

Department Head Meeting Agenda

Meeting Date and Time: April 19, 2013 @ 9:30 a.m.
Meeting Location: Commissioners' Hearing Rm, 5th Floor, Co. Office Bldg.
Convener: Andrew Kalmar, County Administrator

Announcement Items

Monthly Safety Subject: May: Bloodborne Pathogens

Wellness Update: Employee Health & Fitness Day: 5/8 @ BG City Park 11 - 1
Blood Drive: 5/9 @ Atruim
Lunch & Learn: Putting the Skinny In Your Diet
11:45 & 12:45 @ Atruim 5/22 & JFS 5/29
Summer Swim: May - August

Employee Handbook Update

I-9 Form Updated form effective 3/8/13: Available on employee website

Vacation Reminder Payout vs. Transfer

Training Update HR Group: 4/25 at 10 a.m. BCC Hearing Room
Ethics: 4/30 at 10 -11:30 a.m. First United Methodist Church (FUM)
Susan Willeke register through BCC office
Ohio Certified Public Records: 4/30 at 12:30 -3:35 p.m. FUM
AG register through Attorney General's website
bring clipboard for CLE
Employee Orientation: May 21 from 8:45 a.m.- 4 p.m. (BCC Hrg Rm)

OPERS Updates Health Care Changes & Purchase of Service Credit

Spirit of Wood County Awards Nominations accepted through 4/30

Budget Update: Sales Tax - Investment Income
Estimates of Revenue

Discussion Item

Policy Review: Corrective Action Guide

Two Minute Drill

Next Meeting Date

May 17, 2013 9:30 a.m. Commissioners' Hearing Room

Board of County Commissioners

James F. Carter Doris I. Herringshaw, Ed.D. Joel M. Kuhlman



SUMMARY OF DISCUSSION

A meeting of the Department Heads was held on April 19, 2013, in the Commissioners' Hearing Room with the following persons present:

Elected Official/Office/Department Representatives

Andrew Snyder	Brad Espen	Jerry Greiner	Jen Robeson	Tim Hainen	Mark Meyer
Wade Gottschalk	Dave Cecil	Carolyn Marquardt	Brenda Ransom	Tom Clemons	Maricarol Torsok
Bridget Ansberg	Alan Stoots	Frank McLaughlin	Brad Gilbert	Kelli Kling	Pamela Boyer
Janese Diem	Joe Fawcett	Andrew Kalmar			

Announcements

Monthly Safety Topic: March – Bloodborne Pathogens: Andrew noted that information on the Monthly Safety Topic will be forthcoming. Department Heads were asked to share this information at their next staff meeting.

Wellness Update: The Fitness Challenge is underway. Employees having issues using the Active for Life website are encouraged to try to gain access at a later time. Employee Health and Fitness Day is on May 8 at Bowling Green's City Park. A blood drive is scheduled for May 9 in the Atrium from 9 a.m. to 2 p.m. Employees may register online at www.givelife.org using sponsor code: woodcoemployees. The *Your Health!* Lunch Series for May will be presented on May 22 in the Atrium and May 29 at Job and Family Services. The topic is "Putting the Skinny in your Diet" and will be presented by OSU Extension at 11:45 a.m. and 12:45 p.m. both days. The Summer Swim program runs from May to August. This program provides reimbursement for community pool memberships. Forms are available on the employee website.

Employee Handbook Update: Janese noted that she has been meeting with the Prosecutor's Office to discuss the recommended changes to the Employee Handbook, which is still being reviewed.

I-9 Form: The Department of Homeland Security has issued an updated I-9 Form to use for all new hires. The Auditor's Office sent notification regarding the revised form in March. The form is available on the employee website.

Vacation Reminder: Pam reminded Department Heads that employees who transfer from one appointing authority to another must be paid out for their vacation balance at separation from the original appointing authority. An Attorney General's opinion notes that the ORC does not permit employees to transfer this balance between appointing authorities.

Training Update: The HR Group is scheduled to meet on Thursday, April 25 at 10 a.m. in the Commissioners' Hearing Room. The meeting will focus on the recently authorized Corrective Action Guide. The Training Committee is hosting Ethics Training and Public Records Training on April 30. Sessions will be held at the First United Methodist Church on East Wooster Street. Participants may register for the Ethics Training by contacting Janese Diem. To register for the Public Records portion, participants must register through the Attorney General's website. The next Employee Orientation Program is scheduled for May 21. Please notify Janese Diem if you have employees to register. Andrew welcomed new employee Carolyn Marquardt, the new Director of Nursing at Wood Haven, to the meeting.

OPERS Update: Janese provided a brief update on changes at OPERS. A handout was distributed noting delayed effective dates of some of the OPERS health care plan changes. Janese also noted that the time limit was extended for determining if incorrect classifications were given to independent contractors or others who worked for an OPERS employer but did not have OPERS contributions withheld. Employees have until August 7, 2014, to submit a request for membership determination. Another date to note for OPERS is for the purchase of service credit. Employees have until July 7, 2018, to complete the purchase of service credit before the balance is recalculated at the higher cost. Employees must make sure a payment is received by OPERS between January 7, 2013, and July 5, 2013. Employees are also reminded while service credit purchases count toward an increased pension benefit, not all service credit purchases will count toward health care eligibility. Refer to the OPERS website for more information.

Spirit of Wood County Awards: The Commissioners will present the Spirit of Wood County Awards on June 9 at the Historical Center. Nominations for the awards are being accepted through April 30.

Budget Update: Joe noted that the sales tax revenue is down a bit from last year at this time. He noted that while it was down, last year was a record year. Investment income is currently down 30% from this time last year. He reminded Department Heads that estimates of revenue are due the first week of May. If sending electronically, please forward a signed hard copy.

Discussion Item

Corrective Action Guide: Pam provided an overview of the recently authorized Corrective Action Guide. She noted that the document acts as a guide and does not replace the need to discuss each set of circumstances with human resources or legal council. It is important to set clear expectations and make sure employees are aware of what is expected. While there are some differences in the ways classified and unclassified employees may be handled in regards to discipline, fair employment applies to all employees. For that reason managers are encouraged to document underperformance. When an employee is underperforming and counseling has not been effective, managers are encouraged to develop a course of action to comply with official reasons for using correction action per the Ohio Revised Code in order to ensure just cause. If an incident involves a union employee, the manager should invite the union representative to the meeting with the employee. If a potentially illegal act is involved, contact the Prosecutor's Office prior to meeting with the employee. A copy of the Guide will be forwarded with the meeting minutes which provides an overview of the hearing process and types of discipline.

Two Minute Drill

Joe Fawcett (SWMD/Commissioners) announced that the Solid Waste Management District has relocated to the Fifth Floor of the County Office Building. He thanked Maintenance staff for their assistance. A Utility Worker II has been hired at the Landfill. The fiscal staff in the Commissioners' Office have been working on additional duties from Planning Commission and the Landfill. He also reported that the Commissioners are moving toward paperless meetings. Ipads will be used during session to reduce the amount of paper copies received. Departments will be encouraged to email a pdf file of their presentations prior to meeting with the Board.

Andrew Snyder (Dog Shelter) noted that two bills affecting dogs are being reviewed at the State level. One involves multi-year dog registrations. The other involves chemical capture of dogs and euthanasia.

Brad Espen (Health District) stated that new sewage rules are being implemented by the State. All septic systems will need to be under an operations maintenance program effective January 1, 2014.

Brad Gilbert (Emergency Management) invited Department Heads to attend a webinar on April 29 on lessons learned from Hurricane Sandy. The webinar will take place in the EOC. He also noted that a response team for dangerous animals is being developed.

Jerry Greiner (Northwestern Water and Sewer District) announced that an Open House for the District is being held on Sunday.

Wade Gottschalk (Economic Development) reported that several large projects are in the works. He also noted that more skilled workers are needed and they are looking into ways to encourage students to take a skilled trade route in school.

Tim Hainen (Courthouse Maintenance) stated that the City has taken the trees down along Summit Street. The dying ash trees will be replaced in the future. Bid specifications for the Office Building boiler are being prepared and maintenance work on the Courthouse ceiling is being planned. He also noted that an ADA restroom is being installed on the first floor of the Office Building behind the snack bar. Andrew added that four eggs have been spotted in the falcon's nest.

Al Stoots (EGLC Maintenance) noted that repairs to the fuel islands is upcoming. New signage is required for the underground storage tanks and will be installed soon. Repairs to the Dunbridge Road elevator and Juvenile Residential Center roof are also underway.

Dave Cecil (Wood Haven) announced that May 12 to 17 is National Nursing Home Week. Several events are planned.

Kelli Kling (Historical Museum) stated that the Museum is now open. The driving cd is now available on-line.

Mark Meyer (Building Inspection) reported that the inspections are starting to pick up following a slow start to the year.

Maricarol Torsok (Job and Family Services) thanked everyone for their support of the pinwheels project. The event raised over \$4,000.

Tom Clemons (ADAMHS) reported that grants have been submitted for various projects and thanked contributing county agencies.

Brenda Ransom (Records Center) reported that Lucas and Wood Counties have received a grant to perform a feasibility study to see if the counties can serve as an imaging resource for other counties.

Pamela Boyer (Commissioners) reported that Health Care Reform changes are being reviewed. She also encouraged Board members to attend the Open Public Meetings training on April 30.

Janese Diem (Commissioners) provided a reminder that No Wrong Door training has been scheduled throughout 2013. A memo was sent regarding dates.

The next Department Head meeting will be held in the Commissioners' Hearing Room on **May 17, 2013, at 9:30 a.m.**

cc: BCC Elected Officials and Department Heads
Steve Spirm file



Health Care Changes Overview

In September 2012, the OPERS Board of Trustees adopted a set of changes to the OPERS health care plan that will allow OPERS to continue offering retirees access to health care coverage. In March 2013, the Board voted to delay the effective date of SOME of these changes to allow OPERS members and retirees additional time to learn about and prepare for major alterations to their health care coverage.

The components of the plan adopted in 2012 are not changing, only some of the effective dates. The chart below illustrates the key components of the plan with new effective dates and the components not affected by a date change.

COMPONENT	CHANGES	ORIGINAL DATE(S)	NEW DATE(S)
Age and qualifying service member eligibility requirements <i>(Applies to all members not retired prior to 2015)</i>	<p>Minimum eligibility for allowance: Age 60 with 20 years of service. Members retiring at any age with 30 or more years of service are eligible for coverage.</p> <p>Members must not be on their employers' payroll later than Nov. 30, 2014, in order to qualify for OPERS retiree health care with 10 years of service.</p>	2014	2015
New age and qualifying service retiree monthly allowance table <i>(Applies to all retirees)</i>	<p>Monthly allowances will range between 51% and 90% of the full monthly premium. The same allowance table will be used for current and future retirees.</p> <p>Members retiring prior to the effective date with an allowance at or above 75% will not have an allowance below 75%. Members retiring at any age with 30 or more years of service will have at least a 71% allowance.</p>	2014	2015
Spouse coverage <i>(Applies to all retirees)</i>	Spouses under age 65 will transition to a \$0 allowance over three years (2015 - 2017) and have access to OPERS coverage at full cost at a minimum through 2019. Spouses over age 65 will have access to the OPERS Medicare Connector beginning in 2016. Spouses of recipients who die before or after retirement will no longer assume the retiree's health care allowance.	2014 - 2016	2015 - 2017
Child coverage <i>(Applies to all retirees)</i>	<p>If the retiree has at least 20 years of service and is enrolled in the health care plan: children (up to age 26) will receive half of the retiree's allowance percentage.</p> <p>If the recipient retires with less than 20 years of service: children (up to age 26) will transition to a \$0 allowance over three years (2015 - 2017) and then have access to coverage at the full cost at a minimum through 2019.</p>	2014 - 2016	2015 - 2017
Health Care Plans	<p>Medicare-eligible retirees: OPERS will continue offering a medical plan and prescription drug plan for Medicare retirees through 2015.</p> <p>In 2016, OPERS will introduce the OPERS Medicare Connector for those enrolled in Medicare Parts A and B. Retirees and their spouses will have access to a Licensed Medicare Counselor who will help them select a plan on the individual market to supplement Medicare. Eligible retirees will receive an allowance to purchase coverage via the connector. Eligible spouses will receive an allowance through 2017.</p> <p>Non-Medicare retirees: OPERS will continue offering a medical plan and prescription drug plan for non-Medicare participants.</p>	2015	2016

Shown here are the key components of the plan but not a complete, inclusive list.

Health Care Overview *(continued)*

COMPONENT	CHANGES
Recipient Medicare B Premium Reimbursement	<p>For those eligible, Medicare Part B premium reimbursement will transition to a \$0 reimbursement in 2017 with the first reduction occurring in 2015.</p> <ul style="list-style-type: none"> ● 2014 reimbursement: \$96.40 ● 2015 reimbursement: \$63.62 ● 2016 reimbursement: \$31.81 ● 2017 and after: \$0
Medicare Part A Equivalent Coverage	<p>For those retirees and their spouses who do not qualify for Medicare Part A, OPERS will provide Medicare Part A equivalent coverage. The retiree's allowance will be in accordance with the allowance table. Spouses will be charged half of the cost of coverage.</p>
Service Credit <i>(excludes those with a retirement effective date of Dec. 1, 2013 or before)</i>	<p>Only the following types of service credit will apply to health care eligibility on or after Jan. 1, 2014: Contributing service, Ohio Retirement System transfers, interrupted military (USERRA), unreported time and restored (refunded) service.</p>
Disability Recipients	<p>Members receiving a disability benefit prior to Jan. 1, 2014 will have continued access to health care coverage based on the annual review and approval of their disabled status and will not be subject to the five year rule described below. Allowance will be determined in the same way as an age and service retiree. If recipient does not meet minimum age and service requirements, the minimum allowance will be used.</p> <p>Members first receiving a disability benefit on or after Jan. 1, 2014 will have coverage during the first five years of disability benefits. After 5 years, recipient must meet minimum age and service requirements or be enrolled in Medicare due to disability status to remain enrolled in the OPERS plan. If enrolled, allowance will be determined in the same way as an age and service retiree.</p>
Delayed Enrollment <i>(Applies to all retirees)</i>	<p>Retirees may delay entry into the OPERS health plan. Allowance will be determined based on their years of service at retirement and age at enrollment.</p>
Elected withdrawal	<p>Retirees who voluntarily elect to withdraw from the OPERS health care plan on or after Jan. 1, 2014 cannot re-enroll. This rule does not apply to retirees who return to public employment and are required to enroll in the employer's health care plan.</p>
Minimum Earnings <i>(excludes those with a retirement effective date of Dec. 1, 2013 or before)</i>	<p>Beginning Jan. 1, 2014, contributing service credit for health care will be accumulated only if the member earns at least \$1,000 per month.</p> <p>Health care eligibility based on the minimum earnable salary will not be prorated. Credit earned prior to January 2014 will not be affected by this change.</p>

Shown here are the key components of the plan but not a complete, inclusive list.

Health care eligibility requirements will begin Jan. 1, 2015. This means, if your effective date for retirement is Jan. 1, 2015 or later, you must have at least 20 years of qualifying service and be age 60 or have 30 or more years of qualifying service at any age to qualify for OPERS health care coverage. Those in Group B (pension benefit) will need 31 years of service and those in Group C will need 32 years of service.

Changes to applicable service credit for health care eligibility will take effect Jan. 1, 2014. This means any noncontributing service you have purchased will not apply to your health care eligibility nor will it apply in determining your health care allowance if your effective date for retirement is Jan. 1, 2014 or later.

This document reflects information as of the date listed herein. There is no promise, guarantee, contract or vested right to access to health care coverage or a premium allowance. The Board has the discretion to review, rescind, modify or change the health care plan at any time.





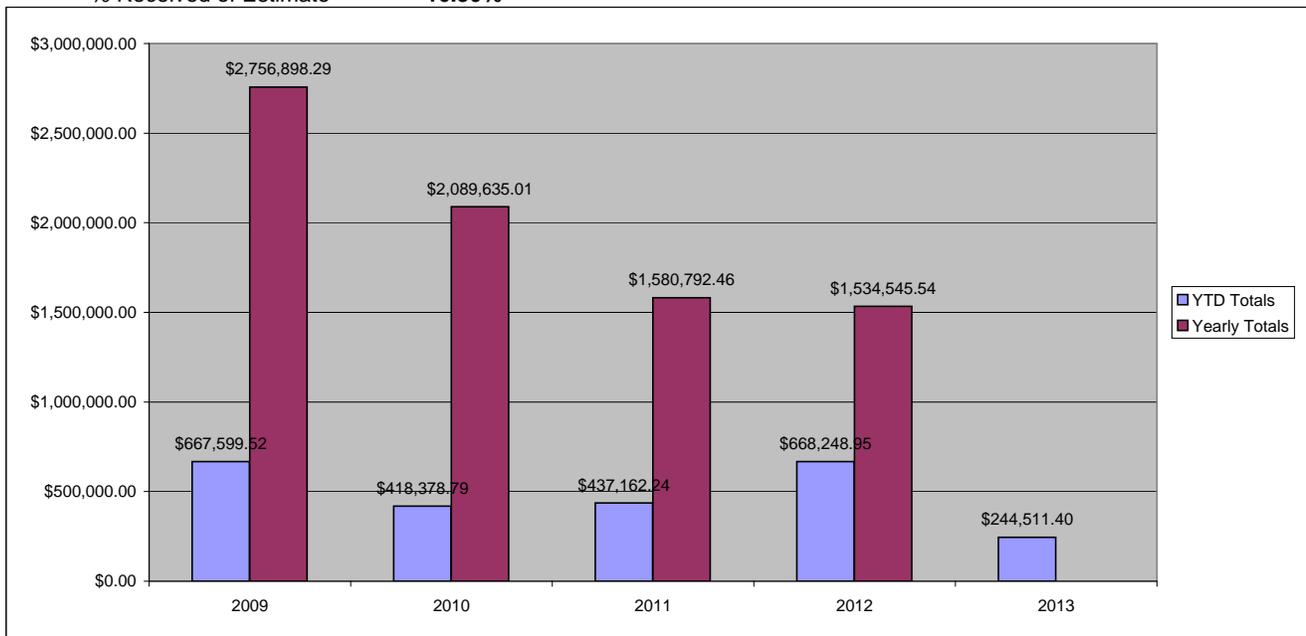
INVESTMENT INCOME - GENERAL FUND

MONTH REC'VD	2009	2010	2011	2012	2013	Monthly Amount Available to Invest	% Increase/Decrease
Jan	159,932.25	34,364.27	55,729.97	63,328.48	61,282.21	125,678,257.65	-3.23%
Feb	256,392.46	165,135.57	204,411.10	88,281.68	61,085.72	149,353,792.87	-30.81%
March	251,274.81	218,878.95	177,021.17	516,638.79	122,143.47	106,992,119.23	-76.36%
April	374,611.77	164,068.95	98,244.38	150,957.80			-100.00%
May	195,405.17	249,619.58	230,512.41	145,269.80			-100.00%
June	384,323.52	295,737.60	107,532.42	73,654.18			-100.00%
July	36,577.45	13,231.06	76,313.30	64,872.63			-100.00%
August	219,907.44	176,140.67	123,470.37	91,391.78			-100.00%
Sept	225,442.64	184,692.81	152,444.22	94,035.43			-100.00%
Oct	208,876.87	264,333.34	96,107.89	110,654.40			-100.00%
Nov	255,861.00	225,722.18	200,657.24	77,307.93			-100.00%
Dec	188,292.91	97,710.03	58,347.99	58,152.64			-100.00%
TOTAL	\$2,756,898.29	\$2,089,635.01	\$1,580,792.46	\$1,534,545.54	\$244,511.40		-84.07%

Total thru same period last year \$668,248.95
 % of Increase/Decrease -63.41%

-\$423,737.55 compared to same period last year

2013 Estimate \$1,500,000.00
 % Received of Estimate **16.30%**





SALES TAX RECEIPTS

SALES MTH	MTH REC'D	2009	2010	2011	2012	2013	% Increase/Decrease
Oct/Nov	Jan	1,173,437.89	1,228,739.24	1,209,581.56	1,331,732.05	1,360,268.46	2.14%
Nov/Dec	Feb	1,235,650.03	1,242,323.44	1,334,687.12	1,438,903.20	1,397,862.53	-2.85%
Dec/Jan	March	1,624,899.07	1,586,269.22	1,679,205.12	1,777,054.87	1,786,097.32	0.51%
Jan/Feb	April	1,156,733.74	1,099,831.32	1,203,496.48	1,347,080.28	1,316,150.73	-2.30%
Feb/Mar	May	1,121,125.65	1,087,436.03	1,219,855.86	1,196,920.61		-100.00%
Mar/Apr	June	1,251,829.21	1,235,648.78	1,408,791.49	1,437,031.95		-100.00%
April/May	July	1,192,141.37	1,136,735.01	1,273,023.75	1,392,474.22		-100.00%
May/June	August	1,250,243.05	1,229,828.60	1,367,016.66	1,465,186.98		-100.00%
June/July	Sept	1,339,726.57	1,385,570.14	1,530,064.96	1,531,507.03		-100.00%
July/Aug	Oct	1,228,916.65	1,335,768.84	1,419,311.90	1,354,029.28		-100.00%
Aug/Sept	Nov	1,256,007.79	* 1,576,819.09	1,365,082.51	1,441,118.37		-100.00%
Sept/Oct	Dec	1,198,904.77	1,360,858.77	1,387,399.76	1,463,597.74		-100.00%
	TOTAL	15,029,615.79	15,505,828.48	16,397,517.17	17,176,636.58	5,860,379.04	

Total thru same period last year
% of Increase/Decrease

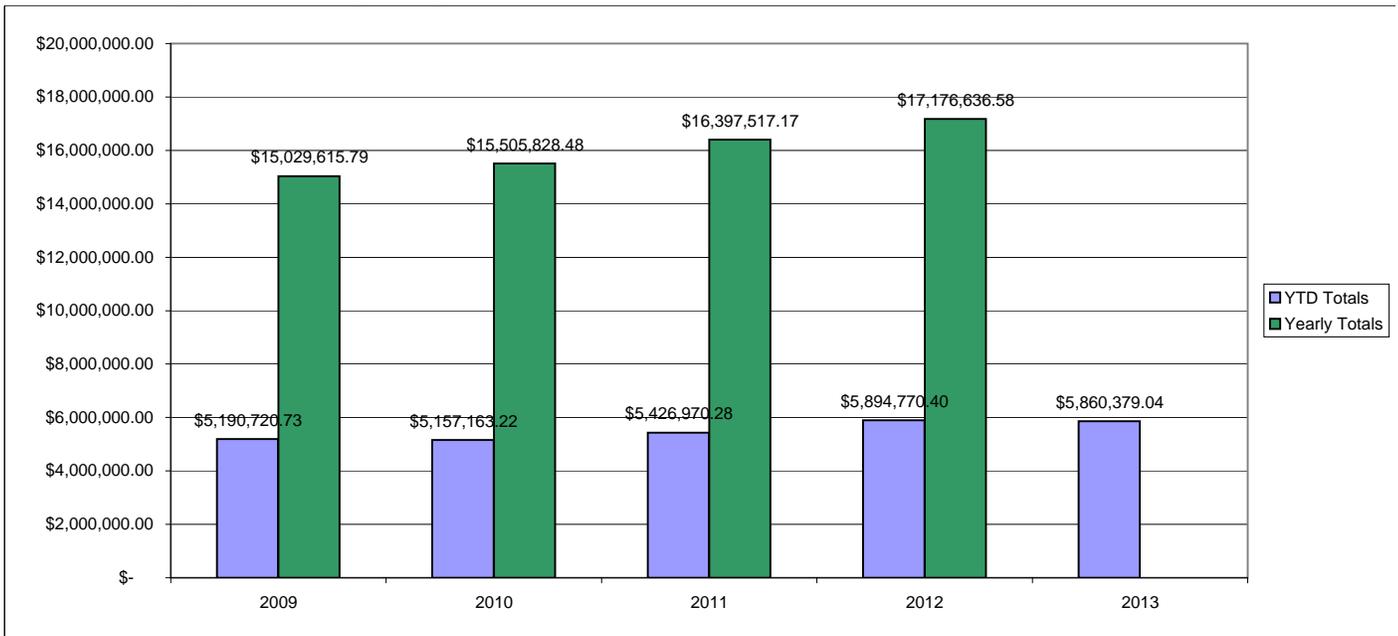
5,894,770.40
-0.58%

-\$34,391.36 compared to same period last year

2013 Estimate
% of Estimate Received

\$16,000,000.00
36.63%

* Indicates adjustments made by the Dept. of Taxation





Corrective Action Guide

Authorized April 4, 2013
JE 13-582

Purpose of Corrective Action

The goal of Wood County is to provide excellent services for County residents and the general public. To accomplish this, employees should strive to follow work rules, work well with the public and coworkers, work efficiently, and contribute to good job performance.

When employee behavior departs from the standard or norm expected, corrective action becomes necessary. A modern form of employee corrective action is positive reinforcement.

By practicing positive reinforcement, supervisors aim to restructure the employer-employee relationship to make corrective action less punitive. Positive corrective action requires the supervisor and employee to work together in developing a plan of action to improve performance or behavior. The employee is given an opportunity to reflect on what caused the performance or behavioral issue and suggest what steps can be taken to prevent further issues. When positive reinforcement does not correct the problem, more progressive corrective action becomes necessary.

Prior to taking any corrective action, supervisors shall review the matter with human resources (HR) and/or legal counsel in advance in order to ensure consistent application of procedures within the Appointing Authority and protected classes. However, a course of action may be altered based on the individual facts and circumstances of the incident.

Corrective Action Process

The corrective action process is an important management tool that ensures organizational goals are met and maintains performance standards.

Supervisors are responsible for communicating expectations to staff and holding staff accountable if standards are not met. Good management practices require fair and consistent application of corrective action in order to avoid potential discrimination. The Employee Handbook or union contracts, along with statutory provisions, communicate basic expectations and/or formal procedures for addressing employment behavior.

Employment issues shall be addressed and documented timely. To be effective, the corrective action must be clearly associated with the incident and begun as soon as the supervisor becomes aware of the problem. Supervisors are not assisting an employee by ignoring the behavior or waiting to address the matter during a future performance review.

This Corrective Action Guide includes information in the following areas:

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Setting Clear Expectations

Supervisors shall ensure that employees are adequately oriented and trained using oral and written communication. Open and ongoing communication is necessary for supervisors and employees to understand goals, objectives, and performance standards. Supervisors shall listen carefully and ensure that employees understand expectations by use of follow up questions, examples or demonstrations, if necessary, and regular feedback.

It cannot be assumed that staff members know what is expected of them unless they have been told. "I didn't know I was supposed to do that!" is often heard from employees charged with on-the-job misconduct. Clear, timely, constant, and consistent communication helps prevent minor incidents from becoming major problems.

Policies, procedures, and work rules shall be communicated to employees in written form and shall be authorized by the Appointing Authority prior to distribution to employees. An employee's acknowledgement is required to document receipt. All procedures and work rules may not be documented in written form. However, it is encouraged to provide training for any policy and/or procedure for which staff will be held accountable. Such policy and/or procedure should be in writing and training should ensue.

If you expect your employees to follow common sense (often unwritten) regulations, do not be surprised if one of your employees does not have the "common sense" to know that the procedures exist. A new, or newly transferred, employee cannot be expected to instantly understand what the work standards will be on the new work site. If the work standards are not in writing, the employee may have no notice of the standard until he/she violates it.

A new hire checklist which communicates basic expectations will help to ensure topics are addressed. Signed employee acknowledgements of training received should be maintained in the employee's personnel file or training log.

Staff meeting minutes that communicate departmental expectations should list all current staff members, with those persons in attendance noted (in bold or italic.) A method of distributing to absent staff and later hires should be developed and communicated to all staff.

Performance evaluations are an important means for setting clear expectations. It is important to properly document employee performance during such evaluations. Evaluations that are poorly completed, ignore performance related issues, or skipped altogether can be a source of liability. They can undermine a legal defense in a wrongful discharge case. On the other hand, properly administered performance evaluations can help you avoid legal liability. Thoughtful, honest, and regular written evaluations that show a pattern of poor performance by an employee, as well as an effort by the employer to address the problem, can be critical in the defense of litigation by the employee.

When said expectations are not met, it is the supervisor's responsibility to use management techniques to modify behavior. While the corrective action process is appropriate to correct unacceptable behavior, it is not a substitute for effective management practices. Such practices should attempt to correct problems before using the formal corrective action process.

However, if management techniques are not successful in modifying employee behavior than formal corrective action is required.

Corrective action serves to both upgrade employee performance and modify poor behavior or inefficient service. Emphasis is on the employee's performance or behavior, rather than on the employee's character or personality. If administered properly, it provides employees with an opportunity to increase their level of performance and reduce unacceptable behavior.

Probationary Employees

The probationary period is a "test" of performance. It is critical for supervisors to properly train staff upon hire to provide an opportunity for employee success. Probationary periods may be extended if the employee is not performing to expectations. This must be done prior to the expiration of the initial probationary period and requires the employee to voluntarily agree to the extension. This may provide the employee with an additional period to demonstrate their ability to perform the essential functions of the position.

However, if it is not a good job fit, just cause is not required to terminate employment. Probationary period employees can be removed at any time during the probationary period. Proper documentation is required to ensure the removal is performance based and not discriminatory based on a protected class. A pre-disciplinary hearing may be recommended to document the facts and protect against an unemployment claim.

Official Reasons for Using Corrective Action

Classified public employees are unique in that they have a reasonable expectation of continued employment and thus they retain a property interest in their job. As a result, classified employees are entitled to notice and the opportunity to respond to allegations of misconduct against them and have specific legal rights established by law.

Classified employees may continue employment in their positions during good behavior and efficient service. Classified employees cannot be suspended, reduced in pay or position, or terminated except for the causes set forth in Ohio Revised Code §124.34. Those reasons are:

1. Incompetency -- "Incompetent" means incapable, unqualified, or inadequate. It refers to the *quality* of an employee's performance. The employee may lack the necessary skills to perform the job. The employee may perform well, but not often enough. The employee may not be performing as well as he/she once did. His performance may be lacking the necessary quality expected.

It is rare that an employee is disciplined for incompetence. The exceptions most often occur during the probationary period.

2. Inefficiency -- "Inefficiency" means a wasting of time, energy, or materials. It refers to the *quantity* or amount of an employee's performance. Inefficiency should be a more common cause for progressive corrective disciplinary action. This is because inefficiency is usually easy to measure.
3. Dishonesty -- "Dishonesty" means untrustworthy, lacking honesty, gained by falseness. Examples of dishonesty are such things as: theft of money or materials, fraudulent reporting of time, or even a presentation of facts designed to create a false conclusion. A charge of dishonesty is one of the most serious charges that can be brought against a classified employee. An act of dishonesty violates the public trust.
4. Drunkenness/Substance Abuse -- "Substance Abuse" means a use of drugs or alcohol that adversely influences an employee's performance, endangers his own health and safety, or endangers his co-workers or the general public. Examples of substance abuse would be the use of drugs or alcohol on the work site, or reporting for work under the influence of drugs or alcohol.
5. Immoral Conduct
6. Insubordination -- "Insubordination" means refusal to follow the lawful orders or directives of a proper authority. To give an employee a chance to obey a lawful order, it is important to let an employee know that the failure to follow a lawful order will result in a charge of insubordination. If they still refuse to obey the order, then charge them with insubordination.
7. Discourteous Treatment of the Public

8. Neglect of Duty (including but not limited to absence without leave and Excessive Absenteeism)

“Neglect of Duty” means a failure to perform a duty or responsibility required of a position. For example: An employee fails to lock a building for which he/she is responsible. The employee would be guilty of neglect of duty in failing to secure the building.

“Excessive Absenteeism” is used when an employee has unexcused absences from the job. Employees are expected to be at work when scheduled. Failure to report when scheduled may result in a charge of Neglect of Duty for Excessive Absenteeism.

9. Violation of any Policy or Work Rule

10. Violation of Civil Service Law/Code of Ethics -- “Violation of Civil Service Law/Code of Ethics” means a willful violation of the rules of the Civil Service Commission. It also includes a willful violation of applicable sections of the State Civil Service Law or a breach of the Code of Ethics.

11. Failure of Good Behavior -- “Failure of Good Behavior” covers a variety of behaviors. Some examples are: a conviction for a criminal charge, discourteous treatment of the public or coworker, an accumulation of minor infractions of rules and regulations within a short period of time. A failure of good behavior may also occur off the job. If so, a nexus between the off duty conduct and the employee’s job must exist. The behavior must affect the employee’s ability to perform the job or the public’s confidence in the employee’s ability before it would be subject to disciplinary action. Typically, this is used as a disciplinary “catch all” basis. Usually the conduct will include other bases.

12. Any Other Acts of Misfeasance, Malfeasance, or Nonfeasance

“Misfeasance” – the performance of a lawful action in a negligent or improper manner

“Malfeasance” – intentional wrongdoing or misconduct

“Nonfeasance” – failure to do what ought to be done

These terms have specific legal meaning, and appointing authorities should carefully consult with the advice of the County Prosecutor.

13. Conviction of a Felony – A conviction of a felony is a separate basis to remove, suspend, or reduce/demote an employee, even if the employee has already been disciplined for the same conduct that is the basis of the felony conviction.

An employee may be the subject of the disciplinary process for more than one reason. For example, a person charged with dishonesty may also be guilty of failure of good behavior.

Certain offenses, by their nature, may be severe enough to require immediate discharge of an employee found guilty by the Appointing Authority. Such offenses require immediate contact with the Appointing Authority and legal counsel. Examples of such offenses may include:

1. Intoxication on County property during work hours
2. Possession of intoxicants or illegal substances on County property for use during work hours
3. Gambling on County property
4. Fighting on County property
5. Stealing
6. Immoral Behavior
7. Destruction of property
8. Insubordination
9. Conviction of a criminal charge
10. Dishonesty
11. Possession of unauthorized firearms on County property
12. Falsification of attendance and/or time records, or sick leave abuse
13. Unauthorized leave of absence

Fair Employment and Unlawful Discrimination

As noted in the Employee Handbook, Wood County is an Equal Opportunity Employer and is committed to providing facilities that are safe and free from unlawful discrimination. Employees shall not discriminate against co-workers or members of the public based on race, religion, color, sex, pregnancy, sexual orientation, national origin and ancestry, age, veteran status, disability, or military status while performing the duties of their position.

Employment decisions are to be based solely on the individual's qualifications and the requirements of the position including the areas of discharge, promotions/demotions and disciplinary actions.

Employees must immediately report in writing any act of alleged discrimination in the workplace to the employee's immediate supervisor or any supervisor in the employee's chain of command. No employee shall be required to report to their direct supervisor. Supervisors who receive a verbal complaint of discrimination or retaliation shall request the employee to document said incident. Supervisors shall submit the written complaint within two working days of receipt to the County Commissioners.

When a complaint of a discriminatory act has been received, Wood County will investigate and take appropriate remedial action.

Wood County will not retaliate against any person because that person has opposed any unlawful discriminatory practice or because that person has made a charge, testified, assisted or participated in any manner in any investigation, proceeding or hearing.

Labor law postings have additional information regarding employee rights.

Developing a Course of Action

Supervisors shall develop a course of action to examine the initial circumstances involving the employee's conduct. This may require an investigation, gathering of documents, interview with the employee and witnesses, and an assessment of the situation to determine if there is just cause for formal corrective action prior to any disciplinary action imposed.

Supervisors shall address the issue based on current facts, not emotions and in a non-judgmental tone. The supervisor's job is not to change employees' personalities, but rather to ensure the employees' efficient and competent performance. It is not an opportunity to resolve general dissatisfaction with the employee for past issues unless part of progressive discipline.

To ensure consistent application in a non-discriminatory manner, consultation with HR or legal staff may be required upon receipt of the initial information. This consultation can provide guidance on an appropriate course of action in an effort to reduce liability.

Each situation is unique with its own set of circumstances. If the incident is determined to be minor, it may only require a discussion with the employee. However, a combination of several minor incidents or a major policy violation may require a more in depth review of the corrective action process. As always, when in doubt, ask for assistance from HR or the legal staff.

Essential Elements of Each Step

At each step of the corrective action process, the supervisor must ensure that certain things occur:

- Meet with the employee privately.
- When required, provide opportunity for representation for the employee during the investigative meeting as well as in any follow up meeting.
- Clearly identify the problem and attempt to ensure the employee understands.
- Allow the employee the opportunity to explain.
- Conduct a thorough investigation and make sure the employee has done (or not done) the action that is brought forward.
- Verify just cause.
- Clearly explain to the employee the expected behavior.
- Inform the employee of the consequences if the problem is not resolved.
- Document the disciplinary action.

Investigation and Documentation

Before taking any corrective action, the supervisor shall complete a thorough investigation as soon as possible.

At a minimum, the investigation shall include the following:

1. Date, time and location of the occurrence(s).
2. Behavior or performance evidenced by the employer.
3. Consequences (results or effects) of the employee's actions or behavior on the employee's performance and operations of the work unit.
4. Names of any witnesses or other employees/citizens involved in or affected by the incident.
5. Written statements from witnesses and supervisors. If prepared electronically, a signature is required along with printed name, job title, and date of statement.
6. Copies of documents or records that document the incident.
7. Photographs, if necessary.

Documentation shall include all of the above, and:

- Response of the supervisor to the incident(s).
- Employee's reaction to the supervisor's attempts to correct the situation.

Complete investigation and accurate documentation of the charge is absolutely necessary. Preserve any physical evidence, relevant personal notes or correspondence, personnel records, attendance records, or damage reports. Immediately, take photographs of the incident site, damage to property and equipment. Obtain police and fire reports, arrest records, and court reports. Talk to the employee. Take notes. While this complete documentation may not be required at a possible pre-disciplinary hearing, it may be required to support any disciplinary action taken before the State Personnel Board of Review (SPBR) or the courts.

The need for accurate and complete documentation cannot be overemphasized. It is important to show clearly that the alleged violation did indeed occur and that it was dealt with in a reasonable and timely manner. Appropriate documentation also assists in determining the appropriate penalty to be assessed and shows the progressive nature of the corrective action process. For example, it is a supportable act to suspend an employee for excessive tardiness if several previous reprimands and documented instances of tardiness are presented. In such a case the employee cannot claim to have been unaware of the problem.

Interviewing Employees and Witnesses

The purpose of the interview is to gather all of the relevant facts. It is not to harass or persecute an employee. Ask “who, what, when, where, and why” questions. Listen to what the employee has to say. The employee should be encouraged to fully explain the situation and any circumstances relevant to it.

This interview should be conducted in private as soon as possible after the alleged occurrence. Separate witnesses to avoid parroting statements. It is also advisable to have another member of management present as a witness during this interview.

Prior to the interview, review the employee’s past performance record. Consider any mitigating circumstances. Document the interview by recording specific facts and avoiding general conclusions.

<u>General Conclusions</u>	<u>Specific Facts</u>
Numerous, frequently, often	Eight times within past three months
Violations of Labor Agreement	Took a lunch break in excess of 30 minutes allowed in Article XXI, Section 2 of Contract on May 5, 12 and 15.
Is often tardy	Was more than 20 minutes late on June 2, 3, 6, 22 and 30.
Sammy Sloe was drunk	After he returned from lunch at 1 p.m. on April 12, Sammy Sloe’s speech was slurred, he staggered when he walked, he fell against the desk three times, and there was a strong smell of alcohol, etc....

Interview Checklist

1. Have you gathered ALL of the relevant facts?
2. Are you conducting the interview in a private location, out of hearing or sight of others?
3. Do you have a management witness available?
4. Do not be sarcastic, rude, or accuse the employee/witness.
5. Be calm, deliberate, and thoughtful. Pay attention to what is said and also the employee's demeanor. Does the employee appear truthful? Is the explanation reasonable and rational?
6. Watch for non-verbal behaviors and document the reaction to specific questions or topics.
7. Explain the purpose of the interview. Encourage the employee to fully and completely explain the incident, any related circumstances, and other relevant facts.
8. Do not argue with the employee or debate the situation. You are charged with gathering facts and obtaining the employee's response.
9. Listen carefully, and ask questions using "who, what, when, where, and why."
10. Ask the employee what can be done differently or what measures should be taken to correct the action.
11. Explain the possible violation to the employee. Make sure that the employee understands the possible violation. This is important so that the employee may provide the best response.
12. DO NOT attempt to modify the employee's behavior during the interview. Your attempts may be considered corrective action and could preclude future corrective action for this situation. At this point in the process, you are gathering facts only, not counseling or disciplining.

Representation

An employee in a bargaining unit is entitled, under state law, to representation from their union during a corrective action interview. If an employee requests such representation, the interview must be delayed until the representative can attend. This right may not be used to unreasonably delay an interview.

If an employee may be required to admit an illegal act, they must be provided an opportunity for representation. Consult legal council in advance of the meeting.

Investigations Involving Potential Criminal Charges

Garrity Warning:

In cases where criminal charges may result, it is imperative that legal counsel be consulted prior to the discussion with the employee. The Fifth Amendment provides employees with an additional safeguard under the *Garrity* Rule. *Garrity* prohibits employee's statement(s) made under threat of discipline or removal from being used against him/her in a subsequent criminal prosecution. Under *Garrity*, an employee may be compelled to give statements under threat of discipline or discharge, however, those statements may not be used against the employee in a pending or subsequent criminal prosecution. The statement(s) *can* be used against an employee in subsequent disciplinary proceedings and civil lawsuits.

Disciplining for refusal to answer questions/insubordination:

Before discipline can be imposed on an employee for refusing to answer questions, the employer must do the following:

- Order the employee to answer the questions under threat of disciplinary action,
- Ask questions that are specifically, directly and narrowly related to the employee's duties or the employee's fitness for duty; AND
- Advise the employee that the answers to the questions will not be used against the employee in criminal proceedings.

If after being given this warning and signing the *Garrity* Warning Form, the employee refuses to answer the questions, the employee may be disciplined for insubordination.

An employee is ordered to answer a question if:

- the employee subjectively believes that he/she is compelled to give a statement upon threat of loss of job (or other discipline that would constitute a substantial economic penalty),
- the employee's belief is objectively reasonable at the time the statement was made.

Assessment of the Situation

Organize the information in a coherent manner. Keep notes of your investigation including the interviews and statements you obtained. Creating a timeline of events can be useful.

By following the suggested steps, the supervisor should be able to answer the following questions to determine just cause:

1. Did the employee, in fact, actually violate an official rule, regulation, or policy?
2. Was that rule published in writing?
3. Do you know how the employee was informed of the work rule or standard?
4. Did the employee know about the specific rule violated? If not, why not?
5. Do all employees recognize what would happen if the rules are violated?
6. Has the supervisor enforced the rules and procedures equally and fairly in the past?
7. Were there any circumstances that may help explain the employee's actions?
8. Does it appear that the employee was careless of the rule?
9. Was the situation unavoidable?
10. Was there a genuine emergency?
11. Was there an obvious misunderstanding?
12. Was it an accident?
13. Can the situation be handled early enough to avoid using the formal corrective action process?
14. Do the facts indicate that the employee did it deliberately?
15. Have you had a similar problem with the employee before?
16. Is the supervisor sure that the violation is serious?
17. Does this situation call for a pre-disciplinary hearing?
18. Do the facts indicate that the employee is guilty of the offense?

Determining Just Cause

Following the Assessment the supervisor should be able to answer “Yes” to all of the following questions in order to prove just cause for recommended disciplinary action should the action be challenged. While the Ohio Revised Code does not provide a definition for just cause, over the years the opinions of arbitrators in discipline cases have established a set of guidelines or criteria to be applied to the facts of each case commonly known as the Seven Tests of Just Cause:

1. **Reasonable Rule or Work Order.** Is the rule or order reasonably related to the orderly, efficient, and safe operation of the business? Was the employer's rule or order reasonably related to efficient and safe operations?
2. **Notice.** Did the employee receive adequate notice of the work rule or performance standard and the possible consequences of failure to comply? Was the investigation fair and objective?
3. **Sufficient Investigation.** Did you conduct an investigation before making a decision about taking disciplinary action? Were the rules, orders, and penalties applied evenhandedly and without discrimination?
4. **Fair Investigation.** Was your investigation fair and objective?
5. **Proof.** During your investigation, did you find proof of misconduct or of a performance discrepancy?
6. **Equal Treatment.** Have you dealt with your employees equally, without discrimination?
7. **Appropriate Discipline.** How do you decide what's appropriate?

Corrective Action Options

Once a thorough and complete investigation has been conducted, an assessment of the situation is complete and it is determined that just cause exists for discipline, the supervisor will determine a course of action based on the severity of the actions.

Supervisors shall consult the HR staff to review the personnel file to determine past progressive discipline, weigh the actions when determining corrective action, and ensure consistent application is applied within the Appointing Authority control in a non-discriminatory manner. It is the supervisor's responsibility to consult with and/or keep his or her manager informed of the facts and recommended discipline prior to any formal action taken.

Corrective Action Options include:

Verbal Reprimand

Supervisors issue a verbal reprimand to an employee when poor performance warrants a disciplinary action more severe than supervisory counseling. The purpose of the verbal reprimand is to get the employee's attention. The verbal reprimand is provided following the failure of informal supervisory coaching to help the employee improve the required performance. It is the first formal step in applying progressive discipline. Because of this, it is very important that the employee understands that he/she has been issued a verbal reprimand.

Many supervisors think that verbal reprimands are not documented. *This is not true.* All disciplinary actions *must* be documented. The supervisor documents the verbal reprimand in his or her informal notes about the counseling he/she has provided to help the employee improve. The supervisor places the verbal reprimand in the employee's department/division file along with any other written documentation that the supervisor maintains such as employee goals, progress, back up information for the employee's performance development plan or performance reviews, and so forth.

Written Reprimand

A written reprimand is the second mildest form of corrective action. It is intended to assist the employee in correcting his or her conduct or efficiency. Based on the nature of the offense, the Appointing Authority may then usually progress to one or more written reprimands, presented at a meeting with the employee.

The meeting should include the employee, the immediate supervisor, and the employee's union representative (if applicable). HR personnel may also be present. This step should be documented in writing with signed acknowledgment by the employee. Failure to sign receipt, regardless if the employee disagrees, is considered insubordination. Should the employee wish to write a contrary comment, they should be permitted to attach such comment to the written reprimand. But the employee's statement does not lessen the effect of the supervisor's comments or discipline.

The document shall identify that it will be copied to the employee and the employee's personnel file. Once placed in the personnel file, the document becomes a permanent record and may not be removed or destroyed from the personnel file. It may however lose effect for progressive discipline within several years (or as dictated by union contract) if the matter is resolved.

The corrective measures noted above may be initiated by the supervisor without a pre-disciplinary hearing and without an official employee representative. Following a review with HR and the employee's personnel file, it is expected that the supervisor advise his/her own supervisor of the proposed action so that adequate coordination is obtained.

If the problem is serious enough that it appears to merit corrective action more severe than a written reprimand, the formal disciplinary process should be used. Specific time requirements relating to corrective actions taken against bargaining unit employees may exist. Please refer to the labor agreement for current information.

The supervisor bringing the charges should present the results of the investigation and the supporting documentation to the department head and/or HR who should review the information carefully to determine if the evidence appears to support that just cause exists for formal disciplinary action.

EAP Referral

An Employee Assistance Program (EAP) Mandatory Referral may or may not be considered formal corrective action. This program provides confidential counseling designed to assist employees with personal, financial, or substance abuse problems and helps modify behaviors that can affect the employee's job performance.

It is always to the County's advantage to assist employees in modifying behavior and returning as a productive member of the workforce. However, it is not the supervisor's role to counsel employees in these matters, rather it is the role of the EAP. The use of the EAP program is strongly encouraged whenever possible.

Employees may voluntarily refer themselves to EAP or a mandatory referral may be made by the Supervisor/Department Head. If the referral is mandatory as a result of counseling or pre-disciplinary hearing, a referral form is required to communicate the need for referral. This is shared with the EAP and the employee. Summary reports of the employee's attendance and participation are given to the agency, but actual client interaction with the EAP counselor is kept confidential.

An employee who fails to complete the program recommended by the EAP staff will be considered terminated from the program. This will be reported to the employer. If the referral was mandatory and the employee fails to participate in the recommended session, additional corrective action may be necessary.

To make a mandatory referral, please refer to the EAP Referral Form found in the forms section of the employee website.

Written Performance Plans

A written performance plan is another useful tool to correct an employee's behavior by measuring performance outcomes during a specified timeframe. The Performance Plan is a process by which supervisors and employees discuss and set goals, objectives, and expected performance throughout the year or in areas that expectations are not being met. This process allows the supervisor and employee to improve their communication and plan for higher levels of production from the unit or department. The actual written performance evaluation is a

logical extension of the process which allows the supervisor and employee to appraise and discuss the accomplishment of certain standards and goals. However, in order for the plan to be effective, the supervisor must measure outcomes and follow-up with the employee to ensure that performance is improving. Failure to meet goals may result in corrective action.

Pre-Disciplinary Hearing Process

If the department head decides that sufficient evidence exists to support the charge for a suspension, reduction of pay or status or removal, a pre-disciplinary hearing shall be held. Under a United States Supreme Court decision, public employers must offer any classified employee a pre-disciplinary hearing before said disciplinary action. This is in addition to any pre-termination remedy, including implementation of a Last Chance Agreement.

The supervisor will request that a hearing be scheduled and appropriate notice given to the employee advising them of their rights. The hearing provides the employee with the right to present their side of the matter in an objective manner prior to action being taken.

The Appointing Authority will select an objective hearing officer, generally someone who does not work for the same department as the charged employee. This ensures that the hearing officer is not placed in a situation of potential conflict of interest regarding cases heard and is not familiar with the facts as they have unfolded.

Leave Pending Disciplinary Action

An Appointing Authority may, in its discretion, place an employee on administrative leave with pay pending a pre-disciplinary hearing only in circumstances where the health or safety of an employee or of any person or property entrusted to the employee's care could be adversely affected.

An Appointing Authority may, in its discretion, place an employee on administrative leave without pay for a period of two months, if the employee has been charged with a felony violation. If the employee subsequently does not plead guilty to or is not found guilty of a felony with which the employee is charged or any other felony, the Appointing Authority shall pay the employee at the employee's base rate of pay, plus interest, for the period the employee was on the unpaid administrative leave.

If convicted of a felony, a classified employee loses classified status and therefore may be terminated without the right to appeal. A hearing must still be held.

Written Notice of Pre-Disciplinary Hearing

The employee must be notified of the charge(s). This is necessary even though the employee should be aware of the situation and may have been interviewed as part of the investigation process.

A notice of the pre-disciplinary hearing is either sent to the employee via certified mail or hand delivered by the employer. The notice must be received at least 72 hours prior to the date selected for the pre-disciplinary hearing. Copies must also be provided to the Appointing Authority and when applicable, union representatives. If the employee is in the bargaining unit, a union representative should be present when serving the notice to the employee in person.

The purpose of this notice is to allow the employee to prepare a response to the allegations. The notice should contain specific enough information to ensure that the employee knows the basis of the charges.

The notice must contain the following minimum information:

1. The date, time, and location of the pre-disciplinary hearing.
2. A specific statement of the charge(s) including the date(s) and time(s) when the incident(s) occurred (if applicable).
3. A statement that the employee has the right to have a representative at the pre-disciplinary hearing. Certain bargaining units have specific requirements regarding employee representation. Please see the specific labor agreement for this information.
4. A waiver of Pre-Disciplinary Hearing shall also be provided to the employee in the event he/she wishes to waive the right to the hearing.

The Pre-Disciplinary Hearing

Prior to the hearing date, consultation with HR, the Prosecuting Attorney staff and/or, if applicable, the County's labor relations representative is required.

The Pre-Disciplinary hearing is controlled by the hearing officer. The employee and employer shall present their case and are permitted to present information and call witnesses. The hearing officer may question witnesses, require relevant documents to be presented, call additional witnesses, and determine what is relevant to the incident or issue in question.

The employer shall present evidence using factual data to support just cause for discipline based on the employee's actions using an official reason for using corrective action as permitted by the ORC.

The employee may respond to the charge(s), call witnesses, and offer mitigating evidence. The employee being disciplined has a right to representation; however, witnesses are not extended such rights. The hearing officer may permit both parties to ask questions.

It is important to remember that a pre-disciplinary hearing is not intended to be a legal trial. It does not require an adversarial approach nor the presentation of legal evidence. The employee's right to "due process" does not formally begin until an appeal is presented before the SPBR after discipline is imposed as a result of the pre-disciplinary hearing.

Results of the Pre-Disciplinary Hearing

Following the pre-disciplinary hearing, the hearing officer will consider the evidence and testimony presented by the employee and the employer. The hearing officer prepares and provides a written report of the substantial factual findings within 10 days to the Appointing Authority and the employee. The report should include a summary of the facts, and if warranted, identify the official reason as prescribed by the Ohio Revised Code to support corrective action and document the just cause for such action. The written report shall document that the report and any documentation is copied to all parties and the employee's personnel file. The report should always include a statement to reinforce the county's position that retaliation in any form is prohibited by all parties.

Recommending Corrective Action

The Appointing Authority shall base the severity of any recommended penalty on the facts of the particular case. The Appointing Authority must ensure consistent application by reviewing discipline issued in similar situations. The employee's past disciplinary history, any mitigating circumstances, and the seriousness of the offense must be considered. The hearing officer may conclude that the charges are unfounded and decide that the number of charges should be reduced, or that they should stand as presented in the original letter to the employee. The hearing officer may not recommend an increase in the number of charges brought against the employee. There is no requirement that a penalty be recommended.

The following options are available for discipline:

Suspension: Often, the first suspension is short, one to five days, and then a longer suspension may be imposed before discharge. A classified employee who is suspended for 24 hours or less cannot appeal to SPBR. For bargaining unit employees, the Appointing Authority will need to review the union contract to determine whether an employee can grieve short-term suspensions all the way to arbitration. FLSA-exempt employees may not serve a suspension without pay of 40 hours or less.

Suspension With Pay is a working suspension in which the employee reports to work during the suspension. This type of suspension carries the same weight in progressive discipline as a suspension without pay.

Suspension Without Pay is the most common form of suspension. However, in scheduling the employee's suspension, the Department Head shall consult with HR for application as it may affect insurance eligibility.

Reduction in Pay or Position: The Appointing Authority may reduce an employee in pay or position as an alternative to dismissal, often referred to as a "demotion". Reductions can be appealed to SPBR. Using a reduction or demotion as a disciplinary remedy is advisable only when the nature of the offense makes clear that an employee would be more suitable for a lower-level position than the one the employee held at the time of the offense. A good example is an employee whose conduct makes clear that the employee is not a suitable supervisor. In that case, reduction to a line-level position may be appropriate, if other, lesser steps have not been successful in correcting the situation. Reductions can be done on a voluntary basis without progressive discipline if the employee willingly agrees to the action and signs a release of the same. Voluntary reductions require prior permission from the Appointing Authority.

Removal: Unless the misconduct is a flagrant offense, termination should be used as the culmination of a series of progressive, disciplinary steps that have not corrected the problem. Probationary termination may not be appealed as the employee is in an unclassified status. However, the employee may appeal to the Ohio Civil Rights Commission (OCRC) or Equal Employment Opportunity Commission (EEOC) should the employee believe that the action resulted from discrimination based on a protected class.

Last Chance Agreement (LCA): A Last Chance Agreement is defined as 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 SPBR or the appropriate commission/union.

A LCA generally results following a pre-disciplinary hearing that recommends a severe suspension or removal. There is a format that can be obtained by contacting legal counsel or the Commissioners' HR staff. To implement a removal using a LCA, a pre-disciplinary hearing is required to show that the employee violated the agreement. This will assist in unemployment hearings.

Action by the Appointing Authority

The Department Head submits a Personnel Action, or other written statement as required by the Appointing Authority, noting the recommended discipline along with a copy of the hearing officer's report to the Appointing Authority. Circumstances may warrant additional discussion with the Appointing Authority prior to authorization of the recommended discipline. No action shall be taken against the employee until a decision is made by the Appointing Authority via personnel action or other method.

If the Appointing Authority is a Board or Commission, the employee shall be notified of the date and time of the Appointing Authority's meeting to discuss the Personnel Action as the employee has a right to be present, even during Executive Session.

When the Appointing Authority has signed the form, it becomes official. The form is returned to the department and it is then served on the employee, union, if necessary, and copied to the employee's personnel file.

In the event that the disciplinary action for a classified non-bargaining unit employee exceeds three days or results in a reduction of pay or position, the employee shall be provided with the Order of Removal, Reduction, Suspension, Fine, Involuntary Disability Separation form as required by law. Employees have 10 days from the date of notification to appeal such actions. The appeal must be made in writing to the SPBR. If the employee fails to meet this time limit, the employer should file a motion to dismiss the appeal prior to the hearing.

Appeals

Employees represented by a union contract are bound by the appeal process noted in their contract.

When the SPBR reviews a notice of appeal for a classified non-bargaining unit employee, it will notify the Appointing Authority and, at some point, will set the case for hearing, either before the full board or before a hearing officer called an Administrative Law Judge (ALJ). Said action shall be copied to the Commissioners and legal counsel. A SPBR hearing is much like a court trial with many of the same evidence rules. Hearsay evidence, for example, will generally not be admitted.

If the case is heard by an ALJ, the ALJ will issue a report and recommendation to the full Board, with copies to both parties. Either party may file objections to the report and recommendation before the full Board. In its decision following any objections, the SPBR may affirm, disaffirm, or modify the disciplinary action taken by the Appointing Authority. In the rare

cases where the full Board hears the appeal directly, the Board will issue a final decision thereafter.

If an Appointing Authority removes an employee and cannot show compliance with the statutory requirements, or if the evidence is not sufficient to prove the charges, the SPBR will disaffirm the action and reinstate the employee to his or her job. This may entitle the employee to full back pay for the period in which he/she was off work. An alternative is that the SPBR may modify the action. For example, the SPBR may reduce a removal to a suspension if it believes that removal is too severe for the offense. It may also modify a suspension to a lesser number of days, or overturn a removal or suspension altogether. Technical and procedural errors that result in reversal of terminations or suspensions will cost the county considerable money in back pay. In addition, an employee who has won reversal and reinstatement may be difficult to discipline. The employee may make allegations of retaliation for any subsequent discipline. For these reasons, it is vital to adhere to the civil service laws/rules and contract requirements to ensure that the Appointing Authority has a solid case for its decision. Acting prematurely or with inadequate documentation can backfire on the employer.

In the case of removal or reduction, either the employer or the employee may appeal the decision of the SPBR to the court of common pleas of the county in which the Appointing Authority is located.

Available Forms

Contact the Commissioners' Office for the following forms if not available from the employee website.

Probationary Review

Performance Review

Counseling Form

Corrective Action Form

EAP Referral Form

Performance Improvement Plan

Last Chance Agreement

Order of Removal, Reduction, Suspension, Fine, Involuntary Disability Separation