



AGENDA
CUYAHOGA COUNTY HUMAN RESOURCES, APPOINTMENTS & EQUITY
COMMITTEE MEETING
TUESDAY, OCTOBER 18, 2016
CUYAHOGA COUNTY ADMINISTRATIVE HEADQUARTERS
C. ELLEN CONNALLY COUNCIL CHAMBERS – 4TH FLOOR
10:00 AM

- 1. CALL TO ORDER**
- 2. ROLL CALL**
- 3. PUBLIC COMMENT RELATED TO THE AGENDA**
- 4. APPROVAL OF MINUTES FROM THE OCTOBER 4, 2016 MEETING**
- 5. MATTERS REFERRED TO COMMITTEE**
 - a) O2016-0012: An Ordinance amending Section 303.01 of the Cuyahoga County Code to update the Civil Service Code of Cuyahoga County, as amended; and declaring the necessity that this Ordinance become immediately effective.
- 6. MISCELLANEOUS BUSINESS**
- 7. OTHER PUBLIC COMMENT**
- 8. ADJOURNMENT**

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MINUTES

CUYAHOGA COUNTY HUMAN RESOURCES, APPOINTMENTS & EQUITY COMMITTEE MEETING

TUESDAY, OCTOBER 4, 2016

CUYAHOGA COUNTY ADMINISTRATIVE HEADQUARTERS

C. ELLEN CONNALLY COUNCIL CHAMBERS – 4TH FLOOR

10:00 AM

1. CALL TO ORDER

Chairwoman Conwell called the meeting to order at 10:03 a.m.

2. ROLL CALL

Ms. Conwell asked Assistant Deputy Clerk Culek to call the roll. Committee members Conwell, Gallagher, Germana and Miller were in attendance and a quorum was determined. Committee member Brown entered the meeting shortly after the roll call was taken.

3. PUBLIC COMMENT RELATED TO THE AGENDA

No public comments were given.

4. APPROVAL OF MINUTES FROM THE SEPTEMBER 20, 2016 MEETING

A motion was made by Mr. Gallagher, seconded by Mr. Germana and approved by unanimous vote to approve the minutes from the September 20, 2016 meeting.

5. MATTERS REFERRED TO COMMITTEE

- a) R2016-0169: A Resolution adopting various changes to the Cuyahoga County Non-bargaining Classification Plan, and declaring the necessity that this Resolution become immediately effective.

Mr. Albert Bouchahine, Manager of Classification and Compensation for the Personnel Review Commission, addressed the Committee regarding Resolution No. R2016-0169. Discussion ensued.

Committee members asked questions of Mr. Bouchahine pertaining to the item, which he answered accordingly.

On a motion by Ms. Conwell with a second by Mr. Miller, Resolution No. R2016-0169 was considered and approved by unanimous vote to be referred to the full Council agenda with a recommendation for passage under second reading suspension of the rules.

- b) O2016-0012: An Ordinance amending Section 303.01 of the Cuyahoga County Code to update the Civil Service Code of Cuyahoga County, as amended; and declaring the necessity that this Ordinance become immediately effective.

Ms. Conwell introduced a proposed substitute to Ordinance No. O2016-0012. Discussion ensued.

Mr. Michael King, Special Counsel, addressed the Committee regarding Ordinance No. O2016-0012.

Committee members asked questions of Mr. King pertaining to the item, which he answered accordingly.

A motion was made by Mr. Germana, seconded by Mr. Gallagher and subsequently withdrawn to accept the proposed substitute to Ordinance No. O2016-0012.

Mr. Egdilio Morales, Director of Human Resources Employee and Labor Relations and Chief Labor Counsel; Ms. Holly Woods, Director of Benefits & Compensation for the Department of Human Resources; Ms. Rebecca Kopcienski, Director of the Personnel Review Commission; and Mr. Douglas Dykes, Chief Talent Officer, addressed the Committee regarding Ordinance No. O2016-0012. Discussion ensued.

Committee members asked questions of Mr. Morales, Ms. Woods, Ms. Kopcienski and Mr. Dykes pertaining to the item, which they answered accordingly.

On a motion by Ms. Conwell with a second by Mr. Germana, Ordinance No. O2016-0012 was considered and approved by unanimous vote to be referred to the full Council agenda for second reading.

6. MISCELLANEOUS BUSINESS

There was no miscellaneous business.

7. OTHER PUBLIC COMMENT

No public comments were given.

8. ADJOURNMENT

With no further business to discuss, Chairwoman Conwell adjourned the meeting at 12:06 p.m., without objection.

County Council of Cuyahoga County, Ohio

Ordinance No. O2016-0012

Sponsored by: County Executive Budish/Department of Human Resources	An Ordinance amending Section 303.01 of the Cuyahoga County Code to update the Civil Service Code of Cuyahoga County, as amended; 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 is codified in 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, Section 2.10 of the Cuyahoga County Personnel Policies and Procedures Manual (Ordinance Nos. O2011-0015 and O2011-0028) states that the employment of all classified County employees is subject to the provisions of the Ohio Revised Code (Chapter 124), the Ohio Administrative Code (Chapter 123:1), the Cuyahoga County Administrative Rules and the Policies and Procedures Manual; and

WHEREAS, Section 301.23 of the Ohio Revised Code authorizes a charter-created county civil service commission to create a new system for employment with the county on the basis of merit and fitness, as ascertained by competitive examination; and

WHEREAS, the amendments proposed are designed to create pay equity for County employees performing similar duties; 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. Council hereby adopts the following changes to the County’s current Civil Service System as codified in 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 (the “Cuyahoga County Civil Service Pay Equity Plan”) (added language underlined; deleted language in ~~striketrough~~; subsections that are either deleted or remain in their entirety are noted in *italics* and parentheses):

Chapter 303: Civil Service Plan

Section 303.01 Pay Equity

~~A. The following Sections of Chapter 124 of the Ohio Revised Code are hereby amendment as they apply to County employees.—All sections of Ohio Revised Code Chapter 124 applicable to employees of Ohio counties that are not specifically amended or superseded by this Chapter 303 remain in full effect in their entirety. In the event a conflict between the Administrative Rules of the Personnel Review Commission and Title 3, Employment Practices, the Code shall prevail. Substantive changes to the Ohio Revised Code and/or the Administrative Code as may apply to the County shall be made only through ordinance. In the event a conflict between this Title and a collective bargaining agreement, the collective bargaining agreement shall prevail.—All sections in Chapter 124 that are not specifically identified in bold below remain in full effect in their entirety.~~

~~124.14—Job Classification—Pay Ranges:~~

~~(A)(1) The Personnel Review Commission shall establish, and may modify or rescind, subject to approval by County Council, a job classification plan in accordance with the requirements of Section 9.04 of the Cuyahoga County Charter and Chapter 305 of this Code. The Commission shall group jobs within a classification so that the positions are similar enough in duties and responsibilities to be described by the same title, to have the same pay assigned with equity, and to have the same qualifications for selection applied. The Commission shall assign a classification title to each classification within the classification plan. However, the Commission shall consider in establishing classifications, including classifications with parenthetical titles, and assigning pay ranges, such factors as duties performed only on one shift, special skills in short supply in the labor market, recruitment problems, separation rates, comparative salary rates, the amount of training required and other conditions affecting employment. The~~

~~Commission shall describe the duties and responsibilities of the class, and establish the qualifications for being employed in each position in the class.
The Commission shall assign each classification to an equitable pay range.~~

~~(2) The Director may reassign to a proper classification those positions and/or employees have been assigned to an improper classification. The Director may also assign a proper classification to a County employee who qualifies for a classification but has not previously been assigned to one. If a reassignment or assignment occurs, the employee shall be placed in an equitable pay step in the applicable pay range for the new classification. Determination of the equitable pay step shall be based on the review of the employee's relative skill level, education and experience as compared to the employees currently existing in the classification.~~

~~(3) (Deleted in its entirety)~~

~~(4) The Commission shall subject to approval by County Council, assign related classifications, which form a career progression, to a classification series. The Commission shall, subject to approval by County Council, assign each classification in the classification plan a five digit number, the first four digits of which shall denote the classification series to which the classification is assigned. When a career progression encompasses more than ten classifications, the Commission shall, subject to approval by County Council, identify the additional classifications belonging to a classification series. The additional classifications shall be part of the classification series, notwithstanding the fact that the first four digits of the number assigned to the additional classifications do not correspond to the first four digits of the number of the assigned to other classification in the classification series.~~

~~(5) (Deleted in its entirety)~~

~~(B) Division (A) of this section only applies to those positions identified in Section 9.03 of the Charter.~~

~~(1) (Deleted in its entirety)~~

~~(2) (Deleted in its entirety)~~

~~(3) (Deleted in its entirety)~~

~~(4) (Deleted in its entirety)~~

~~(5) (Deleted in its entirety)~~

~~(C) (Retained in its entirety)~~

B. Job Classification—Pay Ranges~~Classification Plan.~~

1) The Personnel Review Commission shall administer, subject to approval by County Council, a clear, countywide classification and salary administration system in accordance with the requirements of Section 9.03 of the Cuyahoga County Charter. The Commission shall group positions within a classification so that the positions are similar enough in duties and responsibilities to be described by the same title, to have the same pay assigned with equity, and to have the same qualifications for selection applied. The Commission shall recommend a classification title for each classification within the classification plan. The Commission shall consider in recommending classifications and equitable pay grades, those factors deemed compensable by the County. The Commission shall describe the duties and responsibilities of the class in proposed classifications specifications, and recommend to County Council the qualifications for each position in the class.

2) The Commission shall, subject to approval by County Council, assign related classifications that form a career progression to a classification series, and shall assign each series to a job family.

3) Classification Plan Maintenance. When, the Personnel Review Commission recommends and Council determines to change the pay grade assigned to an existing classification or create a new classification, the Director of Human Resources is authorized to set the pay of affected employees, if any. Determination of pay shall not be arbitrary or capricious, or based on nepotism, political affiliation or any other factor that violates the County Ethic Ordinance or any other County, state or federal law. Individual pay determinations shall be based on relevant factors to be determined in each case by the Director that may include, but are not limited to, direct experience performing the job functions, qualifications, the labor market, and the pay of other employees assigned to the same classification in the same appointing authority. If funds are available, any pay rate change resulting from this process may be implemented no later than the first full pay period of the following calendar year, unless the Executive determines, in his/her discretion, to implement the change earlier. Pay determinations by the Director under this section that do not result in a reduction in pay shall not be subject to appeal.

C. Position Audits.

1) The Director of Human Resources may initiate a position audit and, based on the results of the audit, may reassign any employee to the proper classification, as long as the employee is performing the essential job functions of the classification identified by the Director at least fifty percent (50%) of his/her time for a minimum of one hundred and twenty (120) consecutive calendar days and the employee meets the minimum qualifications for the classification.

2) Upon the request of any non-bargaining, non-probationary classified employee, the Director of Human Resources shall perform a position audit to review the employee's position for the sole purpose of determining whether the employee is

properly assigned to his/her classification and, if not, to identify the proper classification. The Director of Human Resources shall give to the affected employee and to the employee's appointing authority a written notice of the Director's determination. Reassignment may only occur if the employee continues to perform essential job functions that are exclusive to another classification at least fifty percent (50%) of his/her time for a minimum of one hundred twenty (120) calendar days, and the employee meets the minimum qualifications for the classification. An employee may not request a position audit more than once in a twelve (12)-month rolling period unless approved the Director.

3) An employee who has been reassigned to a different classification through the position audit process is not required to serve a new probationary period.

4) Employees must meet the minimum qualifications of a classification to be assigned to that classification through the position audit process. The Personnel Review Commission shall, on a regular basis, audit final determinations on position audits to -verify whether the employee meets the minimum qualifications for the classification to which he/she was reassigned.

5) If an employee is reassigned to a different classification through the position audit process referred to in subsections (C)(1) and (C)(2), such placement may result in the employee being reassigned to a classification in the same pay grade, a lower pay grade, or a higher pay grade. If the employee is reassigned to a classification with the same pay graded, the employee's salary shall not change. If the employee is reassigned to a classification with a lower pay grade, the employee's pay may be decreased by up to five percent (5%), or set at the new pay grade's maximum rate, whichever pay decrease is greater, and the pay decrease shall not be retroactive. If the employee is reassigned to a classification with a higher pay grade, the employee's pay may be increased by up to five percent (5%), or set at the new pay grade's minimum rate, whichever is greater, and the pay increase shall be retroactive to the first pay period following the date the audit was requested. Pay determinations of the Director under this section shall not be arbitrary or capricious. Individual pay determinations shall be based on relevant factors to be determined in each case by the Director that may include, but are not limited to, direct experience performing the job functions, qualifications, the labor market, funding, and the pay of other employees assigned to the same classification in the same appointing authority.

6) In lieu of reassignment pursuant to subsections (C)(1) and (C)(2), the appointing authority may choose, or the Director of Human Resources may direct the appointing authority, to remove or reduce the amount of duties that are in a classification other than the employee's, and to require the assignment of duties that are within the scope of the employee's classification, to occur no later than forty-five (45) calendar days from the date of the determination. In such case, the employee shall be compensated with up to a five percent (5%) pay increase for the temporary performance of duties in a higher-paying classification. This pay increase shall be calculated from the first full pay period following the date the audit was requested through the date the

employee's duties were changed. If following the forty-five (45) calendar-day period the employee believes that he/she is still performing job duties of a different classification at least fifty percent (50%) of his/her time, the Commission shall determine whether the employee has been compensated for the performance of the duties in the higher classification, and may order that the duties be removed within a particular time frame and that the employee be compensated.

7) If an employee is assigned or reassigned to a classification through exercise of powers granted to the Director of Human Resources in subsections (C)(1), (C)(2), or (D), the Director shall give the affected employee and the employee's appointing authority written notice setting forth the Director's determination. If the assignment or reassignment results in a salary reduction, the affected employee shall be offered an opportunity to meet with the Director or designee prior to the determination becoming final. Subsequent to this meeting, or the employee's waiver of this meeting, the Director shall provide the employee and the employee's appointing authority written notice of the Director's final determination. Determination letters may be sent to employees by electronic mail to the employees' County e-mail addresses.

8) Following a final determination of the Director of Human Resources pursuant to Subsections (C)(1), (C)(2), or (D), a non-bargaining, non-probationary employee may file a written appeal with the Personnel Review Commission in accordance with the Personnel Review Commission's Administrative Rules. Employee's may also file an appeal to the limited extent authorized by (C)(6).

9) Following a determination by the Commission that a non-bargaining, non-probationary employee is performing the essential job functions exclusive to a different classification at least fifty percent (50%) of the time, in lieu of reassignment the appointing authority may choose, or the Director of Human Resources may direct the appointing authority, to remove or reduce duties as provided for in Subsection (C)(6) above.

10) Assignment of Current Employees Who Were Not Previously Classified. The Director of Human Resources may assign a County employee who has not previously been assigned to a classification in the classification plan. An employee who has received an assignment pursuant to this Subsection is not required to serve a new probationary period.

D. To ensure pay equity for like positions, the Personnel Review Commission may conduct audits of final pay determinations pursuant to (B)(3), and of final pay determination made pursuant to (C)(5) where appeal rights have expired and there is no pending appeal. When such an audit is conducted, the Department of Human Resources shall provide the Commission with the rationale and supporting documentation for the Director's final pay determination. The Commission shall provide reports on its audit findings to the Administration and County Council. Nothing in this provision shall require the Commission's audit of pay determinations within like positions to be restricted or limited solely to those employees whose pay is

affected by final pay determinations as a result of maintenance of the class plan or the position audit process, but the Personnel Review Commission will not consider in its audit any employees with a pending appeal related to C (5).

~~(D)(1) When the Commission modifies a classification or the assignment of classes to appropriate pay ranges, the Commission shall review the proposed action in an open meeting. If the Commission approves of the proposed action, it shall submit the proposed action to County Council.~~

~~(2) When the Director proposes to reassign any employee or reclassify any position, as long as the reclassification does not result in a modification of the County's Class Plan, and an employee is adversely affected, the Director shall give to the employee affected and to the employee's appointing authority a written notice setting forth the proposed new classification, pay range and step, and salary. Employees shall be given advance notice of reassignment or reclassification in the manner prescribed by the Personnel Review Commission's administrative rules adopted pursuant to section 301.02 of the code. If the reassignment or reclassification results in a reduction in salary, the employee shall be offered an opportunity to meet with the Director or designee to dispute the proposed change. Subsequent to this meeting, or the employee's waiver of this meeting, the Director shall provide the employee written notice of the final decision regarding the proposed reduction. The employee may then file an appeal of the Director's final decision to the Personnel Review Commission in accordance with the process described below.~~

~~Upon the request of any classified employee who is not serving in a probationary period, the Director shall perform a job audit to review the classification of the employee's position to determine whether the position is properly classified. The Director shall give to the employee affected and to the employee's appointing authority a written notice of the Director's determination whether or not to reclassify the position. An employee desiring a hearing shall file a written request for the hearing with the Personnel Review Commission in accordance with the Personnel Review Commission's Rules.~~

~~order the reclassification of the employee and require the Director to assign the employee to such appropriate classification as the facts and evidence warrant. As provided in division (A)(1) of section 124.03 of the Revised Code, the Commission may determine the most appropriate classification for the position of any employee coming before the board, with or without a job audit. The Commission shall disallow any reclassification or reassignment classification of any employee when it finds that changes have been made in the duties and responsibilities of any particular employee for political, religious, or other unjust reasons. fifty5~~

~~(E) (Deleted in its entirety)~~

~~(F) (Deleted in its entirety)~~

~~(G) (Deleted in its entirety)~~

~~(H) (Deleted in its entirety)~~

~~(I) The Director shall set the rate of compensation for all intermittent, seasonal, temporary, emergency, and casual employees in the service of the County who are not considered public employees under section 4117.01 of the Revised Code.~~

124.34 - Reduction in Pay or Position - Suspension - Removal.

(A) The tenure of every officer or employee in the classified service of the state and the counties, civil service townships, cities, city health districts, general health districts, and city school districts of the state, holding a position under this chapter, shall be during good behavior and efficient service. No officer or employee shall be reduced in pay or position, fined, suspended, or removed except as provided in section 124.32 of the Revised Code, and for incompetency, inefficiency, dishonesty, drunkenness, immoral conduct, insubordination, discourteous treatment of the public, neglect of duty, violation of any policy or work rule of the officer's or employee's appointing authority, violation of this chapter or the rules of the director of administrative services or the commission, any other failure of good behavior, any other acts of misfeasance, malfeasance, or nonfeasance in office, or conviction of a felony. The denial of a one-time pay supplement or a bonus to an officer or employee is not a reduction in pay for purposes of this section.

This section does not apply to any modifications or reductions in pay authorized by division (A)(2) of Section 124.14, division (O) of section 124.181 or section 124.392 or 124.393 of the Revised Code.

An appointing authority may require an employee who is suspended to report to work to serve the suspension. An employee serving a suspension in this manner shall continue to be compensated at the employee's regular rate of pay for hours worked. The disciplinary action shall be recorded in the employee's personnel file in the same manner as other disciplinary actions and has the same effect as a suspension without pay for the purpose of recording disciplinary actions.

A finding by the appropriate ethics commission, based upon a preponderance of the evidence, that the facts alleged in a complaint under section 102.06 of the Revised Code constitute a violation of Chapter 102, section 2921.42, or section 2921.43 of the Revised Code may constitute grounds for dismissal. Failure to file a statement or falsely filing a statement required by section 102.02 of the Revised Code may also constitute grounds for dismissal. The tenure of an employee in the career professional service of the department of transportation is subject to section 5501.20 of the Revised Code.

Conviction of a felony is a separate basis for reducing in pay or position, suspending, or

removing an officer or employee, even if the officer or employee has already been reduced in pay or position, suspended, or removed for the same conduct that is the basis of the felony. An officer or employee may not appeal to the state personnel board of review or the commission any disciplinary action taken by an appointing authority as a result of the officer's or employee's conviction of a felony. If an officer or employee removed under this section is reinstated as a result of an appeal of the removal, any conviction of a felony that occurs during the pendency of the appeal is a basis for further disciplinary action under this section upon the officer's or employee's reinstatement.

A person convicted of a felony immediately forfeits the person's status as a classified employee in any public employment on and after the date of the conviction for the felony. If an officer or employee is removed under this section as a result of being convicted of a felony or is subsequently convicted of a felony that involves the same conduct that was the basis for the removal, the officer or employee is barred from receiving any compensation after the removal notwithstanding any modification or disaffirmance of the removal, unless the conviction for the felony is subsequently reversed or annulled.

Any person removed for conviction of a felony is entitled to a cash payment for any accrued but unused sick, personal, and vacation leave as authorized by law. If subsequently reemployed in the public sector, the person shall qualify for and accrue these forms of leave in the manner specified by law for a newly appointed employee and shall not be credited with prior public service for the purpose of receiving these forms of leave.

As used in this division, "felony" means any of the following:

- (1) A felony that is an offense of violence as defined in section 2901.01 of the Revised Code;
- (2) A felony that is a felony drug abuse offense as defined in section 2925.01 of the Revised Code;
- (3) A felony under the laws of this or any other state or the United States that is a crime of moral turpitude;
- (4) A felony involving dishonesty, fraud, or theft;
- (5) A felony that is a violation of section 2921.05, 2921.32, or 2921.42 of the Revised Code.

(B) In case of a reduction, a suspension of more than forty work hours in the case of an

employee exempt from the payment of overtime compensation, a suspension of more than twenty-four work hours in the case of an employee required to be paid overtime compensation, a fine of more than forty hours' pay in the case of an employee exempt from the payment of overtime compensation, a fine of more than twenty-four hours' pay in the case of an employee required to be paid overtime compensation, or removal, except for the reduction or removal of a probationary employee, the appointing authority shall serve the employee with a copy of the order of reduction, fine, suspension, or removal, which order shall state the reasons for the action.

An employee may appeal such order in accordance with the Rules set forth by the Personnel Review Commission. If an appeal is filed, the Personnel Review Commission shall forthwith notify the appointing authority and shall hear, or appoint a hearing officer to hear, the appeal. The Personnel Review Commission may affirm, disaffirm, or modify the judgment of the appointing authority. However, in an appeal of a removal order based upon a violation of a last chance agreement, the Personnel Review Commission may only determine if the employee violated the agreement and thus affirm or disaffirm the judgment of the appointing authority.

Either the employee or the appointing authority may appeal the decision of the Personnel Review Commission to the Cuyahoga County Court of Common Pleas in accordance with general law.

(C) (Deleted in its entirety)

(D) A violation of division (A)(7) of section 2907.03 of the Revised Code is grounds for termination of employment of a nonteaching employee under this section.

(E) As used in this section, "last chance agreement" means an agreement signed by both an appointing authority and an officer or employee of the appointing authority that describes the type of behavior or circumstances that, if it occurs, will automatically lead to removal of the officer or employee without the right of appeal to the state personnel board of review or the appropriate commission.

~~123:1-7-22 — Reassignments by the Director of Human Resources~~

~~The Director may reassign to a proper classification those positions and/or employees that have been assigned to an improper classification. The Director may also assign a proper classification to a County employee who qualifies for classification but has not previously been assigned to one. If a reassignment or new assignment occurs, the employee shall be placed in an equitable pay step in the applicable pay range for the new classification. Determination of the equitable pay step shall be based on a review of the employee's relative skill level, education and experience as compared to the employees currently existing in the classification. Such placement may result in the~~

~~employee maintaining their current salary, or may result in an increase or reduction in salary.~~

~~If the reclassification results in a reduction in salary, the employee shall be offered an opportunity to meet with the Director or designee to dispute the proposed change. Subsequent to this meeting, or the employee's waiver of this meeting, the Director shall provide the employee written notice of the final decision regarding the proposed reduction. The employee may then file an appeal of the Director's final decision to the Personnel Review Commission in accordance with the Commission's rules.~~

~~(B) (Deleted in its entirety)~~

~~(C) (Deleted in its entirety)~~

~~1. CUYAHOGA COUNTY ADMINISTRATIVE RULES—The following section of the Cuyahoga County Administrative Rules is hereby amended. All sections in the Cuyahoga County Administrative Rules that are not specifically identified in bold below remain in full effect in their entirety.~~

~~—Rule No. 3—Position Audits~~

~~The Director of Human Resources may initiate a position audit and reassign to a proper classification those positions and/or employees that have been assigned to an improper classification. The Director may also assign a proper classification to a County employee who qualifies for classification but has not previously been assigned to one.~~

~~Non-probationary, non-bargaining, classified employees who believe that their duties have changed significantly and feel that their classification is no longer appropriate may request a position audit. An employee wishing to initiate a position audit shall submit their request in writing to the Director of Human Resources. Upon receipt of the employee's request, or upon request of the Director of Human Resources, Human Resources shall forward a Comprehensive Position Questionnaire (CPQ) to the employee for completion. The CPQ will be accompanied by a cover letter and instructions for completing the CPQ. The cover letter will also be sent to the employee's Department Director.~~

~~The employee shall return the completed CPQ forms to Human Resources within thirty (30) days of receipt. The employee may request in writing to the Director of Human Resources a onetime extension of time in which to complete the CPQ. The deadline, however, may not be extended beyond thirty (30) days after the original due date.~~

~~Human Resources will review all submitted information and will make a determination as to the appropriate classification. To meet the classification criteria, an employee must perform the mandatory duties stated in the classification function at least 20% of the time. Prior to rendering a decision on the position audit request, Human Resources reserves the right to conduct an on-site audit. Upon completion of their review, Human Resources will provide written notice of the position audit to the employee with a copy to the Department Director. If the reclassification results in a reduction in salary, the~~

~~employee shall be offered an opportunity to meet with the Director or designee to dispute the proposed change. Subsequent to this meeting, or the employee's waiver of this meeting, the Director shall provide the employee written notice of the final decision regarding the proposed reduction.~~

~~The employee has the right to appeal the decision rendered by Human Resources. This must be done in writing to the Cuyahoga County Personnel Review Commission (PRC) within the time frame set forth in the Personnel Review Commission's Rules~~

~~If a reassignment or new assignment occurs, the employee shall be placed in an equitable pay step in the applicable pay range for the new classification. Determination of the equitable pay step shall be based on a review of the employee's relative skill level, education and experience as compared to the employees currently existing in the classification.~~

~~If the position audit results in no change in the employee's classification, but a change in the pay range assignment of the classification, the employee shall be placed in an equitable pay step in the applicable pay range for the new classification. Determination of the equitable pay step shall be based on a review of the employee's relative skill level, education and experience as compared to the employees currently existing in the classification.~~

~~If the position audit results in the employee receiving a higher salary, any salary adjustment will be computed retroactive to the beginning of the first pay period following the date that the written request for the position audit was received by Human Resources. If the position audit results in the employee receiving a lower salary, any salary adjustment will begin the first day of the first pay period following the date of the final decision by the Director of Human Resources. If the position audit results in the creation of a new classification and/or pay range, any salary adjustment will be effective the first pay period following approval of the new classification and/or pay range by the County (i.e., not retroactive)~~

~~If, after conducting a position audit on an employee, Human Resources becomes aware of similarly situated employees, it will reassign the other employees, effective the beginning of the first pay period following the date that the decision was rendered on behalf of the employee that had requested the audit. For purposes of this section, a "similarly situated employee" is an employee that performs the same essential job functions and responsibilities as the audited employee. Similarly situated employees will not be entitled to retroactive pay increases.~~

~~2.— CUYAHOGA COUNTY PERSONNEL POLICIES AND PROCEDURES MANUAL—The following section the Cuyahoga County Personnel Policies and Procedures Manual is hereby amended. All sections in the Cuyahoga County Personnel Policies and Procedures Manual that are not specifically identified in bold below remain in full effect in their entirety.~~

~~Section 5.09 Non-Bargaining Position Audits~~

~~The Director of Human Resources may initiate a position audit and reassign to a proper classification those positions and/or employees that have been assigned to an improper classification. The Director may also assign a proper classification to a County employee who qualifies for classification but has not previously been assigned to one.~~

~~Non-probationary, non-bargaining, classified employees who believe that their duties have changed significantly and feel that their classification is no longer appropriate may request a position audit.~~

~~An employee wishing to initiate a position audit shall submit their request in writing to the Director of Human Resources. Upon receipt of the employee's request, or upon request of the Director of Human Resources, Human Resources shall forward a Comprehensive Position Questionnaire (CPQ) to the employee for completion. The CPQ will be accompanied by a cover letter and instructions for completing the CPQ. The cover letter will also be sent to the employee's Department Director.~~

~~The employee shall return the completed CPQ forms to Human Resources within thirty (30) days of receipt. The employee may request in writing to the Director of Human Resources a onetime extension of time in which to complete the CPQ. The deadline, however, may not be extended beyond thirty (30) days after the original due date. Human Resources will review all submitted information and will make a determination as to the appropriate classification. To meet the classification criteria, an employee must perform the mandatory duties stated in the classification function at least 20% of the time. Prior to rendering a decision on the position audit request, Human Resources reserves the right to conduct an on-site audit. Upon completion of their review, Human Resources will provide written notice of the position audit to the employee with a copy to the Department Director. If the reclassification results in a reduction in salary, the employee shall be offered an opportunity to meet with the Director or designee to dispute the proposed change. Subsequent to this meeting, or the employee's waiver of this meeting, the Director shall provide the employee written notice of the final decision regarding the proposed reduction.~~

~~The employee has the right to appeal the decision rendered by Human Resources. This must be done in writing to the Cuyahoga County Personnel Review Commission (PRC) within the time frame set forth in the Personnel Review Commission's Rules.~~

~~Employees may lose their appeal rights if their own negligence caused them to fail to receive the position audit decision from Human Resources (i.e., failure to list correct mailing address on Request for Position Audit Form or failure to sign for the certified letter).~~

~~If a reassignment or new assignment occurs, the employee shall be placed in an equitable pay step in the applicable pay range for the new classification. Determination of the equitable pay step shall be based on a review of the employee's relative skill~~

~~level, education and experience as compared to the employees currently existing in the classification.~~

~~If the position audit results in no change in the employee's classification, but a change in the pay range assignment of the classification, the employee shall be placed in an equitable pay step in the applicable pay range for the new classification. Determination of the equitable pay step shall be based on a review of the employee's relative skill level, education and experience as compared to the employees currently existing in the classification. If the position audit results in the employee receiving a higher salary, any salary adjustment will be computed retroactive to the beginning of the first pay period following the date that the written request for the position audit was received by Human Resources. If the position audit results in the employee receiving a lower salary, any salary adjustment will begin the first day of the first pay period following the date of the final decision by the Director of Human Resources. If the position audit results in the creation of a new classification and/or pay range, any salary adjustment will be effective the first pay period following approval of the new classification and/or pay range by the County (i.e., not retroactive).~~

~~If, after conducting a position audit on an employee, Human Resources becomes aware of similarly situated employees, it will reassign the other employees, effective the beginning of the first pay period following the date that the decision was rendered on behalf of the employee that had requested the audit. For purposes of this section, a "similarly situated employee" is an employee that performs the same essential job functions and responsibilities as the audited employee. Similarly situated employees will not be entitled to retroactive pay increases.~~

~~An employee may not request a position audit more than once in a twelve-month (12) rolling period unless documentation acceptable to the Director of Human Resources is provided at the time of the second request that the job has substantially changed since the date of the completion of the previous audit.~~

~~An employee who has received a classification change pursuant to this Section is not required to serve a new probationary period.~~

~~—Bargaining unit employees should refer to their collective bargaining agreement for information on position audits.~~

~~—(Clerk's Note: Article IX of The Cuyahoga County Charter was amended by the electors on November 5, 2013 to change the name of the Human Resource Commission to the Personnel Review Commission)~~

~~(Ordinance Nos. O2014-0035, Enacted 12/9/2014, Effective 12/12/2014; O2011-0043, Enacted 10/11/2011, Effective 10/12/2011)~~

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.

[PROPOSED SUBSTITUTE]

County Council of Cuyahoga County, Ohio

Ordinance No. O2016-0012

Sponsored by: County Executive Budish/Department of Human Resources	An Ordinance amending Section 303.01 of the Cuyahoga County Code to update the Civil Service Code of Cuyahoga County, as amended; 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 is codified in 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, Section 2.10 of the Cuyahoga County Personnel Policies and Procedures Manual (Ordinance Nos. O2011-0015 and O2011-0028) states that the employment of all classified County employees is subject to the provisions of the Ohio Revised Code (Chapter 124), the Ohio Administrative Code (Chapter 123:1), the Cuyahoga County Administrative Rules and the Policies and Procedures Manual; and

WHEREAS, Section 301.23 of the Ohio Revised Code authorizes a charter-created county civil service commission to create a new system for employment with the county on the basis of merit and fitness, as ascertained by competitive examination; and

WHEREAS, the amendments proposed are designed to create pay equity for County employees performing similar duties; 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. Council hereby adopts the following changes to Section 303.01 of the Cuyahoga County Code, the County's current Civil Service System as codified in 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 (the "Cuyahoga County Civil Service Pay Equity Plan") (added language underlined; deleted language in ~~strikethrough~~; sub-sections that are either deleted or remain in their entirety are noted in *italics* and parentheses):

Section 303.01 Incorporation and amendment of relevant ORC/OAC civil service provisions

A. The following Sections of Chapter 124 of the Ohio Revised Code are hereby amendment as they apply to County employees. All sections of Ohio Revised Code Chapter 124 and Ohio Administrative Code Chapter 123:1 applicable to employees of Ohio counties that are not specifically amended or superseded by this Chapter-303, the Administrative Rules of the Personnel Review Commission as ratified and adopted by Council, and the County Personnel Policies and Procedures Manual as adopted by Council remain in full effect in their entirety. In the event a conflict between the Administrative Rules of the Personnel Review Commission and Title 3, Employment Practices, the Code shall prevail. Substantive changes to the Ohio Revised Code and/or the Administrative Code as may apply to the County shall be made only through ordinance. In the event a conflict between this Title and a collective bargaining agreement, the collective bargaining agreement shall prevail.

~~124.14 — Job Classification — Pay Ranges.~~

~~(A)(1) The Personnel Review Commission shall establish, and may modify or rescind, subject to approval by County Council, a job classification plan in accordance with the requirements of Section 9.04 of the Cuyahoga County Charter and Chapter 305 of this Code. The Commission shall group jobs within a classification so that the positions are similar enough in duties and responsibilities to be described by the same title, to have the same pay assigned with equity, and to have the same qualifications for selection applied. The Commission shall assign a classification title to each classification within the classification plan. However, the Commission shall consider in establishing classifications, including classifications with parenthetical titles, and assigning pay ranges, such factors as duties performed only on one shift, special skills in short supply~~

~~in the labor market, recruitment problems, separation rates, comparative salary rates, the amount of training required and other conditions affecting employment. The Commission shall describe the duties and responsibilities of the class, and establish the qualifications for being employed in each position in the class. The Commission shall assign each classification to an equitable pay range.~~

~~(2) The Director may reassign to a proper classification those positions and/or employees have been assigned to an improper classification. The Director may also assign a proper classification to a County employee who qualifies for a classification but has not previously been assigned to one. If a reassignment or assignment occurs, the employee shall be placed in an equitable pay step in the applicable pay range for the new classification. Determination of the equitable pay step shall be based on the review of the employee's relative skill level, education and experience as compared to the employees currently existing in the classification.~~

~~(3) (Deleted in its entirety)~~

~~(4) The Commission shall subject to approval by County Council, assign related classifications, which form a career progression, to a classification series. The Commission shall, subject to approval by County Council, assign each classification in the classification plan a five digit number, the first four digits of which shall denote the classification series to which the classification is assigned. When a career progression encompasses more than ten classifications, the Commission shall, subject to approval by County Council, identify the additional classifications belonging to a classification series. The additional classifications shall be part of the classification series, notwithstanding the fact that the first four digits of the number assigned to the additional classifications do not correspond to the first four digits of the number of the assigned to other classification in the classification series.~~

~~(5) (Deleted in its entirety)~~

~~(B) Division (A) of this section only applies to those positions identified in Section 9.03 of the Charter.~~

~~(1) (Deleted in its entirety)~~

~~(2) (Deleted in its entirety)~~

~~(3) (Deleted in its entirety)~~

~~(4) (Deleted in its entirety)~~

~~(5) (Deleted in its entirety)~~

~~(C) (Retained in its entirety)~~

B. Classification Plan.

(1) The Personnel Review Commission shall administer, subject to approval by County Council, a clear, countywide classification and salary administration system in accordance with the requirements of Section 9.03 of the Cuyahoga County Charter. The Commission shall group positions within a classification so that the positions are similar enough in duties and responsibilities to be described by the same title, to have the same pay assigned with equity, and to have the same qualifications for selection applied. The Commission shall recommend a classification title for each classification within the classification plan. The Commission shall consider in recommending classifications and equitable pay grades, those factors deemed compensable by the County. The Commission shall describe the duties and responsibilities of the class in proposed classifications specifications, and recommend to County Council the qualifications for each position in the class.

(2) The Commission shall, subject to approval by County Council, assign related classifications that form a career progression to a classification series, and shall assign each series to a job family.

(3) Classification Plan Maintenance. When, the Personnel Review Commission recommends and Council determines to change the pay grade assigned to an existing classification or create a new classification, the Director of Human Resources is authorized to set the pay of affected employees, if any. Determination of pay shall not be arbitrary or capricious, or based on nepotism, political affiliation or any other factor that violates the ~~County Ethic Ordinance~~ Code of Ethics codified in Title 4 or any other County, state or federal law. Individual pay determinations shall be based on relevant factors, ~~including to be determined in each case by the Director that may include, but are not limited to,~~ direct experience performing the job functions, qualifications, the labor market, ~~and the pay of other employees assigned to the same classification in the same appointing authority, and any other factors deemed by the Director of Human Resources to be relevant to the individual case, with the relative importance of all factors to be as determined by the Director to be the most appropriate for the individual case.~~ If funds are available, any pay rate change resulting from this process may be implemented no later than the first full pay period of the following calendar year, unless the Executive determines, in his/her discretion, to implement the change earlier. Pay determinations by the Director under this section that do not result in a reduction in pay shall not be subject to appeal.

C. Position Audits.

(1) The Director of Human Resources may initiate a position audit and, based on the results of the audit, may reassign any employee to the proper classification, as long as the employee is performing the essential job functions of the classification

identified by the Director at least fifty percent (50%) of his/her time for a minimum of one hundred and twenty (120) consecutive calendar days and the employee meets the minimum qualifications for the classification.

(2) Upon the request of any non-bargaining, non-probationary classified employee, the Director of Human Resources shall perform a position audit to review the employee's position for the sole purpose of determining whether the employee is properly assigned to his/her classification and, if not, to identify the proper classification. The Director of Human Resources shall give to the affected employee and to the employee's appointing authority a written notice of the Director's determination. Reassignment may only occur if the employee continues to perform essential job functions that are exclusive to another classification at least fifty percent (50%) of his/her time for a minimum of one hundred twenty (120) calendar days, and the employee meets the minimum qualifications for the classification. An employee may not request a position audit more than once in a twelve (12)-month rolling period unless approved the Director.

(3) An employee who has been reassigned to a different classification through the position audit process is not required to serve a new probationary period.

(4) Employees must meet the minimum qualifications of a classification to be assigned to that classification through the position audit process. The Personnel Review Commission shall, on a regular basis, audit final determinations on position audits to verify whether the employee meets the minimum qualifications for the classification to which he/she was reassigned.

(5) If an employee is reassigned to a different classification through the position audit process referred to in subsections (C)(1) and (C)(2), such placement may result in the employee being reassigned to a classification in the same pay grade, a lower pay grade, or a higher pay grade. If the employee is reassigned to a classification with the same pay graded, the employee's salary shall not change. If the employee is reassigned to a classification with a lower pay grade, the employee's pay may be decreased by up to five percent (5%), or set at the new pay grade's maximum rate, whichever pay decrease is greater, and the pay decrease shall not be retroactive. If the employee is reassigned to a classification with a higher pay grade, the employee's pay may be increased by up to five percent (5%), or set at the new pay grade's minimum rate, whichever is greater, and the pay increase shall be retroactive to the first pay period following the date the audit was requested. Pay determinations of the Director under this section shall not be arbitrary or capricious. Individual pay determinations shall be based on relevant factors to be determined in each case by the Director that may include, but are not limited to, direct experience performing the job functions, qualifications, the labor market, funding, and the pay of other employees assigned to the same classification in the same appointing authority.

(6) In lieu of reassignment pursuant to subsections (C)(1) and (C)(2), the appointing authority may choose, or the Director of Human Resources may direct the appointing authority, to remove or reduce the amount of duties that are in a classification other than the employee's, and to require the assignment of duties that are within the scope of the employee's classification, to occur no later than forty-five (45) calendar days from the date of the determination. In such case, the employee shall be compensated with up to a five percent (5%) pay increase for the temporary performance of duties in a higher-paying classification. This pay increase shall be calculated from the first full pay period following the date the audit was requested through the date the employee's duties were changed. If following the forty-five (45) calendar-day period the employee believes that he/she is still performing job duties of a different classification at least fifty percent (50%) of his/her time, the Commission shall determine whether the employee has been compensated for the performance of the duties in the higher classification, and may order that the duties be removed within a particular time frame and that the employee be compensated.

(7) If an employee is assigned or reassigned to a classification through exercise of powers granted to the Director of Human Resources in subsections (C)(1), (C)(2), or (D), the Director shall give the affected employee and the employee's appointing authority written notice setting forth the Director's determination. If the assignment or reassignment results in a salary reduction, the affected employee shall be offered an opportunity to meet with the Director or designee prior to the determination becoming final. Subsequent to this meeting, or the employee's waiver of this meeting, the Director shall provide the employee and the employee's appointing authority written notice of the Director's final determination. Determination letters may be sent to employees by electronic mail to the employees' County e-mail addresses.

(8) Following a final determination of the Director of Human Resources pursuant to Subsections (C)(1), (C)(2), or (D), a non-bargaining, non-probationary employee may file a written appeal with the Personnel Review Commission in accordance with the Personnel Review Commission's Administrative Rules. Employee's may also file an appeal to the limited extent authorized by (C)(6).

(9) Following a determination by the Commission that a non-bargaining, non-probationary employee is performing the essential job functions exclusive to a different classification at least fifty percent (50%) of the time, in lieu of reassignment the appointing authority may choose, or the Director of Human Resources may direct the appointing authority, to remove or reduce duties as provided for in Subsection (C)(6) above.

(10) Assignment of Current Employees Who Were Not Previously Classified. The Director of Human Resources may assign a County employee who has not previously been assigned to a classification in the classification plan. An employee

who has received an assignment pursuant to this Subsection is not required to serve a new probationary period.

D. To ensure pay equity for like positions, the Personnel Review Commission may conduct audits of final pay determinations pursuant to (B)(3), and of final pay determination made pursuant to (C)(5) where appeal rights have expired and there is no pending appeal. When such an audit is conducted, the Department of Human Resources shall provide the Commission with the rationale and supporting documentation for the Director's final pay determination. The Commission shall provide reports on its audit findings to the Administration and County Council. Nothing in this provision shall require the Commission's audit of pay determinations within like positions to be restricted or limited solely to those employees whose pay is affected by final pay determinations as a result of maintenance of the class plan or the position audit process, but the Personnel Review Commission will not consider in its audit any employees with a pending appeal related to C (5).

(D)(1) When the Commission modifies a classification or the assignment of classes to appropriate pay ranges, the Commission shall review the proposed action in an open meeting. If the Commission approves of the proposed action, it shall submit the proposed action to County Council.

(2) When the Director proposes to reassign any employee or reclassify any position, as long as the reclassification does not result in a modification of the County's Class Plan, and an employee is adversely affected, the Director shall give to the employee affected and to the employee's appointing authority a written notice setting forth the proposed new classification, pay range and step, and salary. Employees shall be given advance notice of reassignment or reclassification in the manner prescribed by the Personnel Review Commission's administrative rules adopted pursuant to section 301.02 of the code. If the reassignment or reclassification results in a reduction in salary, the employee shall be offered an opportunity to meet with the Director or designee to dispute the proposed change. Subsequent to this meeting, or the employee's waiver of this meeting, the Director shall provide the employee written notice of the final decision regarding the proposed reduction. The employee may then file an appeal of the Director's final decision to the Personnel Review Commission in accordance with the process described below.

Upon the request of any classified employee who is not serving in a probationary period, the Director shall perform a job audit to review the classification of the employee's position to determine whether the position is properly classified. The Director shall give to the employee affected and to the employee's appointing authority a written notice of the Director's determination whether or not to reclassify the position. An employee desiring a hearing shall file a written request for the hearing with the Personnel Review Commission in accordance with the Personnel Review Commission's Rules.

~~order the reclassification of the employee and require the Director to assign the employee to such appropriate classification as the facts and evidence warrant. As provided in division (A)(1) of section 124.03 of the Revised Code, the Commission may determine the most appropriate classification for the position of any employee coming before the board, with or without a job audit. The Commission shall disallow any reclassification or reassignment classification of any employee when it finds that changes have been made in the duties and responsibilities of any particular employee for political, religious, or other unjust reasons. fifty5~~

~~(E) (Deleted in its entirety)~~

~~(F) (Deleted in its entirety)~~

~~(G) (Deleted in its entirety)~~

~~(H) (Deleted in its entirety)~~

~~(I) The Director shall set the rate of compensation for all intermittent, seasonal, temporary, emergency, and casual employees in the service of the County who are not considered public employees under section 4117.01 of the Revised Code.~~

124.34 - Reduction in Pay or Position - Suspension - Removal.

(A) The tenure of every officer or employee in the classified service of the state and the counties, civil service townships, cities, city health districts, general health districts, and city school districts of the state, holding a position under this chapter, shall be during good behavior and efficient service. No officer or employee shall be reduced in pay or position, fined, suspended, or removed except as provided in section 124.32 of the Revised Code, and for incompetency, inefficiency, dishonesty, drunkenness, immoral conduct, insubordination, discourteous treatment of the public, neglect of duty, violation of any policy or work rule of the officer's or employee's appointing authority, violation of this chapter or the rules of the director of administrative services or the commission, any other failure of good behavior, any other acts of misfeasance, malfeasance, or nonfeasance in office, or conviction of a felony. The denial of a one-time pay supplement or a bonus to an officer or employee is not a reduction in pay for purposes of this section.

This section does not apply to any modifications or reductions in pay authorized by division (A)(2) of Section 124.14, division (O) of section 124.181 or section 124.392 or 124.393 of the Revised Code.

An appointing authority may require an employee who is suspended to report to work to serve the suspension. An employee serving a suspension in this manner shall continue to be compensated at the employee's regular rate of pay for hours worked. The disciplinary action shall be recorded in the employee's personnel file in the same

manner as other disciplinary actions and has the same effect as a suspension without pay for the purpose of recording disciplinary actions.

A finding by the appropriate ethics commission, based upon a preponderance of the evidence, that the facts alleged in a complaint under section 102.06 of the Revised Code constitute a violation of Chapter 102, section 2921.42, or section 2921.43 of the Revised Code may constitute grounds for dismissal. Failure to file a statement or falsely filing a statement required by section 102.02 of the Revised Code may also constitute grounds for dismissal. The tenure of an employee in the career professional service of the department of transportation is subject to section 5501.20 of the Revised Code.

Conviction of a felony is a separate basis for reducing in pay or position, suspending, or removing an officer or employee, even if the officer or employee has already been reduced in pay or position, suspended, or removed for the same conduct that is the basis of the felony. An officer or employee may not appeal to the state personnel board of review or the commission any disciplinary action taken by an appointing authority as a result of the officer's or employee's conviction of a felony. If an officer or employee removed under this section is reinstated as a result of an appeal of the removal, any conviction of a felony that occurs during the pendency of the appeal is a basis for further disciplinary action under this section upon the officer's or employee's reinstatement.

A person convicted of a felony immediately forfeits the person's status as a classified employee in any public employment on and after the date of the conviction for the felony. If an officer or employee is removed under this section as a result of being convicted of a felony or is subsequently convicted of a felony that involves the same conduct that was the basis for the removal, the officer or employee is barred from receiving any compensation after the removal notwithstanding any modification or disaffirmance of the removal, unless the conviction for the felony is subsequently reversed or annulled.

Any person removed for conviction of a felony is entitled to a cash payment for any accrued but unused sick, personal, and vacation leave as authorized by law. If subsequently reemployed in the public sector, the person shall qualify for and accrue these forms of leave in the manner specified by law for a newly appointed employee and shall not be credited with prior public service for the purpose of receiving these forms of leave.

As used in this division, "felony" means any of the following:

(1) A felony that is an offense of violence as defined in section 2901.01 of the Revised Code;

(2) A felony that is a felony drug abuse offense as defined in section 2925.01 of the Revised Code;

(3) A felony under the laws of this or any other state or the United States that is a crime of moral turpitude;

(4) A felony involving dishonesty, fraud, or theft;

(5) A felony that is a violation of section 2921.05, 2921.32, or 2921.42 of the Revised Code.

(B) In case of a reduction, a suspension of more than forty work hours in the case of an employee exempt from the payment of overtime compensation, a suspension of more than twenty-four work hours in the case of an employee required to be paid overtime compensation, a fine of more than forty hours' pay in the case of an employee exempt from the payment of overtime compensation, a fine of more than twenty-four hours' pay in the case of an employee required to be paid overtime compensation, or removal, except for the reduction or removal of a probationary employee, the appointing authority shall serve the employee with a copy of the order of reduction, fine, suspension, or removal, which order shall state the reasons for the action.

An employee may appeal such order in accordance with the Rules set forth by the Personnel Review Commission. If an appeal is filed, the Personnel Review Commission shall forthwith notify the appointing authority and shall hear, or appoint a hearing officer to hear, the appeal. The Personnel Review Commission may affirm, disaffirm, or modify the judgment of the appointing authority. However, in an appeal of a removal order based upon a violation of a last chance agreement, the Personnel Review Commission may only determine if the employee violated the agreement and thus affirm or disaffirm the judgment of the appointing authority.

Either the employee or the appointing authority may appeal the decision of the Personnel Review Commission to the Cuyahoga County Court of Common Pleas in accordance with general law.

(C) (Deleted in its entirety)

(D) A violation of division (A)(7) of section 2907.03 of the Revised Code is grounds for termination of employment of a nonteaching employee under this section.

(E) As used in this section, "last chance agreement" means an agreement signed by both an appointing authority and an officer or employee of the appointing authority that describes the type of behavior or circumstances that, if it occurs, will automatically lead

to removal of the officer or employee without the right of appeal to the state personnel board of review or the appropriate commission.

~~B. 1. OHIO ADMINISTRATIVE CODE—The following section of Chapter 123:1 of the Ohio Administrative Code is hereby amended as it applies to County employees. All sections in Chapter 123:1 applicable to Ohio counties that are not specifically identified in bold below remain in full effect in their entirety.~~

~~123:1-7-22—Reassignments by the Director of Human Resources~~

~~The Director may reassign to a proper classification those positions and/or employees that have been assigned to an improper classification. The Director may also assign a proper classification to a County employee who qualifies for classification but has not previously been assigned to one. If a reassignment or new assignment occurs, the employee shall be placed in an equitable pay step in the applicable pay range for the new classification. Determination of the equitable pay step shall be based on a review of the employee's relative skill level, education and experience as compared to the employees currently existing in the classification. Such placement may result in the employee maintaining their current salary, or may result in an increase or reduction in salary.~~

~~If the reclassification results in a reduction in salary, the employee shall be offered an opportunity to meet with the Director or designee to dispute the proposed change. Subsequent to this meeting, or the employee's waiver of this meeting, the Director shall provide the employee written notice of the final decision regarding the proposed reduction. The employee may then file an appeal of the Director's final decision to the Personnel Review Commission in accordance with the Commission's rules.~~

~~(B) (Deleted in its entirety)~~

~~(C) (Deleted in its entirety)~~

~~2.—CUYAHOGA COUNTY ADMINISTRATIVE RULES—The following section of the Cuyahoga County Administrative Rules is hereby amended. All sections in the Cuyahoga County Administrative Rules that are not specifically identified in bold below remain in full effect in their entirety.~~

~~—Rule No. 3—Position Audits~~

~~The Director of Human Resources may initiate a position audit and reassign to a proper classification those positions and/or employees that have been assigned to an improper classification. The Director may also assign a proper classification to a County employee who qualifies for classification but has not previously been assigned to one.~~

~~Non-probationary, non-bargaining, classified employees who believe that their duties have changed significantly and feel that their classification is no longer appropriate may request a position audit. An employee wishing to initiate a position audit shall submit their request in writing to the Director of Human Resources. Upon receipt of~~

~~the employee's request, or upon request of the Director of Human Resources, Human Resources shall forward a Comprehensive Position Questionnaire (CPQ) to the employee for completion. The CPQ will be accompanied by a cover letter and instructions for completing the CPQ. The cover letter will also be sent to the employee's Department Director.~~

~~The employee shall return the completed CPQ forms to Human Resources within thirty (30) days of receipt. The employee may request in writing to the Director of Human Resources a onetime extension of time in which to complete the CPQ. The deadline, however, may not be extended beyond thirty (30) days after the original due date.~~

~~Human Resources will review all submitted information and will make a determination as to the appropriate classification. To meet the classification criteria, an employee must perform the mandatory duties stated in the classification function at least 20% of the time. Prior to rendering a decision on the position audit request, Human Resources reserves the right to conduct an on-site audit. Upon completion of their review, Human Resources will provide written notice of the position audit to the employee with a copy to the Department Director. If the reclassification results in a reduction in salary, the employee shall be offered an opportunity to meet with the Director or designee to dispute the proposed change. Subsequent to this meeting, or the employee's waiver of this meeting, the Director shall provide the employee written notice of the final decision regarding the proposed reduction.~~

~~The employee has the right to appeal the decision rendered by Human Resources. This must be done in writing to the Cuyahoga County Personnel Review Commission (PRC) within the time frame set forth in the Personnel Review Commission's Rules~~

~~If a reassignment or new assignment occurs, the employee shall be placed in an equitable pay step in the applicable pay range for the new classification. Determination of the equitable pay step shall be based on a review of the employee's relative skill level, education and experience as compared to the employees currently existing in the classification.~~

~~If the position audit results in no change in the employee's classification, but a change in the pay range assignment of the classification, the employee shall be placed in an equitable pay step in the applicable pay range for the new classification. Determination of the equitable pay step shall be based on a review of the employee's relative skill level, education and experience as compared to the employees currently existing in the classification.~~

~~If the position audit results in the employee receiving a higher salary, any salary adjustment will be computed retroactive to the beginning of the first pay period following the date that the written request for the position audit was received by Human Resources. If the position audit results in the employee receiving a lower salary, any salary adjustment will begin the first day of the first pay period following the date of the final decision by the Director of Human Resources. If the position audit results in~~

~~the creation of a new classification and/or pay range, any salary adjustment will be effective the first pay period following approval of the new classification and/or pay range by the County (i.e., not retroactive)~~

~~If, after conducting a position audit on an employee, Human Resources becomes aware of similarly situated employees, it will reassign the other employees, effective the beginning of the first pay period following the date that the decision was rendered on behalf of the employee that had requested the audit. For purposes of this section, a “similarly situated employee” is an employee that performs the same essential job functions and responsibilities as the audited employee. Similarly situated employees will not be entitled to retroactive pay increases.~~

~~3.— CUYAHOGA COUNTY PERSONNEL POLICIES AND PROCEDURES MANUAL—The following section the Cuyahoga County Personnel Policies and Procedures Manual is hereby amended. All sections in the Cuyahoga County Personnel Policies and Procedures Manual that are not specifically identified in bold below remain in full effect in their entirety:~~

~~Section 5.09— Non Bargaining Position Audits~~

~~The Director of Human Resources may initiate a position audit and reassign to a proper classification those positions and/or employees that have been assigned to an improper classification. The Director may also assign a proper classification to a County employee who qualifies for classification but has not previously been assigned to one.~~

~~Non-probationary, non-bargaining, classified employees who believe that their duties have changed significantly and feel that their classification is no longer appropriate may request a position audit.~~

~~An employee wishing to initiate a position audit shall submit their request in writing to the Director of Human Resources. Upon receipt of the employee’s request, or upon request of the Director of Human Resources, Human Resources shall forward a Comprehensive Position Questionnaire (CPQ) to the employee for completion. The CPQ will be accompanied by a cover letter and instructions for completing the CPQ. The cover letter will also be sent to the employee’s Department Director.~~

~~The employee shall return the completed CPQ forms to Human Resources within thirty (30) days of receipt. The employee may request in writing to the Director of Human Resources a onetime extension of time in which to complete the CPQ. The deadline, however, may not be extended beyond thirty (30) days after the original due date. Human Resources will review all submitted information and will make a determination as to the appropriate classification. To meet the classification criteria, an employee must perform the mandatory duties stated in the classification function at least 20% of the time. Prior to rendering a decision on the position audit request, Human Resources reserves the right to conduct an on-site audit. Upon completion of their review, Human Resources will provide written notice of the position audit to the employee with a copy to the Department Director. If the reclassification results in a reduction in salary, the~~

~~employee shall be offered an opportunity to meet with the Director or designee to dispute the proposed change. Subsequent to this meeting, or the employee's waiver of this meeting, the Director shall provide the employee written notice of the final decision regarding the proposed reduction.~~

~~The employee has the right to appeal the decision rendered by Human Resources. This must be done in writing to the Cuyahoga County Personnel Review Commission (PRC) within the time frame set forth in the Personnel Review Commission's Rules.~~

~~—Employees may lose their appeal rights if their own negligence caused them to fail to receive the position audit decision from Human Resources (i.e., failure to list correct mailing address on Request for Position Audit Form or failure to sign for the certified letter).~~

~~—If a reassignment or new assignment occurs, the employee shall be placed in an equitable pay step in the applicable pay range for the new classification. Determination of the equitable pay step shall be based on a review of the employee's relative skill level, education and experience as compared to the employees currently existing in the classification.~~

~~If the position audit results in no change in the employee's classification, but a change in the pay range assignment of the classification, the employee shall be placed in an equitable pay step in the applicable pay range for the new classification. Determination of the equitable pay step shall be based on a review of the employee's relative skill level, education and experience as compared to the employees currently existing in the classification. If the position audit results in the employee receiving a higher salary, any salary adjustment will be computed retroactive to the beginning of the first pay period following the date that the written request for the position audit was received by Human Resources. If the position audit results in the employee receiving a lower salary, any salary adjustment will begin the first day of the first pay period following the date of the final decision by the Director of Human Resources. If the position audit results in the creation of a new classification and/or pay range, any salary adjustment will be effective the first pay period following approval of the new classification and/or pay range by the County (i.e., not retroactive).~~

~~If, after conducting a position audit on an employee, Human Resources becomes aware of similarly situated employees, it will reassign the other employees, effective the beginning of the first pay period following the date that the decision was rendered on behalf of the employee that had requested the audit. For purposes of this section, a "similarly situated employee" is an employee that performs the same essential job functions and responsibilities as the audited employee. Similarly situated employees will not be entitled to retroactive pay increases.~~

~~An employee may not request a position audit more than once in a twelve month (12) rolling period unless documentation acceptable to the Director of Human Resources is~~

~~provided at the time of the second request that the job has substantially changed since the date of the completion of the previous audit.~~

~~An employee who has received a classification change pursuant to this Section is not required to serve a new probationary period.~~

~~—Bargaining unit employees should refer to their collective bargaining agreement for information on position audits.~~

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 _____, seconded by _____, the foregoing Ordinance was duly enacted.

Yeas:

Nays:

County Council President

Date

County Executive

Date

Clerk of Council

Date

First Reading/Referred to Committee: September 27, 2016
Committee Assigned: Human Resources, Appointments & Equity

Committee Report/Second Reading/Referred to Committee: October 11, 2016
Committee Assigned: Human Resources, Appointments & Equity

Journal _____
_____, 20__