August 29, 2019

TO: County Personnel Policy Board Members

SUBJECT: Personnel Policy Board Meeting
Thursday, September 5, 2019
1:30 p.m., Commissioners Hearing Room
County-City Building, Room 112

A G E N D A

ITEM 1: Request to amend Rule 2.7 of the Personnel Rules – Personnel Policy Bulletins

ITEM 2: Request to amend Rule 2.8 of the Personnel Rules – Availability of These Rules

ITEM 3: Request to amend Rule 3 of the Personnel Rules – Classified Service and Exceptions therefrom

ITEM 4: Request to amend Rule 4.4 of the Personnel Rules – Quorum

ITEM 5: Request to revise Vacation Usage Upon Retirement Policy

ITEM 6: Request for appeal hearing – Matthew Waggoner – Corrections

ITEM 7: Election of Chair

ITEM 8: Election of Vice-Chair

ITEM 9: Miscellaneous Discussion

PC: Matthew Waggoner
Tom McCarty
Kristy Bauer
Department Heads

RULE 2 – GENERAL PROVISIONS

2.7 Human Resources/Personnel Policy Bulletins (~~Created 9/01~~Revised 09/19)

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.

RULE 2 – GENERAL PROVISIONS

2.8 Availability of These Rules (~~Created 9/01~~Revised 09/19)

Each employee has the right to examine these Rules. Each department and the City-County ~~Personnel~~Human Resources 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 Interlinc website at www.~~ci.lincoln.ne.us~~lincoln.ne.gov.

RULE 3 - CLASSIFIED SERVICE AND EXCEPTIONS THEREFROM

(Revised 09/19)

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.

(j) Law Clerks and students employed by the county attorney or public defender.

RULE 4 – PERSONNEL POLICY BOARD

4.4 Quorum (Revised 09/19)

~~Four (4)~~Three (3) 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.~~, except that no business shall be transacted unless one of the members appointed by the board of county commissioners or the elected department heads and one of the members appointed by the classified employees who are covered by the county personnel system are present at the meeting.

Human Resources Policy Bulletin

Lancaster County

Number: ~~2014-3~~ 2019-2
Date: ~~December, 2014~~
September, 2019

Reference:	Title:
County Rule 14.3 Retirement Supercedes Human Resources Policy Bulletin 2014-3	Vacation Usage Upon Retirement Policy

VACATION USAGE UPON RETIREMENT POLICY

I. POLICY

It shall be the policy of the County of Lancaster to allow employees to use their accrued vacation leave hours after their last physical day worked, upon retirement from Lancaster County employment.

II. PROCEDURE

A. Employees will be eligible for retirement upon attaining age sixty (60), or upon attaining age fifty-five (55) and completing ten (10) years of service.

B. Employees shall produce their intent of retirement in writing to their supervisor at least ten (10) working days before their final work day.

Human Resources Policy Bulletin

Lancaster County

Number: ~~2014-3~~ 2019-2
Date: ~~December, 2014~~ September, 2019

Reference:	Title:
County Rule 14.3 Retirement Supercedes Human Resources Policy Bulletin 2014-3	Vacation Usage Upon Retirement Policy

C. The employee shall designate their choice of the following options ~~in their retirement letter~~on the Lancaster County Retirement Form:

1. Designate their last day of work and receive their vacation balance payout to be included in their final paycheck as a lump sum.

2. Designate their last day of work and request that their vacation be used until it is depleted. The date the employee's vacation is depleted will become the effective date of their retirement.

3. Designate their last day of work and request that their vacation be used until a specific date, with the remaining vacation balance ~~after that date~~ to be paid out as a lump sum in their final paycheck. The ~~date the employee's vacation is depleted will become the~~ effective date of ~~their~~the employee's retirement will be the date the employee has designated as their last paid vacation day.

Human Resources Policy Bulletin

Lancaster County

Number: ~~2014-3~~ 2019-2
Date: ~~December, 2014~~ September, 2019

Reference:	Title:
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D. The ~~employee's~~ completed Lancaster County ~~r~~Retirement ~~letter~~Form must be attached to the Personnel Action Form.

Departments will be able to recruit for the retiring employee's vacancy by completing a Requisition and submitting a copy of the employee's Lancaster County ~~r~~Retirement ~~letter~~Form to the employment office.

Retiring employees will continue to receive all County benefits while in a pay status (i.e. legal holiday pay, vacation and sick leave accruals, insurance benefits, etc.).

Retiring employees may use any remaining Personal Convenience Holiday (hereinafter referred to as PCH) hours immediately after their last day of work. In the event the employee's vacation run out crosses fiscal years, employees will not be paid any additional PCH hours.

Retiring employees may not use any other type of leave while running out their vacation leave hours.

Human Resources Policy Bulletin

Lancaster County

Number: ~~2014-3~~ 2019-2
Date: ~~December, 2014~~
September, 2019

Reference:	Title:
County Rule 14.3 Retirement Supercedes Human Resources Policy Bulletin 2014-3	Vacation Usage Upon Retirement Policy

Retiring employees will not have access to their retirement or PEHP benefits until after receipt of their final paycheck with Lancaster County.

_____ _____

Doug McDaniel Date

Human Resources Director

_____ _____

~~Larry Hudkins~~Roma Amundson, Chair Date

Board of County Commissioners

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LANCASTER COUNTY RETIREMENT FORM

I, _____ , an employee in
(Print Name)

_____ , hereby am giving
(Print Department/Division Name)

at least ten (10) working days notice of my retirement, pursuant to Human Resources Policy Bulletin #2019-2; Vacation Usage Upon Retirement Policy, County Rule 14.3 – Retirement.

1. I qualify to retire from Lancaster County:
(Choose one)

☐ Age 55 with 10 years of service

☐ Age 60 or older

☐ Approved for disability retirement

2. I designate the following choice upon retirement:
(Choose one)

☐ My last physical day* of work will be _____ (Date) and I choose to receive my vacation payout in my final paycheck as a lump sum.

☐ My last physical day* of work will be _____ (Date) and I choose to use my vacation balance and accruals until depleted.

☐ My last physical day* of work will be _____ (Date) and I choose to use my vacation balance and accruals through _____ (Date) with the remaining vacation balance to be paid out on my final paycheck as a lump sum.

***Last physical day means you must be physically present and work on that day**

_____ _____
Requesting Employee Signature Date

Accepted by:

_____ _____
Name Date

KEATING O'GARA LAW

Gary J. Nedved
Paul J. Peter
Anne E. Winner
Jefferson Downing
Gary L. Young
Joel D. Nelson

Joel Bacon
Thomas P. McCarty
Tara L. Gardner-Williams
Thomas W. Fox
Christopher T. Gruber

OF COUNSEL:
Donald R. Stading

EMERITUS:
Con M. Keating
Robert M. O'Gara

May 2, 2019

VIA HAND DELIVERY

Mr. Doug McDaniel
Personnel Director
City of Lincoln
555 S. 10th Street
Lincoln, NE 68508

RE: Corrections Officer Matt Waggoner; Appeal of Suspension

Dear Doug:

This firm represents Fraternal Order of Police Lodge #32, and Corrections Officer Matt Waggoner. On April 29, 2019, the Corrections Director Brad Johnson issued Officer Waggoner a 1 day suspension. A copy of the letter of discipline is attached hereto.

Pursuant to the bargaining agreement between Lancaster County and FOP #32, Officer Waggoner hereby gives his notice of appeal of the suspension to the Personnel Board of Lancaster County, for the reason that the action that the suspension is disciplining Officer Waggoner for is not just cause for the discipline imposed, the amount of the discipline is not proportionate to the actions alleged under the circumstances, mitigating circumstances were not considered and credited, the discipline is not consistent with how others have been disciplined for similar actions, and the imposition of a 1 day suspension in this matter is arbitrary and capricious.

Please schedule hearing on this matter with the Lancaster County Personnel Policy Board in accordance with the bargaining agreement. Thank you.

Yours very truly,

Thomas P. McCarty
For the Firm

ENCLOSURE

2019 MAY 2 PM 2 59
CITY - COUNTY PERSONNEL

Keating, O'Gara, Nedved & Peter PC, LLO
530 South 13th Street, Suite 100 • Lincoln, Nebraska 68508-2795
Phone: 402.475.8230 • Toll Free: 888.234.0621 • Fax: 402.475.8328 • www.keatinglaw.com

DM

Lancaster County
Department of Corrections

3801 West O Street
Lincoln, NE 68528
(402) 441-1900
Fax: 441-8946

Brad Johnson, Director

April 29, 2019

Matthew Waggoner
Correctional Officer
Lancaster County Dept. of Corrections
3801 West O Street
Lincoln NE 68528

2019 MAY 2 AM 10 24
CITY - COUNTY PERSONNEL

RE: Disciplinary Action

Dear Officer Waggoner:

On March 21, 2019, you received a letter proposing to suspend your employment for one (1) working day without pay pursuant to Lancaster County Personnel Rule 11.2(d) and Article 30, Section 3, of the 2018-2020 Bargaining Agreement between the Fraternal Order of Police Lodge #32 and the County of Lancaster. A meeting regarding the proposed discipline was held on April 5, 2019. During the meeting, you, Union Attorney Tom McCarty and Union Representative Dan Goodman presented information concerning the alleged violations. Specifically, you admitted that our accusations were accurate and that you had made those comments to medication aide Spurlin.

After consideration of the facts before me and the information you and your attorney presented, I have determined that there were no mitigating factors. Therefore, I have decided to suspend you for one (1) working day. The imposition of this 1-day suspension without pay will be on May 13, 2019. I have determined that you violated the following Lancaster County Personnel Rules and Department policies:

I have determined that you will serve a suspension of one (1) day for violating the following Lancaster County Personnel Rules and Department Policies:

1. Lancaster County Personnel Rule 11.2 (h)(4), "The employee has engaged in any action unbecoming an officer or employee of the County which reflects on the County adversely"; and
2. Lancaster County Personnel Rule 11.2 (h)(5), "The employee has violated any department, division, or institution regulation or order...."; and
3. Lancaster County Department of Corrections Policy 2.7 (B)(1), "Employees are expected to conduct themselves at all times, both on and off duty, in a professional manner that shall reflect favorably on the Department and County..."; and
4. Lancaster County Department of Corrections Policy 2.7 (D)(3), "All employees of the Department are expected to assume responsibility for maintaining positive relations with other staff. Employees will interact with other employees of the Department or any other agency in a courteous and professional manner that fosters teamwork."

I have made my decision based on the facts set forth below:

On February 28, 2019, you were assigned as a control center officer for the first half of 3rd shift. During this time, it was reported that you made offending comments about a medication aide on 3rd shift.

Medication aide Spurlin reported that while she was talking with Officer Moyer through the window of control, you made a comment about her "knowing too many inmates." She reported that this was the second time you have made a comment about her "knowing too many inmates" and it upset her. She reported that she went to the control center door to talk to you about this in a more private manner, you made a comment to her that she was "just a fucking nurse" who didn't belong in the control center. This comment was heard by Officer Moyer. Medication aide Spurlin also reported that in the recent past you made an inquiry about whether she was pregnant. She claimed to have told you she wasn't; however, you continued to argue with her concerning her denial.

Following the conversation with Medication aide Spurlin, you were called to Sergeant Needham's office to discuss the situation. You told him that your comment on February 28, 2019, about "knowing too many inmates" was directed to the other control officer and not to the medication aide. After some discussion, you conceded that although it was not directed at the medication aide, perhaps it was said in a way that was intended to be heard by her. You said that you were just joking around and that you had not intended to be rude or offensive.

You were previously disciplined for:

On February 21, 2019, you were reprimanded for violations of Lancaster County Personnel Rule 11.2(h)(5), Department of Corrections Policies 2.7(B)(13), 6.1(A)(2), and 6.1(A)(5), Facility Procedure 6.G.1(D), and Facility Post Orders Section II(A) and Section II(B) for performing incomplete rounds and reading a book while inmates were out on their activity period.

On May 10, 2018, you were counselled for an unprofessional interaction with one of your supervisors.

You have the right to appeal this unpaid suspension to the Lancaster County Personnel Board in accordance with Personnel Policy Rules, Rule 11.2, Section (d).

Sincerely,

Brad Johnson

Brad Johnson
Corrections Director

BJ/kk

cc: Doug McDaniel, Human Resources Director
Kristy Bauer, Deputy County Attorney
Ken Prey, Jail Administrator
Rick Gray, Jail Administrator
Joe Anderson, Corrections Lieutenant
Personnel File