

County Council of Cuyahoga County, Ohio

Ordinance No. O2014-0035

Sponsored by: Council President Connally on behalf of Personnel Review Commission	An Ordinance amending Chapter 303 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, the Personnel Review Commission considered this matter and has undertaken significant review, evaluation and modification of such submitted changes to the Cuyahoga County Civil Service code; and,

WHEREAS, on August 6, 2014, the Personnel Review Commission recommended the proposed modifications to the County's Civil Service Code, and recommended to County Council the formal adoption and implementation of the same; 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, 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 the County departments.

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

SECTION 1. The Personnel Review Commission and the Human Resources Department shall cooperate in the transition of the duties as provided herein.

SECTION 2. Paragraph (A) of Section 303.01 of the Cuyahoga County Code is hereby amended as follows:

Section 303.01 Pay Equity

- A. The following Sections of Chapter 124 of the Ohio Revised Code are hereby amended as they apply to County employees. All sections of Chapter 124 that are not specifically amended or superseded by this Chapter 303 remain in full effect in their entirety. In the event a conflict exists between this Code and the Cuyahoga County Human Resources Personnel Policies and Procedures Manual, the provisions of this Code shall govern.

124.14 - Job Classification - Pay Ranges.

(A)(1) The ~~Director of Human Resources~~ **Personnel Review Commission** shall establish, and may modify or rescind, subject to approval by ~~the Human Resource Commission, the County Executive, and~~ County Council, a job classification plan in accordance with the requirements of Section 9.04 of the Cuyahoga County Charter. The ~~Director~~ **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 ~~Director~~ **Commission** shall assign a classification title to each classification within the classification plan. However, the ~~Director~~ **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 ~~Director~~ **Commission** shall describe the duties and responsibilities of the class, and establish the qualifications for being employed in each position in the class.

The ~~Director~~ **Commission** shall assign each classification to an equitable pay range.

(2) *(Retained in its entirety)*

(3) *(Deleted in its entirety)*

(4) The ~~Director~~ **Commission** shall, subject to approval by ~~the Human Resource Commission, the County Executive, and~~ County Council, assign related classifications, which form a career progression, to a classification series. The ~~Director~~ **Commission** shall, subject to approval by ~~the Human Resource Commission, the County Executive and~~ 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 ~~Director~~ **Commission** shall, subject to approval by ~~the Human Resource Commission, the County Executive and 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 numbers assigned to other classifications 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)*

(D)(1) When the ~~Director~~ **Commission** ~~proposes to modify~~ **modifies** a classification or the assignment of classes to appropriate pay ranges, the ~~Director~~ **Commission** shall ~~send written notice of the proposed rule to the Human Resource Commission. The Human Resource Commission shall review the proposed action in an open meeting. If the Human Resource 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,** ~~so that an~~ **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 or to reassign the employee to another classification. An employee desiring a hearing shall file a written request for the hearing with the Personnel Review Commission within the timeframe as set forth in the Personnel Review Commission's Rules. The Commission shall set the matter for a hearing and notify the employee and appointing authority of the time and place of the hearing. The employee, the appointing authority, or any authorized representative of the employee who wishes to submit facts for the consideration of the board shall be afforded reasonable opportunity to do so. After the hearing, the Commission shall consider anew the reclassification and may 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.

(E) *(Deleted in its entirety)*

(F) *(Deleted in its entirety)*

(G) *(Retained in its entirety)*

(H) *(Deleted in its entirety)*

(I) *(Retained in its entirety)*

SECTION 3. Sections 303.02 to 303.06 of the Cuyahoga County Code are hereby enacted as follows:

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:
 - a. 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
 - b. 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, 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:
 - a. A group of positions of sufficiently similar duties that the same title and specification may be assigned to each; or
 - b. The act of assigning a classification title to a position(s) based upon the duties performed.
- F. Commission – 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 than that of the classification the employee currently holds.

- J. Director – The Director of the Cuyahoga County Human Resources Department as appointed by the County Executive.
- K. Eligibility List – A list of names established by the Commission for the purpose of filling vacancies in the classified service.
- L. Ethics Code – 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. Pay Range – The pay grade assigned to a position or classification.
- T. Position – The name that applies to a group of duties intended to be performed by an employee.
- U. Promotion – The appointment of an employee to a different position assigned a higher pay range 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 appointing authority’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.
- 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.
- BB. Suspension – The interruption of an employee’s employment and 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 eligible 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 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.

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 a 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 the Personnel Review Commission, within its sole discretion, finds the rejection 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 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, 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.

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 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.

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 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 list; applicants 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 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.

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 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 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. Restoration to the eligibility list is within the sole discretion of the Personnel Review Commission. However, consideration of a candidate's request for reconsideration 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.

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.

3. 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 an appointment is made from a certified eligibility list containing that person’s name.

Section 303.04 Classification and Compensation Plans

A. Classification Plan

The Personnel Review Commission shall administer a countywide classification plan. The classification plan shall be established and adopted by the Personnel Review Commission subject to approval by Cuyahoga County Council. The plan shall provide for the classification and standardization of all positions in the County’s classified service. The classification system will serve to organize the work performed by the County’s classified employees, and will organize positions into classifications on the basis of duties and responsibilities. All positions in the service of Cuyahoga County, except those specifically designated as unclassified, shall be in the classified service. The unclassified service shall consist of the positions specifically exempted from the classified service by general law, the Charter, Ordinance or the Personnel Review Commission. Persons employed in a position in the unclassified service serve at the pleasure of the appointing authority and may be removed from their unclassified position at any time for any lawful reason. All appointing authorities shall provide reports detailing the appointment of employees to the unclassified service to the Personnel Review Commission in accordance with the procedures contained in the Personnel Review Commission’s Rules.

B. Compensation Plan

The Personnel Review Commission shall administer a compensation plan for the County's non-bargaining unit, classified employees, and shall recommend to County Council such modifications as needed to ensure the system provides for compensation based on merit and fitness and to ensure pay equity in like classifications.

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 shall not continue beyond such period of sickness, disability, or other absence.

Section 303.06 Inquiries

In furtherance of the Commission's Charter mandated duty to ensure compliance with federal, state and local employment laws, the Commission may conduct an inquiry when, upon written complaint or on its own motion, it has reason to believe that an individual is abusing the power of appointment, layoff, removal, reduction, suspension, or otherwise violating laws, rules or ordinances that the Personnel Review Commission is charged with enforcing. The Commission shall determine the procedures for conducting such inquiries and adopt such procedures in its Administrative Rules. The inquiries 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. The Personnel Review Commission shall make a report of its findings to the County Council.

SECTION 4. 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 5. 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 actions 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. Conwell, seconded by Mr. Miller, the foregoing Ordinance was duly enacted.

Yeas: Hairston, Simon, Greenspan, Miller, Brady, Germana, Gallagher, Conwell, Jones and Connally

Nays: None

County Council President

Date

County Executive

Date

Clerk of Council

Date

First Reading/Referred to Committee: October 28, 2014

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

Journal CC016

December 9, 2014