

County Council of Cuyahoga County, Ohio

Ordinance No. O2018-0004

Sponsored by: Councilmember Brown on behalf of Cuyahoga County Personnel Review Commission	An Ordinance amending Sections 303.02, 303.03 and 303.05 of the Cuyahoga County Code to update the Civil Service Code of Cuyahoga County; and declaring the necessity that this Ordinance become immediately effective.
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WHEREAS, Article IX of the Charter of Cuyahoga County creates a Personnel Review Commission that shall be responsible for administering, for and in cooperation with the officers, agencies, boards and commissions of the County, an efficient and economical system for the employment of persons in the public service of the County according to merit and fitness; and,

WHEREAS, Section 9.01 of the Charter of Cuyahoga County states that the County's human resources policies and systems shall be established by ordinance and shall be administered in such a manner as will eliminate unnecessary expense and duplication of effort, while ensuring that persons will be employed in the public service without discrimination on the basis of race, color, religion, sex, national origin, sexual orientation, disability, age or ancestry; and,

WHEREAS, the County's current Civil Service System, including the process for examination and appointment, is codified in Chapter 303 of the Cuyahoga County Code and incorporates by reference Chapter 124 of the Ohio Revised Code, Chapter 123:1 of the Ohio Administrative Code, the Cuyahoga County Administrative Rules and the Policies and Procedures Manual; and,

WHEREAS, the proposed amendments provided herein are submitted in concert with the Administrative Rules of the Personnel Review Commission as submitted to Council on February 27, 2017 pursuant to Section 113.02(I) of the Cuyahoga County Code; and,

WHEREAS, it is necessary that this Ordinance become immediately effective in order that critical services provided by Cuyahoga County can continue and to provide for the usual, daily operation of a County entity.

NOW, THEREFORE, BE IT ENACTED BY THE COUNTY COUNCIL OF CUYAHOGA COUNTY, OHIO:

SECTION 1. Sections 303.02, 303.03 and 303.05 of the Cuyahoga County Code are hereby amended as follows (additions are underlined; deletions are stricken). The remaining Sections of Chapter 303 remain in full force and effect.

Section 303.02 Definitions

As used in Chapter 303 of the Cuyahoga County Code and the Personnel Review Commission's Rules:

A. Abolishment – Means one of the following:

1. Abolishment of Classification – The permanent deletion of a classification from the organization due to lack of continued need for the classification, due to reorganization for efficient operation, economy or lack of work, or other lawful purpose; or
2. Abolishment of Position – The permanent deletion of a position from the structure of an Appointing Authority due to lack of continued need for the position, due to reorganization for efficient operation, economy or lack of work, or other lawful purpose.

B. Appeal – An action by which an affected party challenges the decision or determination of an Appointing Authority, the Director **of HR**, and/or the Commission.

C. Appointment – Placement of an employee in a position.

D. Appointing Authority – Means the same as defined in Section 9.04 of the Cuyahoga County Charter.

E. Classification – Means one of the following:

1. A group of positions of sufficiently similar duties that the same title and specification may be assigned to each; or
2. The act of assigning a classification title to a position(s) based upon the duties performed.

F. Commission **or PRC** – The Cuyahoga County Personnel Review Commission.

G. Competitive Examination— Method used by the Commission to assess the relative capability of qualified applicants to perform the duties and responsibilities of the classification.

H. County – As defined in the Charter.

I. Demotion – The act of placing an individual in a position, at the request of an Appointing Authority or the employee, the classification for which carries a lower salary range **pay grade** than that of the classification the employee currently holds.

J. Director **of HR** – The Director of the Cuyahoga County Human Resources Department as appointed by the County Executive **and confirmed by County Council.**

K. Eligibility List – A list of names established by the Commission for the purpose of filling vacancies in the classified service.

L. Ethics ~~Code~~**Policy** – Title IV of the Cuyahoga County Code and any revisions thereto.

M. Human Resources Department – The Cuyahoga County Department of Human Resources.

N. Layoff – A suspension of employment due to either a lack of work or a lack of funds, or other lawful purpose.

O. Meeting – Any prearranged discussion of the public business of the PRC by a majority of its members.

P. Noncompetitive Examination – An examination that evaluates individual candidates based upon established criteria to determine which applicants are qualified to fill appointments to positions requiring exceptional qualifications of a scientific, professional, educational, or managerial character or positions where it is impractical to develop and administer competitive examinations.

Q. Pay – The annual, non-overtime compensation due an employee.

~~R. Pay Equity Ordinance – Chapter 303 of the Cuyahoga County Code and any revisions thereto.~~

~~S.~~**R. Pay RangeGrade** – The pay ~~grade~~**range** assigned to a position or classification.

~~T.~~**S. Position** – The name that applies to a group of duties intended to be performed by an employee.

T. PRC Director - The Director of the Cuyahoga County Personnel Review Commission as appointed by the Commission.

U. Promotion – The appointment of an employee to a different position assigned a higher pay ~~range~~**grade** than the employee's previous position.

V. Reassignment – The assignment of an employee to a different classification.

W. Reclassification – The assignment of a position to a different classification.

X. Reduction in Pay – An action that diminishes an employee's pay. When the conditions of entitling an employee to supplemental pay end, the ending of supplemental pay shall not be considered a reduction, nor shall a change in the cost of an ~~a~~**A**ppointing ~~a~~**A**uthority's insurance or other contributions be considered a reduction.

Y. Reduction in Position – An action that diminishes an employee’s duties or responsibilities to the extent an audit of the employee’s position would result in a reclassification to a classification assigned a lower pay ~~range~~grade.

Z. Removal – Termination of an employee’s employment.

AA. Request for Reconsideration - A request made by an affected party seeking the Commission’s reconsideration of certain pre-employment determinations made by the Commission.

AB. Request for Restoration - A request made by an affected party seeking the Commission’s consideration to restore that party to an established eligibility list. See Rule 9.05.

~~ACB~~. Suspension – The interruption of an employee’s employment and/or compensation for a fixed period of time.

Section 303.03 Examinations

A. General Provisions

The Cuyahoga County Personnel Review Commission shall provide for the:

1. Administration, preparation, conducting, grading, and validation of all competitive examinations for positions in the County’s classified service;
2. Evaluation of qualifications for all noncompetitive positions in the County’s classified service; and
3. Preparation and maintenance of eligibility lists containing the names, scores, and rankings of persons qualified for appointment to positions in the classified service.

B. Announcements & Applications

The Cuyahoga County Personnel Review Commission shall give reasonable notice of the time, place, and general scope of competitive examinations for positions in the County’s classified civil service. Examination announcements shall be posted electronically on both the Personnel Review Commission’s and Cuyahoga County’s website.

Applicants for classified civil service positions shall file one application that will serve as both the request to take the examination and as the application for employment with the County.

C. Rejection of Applicants

All applications shall be reviewed by the Cuyahoga County Personnel Review Commission. Applications may be rejected for any of the following reasons:

1. It was not filed within the prescribed time period.
2. That the applicant has not met one or more of the minimum **requirements** ~~qualifications~~ of the position.
3. That the applicant has made a false statement on the application.
4. Any other just or reasonable cause that is job related and non-discriminatory **as determined by the Personnel Review Commission.**

Upon rejecting any application, the Personnel Review Commission shall promptly notify the applicant of the reason for the rejection at the electronic mail address provided on the application. The applicant may, within five (5) calendar days after the date of the notice, file **with the Personnel Review Commission a Request for Reconsideration.** ~~written request for reconsideration of such rejection that shall set forth why the rejection was in error and providing evidence of the same.~~ The Personnel Review Commission will not consider requests that contest the qualifications established for the position. If a request for reconsideration from a rejection is pending at the time an examination is scheduled to be held, the applicant shall be allowed to take the examination pending the resolution of the request. If **after review, the Personnel Review Commission, within its sole discretion, finds it is determined that** the rejection **is** justified, the applicant's examination shall not be graded. Consideration of an applicant's request for reconsideration shall not be quasi-judicial and shall not result in a final order that entitles the applicant to an administrative appeal to the Personnel Review Commission.

D. Fraud

Fraud in examinations is prohibited and shall result in automatic disqualification. No person shall:

1. Falsely mark, grade, estimate or report upon the examination or proper standing of any person examined, registered or certified pursuant to the provisions of the civil service law, or aid in so doing;
2. Make any false representations concerning the results of such examination or concerning any person examined;
3. Furnish to another person special or secret information for the purpose of either improving or injuring the prospects or chances of another person so examined, registered or certified, or to be appointed, employed or promoted;

4. Impersonate another person, or permit or aid in any manner another person to impersonate a candidate~~an applicant~~, in connection with any examination, registration or appointment or application or request to be examined, registered or appointed;
5. Furnish false information about himself/herself, or other person, in connection with any examination, registration, or appointment or application or request to be examined (including a request for examination rescheduling or reasonable accommodation), registered or appointed;
6. Make known or assist in making known to any applicant for examination any question to be asked on such examination;
7. Acquire, through fraudulent means, any exam content or question(s) to be asked on the examination prior to the examination; or
8. Personally solicit a favor from any appointing officer, or have any person on his/her behalf solicit a favor pertaining to the testing procedures of the Personnel Review Commission.

Any person or persons attempting to deceive any of the examiners in any manner whatsoever ~~by impersonation or by assisting or receiving assistance~~ as described above, shall be prohibited from taking any examination for employment with Cuyahoga County for a period of two (2) years. If the person is already employed by the County, such conduct shall be grounds for disciplinary action, the Personnel Review Commission shall notify the Director of HR upon learning of any such conduct.

E. Method of Grading

The method of grading, including the setting of minimum passing scores, weighting of multiple test components, rank ordering, banding, ~~protests~~, or any other consideration in determining a candidate's~~an applicant's~~ score on an employment test, shall be determined by the Personnel Review Commission on a test-by-test basis.

F. Military Service Credit

~~Any person who has completed service in the uniformed services and who has been honorably discharged from the uniformed services or transferred to the reserve with evidence of satisfactory service may file with the Commission a DD-214, and, upon this filing, the person shall receive an additional credit of five (5) numerical points or 5% of his or her score, whichever is greater, provided the applicant has received a passing grade in all phases of the examination before addition of the military service credit. Credit for uniformed service will not be given if the request for such credit is received by the Commission after the closing date for applications. As used in this Section, "service in the uniformed services" and "uniformed services" have the same meaning as the "Uniformed Services Employment and Reemployment Rights Act of~~

1994,..." 38 U.S.C.A. 4303" which meaning shall be: The Armed Forces, the Army National Guard and the Air National Guard when engaged in active duty for training, inactive duty training, or a full-time National Guard duty, the commissioned corps of the Public Health Service, and any other category of persons designated by the President in the time of war or national emergency.

Any person who has been honorably discharged from the uniformed services or transferred to the reserve with evidence of satisfactory service may file with the Commission Form DD214, member copy 4 as proof of military service, and, upon verification, the person shall receive an additional credit of 5% of the maximum score for the examination, provided the candidate has received a passing grade in all phases of the examination before addition of the military service credit.

Any person in good standing of a reserve component of the armed forces of the United States who successfully completes the member's initial entry-level training may submit to the Commission proof of such completion, and, upon verification, the person shall receive an additional credit of 5% of the maximum score for the examination, provided the candidate has received a passing grade in all phases of the examination before addition of the military service credit.

As used in this Section, "uniformed services" and "reserve component" include service in the Army, Navy, Marine Corps, Air Force, Coast Guard, Army Reserve, Naval Reserve, Marine Corps Reserve, Air Force Reserve, Coast Guard Reserve, Army National Guard, Air National Guard, Commissioned Corps of the Public Health Service, or any other category of persons designated by the President in time of war or emergency.

G. Noncompetitive Examinations

For positions designated as noncompetitive, the Personnel Review Commission may suspend competition. Applicants for noncompetitive positions shall file an application, together with such proof of education, training, experience, ability and character, as shall be set forth in the examination announcement. The Personnel Review Commission shall evaluate the applications to determine if the applicants meet the minimum requirements of the class specifications for the class being examined. Following this review, an eligibility list shall be prepared including the names of all applicants who met the minimum requirements. Applicants will appear in alphabetical order.

H. Eligibility Lists

Eligibility lists shall remain in force not longer than one (1) year; however, the Personnel Review Commission may, at its discretion, extend the duration of an eligibility list.

I. Breaking tie Grades

In the event two (2) or more ~~applicants~~**candidates** receive the same grade on an open competitive examination in which rank ordering is used in establishing the eligibility list, priority in the time of filing the application shall determine the order in which their names shall be placed on the eligible**ility** list; ~~applicants~~**candidates** eligible for Military Service Credit shall receive priority in rank on the eligible list over non-veterans on the list with a rating equal to that of the veteran. Ties among ~~applicants~~**candidates** receiving Military Service Credit shall be decided by which application was filed earlier.

J. Removal from List

~~Names may be removed from an eligibility list by action of the Personnel Review Commission for the following reasons:~~

- ~~1. At the request of the eligible candidate.~~
- ~~2. After three certifications or considerations without receiving an appointment.~~
- ~~3. Failure to pass a pre-employment background check and/or drug or alcohol screen.~~
- ~~4. Failure to appear for an interview.~~
- ~~5. Inability to locate the eligible at his or her last known address.~~
- ~~6. Practice or attempt to practice any deception in his or her application or in securing eligibility or appointment.~~
- ~~7. Any other just or reasonable cause that is job-related and non-discriminatory.~~

Upon receiving notification from the Appointing Authority, Director of HR, or the PRC Director, names may be removed from an eligibility list for the following reasons:

- 1. At the request of the eligible candidate.**
- 2. After declining a conditional offer for the position.**
- 3. After three certifications or considerations without receiving a conditional offer.**
- 4. Failure to pass a pre-employment background check and/or drug or alcohol screen.**
- 5. Failure to appear for an interview.**

6. Inability to contact the candidate via the contact information on file with the Commission .

7. Practice or attempt to practice any deception in his or her application or in securing eligibility or appointment.

8. Any just or reasonable cause that is job-related and non-discriminatory.

For the purpose of this rule, “removal” from an eligibility list constitutes the removal of the candidate from consideration in any current or future hiring process for the life of the list. This does not mean a candidate’s name will be removed from the eligibility list posted on the PRC’s website. Once the eligibility list is posted on the PRC’s website, it will not be modified or removed until the list expires, the list is exhausted, or the Commission must correct an error on the list.

If a current County probationary employee appears on an eligibility list for a classification that would be considered a promotion, and that employee is not eligible for promotion per the Cuyahoga County Personnel Policies and Procedures Manual, that employee will be temporarily removed from the eligibility list pending completion of the probationary period. Upon receipt of verification that the employee has successfully completed the probationary period, the employee will be reinstated to the eligibility list.

If a candidate requests removal, and the request is based on illness, military service, or conflict with schooling, that candidate may be restored to the eligibility list ~~for~~ **consideration** when that candidate indicates renewed availability for consideration if the eligibility list is still in effect as provided in Section 303.03(H).

If a candidate’s name is removed for any of the other reasons set forth in this Section, the candidate may make a written request for ~~reconsideration~~ to the Personnel Review Commission for the restoration of his or her name to the eligibility list. Such request shall be made within five (5) calendar days of ~~the~~ date the notification of removal from the list was electronically mailed and shall set forth why the removal was in error, stating the reasons that would justify restoration to the list, and providing evidence of the same. **The request shall be made in the manner provided by the Administrative Rules of the Personnel Review Commission. Only requests made using the proper form and submitted by the deadline will be considered.**

Restoration to the eligibility list is within the sole discretion of the Personnel Review Commission. However, consideration of a candidate’s request for ~~reconsideration~~ **restoration** shall not be quasi-judicial and shall not result in a final order that entitles the candidate to an administrative appeal to the Personnel Review Commission.

K. Certification

1. Certification Request

~~When an Appointing Authority desires to fill a vacancy in any position in the classified service (excluding promotions), the Appointing Authority shall submit a request to the Personnel Review Commission specifying the department, title of the position, grade, whether the service is temporary or permanent, and the anticipated date of the vacancy.~~ **Upon establishing an eligibility list, the Commission, through its staff, shall certify names to the Appointing Authority to fill the next vacancy in the classification. This certification is made to the Appointing Authority via the Department of Human Resources. For each vacancy beyond the first, the Appointing Authority, through HR, shall submit a written request for certification to the Commission's staff unless all remaining names have already been certified.**

2. Number of Names to be Certified

~~Following a certification request from an Appointing Authority, the Personnel Review Commission, through its staff, shall certify the names, addresses, and rank of the top twenty-five percent (25%) or a minimum of ten (10) names of the applicants on the eligibility list for the class or grade to which the position is classified. When less than 10 names appear on an eligibility list, the Personnel Commission may certify less than ten (10) names and a new examination may be scheduled.~~ **When certifying names from an eligibility list established through competitive means, the Commission, through its staff, shall certify the names and rank of the top twenty-five percent (25%) or a minimum of ten (10) names, whichever is greater, of the candidates remaining on the eligibility list for the class to which the position is classified. When certifying names from an eligibility list established through noncompetitive means, the Commission, through its staff, shall certify all of the names remaining on the eligibility list for the class to which the position is classified.**

If a name has been certified to an Appointing Authority, and sufficient justification is found to remove that name from the eligibility list per Rule 9.05 before a conditional offer has been extended from that certification, the name will be removed and a replacement name will be certified to the Appointing Authority. The replacement name will be the highest-ranked name remaining on the eligibility list that was not already certified to the Appointing Authority.

When fewer than ten (10) names remain on the eligibility list at the time a certification is made, the Commission may certify fewer than ten (10) names and a new examination may be scheduled. If all names remaining on an eligibility list have been certified to an Appointing Authority and there is sufficient justification to remove any names per Rule 9.05 such that the number of remaining names is fewer than ten (10) before a conditional offer is extended, a new examination may also be scheduled.

3. Merging New Names into an Existing Eligibility List

When a new examination is scheduled due to fewer than ten names remaining on an active eligibility list, and the results of that examination are to be posted prior to the expiration of that list, the names of those persons who pass the new examination shall be merged with those who remain on the original list.

The same examination and passing score used to establish the original eligibility list shall be used for the new examination. All candidates who pass either the original or new examination shall be placed on the eligibility list in rank order according to their examination scores. In the case of noncompetitive examinations, all candidates who met the minimum requirements of the classification during either the original or new announcement period shall appear on the eligibility list in alphabetical order. The Commission will then certify names per Rule 10.02.

Names appearing on the eligibility list are considered eligible for the duration of the original eligibility list on which they first appeared, as described in Rule 9.02. However, those names may be extended at the discretion of the Commission, as described in Rule 9.02.

3.4. Certification Not More Than Three Times

A person certified from the same eligibility list three (3) times to the same Appointing Authority may be omitted from future certifications. A person is “certified,” for purposes of this section, each time **a conditional offer is extended**~~an appointment is made from an established-certified~~ eligibility list containing that person’s name.

Section 303.05 Appointments

A. Original Appointments. A person who has been selected by an Appointing Authority from an eligibility list that is established by the Personnel Review Commission to fill a vacancy in the classified service is said to have received an original appointment.

Those persons receiving original appointments do not become permanent employees until they have satisfied the applicable probationary period.

B. Temporary Appointments

Temporary appointments shall not exceed one hundred eighty (180) days in duration and shall be filled in the following manner:

1. Eligibility List

If an applicable eligibility list is available, the temporary appointment shall be offered to the candidates on the eligibility list, provided that the acceptance or declination of appointment to such position shall not affect the right of an eligible

person to certification for appointment to a permanent position. At the expiration of the temporary appointment, which in no case shall exceed one hundred eighty (180) days, the services of the temporary employee shall be terminated and the candidate shall be restored to the eligibility list in rank order.

2. No Applicable Eligibility List

In the absence of an applicable eligibility list, the Appointing Authority may appoint a qualified person for a temporary period of service, not to exceed one hundred eighty (180) days in duration, when the need of service is urgent and necessary to prevent the loss of public property, serious inconvenience to the public, or damaging delay to the public service. In the event of a subsequent appointment to a permanent position, the temporary appointment shall not be counted as part of a probationary period. Successive temporary appointments to the same position are prohibited. Temporary appointments made necessary by reason of sickness, disability, or other approved leave of absence **may exceed the 180-day limitation; however, the temporary appointment** shall not continue beyond such period of sickness, disability, or other absence.

Section 305.02

The ~~Department of Human Resources~~ **Personnel Review Commission** shall publish and keep up-to-date the County's complete Non-Bargaining Classification Plan on the ~~Department's~~ **PRC's** website.

SECTION 2. It is necessary that this Ordinance become immediately effective for the usual daily operation of the County and the reasons set forth in the preamble. Provided that this Ordinance receives the affirmative vote of at least eight members of Council, it shall take effect and be in force immediately upon the earliest occurrence of any of the following: (1) its approval by the County Executive through signature, (2) the expiration of the time during which it may be disapproved by the County Executive under Section 3.10(6) of the Cuyahoga County Charter, or (3) its passage by at least eight members of Council after disapproval pursuant to Section 3.10(7) of the Cuyahoga County Charter. Otherwise, it shall take effect and be in force from and after the earliest period allowed by law.

SECTION 3. It is found and determined that all formal actions of this Council relating to the adoption of this Ordinance were adopted in an open meeting of the Council, and that all deliberations of this Council and of any of its committees that resulted in such formal action were in meetings open to the public, in compliance with all legal requirements, including Section 121.22 of the Ohio Revised Code.

On a motion by Ms. Brown, seconded by Ms. Conwell, the foregoing Ordinance was duly enacted.

Yeas: Tuma, Gallagher, Schron, Conwell, Jones, Brown, Houser, Simon, Baker,
Miller and Brady

Nays: None

County Council President Date

County Executive Date

Clerk of Council Date

First Reading/Referred to Committee: March 13, 2018

Committee(s) Assigned: Human Resource, Appointments & Equity

Committee Report/Second Reading: March 27, 2018

Journal CC040

April 10, 2018