

County Council of Cuyahoga County, Ohio

Ordinance No. O2022-0009

Sponsored by: Cuyahoga County Executive	An Ordinance providing for modifications to and adoption of, certain sections of the Cuyahoga County Employee Handbook; and declaring the necessity that this Ordinance become immediately effective.
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WHEREAS, the County Executive has reviewed the current Employee Handbook and, in consultation with the Cuyahoga County Department of Law, determined that various amendments are required; and

WHEREAS, pursuant to Section 9.01 of the County Charter it is County Council's authority to establish personnel policies by ordinance, and Council has previously approved prior versions of the County's Employee Handbook which is amended herein and may be amended in the future by Council; 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. Adoption of Revised Employee Handbook: Council hereby adopts the amended sections of the County's Employee Handbook as set forth in Exhibit A attached hereto, to remain in full force and effect, to be applicable to all County employees under the authority of the County Council and the County Executive. The Department of Human Resources shall disseminate the amended handbook to all employees subject to the handbook, in accordance with the Department's usual method of dissemination.

SECTION 2. Policies applicable to bargaining employees shall be effective as permitted under state law and the Collective Bargaining Agreements.

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. Baker, seconded by Ms. Turner, the foregoing Ordinance was duly enacted.

Yeas: Tuma, Gallagher, Schron, Conwell, Turner, Stephens, Simon, Baker, Miller, Sweeney and Jones

Nays: None

County Council President

Date

County Executive

Date

Clerk of Council

Date

First Reading/Referred to Committee: September 13, 2022

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

Journal CC048

November 9, 2022

EXHIBIT A

1.01 Profile of the County

The County Executive is the chief executive officer of the county and, with the approval of the Council, appoints the heads of various agencies that carry out the functions of the County Executive. The County Executive has powers and duties of an administrative nature, including overseeing most personnel and collective bargaining matters, executing contracts, conveyances and indebtedness on behalf of the County, introducing ordinances and resolutions for Council's consideration and submitting tax and operating budgets, capital improvement plans, a five-year financial forecast for County operating funds and a related written message annually.

6.04 Pay, Direct Deposit of Pay and Payroll Deductions

Employees are paid bi-weekly and must participate in the County's Direct Deposit program. A direct deposit entry must be completed as part of the employee's new hire process or when the employee experiences any changes to their applicable financial account(s). Any questions regarding direct deposit or deductions should be directed to Human Resources.

Human Resources publishes an annual payroll calendar that notes each pay day. The payroll calendar is available online or by contacting Human Resources.

Various payroll deductions will be taken out of each employee paycheck. These deductions fall into two (2) categories, mandatory and voluntary.

- ***Mandatory Deductions.*** Mandatory payroll deductions are mandated by statute. They include federal, state, city and school district taxes, OPERS contributions, support orders, Medicare, bankruptcy, garnishments and other applicable obligations.
- ***Voluntary Deductions.*** Voluntary payroll deductions are authorized by the employee. These include health, accident, disability and life insurance, charitable contributions, optional retirement plans, flexible spending accounts, credit union deductions, parking and transit costs and union dues.

Deductions can be pre-tax or post-tax depending on the nature of the deduction.

Employees should review their pay statements regularly for accuracy. Should an employee become aware of, a discrepancy, the employee should report the discrepancy to Human Resources as soon as it is discovered. An employee or former employee will be expected to repay any overpayment regardless of how or why it occurred. The period and method of repayment will be determined by the Director of Human Resources, taking into account the amount, the employee's ability to pay etc. If an employee terminates employment before an overpayment has been recovered, the County may deduct the outstanding amount from the employee's final paycheck, including from accrued vacation leave, sick leave, or compensatory

time that would be paid to the employee. The County reserves the right to recover funds through legal means when necessary.

6.05 Timekeeping

The County must comply with applicable laws that require records to be maintained of the hours worked by employees. To ensure that accurate records are kept of an employee's work hours and that employees are paid in a timely manner, employees and their supervisor are required to maintain accurate time and attendance records. Attendance or use of leave should be recorded in the County's timekeeping system daily. Employees must enter their time into the timekeeping system at the time they start their work period, and again at the time they end their work period, and not at some other time during their shift. Employees should not record non-worked time such as, but not limited to, arriving unnecessarily early and waiting for their shift to begin or a delayed exit from the workplace that is unrelated to work duties. Employees should not enter time on behalf of another employee with the exception of a supervisor or payroll employee entering time for an employee who is unable to do so. Employees who fail to record their attendance or use of leave in the County's timekeeping system may be subject to disciplinary action up to and including termination.

After reviewing and resolving any discrepancies, the supervisor (or department designee) must authorize the number of hours worked or on leave in the County's timekeeping system weekly. Supervisors (or department designees) who fail to review employee time entries, resolve any discrepancies, and authorize the number of hours worked or on leave in the County's timekeeping system may be subject to disciplinary action up to and including termination.

All employees are expected to provide accurate information regarding time and attendance. Falsification is an act of misconduct and considered a violation of the County's policy and procedural guideline and may be subject to disciplinary action up to and including termination.

6.12 End of Employment

Final Paycheck

Upon separation of employment, compensation for accrued vacation leave and compensatory time will be included in the last paycheck or may be included in a separate check (provided that all County property i.e. laptop, keys, have been returned and all debts to the County, including from tuition reimbursement and other programs, have been satisfied). There is no compensation for unused sick leave except upon retirement. An employee with ten (10) or more years of service may receive payment for one-fourth (1/4) the value of accrued, unused sick leave, not to exceed 240 hours (30 days).

7.04 Attendance

Occurrences

An occurrence is defined as an unauthorized absence, two (2) tardies, two (2) early departures, two (2) excessive breaks, or two (2) missed time clock punch-ins/outs. The total number of days or partial days that an employee is unavailable for work due to unauthorized absence are considered when applying discipline, as outlined in the table below.

Unauthorized Absences

An absence is deemed unauthorized when an absence of more than one hour is not covered by an approved leave (e.g., sick, FMLA, vacation, compensatory or exchange time).

Employees will be docked pay for all hours missed due to unauthorized absences.

Tardy Arrivals, Early Departures, Excessive Breaks

An employee is tardy when the following occurs involving periods of one hour or less:

- failure to report to work on time, as scheduled
- failure to remain at work, as scheduled
- taking an extended meal or break period without prior approval

Absence Without Leave (AWOL)

Employees who are absent for three (3) or more consecutively scheduled workdays without prior notification to their supervisor will be AWOL and may be subject to removal. Supervisors should immediately consult with Human Resources if this situation occurs. A single day of no call/no show is subject to corrective action based on the circumstances of each individual case.

Progressive Discipline for Attendance

An occurrence is documented as a tardy and/or missed time clock punch-in/out. Supervisors and department management staff are responsible for tracking accumulated occurrences and for initiating the discipline process in consultation with Human Resources to ensure consistent application of discipline across the organization.

The following table is a guideline for discipline based on the total number of occurrences. Occurrences will be considered active for discipline purposes using a rolling twelve (12) month period. Occurrences will not be issued for absences that are protected under FMLA, ADA, Workers' Compensation, or legal proceedings leave.

Definition of an Occurrence	Occurrences	Disciplinary Action
One occurrence is equal to any of the following: <ul style="list-style-type: none">▪ 2 tardies▪ 2 early departures▪ 2 excessive breaks▪ 2 missed clock punch-in/outs	2	Verbal reprimand
	3	Written reprimand
	5	1-day suspension
	7	3-day suspension
	9	Termination

▪ 1 full or partial day unauthorized absence		
▪ Day of no call/no show (i.e., without prior notice)	1	1-day suspension
	2	3-day suspension
	3	Termination
▪ AWOL (3 or more consecutive days of no call/no show)	1	Employee subject to removal as a job abandonment

If an employee accumulates several occurrences within a single pay period, the employee may be advanced to the level of discipline called for in these guidelines even if the employee has no prior discipline. For example, an employee with no prior discipline who accumulates five (5) occurrences in a pay period will be issued a one (1) day suspension.

This procedural guideline will be administered in conjunction with the timelines contained in this handbook and the County’s CBAs for the expiration of active discipline. For example, if the timeline for the expiration of active discipline is twenty-four (24) months, a verbal reprimand issued under this procedural guideline will remain active for twenty-four (24) months and will be used as the basis of future discipline. If the discipline immediately prior to the one being assessed was less than twenty-four (24) months ago, the next discipline assessed will progress based on that prior discipline, unless the guidelines recommend discipline that is more severe. Examples: 1) If an employee has an active one (1) day suspension for missed clock punch-in/out and then is charged with two occurrences of tardiness, the employee will receive a three (3) day suspension. 2) If a three (3) day suspension has been imposed pursuant to this guideline and remains active, the next discipline will be termination.

7.07 Progressive Discipline

The County in general subscribes to a policy of progressive discipline. Unclassified employees serve at the pleasure of the Appointing Authority and can be removed from their position at any time, without application of progressive discipline.

Progressive discipline is not intended to be punitive. The goal of progressive discipline is to help the employee recognize and correct unacceptable behavior before it becomes serious enough, or frequent enough, to warrant termination of employment. Certain offenses and misconduct may be severe enough to warrant immediate placement on administrative leave which may lead to removal from employment without applying progressive discipline. These include, but are not limited to the following examples: egregious or willful neglect of assigned duties or failure to supervise; disregarding safety or security regulations; destruction of County property; falsification of records; dishonesty in application for benefits; unauthorized time entries; soliciting or accepting a bribe; assault; fighting; theft; egregious sexual harassment; egregious hostile, intimidating or offensive work environment; unauthorized possession of dangerous items or weapons; use, possession, or distribution of alcohol or illicit drugs; refusal or failure to submit to mandatory alcohol or drug testing; failing or tampering with an alcohol or drug test; committing a felony; a felony conviction; absence without leave (AWOL) as defined by the attendance policy.

Application

When progressive discipline is applied, the County shall examine the totality of the employee's current disciplinary record, including, but not limited to, attendance and tardiness discipline that remains active.

Procedure

Supervisors and managers are responsible for exercising independent judgement to identify and recommend the need for discipline.

When a management representative recommends discipline, they shall consult with Human Resources for guidance and to ensure consistency across the organization. Prior to recommending discipline, supervisors must have investigated and obtained documentation of the alleged conduct.

After a supervisor has recommended discipline, the role of Human Resources is to provide guidance on the level of discipline to be imposed. If the facts of the case may justify a suspension, demotion, or removal, the management representative will complete a request for Pre-Disciplinary Conference (PDC).

The purpose of the PDC is to provide the employee with a final opportunity to present their side of the case and to provide any additional information or documentation that the employee desires to be considered. Human Resources will coordinate the PDC and will provide written notice to the employee and supervisor regarding the date, time, and location of the PDC. Employees shall be provided with the option of waiving the PDC. Employees shall have the right to take an audio or video recording of their PDC.

Depending on the nature of the discipline that is ultimately issued, employees will be notified of discipline by their supervisor or Human Resources.

All disciplinary actions that are imposed shall be filed with Human Resources. Disciplinary actions will remain active for two (2) years for purposes of progressive discipline. The two (2) year period shall be measured backward from the date of the subsequent offense to the date the prior discipline was imposed.

Levels of Disciplinary Action

The County reserves the right to skip one or more levels of progressive discipline depending on the circumstances and/or severity of the offense.

- **Verbal Reprimand:** A verbal reprimand is an articulation of the problem by the supervisor to the employee. A verbal reprimand shall note the date and nature of the problem, as well as specifically state the employee is receiving a verbal reprimand.
- **Written Reprimand:** A written reprimand is formal, written notice by the supervisor to the employee that their conduct is inappropriate, what actions are necessary to correct the misconduct, and the consequences of continued misconduct.

- **Working Suspension:** A working suspension results when an employee is required to report to work to serve a suspension. An employee serving a working suspension shall be compensated at their regular rate of pay for hours worked. The working suspension shall be recorded in the employee's personnel file and has the same effect as a suspension for the purposes of progressive discipline.
- **Suspension:** A suspension is a forced, unpaid leave of absence from employment for one (1) or more days.
- **Demotion:** A demotion is a forced transfer of the employee from one classification or job to another classification or job in a lower pay grade.
- **Removal:** A removal is a forced separation of employment.

A record of any disciplinary action must be made using a form prescribed by Human Resources and will be placed in the employee's personnel file.

At the sole discretion of the Director of Human Resources or designee, an employee may be temporarily placed on paid administrative leave. This may be necessary because the employee's actions indicate that remaining on the job or returning to the job may be detrimental to the employee, co-workers, customers or the County. Employees who are placed on paid administrative leave shall be prepared to return to work each day and may be subject to other requirements determined by Human Resources.

Prohibited Conduct

The County considers the following to be a non-exhaustive list of unsatisfactory conduct that may be considered grounds for progressive disciplinary action or removal without progressive discipline when appropriate:

- Absence from duty without reasonable cause
- Absence without leave
- Being away from assigned work area without permission of supervisor
- Conduct that might endanger the safety of others
- Conduct unbecoming an employee of the County
- Creating a hostile, intimidating or offensive work environment based upon a protected characteristic
- Excessive absenteeism
- Excessive tardiness
- Failure to comply with safety regulations, procedures and/or guidelines
- Failure to cooperate in a workplace investigation
- Failure to follow call in procedures
- Failure to follow the orders of a supervisor
- Failure to properly report work status
- Failure to report known safety hazards
- Failure to wear required safety equipment

- Falsification
- Fighting
- Harassment, discrimination or retaliation against another
- Insubordination
- Intimidation or threats
- Misfeasance, malfeasance or nonfeasance
- Neglect of duty
- Offensive language or conduct toward another
- Poor job performance
- Possession of weapons on County premises without authorization
- Reckless operation and/or misuse of County vehicles and equipment
- Reporting for or being on duty in an unfit condition to work
- Reporting to work under the influence of alcohol and/or drugs
- Sleeping while on duty
- Theft
- Use of or possession of alcohol and/or drugs on County property
- Destruction of County property
- Violation of policies, procedures, rules, regulations, or guidelines...

Evaluation of Inappropriate Conduct

All inappropriate conduct shall be evaluated on a case by case basis, considering the following factors:

- Level of disruption to County business.
- Level of harm to the County's interests.
- Level of damage to the public's trust and confidence in Cuyahoga County government.
- The employee's position and the degree of responsibility inherent in that position (i.e., supervisory vs. non-supervisory positions). Employees who occupy a supervisory or management position are held to a higher standard of conduct commensurate with the level of leadership required of them.
- Whether the employee's conduct is part of a continuing problem.
- Whether the employee's conduct put a co-worker, vendor or customer's safety and/or security at risk.
- Whether the employee's truthfulness brought into question because of his or her conduct.
- Whether there are extenuating or mitigating circumstances.

Appeals

The Cuyahoga County Charter provides classified non-bargaining employees an appeals process for certain disciplinary action through the Personnel Review Commission (PRC). Details are available on the website of the PRC. Bargaining employees should review their CBA regarding appeals.

9.07 Exempt Employees: Exchange/Straight Time

Exchange Time

Exempt employees can earn exchange time (a form of paid leave) when they work more than forty (40) hours in a workweek, or work on a County holiday provided the following:

- there is a compelling reason for the exempt employee to be required to work beyond normal working hours –working beyond regular work hours to finish up normal assignments does not qualify.
- there is a “meeting of the minds” between the exempt employee and the supervisor - the employee must either be authorized or required by the supervisor to work the extra time.

Supervisors have discretion to make judgements regarding the application of the above criteria but are expected to do so in a way that supports the operations of the County without adversely affecting long-term staffing needs.

Usage of paid leave (i.e., sick, vacation, exchange time, etc.), does not count towards the forty (40) hours work requirement. However, paid time off on County recognized holidays does count.

Exchange time earned in lieu of holiday premium pay is not subject to the forty (40) hour requirement.

Exchange time hours must be designated as exchange time in the County’s payroll system. The County will not recognize exchange time beyond an accrual of 40 hours except as otherwise set forth below.

An employee who has requested paid leave using exchange time shall be permitted to use it within a reasonable time after the request, so long as it does not unduly disrupt their department’s operations. However, there is no guarantee that exchange time can be used if it is not possible to accommodate its usage within a six (6) months of the time that the exchange time is accrued.

Exchange time not used within six (6) months of accrual shall expire. If a critical or extraordinary operational need exists, the Director of Human Resources may authorize an employee to accrue up to two hundred (200) hours of exchange time and may extend the expiration timeframe up to one (1) year. At no time shall exchange time be paid out to the employee.

11.01 Paid Vacation Leave

To receive service credit, employees must provide Human Resources with a signed letter from the former employer(s), on each employer’s letterhead, with qualifying start and end dates of employment, number of days worked if any of the service was less than a full year, number of hours worked if any of the service was less than full-time, and verification of any unused

accumulated sick leave. Employees must provide the required documentation within sixty (60) days of their date of hire. Forms received after sixty (60) days will be accepted; however, any service accrual granted will start from the beginning of the pay period in which the form is received. An employee who has retired in accordance with the provisions of any retirement plan offered by the State of Ohio shall not have prior service that was completed prior to retirement considered for the purpose of computing vacation leave.

11.02 Paid Holidays

Eligible employees who are not required to work on a County-recognized holiday that falls on their regularly scheduled workday and are in a paid status on the regular workday immediately preceding and following a holiday are entitled to ~~holiday~~ regular pay for their regularly scheduled work hours. Employees who are in an unpaid status on the regular workday immediately preceding or following the holiday are not eligible for holiday pay. If the employee's work schedule is other than Monday through Friday, and the holiday falls on the employee's day off, the employee is entitled to a floating day off, to be used within ninety (90) calendar days and with prior approval.

An employee in a non-exempt position who is required to work on a County holiday shall be entitled to regular pay in addition to holiday premium pay at one and one-half (1.5) times for each hour worked. Exempt employees who are required to work on a County holiday will receive regular pay in addition to holiday premium pay at their regular rates for each hour worked, or exchange time. Normally, the County will credit the employee with exchange time. A department director may request, based on compelling or extraordinary operational needs, that the Director of Human Resources approve holiday premium pay for an employee or group of employees in lieu of exchange time, subject to the conditions in Section 9.07 of this handbook.

11.03 Paid Sick Leave

Sick Leave Credit

Employees who have a balance of sick leave earned while employed by another political subdivision of the State of Ohio within the past ten (10) years may have the unused sick leave balance credited to their current sick leave balance with the County. To receive sick leave balance credit, employees must provide Human Resources with a signed letter from the most recent qualifying former employer, on the employer's letterhead, with qualifying start and end dates of employment and verification of any unused accumulated sick leave. An employee who has retired in accordance with the provisions of any retirement plan offered by the State of Ohio shall not have sick leave balance that was accrued prior to that retirement credited to their County sick leave balance.

11.04 Paid Bereavement Leave

All full-time employees who experience the loss of a spouse, mother, father, step-parent, child, step-child, or persons to whom they stand in loco parentis or who stood in loco parentis to them, will be granted up to five (5) days of paid bereavement leave.

Full-time employees are entitled to up to three (3) days of paid bereavement leave for the loss of a brother, sister, half-brother, half-sister, step-brother, step-sister, mother-in-law, father-in-law, brother-in-law, sister-in-law, son-in-law, daughter-in-law, grandparent, grandchild, uncle, aunt; or any relative residing with the employee (proof of residency required).

11.07 Family Medical Leave

The Family and Medical Leave Act (FMLA) and its amendments provide employees with the right to take job-protected unpaid time off for various identified reasons.

Employees with at least one (1) year of service who have worked at least 1,250 hours in the previous year are eligible, and can request up to twelve (12) workweeks (480 hours) of Family Medical Leave (FML), during a 12-month period, for one of the following reasons:

- For incapacity due to pregnancy, prenatal medical care or childbirth
- The birth or placement of a child for adoption or foster care
- To care for an immediate family member (as defined by this procedure to only include spouse, child or parent) with a serious health condition
- To take medical leave when employees are unable to work because of their own serious health condition

Employees may take up to twelve (12) weeks of approved leave within a twelve (12) month period. During the twelve (12) month period measured backward from the commencement date of FML, the employee must have worked 1,250 hours. If two married employees both work for the County and each wants to take leave for the birth of a child, adoption or placement with the employee of a child in foster care, or to care for a parent with a serious health condition, the employees may take only a combined total of twelve (12) weeks of leave...

Status and Benefits While on FML

While on paid FML, the County will continue employees' benefit coverage at the same level and under the same conditions as if they had continued to work. All available paid leave must be used and charged against the employee's FML before unpaid FML will be initiated. The employee's accrued time must be used in the following order: Sick, Vacation, Compensatory/Exchange. Sick and vacation leave will accrue during the employee's paid FML as it normally would. Available time accrued during paid FML must be used in the same order as above. All usual payroll deductions will be taken during the employee's paid FML.

Leave Donation

Any eligible employee may donate accrued sick or vacation leave to a fellow employee who has a serious health condition as defined under the FMLA and is in critical need of time off due to the condition. Donation of leave time is strictly voluntary. FML leave will run concurrently with the donated leave time.

An employee may receive donated leave provided that the employee:

- is first approved for FML leave that removes them from the workplace for fifteen (15) consecutive workdays for their own serious health condition. Donated leave may be applied retroactively to whenever the donee exhausts his or her paid leave balance. Employees on intermittent FML leave do not qualify to participate in the program. Any unused donated leave will be returned to the donating employee
- has exhausted all sick leave, vacation leave and compensatory/exchange time
- has not had any discipline for attendance within the previous year...

12.02 Recording of Conversations Voice and Video

The County has established the following guidelines for ~~the~~ recording of voice or video concerning County business. This policy shall not apply to public meetings or any other meeting or forum involving the discussion of County business that is open to members of the public, including, but not limited to, public hearings. Any violation of this policy could result in disciplinary action as well as exclusion of the recording from consideration as evidence in proceedings such as workplace investigations, administrative appeals, and grievance arbitrations.

County employees shall not record any voice or video involving the discussion of County business unless at least one of the following applies:

- The Director of Law or designee authorizes in writing an employee to record such voice or video;
- In the case of an in-person meeting, all parties first consent in writing;
- In the case of a virtual meeting, training or presentation (“virtual activity”), recording is only permitted using the recording function available through the virtual activity’s host platform; only the County host in charge of the meeting is permitted to initiate and end recording; an employee participant is responsible for determining whether the virtual activity is being recorded; and an employee’s participation in the virtual activity constitutes acknowledgement that the virtual activity is being recorded; or
- The department director, with the approval of the Director of Law, authorizes recording as a standard course of business in the interest of the public (e.g., telephone calls to the 696-KIDS hotline, 911 calls, and calls to-and-from inmates).

12.07 Electronic Equipment and Communications Policy

The County’s Electronic Equipment and Communications Policy defines the acceptable use of electronic equipment and the responsibilities of all users. Employees may access the Electronic Equipment and Communications Policy electronically or may request a copy from Human Resources

12.08 Travel Policy

Employees may access the County's Travel Policy electronically or may request a copy from Human Resources.

Employees are expected to know and comply with the Travel Policy. Employees may be subject to disciplinary action for failure to comply with this policy.