

# County Council of Cuyahoga County, Ohio

## Ordinance No. O2016-0010

Sponsored by: <b>Councilmember Simon on behalf of Debarment Review Board</b>	<b>An Ordinance</b> amending Section 205.06 of the Cuyahoga County Code to modify the appointment process for the Chair of the Debarment Review Board, the qualifications for members of the Board, and to provide that all members of the Board shall serve without compensation; and declaring the necessity that this Ordinance become immediately effective.
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WHEREAS, The Cuyahoga County Debarment Review Board was established to “review and determine... any matters that are submitted for its consideration pursuant to the Cuyahoga County Code,” including appeals from debarred contractors; and,

WHEREAS, The Debarment Review Board is currently composed of five members, including a member of Council, three members of the public appointed by the County Executive and confirmed by Council, and a former judge appointed by the Presiding Judge of the Cuyahoga County Court of Common Pleas who serves as chair; and,

WHEREAS, The three members of the Debarment Review Board appointed by the County Executive currently receive a per diem for their service on the Board; and,

WHEREAS, On April 27, 2016 the Debarment Review Board voted to endorse amendments to the Cuyahoga County Code provided hereunder modifying the appointment process for the Chair of the Debarment Review Board, the qualifications of the members of the Board, and to provide that all members of the Board shall serve without compensation; 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.** Section 205.06 of the Cuyahoga County Code is hereby amended to read as follows (additions are bolded and underlined, deletions are stricken):

## Section 205.06 The Cuyahoga County Debarment Review Board

A. Establishment: There is hereby established the Cuyahoga County Debarment Review Board. It shall consist of the following five members:

1. A ~~Chairperson~~ appointed by the County Executive and confirmed by Council, ~~Presiding Judge of the Cuyahoga County Common Pleas Court. This person~~ The Chair shall be an elector of the County, shall be an attorney at law in good standing in the State of Ohio, and shall have at least five years' cumulative experience in either litigation or appellate practice. and be a person who has served as a judge of the 8<sup>th</sup> District Court of Appeals, the Cuyahoga County Common Pleas Court, or any municipal court located within Cuyahoga County. The term of this person shall be for three years. The initial three year term shall be appointed for a term commencing July 1, 2014 and expiring on June 30, 2017;
2. A member of the Cuyahoga County Council appointed by the Council President as soon as practicable after the enactment of Section 205.06(A)(2) of the County Code and immediately following each organizational meeting of the Cuyahoga County Council, who shall serve until his or her successor is appointed; and
3. Three residents of Cuyahoga County appointed by the County Executive and confirmed by the Cuyahoga County Council. None of these members may be an employee of Cuyahoga County while serving on the Board. These three members shall be attorneys-at-law in good standing in the State of Ohio. ~~Members shall have appropriate experience and qualifications to serve on this Board, such as, but not limited to, experience in contracting, law, arbitration, or prior service on public boards.~~ Subject to Council's approval, the County Executive may remove any of these three members for inefficiency, neglect of duty, malfeasance, or if they no longer qualify to serve on the Board. The term of each member shall be five years, and the terms shall be staggered so that no term expires less than one year of the expiration of any other term. No member shall serve more than two consecutive terms. Of the terms for the initial appointees, one shall be appointed for a term of five years commencing on February 1, 2013, and expiring on January 31, 2018, one shall be appointed for a term of four years commencing on February 1, 2013, and expiring on January 31, 2017, and one shall be appointed for a term of three years commencing on February 1, 2013, and expiring on January 31, 2016. All subsequent terms shall commence on February 1st of the year in which the term expires. If a vacancy occurs for any unexpired term, the vacancy shall be filled in the same manner as a regular appointment through appointment by the County Executive

subject to Council's confirmation, and the new member's term shall last through the end of the unexpired term for which he or she is appointed.

- B. Jurisdiction: The Cuyahoga County Debarment Review Board shall review and determine—including the powers to affirm, reverse, modify, or remand—any matters that are submitted for its consideration pursuant to the Cuyahoga County Code. Notwithstanding Section 505.03 of this Code, the Board shall have the discretion to modify the expiration date of any individual debarment period as the Board deems appropriate; provided however that no single debarment period shall exceed five years.
- C. Alternates: The County officials serving on the Cuyahoga County Debarment Review Board shall have alternates appointed as follows:
  - 1. The ~~Presiding Judge~~ **Debarment Review Board** shall appoint one alternate who meets the qualifications set forth in Section 205.06(A)(1) of the Cuyahoga County Code to act in the place of the ~~Chair~~~~original appointee by the Presiding Judge~~ on the Debarment Review Board and attend meetings, with full voting rights, if the ~~Chair~~~~person named to the Debarment Review Board by the Presiding Judge~~ is unavailable or has a conflict of interest on a matter pending before the Board.
  - 2. The Council President shall appoint two Council members to serve as a pool of alternates to act in the place of the appointed Council member on the Debarment Review Board and attend meetings, with full voting rights, if the appointed Council member is unavailable or has a conflict of interest on a matter pending before the Board.
- D. Officers: ~~The appointee of the Presiding Judge of the Cuyahoga County Common Pleas Court shall serve as Chairperson of the Debarment Review Board.~~ If the ~~Chair~~~~appointee of the Presiding Judge of the Cuyahoga County Common Pleas Court~~ is absent from any meeting, the Board shall choose one of its members to chair that meeting. For purposes of this section, the ~~Chair~~~~appointee of the Presiding Judge of the Cuyahoga County Common Pleas Court~~ shall include his or her alternate.
- E. Compensation: ~~The appointee of the Presiding Judge of the Cuyahoga County Court of Common Pleas and the appointee of the Council President shall both serve without compensation. The remaining members shall receive a compensation rate of \$200.00 per diem for their service on the Debarment Review Board.~~ **All members of the Board shall serve without compensation.**
- F. Clerk of the Debarment Review Board: The County Executive shall designate a staff person to serve as the Clerk of the Debarment Review Board. The

Clerk shall be responsible for publishing the agendas and meeting notices and shall record and publish the minutes.

- G. Agendas and Meeting Notices: The Clerk of the Debarment Review Board shall publish the notice and agenda for each Board meeting on the County's web site no later than 6:00 p.m. on the second business day before the Board meeting. The Board may amend the agenda and may also consider items not on the agenda by a vote of a majority of the members present either personally or through their alternates.
- H. Regular Meetings: The Debarment Review Board shall schedule regular meetings to take place at least once every two months at a determined time by the Board. If no business is pending before the Board, the Clerk of the Board may cancel any regular meeting for lack of sufficient business pending before the Board by publishing the cancellation notice on the County's web site.
- I. Special Meetings: The Debarment Review Board may conduct special meetings at a time other than its regularly scheduled meeting times. In the event of an emergency as determined by the Chair ~~appointee of the Presiding Judge of the Cuyahoga County Common Pleas Court~~, the Board may conduct a meeting with less notice than that required under Section 205.06(G) herein. For any special or emergency meeting, in addition to the notice requirements of Section 205.06(G), the Clerk of the Board shall also send notice to all news media organizations that request to be notified of such meetings.
- J. Public Meetings: The meetings of the Debarment Review Board shall be open to the public. The Board shall also provide an opportunity for public comment on matters before the Board toward the beginning of the meeting. The Board may require presenters to register with the Board before speaking and may set time limits on presentations, which may be extended at the discretion of the Chair ~~person~~.
- K. Executive Sessions: The Debarment Review Board may go into executive session to discuss and consider matters permitted to be discussed or considered in executive sessions under the Ohio Open Meetings Act. A motion to go into executive session must state the topic(s) of the executive session and approved by a majority of the members present through a roll call vote.
- L. Minutes: The Clerk of the Debarment Review Board shall prepare and publish the minutes of each Board meeting on the County's web site within a week of their approval.
- M. Journal: The Clerk of the Debarment Review Board shall maintain a Journal of the Board, containing the notices, agendas, and minutes of all Board

meetings. The journal may be maintained electronically through an electronic system.

- N. Quorum: A quorum of the Debarment Review Board shall consist of three members attending personally or through their alternates.
- O. Vote Required for Board Actions: Board action shall require the affirmative vote of any three members attending personally or through their alternates. Amendments to items before the Board and parliamentary motions may be adopted by a majority of those present, provided that a quorum is present.
- P. Rules of Procedure: The Debarment Review Board may adopt its own Rules of Procedure.

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

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

On a motion by Ms. Simon, seconded by Mr. Miller, the foregoing Ordinance was duly enacted.

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

Nays: None

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County Council President

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Date

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County Executive

\_\_\_\_\_  
Date

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Clerk of Council

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Date

First Reading/Referred to Committee: May 10, 2016

Committee(s) Assigned: Council Operations & Intergovernmental Relations

Committee Report/Second Reading: June 14, 2016

Journal CC022

June 28, 2016