocal Cooperation Act, the Joint Public Agency Act or the Municipal Cooperative Financing Act, the board of an educational service unit, or the governing body of a risk management pool or its advisory committees organized in accordance with the Intergovernmental Risk Management Act to meet by telephone conference call in certain circumstances. See 1999 Neb. Laws LB 461; 2000 Neb. Laws LB 968; 2007 Neb. Laws LB 199; 2009 Neb. Laws LB

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8. An "informational and educational" meeting of a public body governing a political subdivision where members generally discuss matters pertaining to their subdivision, hear reports from various department heads of the subdivision as to their duties and learn the workings of the subdivision is a meeting of the public body for "briefing" purposes which is subject to the open meetings statutes. Op. Att'y Gen. No. 92043 (March 17, 1992). In addition, the Attorney General has also indicated informally that a meeting of a public body "for the purpose of receiving training or doing planning (such as a retreat)" should probably be treated as subject to the Open Meetings Act.
9. In Op. Att'y Gen. No. 94035 (May 11, 1994), the Attorney General indicated that discussions and deliberations by the State Board of Education in connection with the selection of a Commissioner of Education were subject to the requirements of the open meetings statutes. In addition, that opinion indicated that interviews with individual candidates for the Commissioner position were also subject to the requirements of the open meetings statutes, if a quorum of the Board was present for those interviews. However, in the latter interview situation, a brief closed session (as discussed below) might be warranted for a candid discussion by the Board and the candidate which might potentially elicit responses injurious to the reputation of an individual.
10. A workshop held by the Board of Regents of the University of Nebraska with a professional facilitator to discuss communication practices and the roles of the Board and the University President was not subject to the Open Meetings Act on the basis of § 84-1410 (5) which exempts chance meetings or attendance at or travel to conventions or workshops. The University also asserted that there would be no briefing, discussion of public business, formation of tentative policy, vote, or taking of other action at the workshop. Op. Att'y Gen. No. 04027 (October 20, 2004).

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## PUBLIC MEETINGS BY VIDEOCONFERENCING AND TELEPHONE CONFERENCE CALL

Section 84-1411 allows certain public bodies to meet by videoconferencing and by telephone conference call.

1. Videoconferencing. Section 84-1411 was first amended by LB 635 in 1993 to allow meetings of certain public bodies by means of videoconferencing. Under the current amended § 84-1411(2), public bodies which are allowed to meet by videoconferencing include: (1) various bodies of state government including state agencies, boards, commissions, councils and committees, together with their advisory committees; (2) organizations created under the Interlocal Cooperation Act, the Joint Public Agency Act or the Municipal Cooperative Financing Act; (3) governing bodies of public power districts with chartered territories of more than 50 counties in this state; (4) boards of educational service units; and (5) the governing body of a risk management pool or its advisory committees organized in accordance with the Intergovernmental Risk Management Act.
  - a. The public bodies listed above may hold meetings by videoconferencing if the following requirements are met: (1) reasonable advance publicized notice is given, (2) reasonable arrangements are made to accommodate the public's right to attend, hear and speak at the meeting, including seating, recording by audio and visual recording devices, and an reasonable opportunity for input such as public comment or questions to at least the same extent as would be provided absent videoconferencing, (3) at least one copy of all documents being considered is available to the public at

each site of the videoconference, (4) at least one member of the public body is present at each site of the videoconference, and (5) no more than one-half of the public body's meetings in a calendar year are held by videoconferencing.

- b. Under an amended § 84-1409(3), videoconferencing is defined as "conducting a meeting involving participants at two or more locations through the use of audio-video equipment which allows participants at each location to hear and see each meeting participant at each other location, including public input. Interaction between meeting participants shall be possible at all meeting locations."
- c. Under § 84-1411(6) a public body may allow a member of the public or any other witness other than a member of the public body to appear before the public body by means of video or telecommunications equipment.
- d. 1999 Neb. Laws LB 87, § 100 added organizations created under the Joint Public Agency Act to the list of entities permitted to conduct meetings by videoconferencing. 2009 Neb. Laws LB 361 added the boards of educational service units to the list.

2. Telephone Conference Call. Section 84-1411 was also amended by a number of legislative bills over time (1999 Neb. Laws LB 461; 2000 Neb. Laws LB 968; 2007 Neb. Laws LB 199, 2009 Neb. Laws LB 361) to allow the governing body of an entity formed under the Interlocal Cooperation Act, the Joint Public Agency Act or the Municipal Cooperative Financing Act, the board of an educational service unit, or the governing body of a risk management pool or its advisory committees organized in accordance with the Intergovernmental Risk Management Act to meet by telephone conference call if: (1) the territory represented by the educational service unit or the member public agencies of the entity or pool covers more than one county, (2) reasonable advance publicized notice is given which identifies each telephone conference location at which an educational service unit board member or member of the entity's or pool's governing body will be present, (3) all telephone conference meeting sites identified in the notice are located within public buildings used by members of the educational service unit board or of the entity or pool or at a place which will accommodate the anticipated audience, (4) reasonable arrangements are made to accommodate the public's right to attend, hear, and speak at the meeting, including seating, recordation by audio recording devices, and a reasonable opportunity for input such as public comment or questions to at least the same extent as would be provided if a telephone conference call was not used, (5) at least one copy of all documents being considered is available to the public at each site of the telephone conference call, (6) at least one member of the educational service unit board or of the governing body of the entity or pool is present at each site of the telephone conference call identified in the public notice, (7) the telephone conference call lasts no more than one hour and (8) no more than one-half of the board's, entity's or pool's meetings in a calendar year are held by telephone conference call, except that a governing body of a risk management pool that meets at least quarterly and the advisory committees of the governing body may each hold more than one-half of its meetings by telephone conference call if the governing body's quarterly meetings are not held by telephone conference call or videoconferencing. Nothing in this section dealing with telephone conference calls prevents the participation in the call by consultants, members of the press, and other nonmembers of the governing body at sites not identified in the public notice. These telephone conference calls may not be used to circumvent any of the public government purposes established in the Open Meetings Act.

- a. 1999 Neb. Laws LB 47, § 2 also amended § 84-1411 (2) to provide that certain meetings of the Judicial Resources Commission may be held by telephone conference if the criteria for videoconferencing

listed above are met.

3. Circumvention of Open Meetings Act. Under § 84-1411, videoconferencing, telephone conferencing or conferencing by other electronic communication may not be used to circumvent any of the public government purposes established by the Open Meetings Act. Neither may emails, faxes, or other electronic communications be used for such purposes.

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## PUBLIC MEETINGS; NOTICE REQUIRED AND AGENDA

Section 84-1411 sets out several requirements for the notice which must be given for a public meeting and for the agenda which must be prepared: (1) the public body must give reasonable advance publicized notice of the time and place of each meeting by a method designated by the body and recorded in its minutes, (2) that notice must be transmitted to all members of the body and to the public, (3) the notice must contain an agenda of subjects known at the time of the publicized notice, or a statement that such an agenda, which must be kept continually current, is readily available for inspection at the principal office of the public body during normal business hours.

1. **Agenda.** Under § 84-1411(1), an agenda maintained at the office of a public body for public inspection must be kept continually current and may not be altered later than 24 hours before the scheduled commencement of the public meeting (or 48 hours before commencement of a meeting of a city council if that meeting is noticed outside the corporate limits of the municipality). A public body may modify an agenda to include items of an emergency nature only at such public meeting.
2. **Specificity of the Agenda.** LB 898 from 2006 added language to § 84-1411 (1) which states that agenda items shall be "sufficiently descriptive to give the public reasonable notice of the matters to be considered at the meeting." That statutory change arose out of a sense that lack of specificity in meeting agendas was a major issue of concern around the state. Government Military and Veterans' Affairs Committee Hearing on LB 898, 99th Nebraska Legislature, Second Session (2006) at 19. The intent of the change was to require public bodies to include sufficient detail in their agendas regarding issues to be discussed or acted upon so as to provide information and notice to the public. Floor Debate on LB 898, 99th Nebraska Legislature, Second Session, March 28, 2006 at 11701 (Statement of Senator Preister). The change was also intended to require sufficient detail in an agenda so that members of the public are not forced to look at past agendas in order to understand the issue to be discussed and/or the action to be taken. *Id.*
3. **News Media.** Section 84-1411(4) requires that the secretary or other designee of each public body shall maintain a list of news media requesting notification of meetings and shall make reasonable efforts to provide advance notification to that list of media of the time and place of each meeting and the subjects to be discussed at that meeting.
4. **History.** The provision of § 84-1411 which prohibits altering an agenda within 24 hours of a meeting was added in 1983 to prevent addition of last minute matters to an agenda which did not really represent emergencies. Floor Debate on LB 43, 88th Nebraska Legislature, First Session, March 22, 1983, at 1896.
5. In *Rauert v. School District I-R of Hall County*, 251 Neb. 135, 555 N.W.2d 763 (1996), the court stated that the Open Meetings Act requires public bodies to give reasonable advance publicized notice of the time and place of their meetings, in part so that the public may attend and speak at those meetings.

6. The Legislature has imposed only two conditions on public bodies regarding the method of notification for their meetings: 1. the public body must give reasonable advance publicized notice of the time and place of each meeting, and 2. the method of notification must be recorded in the public body's minutes. *City of Elkhorn v. City of Omaha*, 272 Neb. 867, 725 N.W.2d 792 (2007). There is no minimum time period for public notification of a special meeting, and an agenda for a public meeting can be created (not altered) later than 24 hours before the scheduled meeting. *Id.* In the *City of Elkhorn* case, the court held that notice of a meeting of the Omaha City Council posted and placed on the city's website at 10:15 a.m. for a meeting at 10:00 p.m. the same day was sufficient under the facts of the case where the local newspaper printed an article about the meeting in its afternoon edition and four television broadcasters were present at the meeting. The court also indicated that any defect in notice intended for the benefit of council members would not invalidate a council meeting when all of the members of the council attended without objection.
7. The purpose of the agenda requirement is to give some notice of the matters to be considered at the meeting so that persons who are interested will know which matters are under consideration. *State ex rel. Newman v. Columbus Township Board*, 15 Neb. App. 656, 735 N.W.2d 399 (Neb. Ct. App. 2007); *Pokorny v. City of Schuyler*, 202 Neb. 334, 275 N.W.2d 281 (1979). In *Pokorny*, the agenda at issue, considered with all the previous records of the city council involved, was sufficient to satisfy the open meetings statutes. *Pokorny* also indicates that posting notice at 10 p.m. on March 15 before a meeting at 10:30 a.m. on March 16 does not constitute reasonable notice. Posting notice one week ahead does.
8. In *Hansmeyer v. Nebraska Public Power District*, 6 Neb. App. 889, 578 N.W.2d 476 (1998), *aff'd*, 256 Neb. 1, 588 N.W.2d 589 (1999), the Court of Appeals considered whether an agenda item which simply stated "Work Order Reports" was sufficient to give adequate public notice of a decision to approve a work order which involved expenditure of over \$47 million for the construction of a 96-mile power transmission line across privately held property to connect two power substations. The Court held that the agenda item was insufficient under the Open Meetings Act. The court also seemed to suggest, based upon the *Pokorny* case, that the sufficiency of an agenda item might be measured, at least to some degree, in the context of the other meetings of the public body immediately prior to the public meeting in question.
9. A member of the public should not be required to hunt up and read the documents underlying an agenda of a public body to determine what is actually on that agenda. *Hansmeyer v. Nebraska Public Power District*, 6 Neb. App. 889, 578 N.W.2d 476 (1998), *aff'd*, 256 Neb. 1, 588 N.W.2d 589 (1999).
10. If a public body uses or publishes its agenda to give the required notice for a particular meeting, then the notice contained in the agenda must comport with the law for giving notice of what is to be considered at the meeting. *Hansmeyer v. Nebraska Public Power District*, 6 Neb. App. 889, 578 N.W.2d 476 (1998), *aff'd*, 256 Neb. 1, 588 N.W.2d 589 (1999).
11. A notice of a hearing, given by a school board, which stated that a hearing would be held, and that an agenda would be available for inspection, once established, is not proper notice. An agenda must be available. *Allen v. Greeley County School District No 501*, 1994 WL 272223, 1994 Neb. App. LEXIS 186 (Neb. Ct. App. 1994)(Not approved for publication)
12. When governmental subdivisions which hold annual meetings, such as townships, conduct their annual meeting, electors who participate in the annual meeting must place matters which they wish to discuss on the agenda for the annual meeting. *State ex rel. Newman v. Columbus Township Board*,

- 15 Neb. App. 656, 735 N.W.2d 399 (Neb. Ct. App. 2007). Electors under those circumstances may not simply appear at the annual meeting and bring up any subject falling within the broad powers of electors if that subject is not on the agenda. *Id.*
13. Two separate public bodies may publish notice of their meetings on the same sheet of paper and need not use separate sheets when the notices contain only the time and place of their meetings, and when the notices direct interested citizens to the place where agendas for each body may be found. *Wolf v. Grubbs*, 17 Neb. App. 292, 759 N.W.2d 499 (Neb. Ct. App. 2009). In addition, two separate public bodies may combine their agendas when the combined agendas make it clear which items are to be addressed by each body. *Id.* The same rule applies to combined minutes. *Id.* The *Wolf* case involved a situation where a county board met both as a county board and as a county board of equalization.
14. Placing notice of future meetings in minutes of a prior meeting does not give sufficient notice under the Open Meetings Act. *Wolf v. Grubbs*, 17 Neb. App. 292, 759 N.W.2d 499 (Neb. Ct. App. 2009).
15. Notice of recessed or reconvened meetings of a public body must be given in the same fashion as notice of the original meeting. *Wolf v. Grubbs*, 17 Neb. App. 292, 759 N.W.2d 499 (Neb. Ct. App. 2009).
16. The Attorney General has concluded that "advance publicized notice" means a separate, specific advance notice must be given for each meeting. 1971-72 Rep. Att'y Gen. 314 (Opinion No. 137, dated August 8, 1972).
17. The Attorney General has also determined that: (1) an agenda may not be used as the minutes of a meeting, (2) reasonable notice under the statute means notice reasonably calculated to give appropriate notice to citizens of the time and place of a meeting and notice which complies with the formal requirements of the statute. 1975-76 Rep. Att'y Gen. 150 (Opinion No. 116, dated August 29, 1975).
18. In Op. Att'y Gen. No. 96071 (October 28, 1996), the Attorney General indicated that the Quality Jobs Board should give its normal 10-day published notice of meeting rather than an "informal" notice where the Board had recessed a previous meeting on a tax credit application pending a renewed meeting call from the Governor after issuance of an opinion from the Attorney General.

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## EMERGENCY MEETINGS

Section 84-1411(5) allows public bodies to hold emergency meetings without reasonable advance public notice. There are several statutory requirements with respect to such emergency meetings: (1) the nature of the emergency shall be stated in the minutes, and any formal action taken shall pertain only to the emergency, (2) the provisions of § 84-1411(4) dealing with notice to the media shall be complied with in connection with an emergency meeting, (3) complete minutes of the emergency meeting specifying the nature of the emergency and any formal action taken at the meeting shall be made available to the public no later than the end of the next regular business day.

1. Under § 84-1411(5), emergency meetings may be held by electronic or telecommunications equipment.
2. In *Steenblock v. Elkhorn Township Board*, 245 Neb. 722, 515 N.W.2d 128 (1994), the Court indicated, in a case involving allegations of a violation of the open meetings statutes, that an emergency is defined as "any event or occasional combination of circumstances which calls for immediate action or



remedy; pressing necessity; exigency; a sudden or unexpected happening; an unforeseen occurrence or condition." In that case, the Court held that a township board meeting to consider the job status of a township employee, convened as an emergency meeting because of a snowstorm, was not a proper emergency meeting because the employee was given two week's notice of his resultant termination, and because the reasons given for the employee's termination were based upon his past performance.

3. In *Wolf v. Grubbs*, 17 Neb. App. 292, 759 N.W.2d 499 (Neb. Ct. App. 2009) the Court of Appeals considered whether a number of items taken up at meetings of a county board without any listing on the board's agenda were "emergency" items. In making that determination in each case, the court focused upon whether there was anything in the record which indicated that a particular item required immediate action or involved pressing necessity.
3. The Attorney General has also stated that an item of an emergency nature is one that requires immediate resolution by the public body, and one which has arisen in circumstances impossible to anticipate at a time sufficient to place on the agenda of a regular, called, or special meeting of the body. 1975-76 Rep. Att'y Gen. 150 (Opinion No. 116, dated August 29, 1975).
4. In Op. Att'y Gen. No. 95063 (August 9, 1995), the Attorney General indicated that action taken during a meeting of the Nebraska Equal Opportunity Commission by a telephone conference call which did not comply with the requirements of the open meetings statutes for emergency meetings was void.

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## PUBLIC MEETINGS; MINUTES AND VOTING PROCEDURES

Section 84-1413 contains several provisions regarding the minutes which are to be maintained by public bodies and regarding voting procedures for public bodies.

1. **Minutes.** Every public body shall keep minutes of all meetings showing the time, place, members present and absent, and the substance of all matters discussed. The minutes of all meetings and evidence or documentation received or disclosed during open session shall be public records, open to public inspection during normal business hours. Minutes shall be written and available for inspection within 10 working days or prior to the next convened meeting, whichever occurs earlier, except that cities of the second class and villages may have an additional 10 working days if the employee responsible for writing the minutes is absent due to a serious illness or emergency.
2. **Voting procedures.** Any action taken on any question or motion duly made and seconded shall be by roll call vote of the public body in open session, and the record shall state how each member voted or if the member was absent or not voting. The vote to elect leadership within a public body may be by secret ballot, but the total number of votes for each candidate shall be recorded in the minutes.
  - a. **Electronic Voting Devices.** The roll call or viva voce vote requirements of the Open Meetings Act may be satisfied by a municipality, a county, a learning community, a joint entity created pursuant to the Interlocal Cooperation Act, a joint public agency created pursuant to the Joint Public Agency Act or an agency formed under the Municipal Cooperative Financing Act which uses an electronic voting device which allows the vote of each member of the governing body to be readily seen. The governing bodies permitted to use electronic voting devices was broadened by 2009 Neb. Laws. LB 361.

3. In *State ex rel. Schuler v. Dunbar*, 208 Neb. 69, 302 N.W.2d 674 (1984), the Supreme Court held that the requirement of § 84-1413(2) that the record shall state how each member of a body voted could not be satisfied by a nunc pro tunc amendment to the body's minutes showing that the recording of the vote in the minutes was performed prior to the time the actual recording in the minutes took place. However, when the same case was before the court a second time, the court held that, as a general rule, a public body may, if no intervening rights of a third person have arisen, order the minutes of its own proceedings at a previous meeting to be corrected according to the facts to make them speak the truth. *State ex rel. Schuler v. Dunbar*, 214 Neb. 85, 333 N.W.2d 652 (1983).
4. Section 84-1413 is violated by a failure to make or take a vote in accordance with the statute rather than a failure to record a properly taken vote. *State ex rel. Schuler v. Dunbar* (1983), *supra*.
5. Section 84-1413(2) dealing with roll call votes does not require the record to state that the vote was by roll call but only requires that the record show if and how each member voted. Neither does that statute set a time limit for recording the results of a vote. *State ex rel. Schuler v. Dunbar* (1983), *supra*.
6. The statutory requirements here dealing with voting and minutes are mandatory since the Legislature provided that action taken in violation of this statute is void. *State ex rel. Schuler v. Dunbar* (1981), *supra*.
7. *Wolf v. Grubbs*, 17 Neb. App. 292, 759 N.W.2d 499 (Neb. Ct. App. 2009) seems to indicate that the Open Meetings Act does not require that minutes of meetings be "published," but only that they be written and available for inspection within 10 working days or prior to the next convened meeting of the public body.
8. The legislative history of the original open meetings statutes, LB 325 from 1975, indicates that the requirement of a roll call vote was directed at votes on questions that would bind the particular public body. Other procedural questions were not covered. Government Committee Hearing on LB 325, 84th Nebraska Legislature, First Session, (1975) at 10.
9. The Attorney General has stated that nothing in the open meetings statutes requires approval of the minutes of a public body prior to their publication. Op. Att'y Gen. No. 162 (December 28, 1981).
10. In Op. Att'y Gen. No. 98045 (November 4, 1998), the Attorney General indicated that detailed minutes of all matters discussed need not be maintained when a public body is meeting in closed or executive session, so long as the requirements of § 84-1410 pertaining specifically to the minute entries necessary for a closed session are met.

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## PUBLIC MEETINGS; RIGHTS OF THE PUBLIC ATTENDING

Section 84-1412 establishes the rights of members of the public attending a meeting of a public body.

1. Members of the public have the right to attend and the right to speak at meetings of public bodies, and all or any part of a public meeting except closed sessions under § 84-1410, may be videotaped, recorded, televised, broadcast, photographed, etc. by any person.
2. Public bodies may make and enforce reasonable rules and regulations regarding the conduct of persons attending, speaking at, videotaping, or

recording their meetings. A public body is not required to allow citizens to speak at each meeting, but it may not forbid public participation at all meetings.

3. Members of the public cannot be required to identify themselves as a condition for admission to a public meeting. The public body may require persons desiring to address the body to identify themselves.

4. No public body shall, to circumvent the open meetings laws, hold its meeting in a place known to be too small to accommodate the anticipated audience. However, a public body shall not be in violation of this prohibition if it meets in its traditional meeting place in this state.
5. LB 898 from 2006 added language to § 84-1412 which provides that public bodies shall make available at least one current copy of the Open Meetings Act posted in the meeting room at a location accessible to members of the public. At the beginning of any meeting, the public shall be informed about the location of the posted information. The legislative history of LB 898 indicates that "posting" a copy of the Open Meetings Act means putting it up in some fashion, including attaching it to a bulletin board, hanging it by a chain or fastening it to a wall. Floor Debate on LB 898, 99th Nebraska Legislature, Second Session, March 28, 2006 at 11697 (Statement of Senator Preister). "Posting" does not include placing the Act on a table as a loose document which can be removed and therefore might not be available throughout the meeting. *Id.* If a meeting of a public body is moved to another location to accommodate a larger audience, then the posted copy of the act should be moved and posted in the new location. *Id.*
6. In 2008, LB 962 amended § 84-1412 to provide that public bodies may not require that "the name of any member of the public be placed on the agenda prior to . . . [a] meeting in order to speak about items on the agenda." That change was made so that members of the public are not required to place themselves on the agenda of a public body prior to a meeting in order to speak on agenda items during the times at that meeting set aside for public comment. Floor Debate on LB 962, 100th Nebraska Legislature, Second Session, February 28, 2008 at 2 (Statement of Senator Preister). That change in statutory language was not intended to affect the right of a public body to make reasonable rules and regulations regarding the conduct of persons attending, speaking at, videotaping, or recording its meetings. *Id.*
7. A public body may hold a meeting outside the State of Nebraska only if all the following conditions are met: a. a member entity of the public body is located outside of the state and the meeting is in that member's jurisdiction, b. all out-of-state locations identified in the notice of meeting are located within public buildings used by members of the entity or at a place which will accommodate the anticipated audience, c. reasonable arrangements are made to accommodate the public's rights to attend, hear and speak at the meeting, including making a telephone conference call available at an in-state location to members, the public, or the press, if requested twenty-four hours in advance, d. no more than 25% of the public body's meetings in a calendar year are held out-of-state, e. out-of-state meetings are not used to circumvent any of the public government purposes established by the Open Meetings Act, f. reasonable arrangements are made to provide viewing at other in-state locations for a videoconference meeting if requested fourteen days in advance and if economically and reasonably available in the area, and g. the public body publishes notice of the out-of-state meeting at least 21 days before the date of the meeting in a legal newspaper of statewide circulation. These requirements for out-of-state meetings were added to § 84-1412 by 2001 Neb. Laws. LB 250, § 2.
8. A public body shall, upon request, make a reasonable effort to accommodate the public's right to hear discussion and testimony at a public meeting. Public bodies shall make at least one copy of reproducible written material discussed at an open meeting available at the meeting or at the in-state location for a telephone conference call or video conference for examination and copying by members of the public.
9. History. Many of the initial provisions in § 84-1412 dealing with the rights of the public were added as a result of LB 43 in 1983.
10. The language requiring a reasonable effort to allow all parties to hear a public meeting does not involve an absolute requirement that all persons present

shall be able to hear. Floor Debate on LB 43, 88th Nebraska Legislature, First Session, March 21, 1983, at 1794-1795.

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## CLOSED SESSIONS OF A PUBLIC BODY

Section 84-1410, pertaining to closed sessions of public body, has generated the most controversy of all the portions of the open meetings statutes. Section 84-1410(1) provides that any public body may hold a closed session by the affirmative vote of a majority of its voting members if a closed session is clearly necessary (1) for the protection of the public interest, or (2) for the prevention of needless injury to an individual, if such individual has not requested a public meeting. Closed meetings may not be held for discussion of the appointment or election of a new member to any public body. Nothing in ' 84-1410 should be construed to require that any meeting be closed to the public.

1. Under § 84-1410(1), examples of reasons for a closed session include:
  - a. Strategy sessions with respect to collective bargaining, real estate purchases, pending litigation, or litigation which is imminent as evidenced by communication of a claim or threat of litigation to or by the public body.
  - b. Discussion regarding deployment of security personnel or devices.
  - c. Investigative proceedings regarding allegations of criminal misconduct.
  - d. Evaluation of the job performance of a person when necessary to prevent needless injury to the reputation of a person and if such person has not requested a public meeting.

These examples are not exclusive; they are merely examples, and other reasons may exist. Government Committee Hearing on LB 325, 84th Nebraska Legislature, First Session (1975) at page 3; 1975-76 Rep. Att'y Gen. 150 (Opinion No. 116, dated August 29, 1975); Op. Att'y Gen. No. 65 (April 17, 1985).

2. LB 898 from 2006 amended some of the provisions of § 84-1410 pertaining to the mechanics of holding a closed session. The subject matter of the closed session and reason necessitating the closed session shall be identified in the motion to hold a closed session. The vote to hold a closed session must be taken in open session, and the entire closed session motion, the vote of each member on the question of holding a closed session, and the time when the closed session commences and ends must be recorded in the minutes. If the motion to close passes, then the presiding officer shall restate on the record immediately prior to the closed session the limitation of the subject matter of the closed session. The public body holding a closed session shall restrict its consideration of matters during the closed session to only those purposes set forth in the motion to close as the reason for the closed session. The meeting must be reconvened in open session before any formal action may be taken, and "formal action" in that context is defined in § 84-1410(2) to mean a collective decision or a collective commitment or promise to make a decision on any question, motion, proposal, resolution, order, or ordinance or formation of a position or policy. Under an amendment to § 84-1410(2) effected by LB 621 in 1994, formal action by the body in that context does *not* include, "negotiating guidance given by members of the public body to legal counsel or other negotiators in a closed [strategy] session authorized [for collective bargaining, real estate purchases, etc.] under subdivision 1(a) of [Section 84-1410]."
3. Any member of the public body can challenge the continuation of a closed session if he or she determines that the session has exceeded the original reason for the closed session, or if he or she contends that the closed session is neither clearly necessary for the protection of the public interest or the prevention of needless injury to the reputation of an individual. Such a challenge can only be overruled by a majority vote of the members of the public body. Such challenge and its disposition shall be recorded in the minutes.

4. **History.** One of the purposes for the initial open meetings statute, LB 325 from 1975, was to tighten restrictions on closed or executive sessions of public bodies. Introducer's Statement of Purpose for LB 325, 84th Nebraska Legislature, First Session (1975). The fourth example of reasons for closed meetings was added by LB 43 in 1983. The provisions dealing with pending or imminent litigation and defining formal action in a closed session were added as a part of LB 1019 in 1992.
5. It is not entirely clear what vote of the public body is necessary to go into closed session. The statute states that "an affirmative vote of a majority of [the body's] voting members" is necessary for a closed session. On its face, the normal meaning of this language would presumably be a majority of those members present and voting. This is particularly true since the later subsection (3) of § 84-1410 requires a "majority vote of the members of the public body" to overrule a challenge to the continuation of the closed session. However, the legislative history of LB 325 makes it quite clear that the legislators intended to make the requirement for a closed session a vote of the majority of the body rather than a vote of the majority of those present and voting. Floor Debate on LB 325, 84th Nebraska Legislature, First Session, May 14 and May 20, 1975, at 4616, 5015. Moreover, there is some indication that "voting" members in § 84-1410(1) refers to particular members of bodies such as the Board of Regents which has both voting and non-voting members. Government Committee Hearing on LB 325, 84th Nebraska Legislature, First Session (1975) at 27-28. The safer approach is to authorize a closed session of the public body by a majority vote of the members of the body rather than by a majority vote of just those members present.
6. The landmark case for what is permissible in a closed session is *Grein v. Board of Education of the School District of Fremont*, 216 Neb. 158, 343 N.W.2d 718 (1984). *Grein* involved a closed session by a school board for discussion of the low bid on a construction project. The supreme court held that the closed session was improper. That case indicates:
  - a. Provisions of the statute permitting closed sessions must be narrowly and strictly construed. *See also State ex rel. Upper Republican Natural Resources District v. District Judges of the District Court for Chase County*, 273 Neb. 148, 728 N.W.2d 275 (2007).
  - b. The public interest which is protected in § 84-1410(1) is "that shared by citizens in general and by the community at large concerning pecuniary or legal rights and liabilities." 216 Neb. at 165, 343 N.W.2d at 723. *See also Wasikowski v. The Nebraska Quality Jobs Board*, 264 Neb. 403, 648 N.W.2d 756 (2002).
  - c. Good faith motivation for a closed session is not a cure for non-compliance with the public meetings laws.
  - d. The prohibition against decisions or formal actions in a closed session proscribes crystallization of a secret decision and then ceremonial acceptance in open session.
  - e. **There is a guiding principle with respect to closed sessions: "If a public body is uncertain about the type of session to be conducted, open or closed, bear in mind the policy of openness promoted by the Public Meetings Laws and opt for a meeting in the presence of the public."** 216 Neb. at 168, 343 N.W.2d at 724.
7. *Pokorny v. City of Schuyler*, *supra*, indicates that there is nothing in the open meetings statutes which requires that negotiations for the purchase of land be conducted in open meeting, but deliberations of a public body as to whether an offer to purchase should be made must be done in an open meeting.
8. In a case involving the revocation of a land surveyor's license, the supreme court held that a closed session was improper since there was no showing of either necessity or of the reasons set out in § 84-1410(1). *Simonds v. Board of Examiners of Land Surveyors*, 213 Neb. 259, 329 N.W.2d 92 (1983).
9. Neb. Rev. Stat. § 79-832 (1996), dealing with hearings involving cancellation, amendment or termination of a teacher's contract mandates a closed hearing upon an affirmative vote of a majority of the school board's members present and voting and upon specific request of the certificated employee or the certificated employee's representative. However, under that

- section, formal action by the school board requires that the school board reconvene in open session. *Stephens v. Board of Education of School District No. 5, Pierce County*, 230 Neb. 38, 429 N.W.2d 722 (1988).
10. The provisions of the open meetings statutes dealing with closed sessions, in part, reflect the Legislature's judgment of the appropriate balance between the public's interest in open discussion of governmental issues and the rights of individuals, such as state employees, to have their performance as employees considered in private if they so choose. *Meyer v. Board of Regents of the University of Nebraska*, 1 Neb. App. 893, 510 N.W.2d 450 (Neb. Ct. App. 1993).
  11. If the primary purpose for a closed session of a public body is authorized under the open meetings statutes, then any necessary discussion of incidental matters is also authorized. *Meyer v. Board of Regents of the University of Nebraska*, 1 Neb. App. 893, 510 N.W.2d 450 (Neb. Ct. App. 1993). In the *Meyer* case, the Nebraska Court of Appeals indicated that the University Board of Regents could properly discuss the appointment of an interim president for the University during a closed session called to evaluate and consider the employment status of the president.
  12. In *Wasikowski v. The Nebraska Quality Jobs Board*, 264 Neb. 403, 648 N.W.2d 756 (2002), the court held that if a person who is present at a meeting of a public body observes an alleged violation of the Open Meetings Act in the form of an improper closed session and fails to object, then that person waives his or her right to object to the closed session at a later date. However, that case appears to be legislatively overruled by LB 898 from 2006 which provides that it shall not be a defense to a citizen lawsuit under § 84-1414 (3) that the citizen attended the meeting and failed to object at that time.
  13. There is no absolute evidentiary privilege which applies to all communications made during a closed session of a public body, and communications made during such closed sessions are discoverable. *State ex rel. Upper Republican Natural Resources District v. District Judges of the District Court for Chase County*, 273 Neb. 148, 728 N.W.2d 275 (2007). However, to the extent that communications made during a closed session implicate other recognized privileges such as the attorney/client privilege, those communications are protected. *Id.*
  14. The statutory provision allowing public bodies to hold closed sessions for "strategy sessions" regarding litigation or threatened litigation by necessity encompasses discussions and decisions regarding whether to make or reject a settlement offer. Such decisions regarding litigation strategy should not have to be discussed publicly, during an open session, in front of the body's opponent. *Becker v. Allen*, 1996 WL 106217, 1996 Neb. App. LEXIS 73 (Neb. Ct. App. 1996) (Not approved for publication). In addition, the strategic meetings which a public body has with its attorney when threatened with or engaged in litigation, in which the public body may give direction to its attorney, are protected by the attorney-client privilege. *Id.*
  15. **Opinions of the Attorney General:**
    - a. A closed session is not proper simply because matters permitting a closed session might arise. Such a closed session is permitted only when such matters do arise and must be dealt with. Op. Att'y Gen. No. 94035 (May 11, 1994); Op. Att'y Gen. No. 11 (January 20, 1983).
    - b. Discussions of legal matters between a county board and a county attorney involving pending litigation or legal consequences of specific action are suitable for a closed session. 1975-76 Rep. Att'y Gen. 150 (Opinion No. 116, dated August 29, 1975).
    - c. A public body can go into a proper closed session for discussion of personnel matters and then reconvene for a public vote with no lengthy explanation of the rationale underlying the decision. Op. Att'y Gen. No. 89063 (October 12, 1989).
    - d. The closed session exception for prevention of needless injury to reputation is for the protection of individual employees and not for

- the protection of governmental officers on the public body. *Id.*
- e. In Op. Att'y Gen. No. 98045 (November 4, 1998), the Attorney General indicated that detailed minutes of all matters discussed need not be maintained when a public body is meeting in closed or executive session, so long as the requirements of § 84-1410 pertaining specifically to the minute entries necessary for a closed session are met.
  - f. A county clerk, county attorney and county treasurer acting as a group under § 32-567 (3) to make an appointment to fill a vacancy on a county board may not go into closed session for evaluation of the merits of the candidates based upon the express language of § 84-1410 (1). Op. Att'y Gen. No. 97050 (September 18, 1997).
  - g. The Attorney General has indicated informally that developing testimony for an upcoming Legislative hearing is not a proper reason for a state agency to go into closed session. On the other hand, the Attorney General has also indicated informally that discussion of "sensitive medical and financial information" pertaining to specific individuals who applied for admission to a state home could be conducted in a closed session so long as the actual vote on admission was done in an open meeting.

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## CIRCUMVENTION OF THE OPEN MEETINGS ACT

Section 84-1410(4) prohibits a person or a public body from circumventing the purpose of the open meetings statutes by failing to invite a portion of its members to a meeting or by designating itself as a subcommittee of the whole body. That section also prohibits the use of any closed session, informal meeting, chance meeting, social gathering, e-mail, fax or other electronic communication for the purpose of circumventing the requirements of the open meetings statutes.

1. This provision was added to the open meetings statutes by LB 43 in 1983. This section was directed at the intentional circumvention of the open meetings statutes rather than inadvertent acts. Government, Military and Veterans' Affairs Committee Hearing on LB 43, 88th Nebraska Legislature, First Session (1983) at 5.
2. 2004 Neb. Laws LB 1179 added e-mails, faxes and other electronic communications to the list of mediums which could not be used to circumvent the requirements of the Open Meetings Act.
3. Similar language prohibiting the use of telephone conference calls, emails, faxes, or other electronic communications to circumvent any of the public government purposes of the Open Meetings Act is contained in § 84-1411 (3).
4. The Attorney General has indicated that intent is a necessary element of the conduct prohibited by § 84-1410 (4), and that members of a public body can communicate with other members of that body by electronic means, even if that communication is directed to a quorum of the body, so long as there is no course of communication which becomes sufficiently involved so as to evidence an intent or purpose to circumvent the Open Meetings Act. Op. Att'y Gen. No. 04007 (March 8, 2004).

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## ACTIONS FOR ENFORCEMENT

Section 84-1414 sets out various enforcement options available to individuals who believe that the open meetings statutes have been violated.

1. Any motion, resolution, rule, ordinance, or formal action of a public body made or taken in violation of the public meetings statutes shall be declared



- void by the district court if the suit is commenced within 120 days of the meeting of the public body at which the alleged violation occurred. Any such motion or other action taken in substantial violation of the public meeting statutes shall be voidable by the district court if the suit is commenced after more than 120 days but within one year of the meeting of the public body in which the alleged violation occurred. A suit to void any final action shall be commenced within one year of the action.
2. Under § 84-1414(3), any citizen of this state may commence a suit in the district court of the county in which the public body ordinarily meets or in which the plaintiff resides for the purpose of requiring compliance with or preventing violations of the open meetings statutes, for the purpose of declaring an action of a public body void, or for the purpose of determining the applicability of the open meetings statutes to discussions or decisions of the public body. *City of Elkhorn v. City of Omaha*, 272 Neb. 867, 725 N.W.2d 792 (2007). The court may order payment of reasonable attorney's fees and court costs to a successful plaintiff in a suit brought under § 84-1414(3). Under LB 898 from 2006, it shall not be a defense to such a suit that the citizen attended the meeting and failed to object to violations at such time.
  3. The Attorney General and the county attorney of the county in which the public body ordinarily meets shall enforce the provisions of the open meetings statutes.
  4. **History.** The original version of § 84-1414(1), which was a part of LB 325 passed in 1975, simply provided that actions taken in violation of the public meetings statutes should be void. The void/voidable distinction was added by LB 43 in 1983. The apparent intent of that later language was to allow a court to void an action by a public body taken when there was any violation of the open meetings statutes if the action was filed within four months of the meeting in question. After four months, the violation of the open meetings statutes would have to be substantial to allow a court to void the action of the public body. In any event, no action could be brought after one year of the public meeting in question. Floor Debate on LB 43, 88th Nebraska Legislature, First Session, March 22, 1983, at 1892.
  5. The legislative history of LB 325 from 1975 indicates that the initial intent of that statute was to have the county attorney responsible for enforcement proceedings involving public bodies at a local level. The Attorney General would be responsible for enforcement against state entities. Floor Debate on LB 325, 84th Nebraska Legislature, First Session, May 14 1975, at 4620.
  6. The Nebraska Supreme Court has indicated that action by a public body which is proper under the open meetings statutes may cure defects in actions previously taken by the same public body. In such an instance, an action by a public body which previously might have been declared void will be declared proper. *Pokorny v. City of Schuyler*, *supra*. On the other hand, under those circumstances, the original improper meeting itself is still void. *Steenblock v. Elkhorn Township Board*, 245 Neb. 722, 515 N.W.2d 128 (1994). *Pokorny* also indicates that the effect of an invalid public meeting under the open meetings laws is the same as if the meeting had never occurred.
  7. A county lacks capacity to maintain an action to declare its official conduct void for non-compliance with the open meetings statutes. *County of York v. Johnson*, 230 Neb. 403, 432 N.W.2d 215 (1988).
  8. Reading of a city ordinance in accordance with a city charter constitutes "formal action" of a city council which may be voided in a lawsuit under § 84-1414 (1). *City of Elkhorn v. City of Omaha*, 272 Neb. 867, 725 N.W.2d 792 (2007).
  9. A number of Nebraska cases deal with waiver of rights under the Open Meetings Act by a failure to make a timely objection to violations of the Act. *Stoetzel & Sons, Inc. v. City of Hastings*, 265 Neb. 637, 658 N.W.2d 636 (2003) (if a person who attends a meeting of a public body believes that copies of documents discussed by the body should be made available to the public at the meeting, a timely objection should be made, or that person waives his or her right to object); *Wasikowski v. The Nebraska Quality Jobs Board*, 264 Neb. 403, 648 N.W.2d 756 (2002); *Otey v. State*, 240 Neb. 813, 485 N.W.2d 153 (1992); *Witt v. School District No. 70, Frontier County*, 202

Neb. 63, 273 N.W. 2d 669 (1979) (any person who has notice of a meeting and attends the meeting is required to object specifically to a lack of public notice at the meeting or waive his rights to object on that ground under the open meetings statutes); *Hauser v. Nebraska Police Standards Advisory Council*, 264 Neb. 944, 653 N.W.2d 240 (2002) (if a person present at a meeting observes and fails to object to an alleged open meetings violation in the form of a failure to conduct roll call votes before taking action on questions or motions pending, that person waives his or her right to object at a later date); *Alexander v. School District No. 17 of Thurston County*, 197 Neb. 251, 248 N.W.2d 335 (1976) (where teachers had notice of a termination hearing, appeared, and no objection was made to a failure of the school board to give proper notice under the open meetings statutes, those teachers waived any objection they might have had to violations of the open meetings law). Those cases appear to be legislatively overruled by LB 898 from 2006 which provides that it shall not be a defense to a citizen lawsuit under § 84-1414 (3) that the citizen attended the meeting and failed to object at that time.

10. Actions for relief under the open meetings statutes are tried as equitable cases, given the fact that the relief sought is in the nature of a declaration that particular action taken in violation of the laws is void or voidable. Such cases are also considered as equitable cases on appeal. *Stoetzel & Sons, Inc. v. City of Hastings*, 265 Neb. 637, 658 N.W.2d 636 (2003); *Hauser v. Nebraska Police Standards Advisory Council*, 264 Neb. 944, 653 N.W.2d 240 (2002); *Wolf v. Grubbs*, 17 Neb. App. 292, 759 NW. 2d 499 (Neb. Ct. App. 2009); *Hansmeyer v. Nebraska Public Power District*, 6 Neb. App. 889, 578 N.W.2d 476 (1998), *aff'd*, 256 Neb. 1, 588 N.W.2d 589 (1999).

11. The *Hansmeyer* case also discusses the distinction between "void" and "voidable" under § 84-1414. "Void" means ineffectual and having no legal force or binding effect, while "voidable" means that which may be avoided or declared void, not absolutely void. In *Hansmeyer*, the court considered factors such as whether any purpose would be served or whether decisions were made in secret without public discussion in determining whether a voidable vote by the Nebraska Public Power District should, in fact, be voided.
12. Once a meeting has been declared void pursuant to the Open Meetings Act, the members of the public body involved are prohibited from considering any information which they obtained at the illegal meeting. *Wolf v. Grubbs*, 17 Neb. App. 292, 759 N.W.2d 499 (Neb. Ct. App. 2009); *Alderman v. County of Antelope*, 11 Neb. App. 412, 653 N.W.2d 1 (2002).
13. The decision to award attorneys fees to a "successful plaintiff" in an action under § 84-1414 is discretionary with the trial court. *Hansmeyer v. Nebraska Public Power District*, 6 Neb. App. 889, 578 N.W.2d 476 (1998), *aff'd*, 256 Neb. 1, 588 N.W.2d 589 (1999). The court in *Hansmeyer* also held that the plaintiffs in that case were "successful plaintiffs" who could recover attorneys fees under § 84-1414 because there was a finding that a substantial violation of the open meetings statutes had occurred, and because the public body involved amended its practices to prepare proper agendas after the plaintiffs filed their action. The court reached that conclusion even though it ultimately determined that the improper action of the public body at issue should not be voided. *Wolf v. Grubbs*, 17 Neb. App. 292, 759 N.W.2d 499 (Neb. Ct. App. 2009) also contains a discussion regarding the basis for an award of attorneys fees in that case, including the court's analysis of why it reduced a fee award on appeal.
14. Voiding an entire meeting is a proper remedy for violations of the Open Meetings Act. *Wolf v. Grubbs*, 17 Neb. App. 292, 759 N.W.2d 499 (Neb. Ct. App. 2009). The court in the *Wolf* case also specifically considered whether violations of the Open Meetings Act were "substantial" violations in determining whether it was appropriate to void actions of a county board when the enforcement lawsuit was filed more than 120 days after the meetings in question.
15. In *Wolf v. Grubbs*, 17 Neb. App. 292, 759 N.W.2d 499 (Neb. Ct. App. 2009) there was no evidence in the record which established that a county board had published notice of its meetings anywhere. The Court of Appeals held that in the absence of contrary evidence, it may be presumed that public officers faithfully performed their official duties. *Id.* In addition, absent evidence showing misconduct or disregard for the law, the regularity of official acts is also presumed. *Id.* In *Wolf*, the court also indicated that the plaintiffs had the burden at all times to show that it was more probable that notices of meetings were not posted than probable that they were.
16. The United States District Court for the District of Nebraska has indicated that it has supplemental jurisdiction over claims under § 84-1414 based upon 28 U.S.C. § 1367 (a). *Buzek v. Pawnee County Nebraska*, 207 F.Supp.2d 961 (D. Neb. 2002).

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## CRIMINAL SANCTIONS

Section 84-1414(4) provides that any member of a public body who knowingly violates or conspires to violate the Open Meetings Act, or who attends or remains at a meeting knowing that the public body is in violation of any provision of that Act, shall be guilty of a Class IV misdemeanor for a first offense, and a Class III misdemeanor for a second or subsequent offense.

1. The legislative history of LB 325 from 1975 indicates that the criminal sanctions included in this section were originally directed at intentional behavior rather than at inadvertence. Government Committee Hearing on LB 325, 84th Nebraska Legislature, First Session (1975) at 16.
2. The criminal sanctions for violation of the open meetings statutes were first

increased as a result of LB 1019 passed in 1992. Also, that same bill in 1992 added language which made knowingly remaining at or attending a meeting in violation of the open meetings statutes a crime. The present language which applies criminal sanctions to those members of a public body who remain at a meeting knowing that the public body is in violation of the open meetings statutes was added by LB 621 in 1994.

3. Under Neb. Rev. Stat. § 28-106 (2008), a Class IV misdemeanor is punishable by a fine of from \$100 to \$500 and no imprisonment. In addition, a Class III misdemeanor is punishable by up to 3 months imprisonment or up to a \$500 fine, or both. A Class III misdemeanor has no minimum penalty.

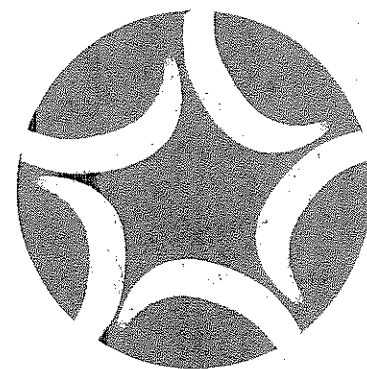
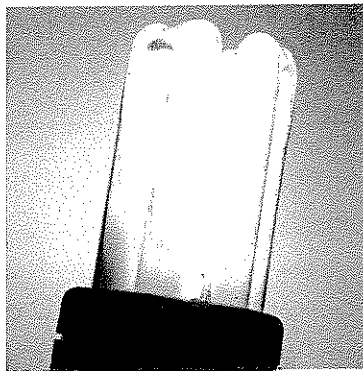
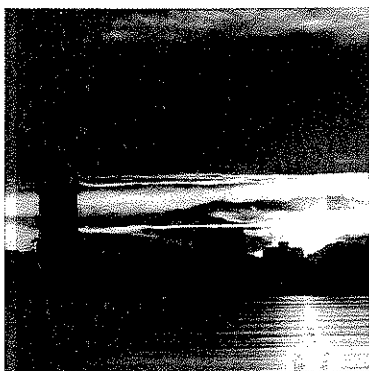
Prepared by:  
Jon Bruning, Attorney General  
Dale A. Comer, Assistant Attorney General  
2115 State Capitol  
Lincoln, NE 68509  
402-471-2682  
11/09

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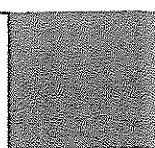
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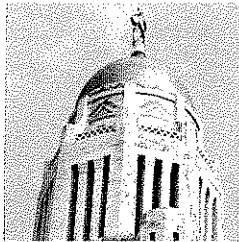
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ENERGY

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State Office Building



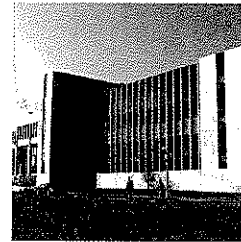
State Capitol



K Street Records Facility



900 J Building



County-City Building

## **DEC Energy – Efficiency in Government**

An excellent example of efficiency in government can be found in the District Energy Corporation (DEC Energy), which provides innovative, efficient and low-cost utility services to facilities owned by the City of Lincoln, Lancaster County and the State of Nebraska.

Uniquely, DEC Energy streamlines jurisdictions of the City of Lincoln and Lancaster County into a single, non-profit organization whose combined powers enable it to provide efficient and reliable energy services at some of the lowest costs in the nation.



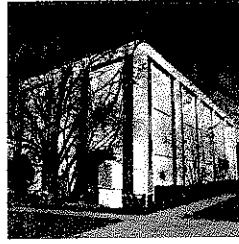
Governor's Mansion



Lancaster County Jail



Hall of Justice



The Court House Plaza Building

## Background and Mission

In 1989, the City of Lincoln and Lancaster County formed the District Energy Corporation under the State of Nebraska's Interlocal Corporation Act, which allows governmental entities to form non-profit corporations for the benefit of the citizens they serve. There are many advantages of an Interlocal Corporation. They include the ability to obtain tax-exempt financing for energy projects, joint planning and the coordinated use of energy infrastructure and resources by participants and customers.

DEC Energy's mission is to provide low-cost, reliable and efficient thermal energy services. Initially, these services were provided to the County-City Building and the Lancaster County Jail. Today, the scope of DEC Energy's operation has expanded to include the Nebraska State Capitol, the Nebraska State Office Building, the Nebraska Governor's Mansion, the Hall of Justice Building, the Court House Plaza Building, the 900 J Building and the K Street Records storage facility. In all, DEC Energy's system serves close to 1.5 million square feet.

Importantly, the reliable and efficient infrastructure and resources provided by DEC Energy today can help foster economic development of the greater Lincoln area tomorrow by providing efficient, low-cost thermal services to even more qualifying participants.



## Advantages of District Heating and Cooling

District heating and cooling benefits building owners, developers and the community.

### A Better Environment, Reduced Risk

- On-site fossil fuel combustion and its related air emissions are reduced.
- The use of non-renewable fuels is reduced.
- Ozone-depleting CFC emissions are eliminated, reducing the burden and risk to individual building owners of complying with mandated CFC regulations.
- Indoor air quality and temperature controls are improved.

### Efficient Use of Resources

- Operators at DEC Energy's central plants use state-of-the-art control systems to monitor efficiencies 24 hours a day, enabling use of demand-side electricity management.
  - Heating and cooling are available without switching major equipment on and off to handle daily and seasonal load variations.
  - Customers only use the amount of heating and cooling energy they actually need, eliminating waste.
  - Peak electricity demand is reduced.
  - System efficiency is improved.
-





### **Reliability**

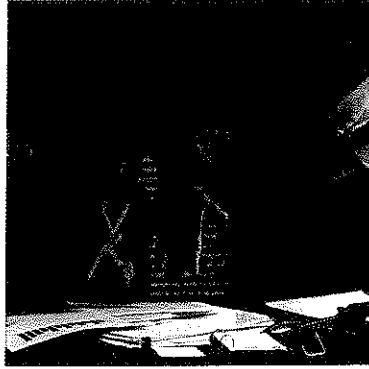
- High-quality production, distribution and control equipment is used at the central plant.
- Professional staff manages operations.
- Space heating and cooling is uniform.
- Customers are assured of building comfort.
- The city's downtown infrastructure is enhanced.

### **Cost-Effectiveness**

- The need for on-site chillers is eliminated, reducing energy demand and use while increasing usable building space.
- Capital costs for installation of on-site chillers and cooling towers are eliminated, making the capital available for other uses.
- Maintenance, operating and labor costs are lowered.

### **Visually Pleasing**

- By eliminating cooling towers, architects have more rooftop design freedom and buildings can be more architecturally pleasing.
- With fewer cooling towers on rooftops, the city's skyline is improved.



## **Financing**

DEC Energy provides low-cost financing for HVAC-related ground coupled heat pump loop fields for buildings owned and used by public agencies. Financing is available, with contract terms that range from a minimum of five years to a maximum of 20 years. For more information on this program, contact the corporation's Management Contractor at 473-3395.

## **DEC Board & Management**

The DEC is governed by a Board of Directors appointed by the Lancaster County Board, Lincoln City Council, Mayor of Lincoln and the Lincoln Electric System (LES) Administrative Board. DEC Energy has contracted with LES to provide management services. These services include technical, accounting, administrative, operations and general corporation functions.

The Board of Directors consists of five members: two are appointed by the Lancaster County Board of Commissioners; two are appointed by the Mayor of the City and confirmed by the Lincoln City Council; and one is appointed by LES. These members serve two-year terms and are eligible for reappointment.



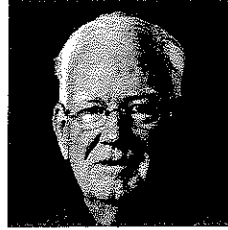
Jon Camp



Larry Hudkins



Steve Masters



W. Don Nelson



Robert Workman

## 2009 DEC Energy Board of Directors

### Board Member

### Representing

Jon Camp

Lincoln City Council

Larry Hudkins, Vice President

Lancaster County Board of Commissioners

Steve Masters, President

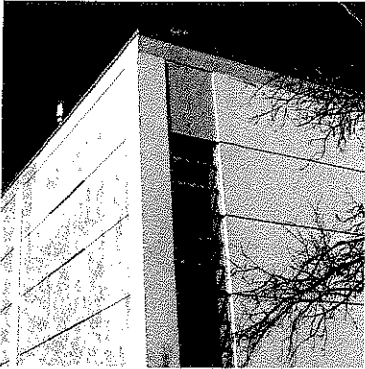
City of Lincoln

W. Don Nelson, Secretary/Treasurer

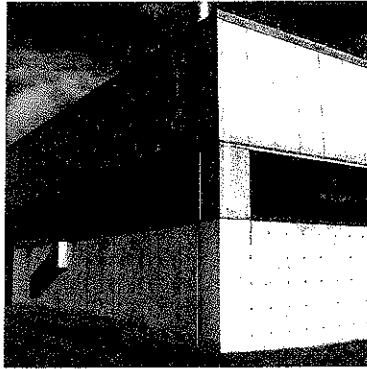
Lincoln Electric System

Robert Workman

Lancaster County Board of Commissioners



14th & K Street Plant



9th & K Street Plant

## Facilities

DEC Energy meets the heating and cooling needs of its customers with a district heating and cooling system. It includes two facilities: a thermal energy plant located at 14th and K streets in downtown Lincoln, Neb., and a second thermal plant at 9th and K streets in Lincoln. Thermal energy produced at these central plants is distributed to customers through an underground network of insulated pipes.

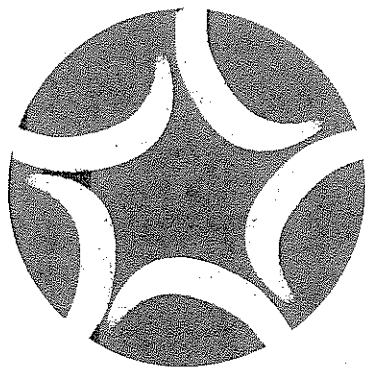
### 14th and K Street Plant

This \$3.6 million facility became operational in the winter of 1999. It uses gas-fired boilers to produce high-pressure steam that heats the Nebraska State Office Building, State Capitol Building and Governor's Mansion.

### 9th and K Street Plant

Commissioned in June 1991, this \$3.3 million facility uses a combination of ground source heat pumps, gas- and oil-fired boilers and thermal ice storage to meet customers' heating and cooling needs.

These systems use 30-50 percent less energy than the conventional systems that are traditionally installed in buildings today.



**DEC**  
ENERGY

## **DEC Energy's Future**

DEC Energy is attracting interest. Growing numbers of energy consumers are working with the organization's board and management staff to see if they, too, can benefit from the efficiencies, economies and benefits provided by district heating and cooling. If you would like to learn how you might benefit, contact DEC Energy's management group at LES today.

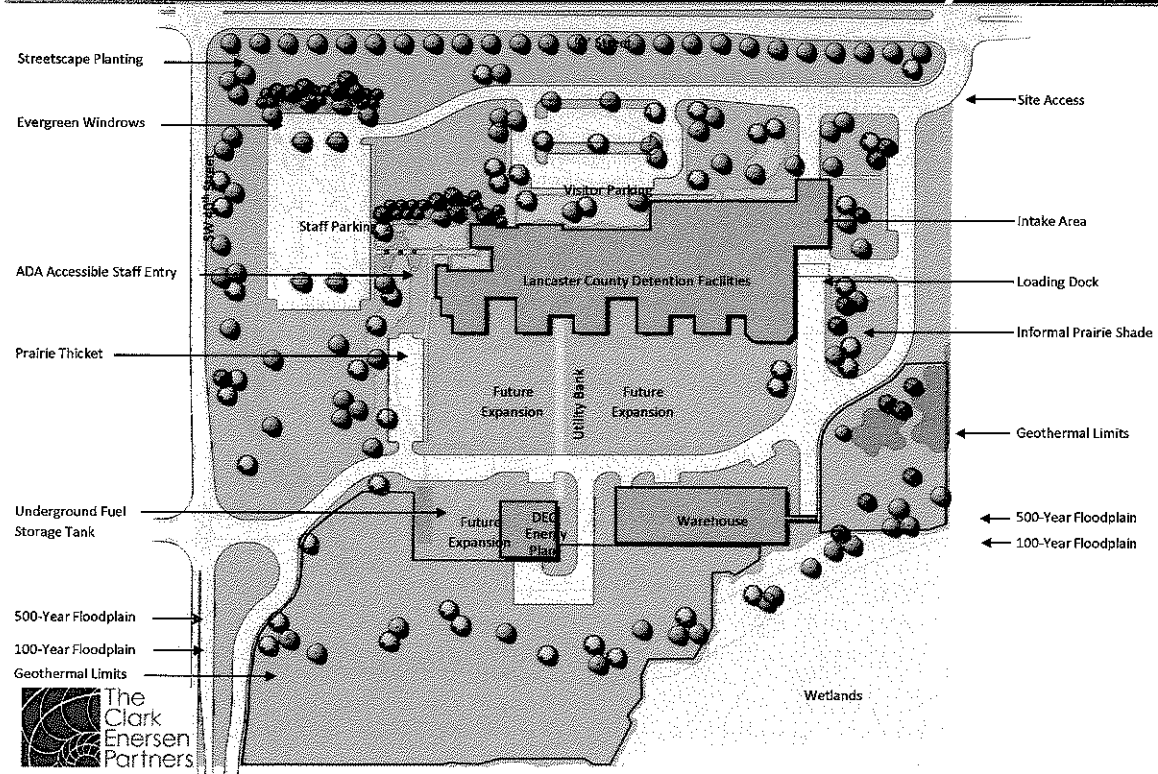
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# DEC SW 40<sup>th</sup> Thermal Energy Facilities

## Project Update



### DEC SW 40<sup>th</sup> St Thermal Energy Facility (TEF) Project Overview



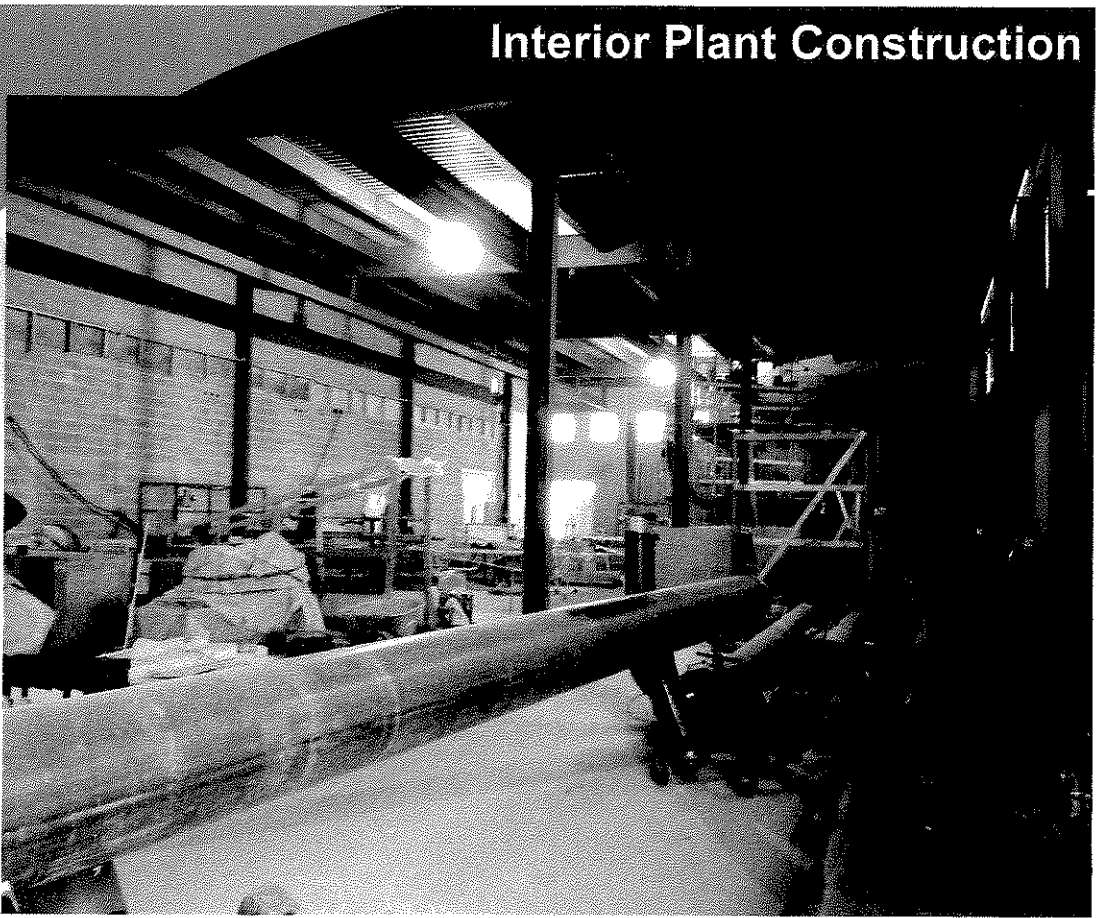
# Underground Fuel Storage Tanks



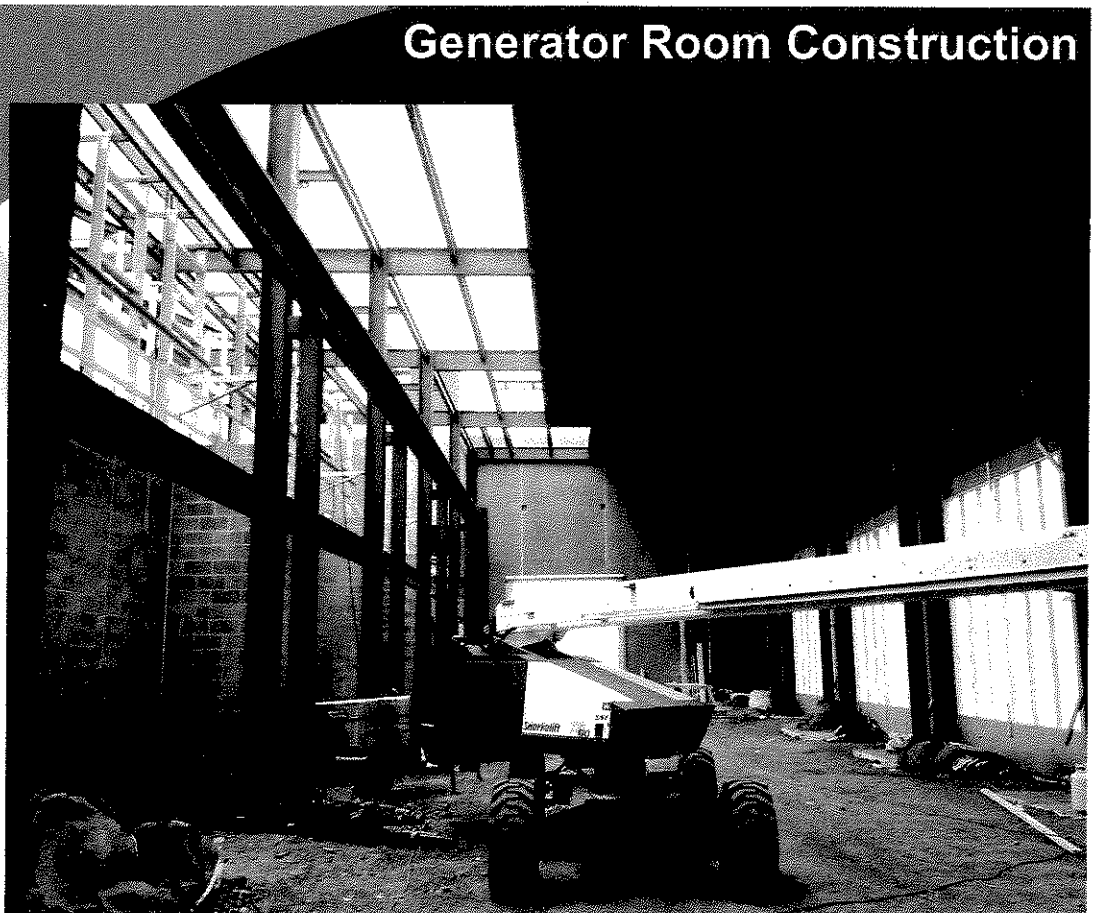
# Underground Fuel Storage Tanks



## Interior Plant Construction

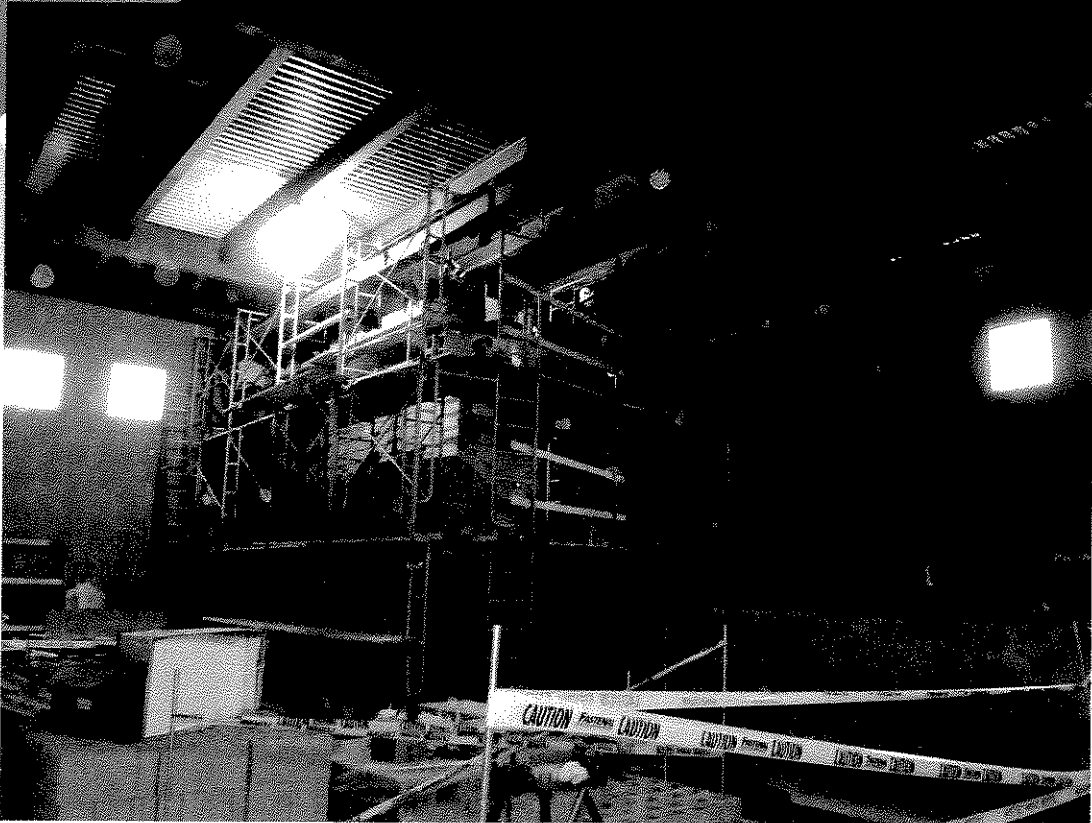


## Generator Room Construction

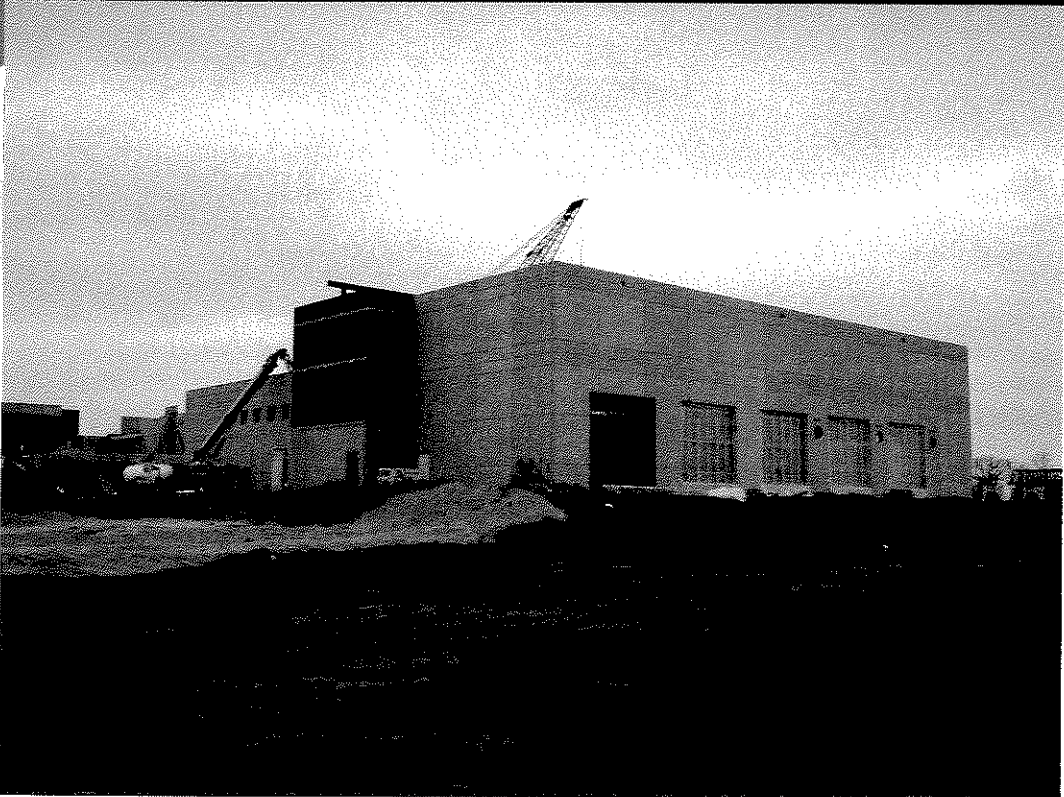




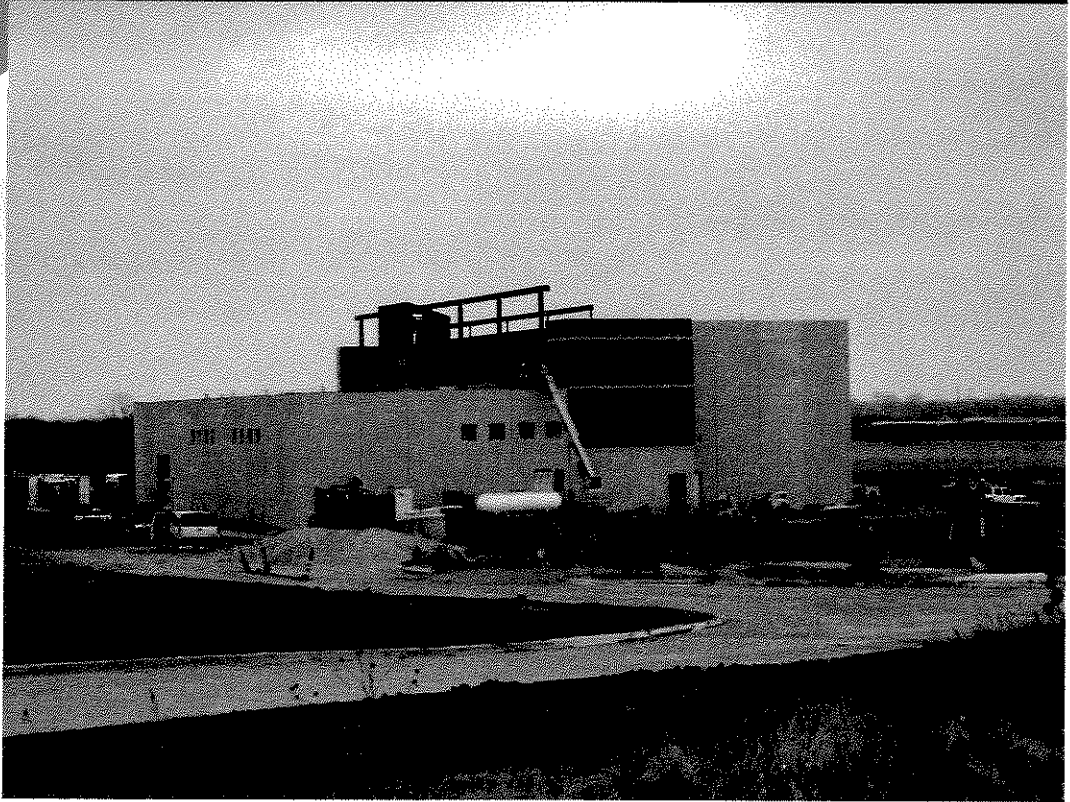
# Interior Wall Construction



# DEC Plant Construction South Side



# DEC Plant Construction West Side



# Geothermal Well Piping in Progress





**PROPOSED 2011 ATTENDANCE**  
**LIBA MONTHLY BREAKFAST MEETINGS**  
**Last Tuesday of the Month**  
**7:30 a.m. - Terrace Grille**

<b>DATE</b>	<b>COMMISSIONERS ATTENDING</b>
Tuesday, January 25, 2011	Hudkins
Tuesday, February 22, 2011	Schorr
Tuesday, March 29, 2011	Heier
Tuesday, April 26, 2011	Raybould
Tuesday, May 31, 2011	Smoyer
Tuesday, June 28, 2011	Hudkins
Tuesday, July 26, 2011	Heier
Tuesday, August 30, 2011	Schorr
Tuesday, September 27, 2011	Raybould
Tuesday, October 25, 2011	Smoyer
Tuesday, November 29, 2011	Hudkins
Tuesday, December 27, 2011	Heier