

CLACKAMAS COUNTY BOARD OF COUNTY COMMISSIONERS

Study Session Worksheet

Presentation Date: July 22, 2014 Time: 10:30am Length: 30 minutes

Presentation Title: Proposed Amendments to County Code 2.05 – Personnel Ordinance

Department: Department of Employee Services and County Counsel

Presenters: Mark Stotik and Christina Thacker

ACTIONS REQUESTED

Authorization to proceed to a public hearing and first reading of proposed changes to County Code 2.05, regarding personnel ordinance changes.

EXEC SUMMARY

County Counsel and Department of Employee Services (DES) presented proposed changes to the personnel ordinance section of the County Code (2.05) to this Board in executive session in October 2013. At that time, this Board authorized DES to share the updated changes with the unions and to negotiate as necessary. DES has either negotiated with all of the unions (AFSCME and EA) or is currently engaging in bargaining with them as part of the collective bargaining agreement negotiations (POA and FOPPO).

The proposed amendments include:

1. Clarifications in recruitment related language
 - 2.05.030.GGG (underfill definition)
 - 2.05.040.3.B.15 (unrepresented County Justice Court employees)
 - 2.05.070.9.A (selection procedures)
 - 2.05.090.1 (names to underfill)
2. Updates to administration of compensation plan and to salary grade recommendations provisions
 - 2.05.060.2 (compensation plan)
 - 2.05.230.4 (class/comp review panel)
3. Updates to the leave of absence section
 - 2.05.150.2.C (bereavement leave)
 - 2.05.150.2.F (compulsory leave)
4. Additions to the leave of absence section
 - 2.05.150.2.J (criminal charges leave)
5. Clarifications and additions to the work rules section and
 - 2.05.180.2 (including rules related to weapons, alcohol, retaliation)
6. Clarifications on discipline provision
 - 2.05.190.4 (exempt employees).

See Attachment A for specific proposed changes in redlined format.

FINANCIAL IMPLICATIONS

No direct financial cost or benefit.

LEGAL/POLICY REQUIREMENTS

County Counsel and the Department of Employee Services updated the personnel ordinance in order to be reflective of the needs of the departments and the changing employment environment.

While the County has the right to update its ordinance, as some of the issues may impact mandatory subjects of bargaining, the unions made a demand to bargain over the impact of these changes.

Legally, these proposed changes are intended to protect the County and employees by establishing clear language regarding employee behavior and County procedures. DES has negotiated with or is currently negotiating with the unions, as required by law for those changes that affect mandatory subjects of bargaining under Oregon law.

PUBLIC/GOVERNMENT PARTICIPATION

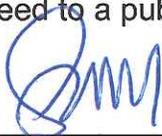
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OPTIONS

1. Status Quo: Continue with county code personnel ordinance provisions.
2. Revise Proposed Ordinance: Direct staff to modify the attached draft ordinance and/or resolution as desired, renegotiate modifications with union, and present to this Board again in the future.
3. Move Forward: Proceed to a public hearing and first reading of the proposed amendments by title only as currently drafted.

RECOMMENDATION

Direct staff to move forward and proceed to a public hearing and first reading of the proposed amendments.

Division Director/Head Approval  _____
Department Director/Head Approval _____
County Administrator Approval _____

For information on this issue or copies of attachments,
please contact Christina Thacker at 503-655-8363.

Proposed Amendments to Personnel Chapter of County Code
Chapter 2.05
(new text is underlined; deletions are ~~struck through~~)

March 13, 2014

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2.05.030 Definitions

- A. ADVERSE IMPACT means a substantially different rate of selection in any phase of the employment process which works to the disadvantage of members of a protected class.
- B. AFFIRMATIVE ACTION means identifying existing or potentially discriminatory conditions and making specific goal oriented corrective actions to eliminate and prevent unlawful discrimination.
- C. ALLOCATED POSITION means a position which is specifically identified in the budget.
- D. APPEAL means a request for a hearing before the Hearings Officer as provided by this chapter.
- E. APPOINTING AUTHORITY means any person vested with the authority to appoint individuals to County positions. Such authority will be vested in elected officials and department directors, and may be delegated to supervisory employees within a department or division.
- F. APPOINTMENT means the offer and acceptance of a job made in accordance with these rules.
- G. BONA FIDE OCCUPATIONAL QUALIFICATIONS means attributes that are job related and necessary for the safe and efficient operation of a business.
- H. CAUSE is defined in section 2.05.190.3.
- I. CLASSIFICATION means a group of positions sufficiently similar in duties, authority and responsibility to permit grouping under a common title and which call for similar qualifications and the same schedule of pay.
- J. CLASSIFICATION PLAN means a document which embodies all classifications that have been established, and the specification or descriptions of these classes.
- K. CLASSIFICATION SPECIFICATION means a written description of a classification containing a title, the general characteristics of the kind and level of work, description of typical duties, responsibilities, skills and knowledge required; other qualifications which may include requirements of training and experience; EEO category designation; and other pertinent information.
- L. CLASSIFIED EMPLOYEE means a person who has been appointed to a position in the classified service.
- M. CLASSIFIED SERVICE means those County positions which are not specifically exempt under 2.05.040.3 (B).
- N. DEMOTION means changing an employee's position to a classification that has a lower

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- salary grade than the employee's present classification.
- O. DEPARTMENT means a County organizational unit under the direction of a single appointing authority.
 - P. DIRECTOR OF EMPLOYEE SERVICES means a person appointed as the Director of the Department of Employee Services or a staff person, which the Director has designated as a representative.
 - Q. DISCIPLINARY ACTION means any action taken by an appointing authority which reprimands the employee, or reduces temporarily or permanently, an employee's pay status, benefits, or other incidents of employment.
 - R. DISCRIMINATION means illegal discrimination on the basis of race, color, sex, sexual orientation, gender identity, religion, national origin, age, disability, or other protected status as those terms are understood under Oregon and federal law.
 - S. DOMESTIC PARTNER means persons who are eligible for County employee benefits domestic partner coverage.
 - T. DOWNGRADING means a reclassification of a position where the newly assigned classification has a lower salary grade.
 - U. EEO OCCUPATIONAL CATEGORY means a group of occupations deemed to be similar in duties, authority or responsibility as determined by the Equal Employment Opportunity Commission.
 - V. ELIGIBLE REGISTER means a list of applicants for County employment or advancement in County employment who have successfully completed the selection process. In a banded recruitment, the eligible register consists of bands A, B and C, (if applicable) but not band D.
 - W. EQUIVALENT CLASSIFICATION means a classification that requires both the same kind of knowledge and the same degree of skills.
 - X. FRAUD means conduct which meets all of the following elements of fraud as defined in the common law of the State of Oregon: (1) a representation is made; (2) the representation is false; (3) the representation is material; (4) the representation is made by the speaker with knowledge of its falsity or ignorance of its truth; (5) the speaker intends that the hearer should act upon the representation and do so in the manner reasonably contemplated; (6) the hearer is ignorant of the falsity of the representation; (7) the hearer relies on the truth of the representation; (8) the hearer has a right to rely on the truth of the representation; and (9) the hearer is injured as a consequent and proximate cause of reliance on the representation.
 - Y. GRIEVANCE means a complaint filed pursuant to a collective bargaining agreement.
 - Z. HEARING means a hearing that is established as a result of an appeal to the Hearings Officer to resolve employment disputes.
 - AA. HEARINGS OFFICER means a person who is not an officer or employee of the County and is designated by the Board of County Commissioners to preside at hearings regarding employee appeals.
 - BB. HIGHER SALARY GRADE means a minimum of 4.0% difference when comparing the maximum hourly rates of pay of the salary grades.
 - CC. JOB SHARE means a situation in which two people share duties and responsibilities of one

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- full-time position.
- DD. LAYOFF means a separation from the County service due to a shortage of funds or materials, elimination of position, material change in duties, changes in an organizational unit, inability to perform assigned duties due to a medical condition, or for any other reasons not reflecting discredit on an employee and outside of the employee's control.
 - EE. LIMITED TERM APPOINTMENT means an appointment to a position which has been budgeted and allocated for a limited duration not to exceed two (2) years but which is in excess of the time requirements for temporary positions.
 - FF. LOWER SALARY GRADE means a minimum of 4.0% difference when comparing the maximum hourly rates of pay of the salary grades.
 - GG. NONREPRESENTED EMPLOYEE means an employee whose position is not included in one of the recognized County collective bargaining units.
 - HH. OPEN REGISTER means an eligibility register consisting of all persons who have successfully completed an open competitive selection process. An open register may be a ranked open register, an unranked open register, or a banded open register.
 - II. PERSONNEL ACTION means any action taken with reference to appointment, compensation, promotion, transfer, layoff, dismissal or any other action affecting an employee's status.
 - JJ. PERSONNEL FILE means the official record of each employee in the County service as established and maintained by the Department of Employee Services.
 - KK. POSITION ALLOCATION means the number of positions budgeted in a classification within each department.
 - LL. POSITION CONTROL means the process for obtaining budgetary approval for the allocation and filling of a position.
 - MM. POSITION REQUISITION means a Department of Employee Services form used to request the budgeting or filling of a position.
 - NN. PROBATION means a working test period during which a classified employee is required to demonstrate fitness by actual performance of the duties of the position to which the employee is appointed.
 - OO. PROMOTION means the appointment of an employee to a position in a classification that has a higher salary grade.
 - PP. PROMOTIONAL/INTERNAL REGISTER means an eligible register consisting only of County employees who have regular status with the County or who have completed six (6) months of continuous service in a classified position and who have successfully completed an internal selection process.
 - QQ. PROTECTED CLASS means members of groups of persons afforded protection under State and/or Federal law.
 - RR. PROVISIONAL means an appointment of a person not on an eligible register to a classified position, for a limited duration of time not to exceed three (3) months.
 - SS. RATERS means representatives of departments, the public, interested organizations or other public jurisdictions who have been designated to administer and score selection procedures.
 - TT. RECLASSIFICATION means a change in allocation of an individual position by raising it

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to a higher classification, reducing it to a lower classification or moving it to another classification at the same level on the basis of significant changes in the kind, difficulty or responsibility of the work performed in such a position.

- UU. RED CIRCLE means a process authorized by the Board of County Commissioners and used to continue the same salary rate as an employee received prior to a downgrading of the position or prior to the reduction of the salary grade for the classification.
- VV. REFERRAL OF ELIGIBLES means the process by which eligible applicants are referred by the Department of Employee Services to the appointing authority for selection.
- WW. REGULAR EMPLOYEE means a classified employee who has been appointed to an allocated position and who has successfully completed a probationary period for the position.
- XX. REGULAR STATUS means the status a classified employee acquires after successful completion of a probationary period for the particular allocated position to which the employee was appointed.

YY. RULES OF PRIVILEGE means the definition found in ORS 40.225 - 40.295.

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ZZ. SALARY GRADE means the number assigned by the County to a particular employee group and pay range in the County compensation plan. A salary grade will have a maximum and minimum pay rate, and may or may not have specific pay steps between the maximum and minimum pay rates, depending on the employee group to which the salary grade pertains.

AAA. SELECTION PROCEDURE means a reasonable and impartial method of systematically and fairly evaluating an applicant's fitness for performing the requirements of a position.

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BBB. SENIORITY means the definition found in the applicable collective bargaining contract will apply. If no such definition exists, then seniority will be defined as length of continuous years of service with the County.

CCC. TEMPORARY POSITION means an unallocated position. Temporary positions are subject to an annual limit on hours worked as provided in Section 2.05.040.5.

DDD. TRANSFER means the movement of an employee to a different position in the same classification.

EEE. UNALLOCATED POSITION means a position which is not specifically identified in the budget. Unallocated positions are funded by a budget entry for "temporary workers" or similar entry. Unallocated positions are subject to an annual limit on hours worked as provided in Section 2.05.040.5.

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FFF. UNCLASSIFIED SERVICE means those County positions which are exempt under 2.05.040 3B.

GGG. UNRANKED OPEN REGISTER means a register that is created when there are ten (10) or fewer applicants qualified for an open register for a single recruitment, and there are no names on the layoff or promotional/internal register for the position.

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HHH. UPGRADING means a reclassification of a position in which the newly assigned classification has a higher salary grade.

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III. VOLUNTARY DEMOTION means a demotion approved by the County and requested by an employee in order to retain employment when layoff is imminent or for other reasons where the action is still entirely voluntary on the part of the employee.

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[Codified by Ord. 05-2000, 7/13/00; Amended by Ord. 10-2004, 11/18/04; Amended by Ord. 07-2005, 11/3/05; Amended by Ord. 05-2007, 6/7/07; Amended by Ord. 05-2009, 10/29/09; Amended by Ord. 01-2011, 4/28/11]

2.05.040.3 Application Of Personnel Chapter

All positions within the County government shall be divided into the classified or unclassified service.

- A. Classified Services: The classified service shall include all positions that are not included in the unclassified service. Positions in the classified service are subject to all of the provisions in this Personnel Chapter.
- B. Unclassified Service: The unclassified service shall include the following offices and positions:
 - 1. Any officer, chosen by popular election or appointed to fill a vacancy caused by death, resignation or removal of any officer chosen by election.
 - 2. Any special Deputy Sheriff or peace officer appointed to act without compensation from the County.
 - 3. Any Deputy District Attorney, the District Attorney Office Manager, the District Attorney Victim Assistance Manager, and the District Attorney Senior Administrative Services Manager.
 - 4. Any member of a board or commission whose principle vocation is other than as a County employee.
 - 5. Persons employed as on-site property managers residing in County-owned or County-provided facilities.
 - 6. Persons employed in unallocated positions (also known as temporary positions).
 - 7. Any part-time employee working less than half time.
 - 8. Persons employed under a limited term appointment status.
 - 9. The County Administrator, under employment contract with the Board of County Commissioners.
 - 10. Department directors, and the County Surveyor, under employment contract with the County Administrator.
 - 11. Persons holding positions whose positions are designated by the County Administrator as appropriate for unclassified status, who hold positions under employment contract with the County Administrator.
 - 12. Persons employed in the Sheriff's Office as a Captain or Undersheriff.
 - 13. The County Counsel, under employment contract with the Board of County Commissioners.
 - 14. Employees of the Office of County Counsel, under employment contracts with the County Counsel.
 - 15. Persons employed in unrepresented positions in the County Justice Court.

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[Codified by Ord. 05-2000, 7/13/00; Amended by Ord. 13-2003, 7/13/03; Amended by Ord. 07-2005, 11/3/05; Amended by Ord. 04-2007, 4/26/07; Amended by Ord. 01-2009, 2/5/09; Amended by Ord. 05-2009, 10/29/09; Amended by Ord. 02-2012, 1/5/12]

2.05.060.2 Administration Of Compensation Plan

A. Rates of Pay: Classified employees shall be paid at a rate established within the salary grade for the classification in which they are employed, unless otherwise authorized by the County Administrator.

B. Entrance Salary: An employee will be appointed at the entrance rate for each classification. The entrance rate shall be the first step or minimum pay rate in a salary grade established by a collective bargaining agreement or, for nonrepresented employees, it shall be any rate from minimum to midpoint in the established salary grade. If an appointment or reinstatement above the entrance rate ("upper-step") is requested, authorization must be obtained from the County Administrator, through the Department of Employee Services. In determining such requests, the County Administrator shall give consideration to qualifications of the candidate, availability of applicants and the resulting salary relationship with other positions.

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C. Salary Increases: Salary increases are not automatic. Appointing authorities shall recommend to the County Administrator salary increases only for those employees who have demonstrated high standards of work performance. Work performance should be reviewed periodically to determine whether increases have been earned. (Refer to Performance Evaluation 2.05.120.)

1. Eligibility for Salary Increases: New employees or promoted employees shall be eligible for advancement to the next step or applicable percentage increase within the salary grade for their classification six (6) months from the first of the month following their first day of work in the position. Thereafter, employees are eligible for a salary increase at the conclusion of twelve (12) months of continuous service since their last in-grade salary adjustment other than an exceptional increase. Eligibility for salary increases shall continue until employees reach the last step in their respective salary grade.

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2. Exceptional Increases: An appointing authority may request an exceptional increase for any employee when:

- a. The employee's performance is outstanding in relation to other employees in the same department, and the employee's outstanding performance is documented according to an approved performance evaluation program; or
- b. Other factors exist, such as compression of pay rates, which justify an exceptional increase; and;
- c. Funds for such "special" increases are budgeted; and,

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- d. At least six (6) months have passed since the last "salary" or "step" increase, or last promotion.

Exceptional increases will generally be limited to one step or percentage amount equivalent to one salary increase. Exceptional increases will not affect an employee's established salary increase date.

- 3. Interim Increases: An employee whose salary increase is denied may be eligible for an increase following an additional six-month period during which successful performance is monitored and documented. If such a salary increase is granted, the employee's new date of eligibility for a salary increase shall be one year from the date of the last salary increase.

[Codified by Ord. 05-2000, 7/13/00; Amended by Ord. 05-2009, 10/29/09]

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2.05.070.9 Modification Or Suspension Of Selection Procedures

- A. If there are five (5) or fewer eligible competitors in any part of the selection process, subsequent parts may be modified or suspended. In such a case, referral may be made, provided that there is no existing eligible register and all eligible applicants are to be referred and interviewed by the appointing authority.
- B. If there are ten (10) or fewer applicants qualified for an open register following review by the Department of Employee Services, and there are no names on the layoff or promotional/internal register, an unranked open register may be developed. Except as provided below in this section, all applicants on the unranked open register will be referred and interviewed by the appointing authority.
- C. An unranked open register will not be used if it conflicts with the terms of applicable collective bargaining agreements.
- D. An unranked open register will not be used if, prior to the job announcement open date, a department director specifically requests a ranked open register for that recruitment.

[Codified by Ord. 05-2000, 7/13/00; Amended by Ord. 10-2004, 11/18/04; Amended by Ord. 05-2009, 10/29/09; Amended by Ord. 01-2011, 4/28/11]

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2.05.090.1 Insufficient Names

When the total number of names on the available eligible register is fewer than five, (5), or a banded register has fewer than five (5) names on the A, B, and C bands, the appointing authority may elect to:

- A. Make a probationary appointment from those referred, or

- B. Accept referral of additional names from the most nearly appropriate eligible register as determined by the Director of Employee Services, or
- C. Request a provisional appointment, pending establishment of a new eligible register, and call for a new recruitment, or

[Codified by Ord. 05-2000, 7/13/00; Amended by Ord. 01-2011, 4/28/11]

Deleted: Accept referral of additional names from eligible registers of a lower grade classification in order to underfill the higher level position. ¶

2.05.150.2 Types Of Leave

A. Military Leave:

In accordance with State and Federal law, employees are entitled to a cumulative five (5) year length of time in which they may be absent for military duty. Employees taking leave, either voluntarily or involuntarily, shall have a right to be restored to their former position or an equivalent position. The leave of absence shall be without pay and will not count towards monthly vacation, sick leave or longevity payments. However, seniority and employment credit towards vacation, salary increases, and longevity do accrue while on military leave. Employees returning from military leave shall be re-employed at the salary and service accrual level they would have achieved had they not left on military leave. To be eligible for such reinstatement the employee must be discharged under honorable conditions from the military and register an intent to return to County employment within timelines specified by State and Federal law.

Any employee, who has served in the County service for six (6) months preceding notification of duty and is a member of the National Guard, National Guard Reserve or any reserve component of the Armed Forces of the United States or of the United States Public Health Service, is entitled to an annual paid leave of absence for training for a period not exceeding fifteen (15) calendar days in any one training year. In the case of an employee on a five, (5) day workweek, this is equivalent to eleven (11) paid workdays in each training year. An employee on a four, (4) day workweek is entitled to a leave of nine (9) paid workdays per training year. The training year is defined as the Federal fiscal year commencing on October 1st and ending on September 30. Days for annual military reserve duty may be taken either consecutively or intermittently.

An employee taking military leave may be required to show proof of military service to have time credited toward leave of absence for military duty. If the employee does not show proof of military service either in advance or upon return to work, the employee may choose to utilize vacation or leave without pay during time away from work.

B. Family and Medical Leave:

In accordance with Federal and State law, an employee may be entitled to take up to 12 weeks family and medical leave within any 12 month period of time. Family and medical leave shall be for the purpose of caring for serious medical conditions of the employee or an immediate family member of the employee, pregnancy-related disability, or for parental

leave following the birth or adoption of a child. Also, Oregon law allows additional family and medical leave to care for a child with a non-serious health condition, and may allow a woman to take up to 12 weeks each for pregnancy-related disability, parental leave and sick child leave.

For purposes of granting family and medical leave a family member shall be defined as: a spouse, domestic partner, , or child or parent of the employee, spouse or domestic partner, or someone with whom the employee has an "In Loco Parentis" relationship. A serious health condition is defined as one which requires either inpatient care or continuing treatment by a health care provider.

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In situations where the leave is to care for the employee's own illness including disability related to pregnancy or childbirth, or the illness of a family member, the employee is required to use all accrued sick leave. When all accrued sick leave has been exhausted, an employee may elect to use other paid leave or leave without pay. When an employee chooses to use accrued paid leave, such leave must be used prior to the commencement of unpaid leave.

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Requests for family and medical leave must be made in writing at least thirty (30) days prior to the effective date of the leave if the leave is anticipated. In cases of sudden illness or injury, or unexpected birth or placement for adoption, an employee may make an oral request to his/her supervisor as soon as practicable, but must complete a written request form within fifteen (15) days. When the leave is for a serious health condition, the request for leave must include certification from the attending health care provider that the employee or family member qualifies for leave.

A female employee who has taken Family Medical Leave for disability due to pregnancy and childbirth is eligible to begin her parental leave entitlement on the date her health care provider certifies she is no longer disabled. Parental Leave must be taken in a consecutive period of time, unless the employee's supervisor approves leave to be taken in two or more non-consecutive periods.

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Employees who report for work at the expiration of a family and medical leave of absence shall be reinstated to their last held position at the prevailing salary rates, without loss of seniority. If their former position no longer exists, the employee shall be reinstated to an equivalent position. An employee who fails to report for work at the expiration of a family medical leave of absence and does not have any additional leave approved by the appointing authority shall be deemed to have resigned.

C. Bereavement or Funeral Leave:

Two types of bereavement leave are available, paid and unpaid.

Paid bereavement leave may be granted in each case of bereavement due to the death of a member of the immediate family (see Sick Leave, 2.05.160.3, for definition of immediate

family). A request to use paid bereavement leave for the death of an individual outside of the immediate family is subject to approval by the appointing authority. The purpose of such leave shall be to allow time to attend a funeral and make necessary funeral and household adjustments. Paid bereavement leave shall not exceed the equivalent of three (3) days, including all travel time. Paid bereavement leave will not be counted against accumulated sick or vacation leave balances, but will be counted under the Oregon Family Leave Act (OFLA).

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Unpaid bereavement leave is established by the Oregon Family Leave Act (OFLA) and is available in the event of death of a family member up to a maximum of 2 weeks in a 12-month period. Unpaid bereavement leave may be used to attend the funeral or memorial service, make arrangements related to the death of the family member, and/or grieve the death of the family member. All bereavement leave (whether paid or unpaid) counts towards the employee's OFLA entitlement and must be completed within 60 days after the date the employee receives notice of the death. If the employee is using bereavement leave, they must first use any paid bereavement leave as contained within the appropriate collective bargaining agreement, unless such agreement allows for the use of bereavement leave in a time period in excess of 60 days, or the County Code prior to using vacation or sick leave or unpaid time. Leave without pay may not begin until all required or requested paid leave is used. Any remaining paid leave may not be used for the duration of the leave once unpaid leave has begun.

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D. Workers' Compensation Leave:

If an employee is injured on-the-job and is unable to work, supervisors should immediately contact the Risk and Benefits Division and complete the appropriate Workers' Compensation forms. If the employee's Workers' Compensation claim is accepted, the County will place the employee on Worker's Compensation leave with pay with full benefits (unless prohibited by law or provider contact) for up to six (6) months, or as extended by the Board of County Commissioners or designee. Procedures for Workers' Compensation will conform to ORS regulations and County policy.

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E. Disability Leave:

If an employee is disabled as result of non-job-related reasons, the employee shall apply for Family and Medical Leave, utilize sick leave and file a disability insurance claim with the Risk and Benefits Division. When an employee has used the twelve (12) week Family and Medical Leave entitlement and has a continuing need for leave, the employee may use available paid leave or request a leave of absence without pay. Leave without pay is subject to the appointing authority's approval. Employees who return to their former positions following a disability leave will have all unused previously accrued sick, vacation, seniority and longevity credit restored.

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F. Compulsory Leave:

If, in the opinion of the appointing authority, an employee is incapacitated for work, a medical examination by a psychologist or physician may be required. If the appointing authority disagrees with the medical report, the appointing authority may require the

employee to be examined by a psychologist or physician designated or approved by the Director of Employee Services. If the medical report does not show the employee to be in a fit condition required to perform the duties of the position, the appointing authority shall have the right to compel such employee to take sufficient leave of absence with or without pay until medically qualified to perform the duties of the position.

G. Jury Duty:

When an employee with regular or probationary status is called for jury duty, or subpoenaed as a witness by proper authority for cases in which the employee is not a party, the employee shall be granted a leave of absence with pay. All jury duty and witness fees other than mileage reimbursement shall be surrendered to Clackamas County. Employees who are excused from jury service or court appearance before the end of their workday shall immediately report their availability for assignment to their supervisor. Employees scheduled to work on shifts other than day shift shall be considered to be on day shift for the duration of jury duty.

H. Administrative Leave:

Employees may be placed on administrative leave, with pay, if the appointing authority feels they should be relieved of their duties or removed from the workplace pending a job-related investigation. Administrative leave, while not considered discipline, is commonly used during a discipline-related investigation prior to discipline being administered. No administrative leave shall extend beyond thirty (30) days unless approved by the Director of Employee Services.

I. Special Leave Without Pay:

A special leave without pay for a period not exceeding one (1) year may be granted to an employee who:

1. Desires to engage in a relevant course of study which will enhance the employee's value to perform the duties of the position; or
2. Is a candidate for a public office and requests a leave of absence for a reasonable period to campaign for the election; or
 Has any reason considered appropriate by the appointing authority and the Director of Employee Services and is approved by the Board of County Commissioners.

J. Criminal Charges/Indictment Leave:

1. Felony Charges. An appointing authority may place an employee on leave without pay, if the employee has been charged with a felony, by grand jury indictment or other formal filing. The foregoing applies only to felonies that (1) are related to an employee's position or (2) that may affect an employee's effectiveness in performing the duties of his/her position, as determined by the appointing authority.
2. Hearing. An employee placed on leave has the right to a prompt hearing with the appointing authority.
 - a. The employee must submit a request in writing to the Director of DES, within 7 calendar days of the date the leave commences. If a hearing is requested by the employee, the County must set the date of the hearing within 14 calendar days of

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the request, unless the employee requests a later hearing date, (but in no case will the hearing date be longer than 30 calendar days after the employee's request).

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b. The purpose of the hearing is to allow the employee or the employee's representative to show that there are no reasonable grounds to believe that the charges are true, to otherwise refute the charges, or to challenge the appropriateness of the leave decision.

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c. Following such a hearing, the County must issue a decision as to whether the leave without pay will continue. The decision must be issued within 20 calendar days of the hearing, unless additional time is required for reasons articulated by the County in writing, and in any event within 40 calendar days of the hearing. If the determination is made by the appointing authority following the hearing that the leave without pay will not continue, the employee shall be paid any salary and reinstated to any benefits lost during the time after being placed on leave and before the determination by the appointing authority. If the employee is found not guilty or charges against the employee are dismissed, the employee will be paid any salary and/or reinstated to any benefits lost during the leave time, unless disciplinary action is taken, as stated in the Reservation of Rights.

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3. Duration. Criminal trial leave without pay may continue only during the pendency of criminal charges, during sentencing proceedings, and for 55 days after the entry of judgment (the time allowed for granting a motion for new trial under ORS 136.535).

4. Reservation of Rights. Nothing in this provision prevents an appointing authority from disciplining an employee or exercising management rights under any applicable collective bargaining agreement to discipline an employee in accordance with the applicable agreement.

[Codified by Ord. 05-2000, 7/13/00; Amended by Ord. 07-2005, 11/3/05]

2.05.180.2 Work Rules

The following work rules shall apply to all County employees. The environment, context, or particular circumstances will be taken into consideration in applying these work rules. These rules are not intended to be all-inclusive. Additionally, County departments may, consistent with the provisions of applicable collective bargaining agreements, establish other rules to ensure the effective operation of the County government, besides:

- A. Employees shall be at their designated work area on time and ready to work; employees shall report to and remain at their work area, at work, until the scheduled quitting time consistent with department policy;
- B. Where operations are continuous, employees shall not leave their position until replaced by the next shift employee or until relieved by their supervisor;

- C. Employees shall follow all safety regulations including the wearing of safety articles and the use of protective equipment, when appropriate; employees shall immediately report safety hazards, accidents, or injuries to their supervisor;
- D. Employees shall be responsible for, and not misuse County property, records or other materials in their care, custody and control;
- E. Employees shall deal with the public and other employees in a courteous and professional manner;
- F. Employees shall immediately report to their supervisor any inability to work and the reason therefore;
- G. Employees shall notify their supervisor whenever there is a change in their personal data affecting their personnel or payroll records;
- H. Employees shall not restrict, interrupt or interfere with the work of other County employees outside their assigned duties or authority;
- I. Employees shall report for and remain at work only in a condition which will enable them to perform their regular duties;
- J. Employees shall perform all work assigned unless performance of such work will constitute a safety hazard which violates established safety standards or law;
- K. Employees shall not engage in conduct that reflects discredit on the County while on duty or while conducting County business;
- L. Employees shall not engage in unauthorized political soliciting or political activity while on duty or while conducting County business;
- M. Employees shall not use their position, or County property, or County-paid work time, for personal or financial gain, other than official salary and benefits. Employees shall not use their position, or County property, or County-paid work time, as a means to solicit or conduct personal business, including but not limited to sales of products or services;
- N. Employees shall not use their position to coerce other employees;
- O. Unless required or permitted by an employee's job classification, employees shall not possess or use firearms, weapons, illegal drugs, controlled substances (other than those lawfully prescribed), or intoxicating beverages during an employee's work shift (including breaks in which the employee remains on County premises);
- P. Employees shall not falsify any reports or records; all reports, records and claims completed by employees shall be true and accurate, to the best of their knowledge;
- Q. Employees shall not remove County property or the property of other employees without express approval of their supervisor or the owner of such property;
- R. Employees shall not violate any of the laws, statutes, or ordinances of Federal, State or local government while on duty, while on County premises, or while conducting County business.
- S. Employees shall not retaliate against another employee because of (1) the other employee's exercise of rights provided by law, such as but not limited to the right to file a discrimination complaint with the Director of Employee Services under 2.05.240.3, or (2) because the other employee participated in an investigation or personnel matter;
- T. Employees shall not use abusive or profane language, (including ethnic slurs), directed at other employees or County visitors that is offensive;

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U. Employees shall not use county computers or work time to access the internet for personal reasons in violation of the County's "appropriate use" policy (EPP 59);

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V. Employees shall not engage in employment-related transactions with any business entity in which the employee has a financial interest;

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W. Employees shall inform their department head (or designee) of any outside employment or outside affiliation that could potentially affect their independence of judgment in the performance of work duties, or create a conflict of interest in the performance of work duties;

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X. Employees shall not engage in any outside affiliations or outside employment that would affect the employee's independence of judgment in the performance of work duties, or otherwise create a conflict of interest in the performance of work duties;

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Y. Employees shall report to their supervisor any lapse of certification or licensure which is required for the performance of their duties;

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Z. Employees shall not solicit, receive or exchange personal favors, compensation, or gifts from clients of their department, where such action could financially impact the employee (or the employee's relative) or where the appearance of such action would decrease the public's confidence in the employee or department; (Any questions or uncertainty regarding employee ethics or conflicts of interest should be directed to DES.)

AA. Employees shall not engage in sexual or exploitive relationships with clients of their department where an employee has the authority to control (improve, increase, decrease, etc.) County services or benefits that the other individual receives;

BB. Employees shall not consume alcoholic beverages on county premises, nor between the time between starting work and quitting work each day (including during breaks and lunch).

[Codified by Ord. 05-2000, 7/13/00; Amended by Ord. 07-2005, 11/3/05; Amended by Ord. 05-2009, 10/29/09]

2.05.190.4 Kinds Of Disciplinary Action

A. Oral Reprimand: This is a warning procedure rather than a punitive action. The oral reprimand should serve to forestall the employee from being in such a position that a more severe form of action must be used.

B. Written Reprimand: The written reprimand is also a warning procedure. The written reprimand is used to place an employee on official notice that failure of the employee to take corrective action will result in a more severe form of action. The written reprimand will list the unacceptable behavior, the time it occurred, the rule/procedure violated and an

outline of improvement that is needed. The reprimand is to be included in the employee's official personnel file.

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- C. Suspensions: Suspensions are an ordered absence from duty, other than administrative leave, and may be with or without pay, for an established length of time. The period of suspension shall not exceed thirty (30) consecutive calendar days at any one time. No service accruals may be given to an employee during a period of suspension without pay regardless of the length of suspension. Disciplinary suspensions without pay of nonrepresented employees who are exempt from coverage under the federal Fair Labor Standards Act must be for a period of one full work week or multiples of one work week unless: (1) the reason for the suspension is violation by the employee of a safety rule of major significance, or (2) the suspension is for a violation of workplace conduct rules and is for a period of one or more full days.

Deleted: No disciplinary suspension without pay shall be given to an employee performing executive, administrative or professional duties as defined by the Federal Fair Labor Standards Act, unless

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- D. Demotion: Demotion, both in pay and to a lower classification, may be used as a form of discipline when discharge is not warranted or when the appointing authority believes that the employee has the potential for corrective conduct. Such action shall be subject to 2.05.140.2, and shall not cause the displacement of another employee.
- E. Dismissal: An appointing authority may dismiss for cause any regular employee under the appointing authority's jurisdiction. In carrying out such actions, the appointing authority shall consult with County Counsel and the Director of Employee Services.

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[Codified by Ord. 05-2000, 7/13/00]

2.05.230.4 Process Of The Classification/Compensation Review Panel

An employee has ten (10) calendar days from the date the written response to the request for review was mailed, to submit a written request to the Director of Employee Services to have the matter forwarded to the Classification/Compensation Review Panel. The employee and the employee's representative, the employee's appointing authority and/or the appointing authority's representative, and Personnel staff may present information to the panel in support of their respective positions. The Classification/Compensation Review Panel shall review the reasons for the classification allocation and/or the salary grade recommendation and may ask questions of the parties presenting information. Following the collection of information, the panel shall discuss their opinions with the Director of Employee Services.

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- A. Final Determination of Classification Allocation: The Director of Employee Services shall consider opinions of the panel when determining the final classification allocation of a position. The Director of Employee Services shall prepare a written report of the final recommendation, issues raised during the request for review and the opinions of the panel. Copies of the report shall be delivered to the affected parties. The Director of Employee Services shall have the final authority for all classification allocation determinations.
- B. Final Recommendation of Salary Grades: The Director of Employee Services shall consider the opinions of the Classification/Compensation Review Panel when

recommending the final salary grade recommendation to the County Administrator. The Director of Employee Services shall include in this recommendation a summary of issues raised during the request for review process and the opinions of the panel. The County Administrator shall have the final authority for all salary grade determinations.

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[Codified by Ord. 05-2000, 7/13/00; Amended by Ord. 07-2005, 11/3/05]