

PRESENTATION TO THE CHARTER REVIEW COMMITTEE – 7/22/14

INTRODUCTION – T.P.KICHER – 23 YEAR RESIDENT OF WH

MOVED TO CLEVELAND AREA 1955 TO ATTEND CASE

FINISHED MY Ph.D. IN ENGINEERING IN 1964

WORKED IN INDUSTRY FULL TIME AND AS A DESIGN CONSULTANT

TAUGHT MCHANICAL ENGINEERING AT CASE FOR 40 YEARS

HELD SEVERAL ACADEMIC ADMINISTRATIVE POSITIONS

➤ ASSOCIATE DEAN OF ENGINEERING AND SCIENCE (1974-80)

ACADEMIC PROGRAMS, STANDARDS. GRADUATE ADMISSIONS

➤ DEPARTMENT CHAIRMAN OF MECHANICAL AND AREOSPACE ENGINEERING (1985-92)

RESPONSIBLE FOR 20 FACULTY, 8 STAFF, 30 POST-DOCTORAL RESEARCHERS,
60 GRADUATE AND 200+ UNDERGRADUATE STUDENTS, AND A BUDGET OF \$8M

➤ DEAN OF THE CASE SCHOOL OF ENGINEERING (1992-1997)

RESPONSIBLE FOR 100+ FACULTY, 100 STAFF, 320 POST-DOCTORAL RESEARCHERS, 400
GRADUATE AND 1200 UNDERGRADUATE STUDENTS, AND A BUDGET OF \$38M

SERVED ON A VARIETY OF UNIVERSITY COMMITTEES, INCLUDING 18 YEARS ON THE FACULTY
GREVIENCE COMMITTEE.

RETIRED FROM CWRU IN 2005 AND NOW WORK FOR KICHER & CO AS A DESIGN CONSULTANT

OVERVIEW OF PRESENTATION

THANK THE CHARTER REVIEW COMMISSION FOR INVITING US TO MAKE THIS PRESENTATION

THANK THE MAYOR FOR THE APPOINTMENT TO THE CIVIL SERVICE COMMISSION. IT IS AN
HONOR TO SERVE THE RESIDENTS OF WH

THE CIVIL SERVICE COMMISSION HAS THE IMPORTANT RESPONSIBILITY OF DEFINING AND
IMPLEMENTING THE PROCEDURES TO IDENTIFY AND RECOMMEND CANDIDATES FOR
APPOINTMENT TO THE CLASSIFIED SERVICE AND TO RESOLVE ANY APPEALS FROM THE ACTIONS
OF THE APPOINTING AUTHORITY. WE FEEL RESPONSIBLE TO THE RESIDENTS OF WH TO
IDENTIFYING THE BEST CANDIDATES FOR THESE POSITIONS OF TRUST. FURTHERMORE, WE FEEL
RESPONSIBLE TO THE RESIDENTS OF WH AND THE MUNICIPAL GOVERNMENT, AS WELL AS THE

CANDIDATES AND MEMBERS OF THE CLASSIFIED SERVICE THAT OUR DUTIES ARE EXECUTE IN A FAIR AND UNBIASED MANNER.

WHILE THIS IS A VERY WEIGHTY RESPOSIBILITY, WE ARE GUIDED BY THE STATE PERSONNEL BOARD OF REVIEW, A NEUTRAL, QUASI-JUDICIAL BODY LOCATED IN COLUMBUS, OHIO. WE HAVE THIS BODY AS A RESOURCE FOR REVIEW AND EVALUATION OF ALL OF OUR ACTIONS AND PROPOSED PRACTCES.

AS AN EXAMPLE OF SUCH AN EFFORT, CONSIDER THE "CONFLICT OF INTEREST REVIEW PROCEDURE" WE HAVE DEVELOPED AS YOUR CIVIL SERVICE COMMISSION. (DISTRIBUTE AND EXPLAIN THE DRAFT). WE PREPARED THIS PROPOSAL IN OUR WORK SESSIONS AND WILL BE SUBMITTING IT TO THE SPBR FOR THEIR COMMENT, BEFORE WE ADOPT IT AS OUR OPERATING PROCEDURE.

RECOMMENDATION TO THE CHARTER REVIEW COMMISSION --

BACKGROUND -- CHARTER SECTION 9.44 DEFINES THE AUTHORITY OF THE CSC WITH REGARD TO THE CLASSIFIED AND UNCLASSIFIED SERVICES AND DELEGATES OUR REPOSIBILTIY TO THE CLASSIFIED SERVICE. THE CLASSIFIED SERVICE INCLUDES FULL-TIME MEMBERS OF THE POLICE AND FIRE DEPARTMENTS, EXCEPT FOR THE CHIEFS. CURRENTLY THESE DEPARTMENTS ARE COMPOSED AS FOLLOWS:

POLICE -- 18 FULL-TIME SARGENTS AND PATROLMEN (CLASSIFIED)

CHIEF AND ADMINISTRATIVE ASSISTANT (UNCLASSIFIED)

6 DISPATCHERS (UNCLASSIFIED)

10 PART-TIME PARTOLMEN

FIRE -- 9 FULL-TIME FIRE FIGHTER/PARAMEDIC (CLASSIFIED)

CHIEF AND ADMINISTRATIVE ASSISTANT (UNCLASSIFIED)

29 PART-TIME FIRE FIGHTER/PARAMEDICS

THE MAYOR HAS REQUESTED THAT THE CSC BE INVOLVED IN THE CREDENTIAL REVIEW AND INTERVIEWS OF ALL PART-TIME CANDIDATES ON AN AD-HOC BASIS. WE BELIEVE THE CANDIDATES FOR PART-TIME POSITIONS ON THE POLICE AND FIRE DEPARTMENT SHOULD RECEIVE THE SAME SCREENING AS THE FULL-TIME CANDIDATES SO THEIR EVALUATION CAN BE CONDUCTED IN A FAIR AND TIMELY MANNER.

**Suggested revisions to the Civil Service Code – Thomas P. Kicher 5/7/2014
REVISED BY CSC 6-17-2014 and REDRAFTED BY tpk 6/23/2014**

1.4 Meetings Of The Commission

- A. All meetings of the Civil Service Commission shall be open to the public, except as set forth in ORC 121.22 and this rule.
- B. General minutes shall be taken at all Civil Service Commission meetings. After approval by the Civil Service Commission at the next meeting, the General Minutes shall be posted on the Willoughby Hills City Hall Bulletin Board and submitted to the Clerk of Council for posting on the Willoughby Hills Website.
- C. The Commission shall hold meetings as necessary to accomplish the Commission's work. Meetings shall take place at such times and places as may be designated by resolution or by motion of the Commission. Two (2) members of the Commission shall constitute a quorum at any meeting of the Commission, and it shall require the affirmative vote of at least two (2) members to adopt any motion or resolution.
- D. Normal business meetings will be scheduled with as much notice as possible, so that a public announcement can be provided. However, from time to time, Special Meetings or Emergency Meetings of the Commission are required to deal with exigent business. Notice of any meeting of the Civil Service Commission will be submitted to the Mayor's Office for posting on the Willoughby Hills City Hall Bulletin Board in advance of the meeting by the Commission.
- E. To avoid a potential Conflict of Interest by a Commission Member in the preparation of a Candidate List for an appointment to the classified service of Willoughby Hills, each member of the Civil Service Commission shall divulge any and all relationships with

each candidate on the preliminary list. Each member of the Commission will identify candidates for whom they believe they should recuse themselves from all subsequent procedures and discussions in the preparation of the Final List. As a final effort to avoid any Conflict of Interest, each Civil Service Commission Member shall vote on the eligibility of the other Commission Members to participate in any subsequent proceedings and discussions in the decision process. Any Commission Member receiving a negative vote for a particular preliminary candidate will be excused from any subsequent proceedings for said candidate.

- F. In the event of an emergency, the Chairman or the member(s) calling the meeting must immediately notify the Mayor's Office of Willoughby Hills.
- G. An executive session may be held only after a majority of the members, by roll call vote, have approved such action. Such executive session may be convened for any purpose permitted by ORC 121.22 (G), including, among other things, to consider appointment, employment, dismissal, discipline, promotion, demotion, or compensation of a municipal employee, unless such employee requests a public hearing. The motion to go into executive session shall state which of these reasons, or which other legally permissible reason(s), is the basis for the executive session, and need not include the name of the person(s) to be considered at the meeting.

Civil Service Chairman Thomas Majeski's Thoughts on Potential Ballot Issues as Delivered to CRC on July 22, 2014.

Mr. Chairman and members of the board, Thank you for inviting the Willoughby Hills Civil Service Commission to have input into your continued work of upgrading our charter. I am Tom Majeski, Chairman of the Civil Service Commission and with me tonight are Carolyn Patton, Secretary of the Commission and Thomas Kicker, Vice chairman of the Commission.

I have been a resident of Willoughby Hills for over 50 years and live at 2717 Graylock Dr. While growing up in Willoughby Hills my childhood memories include dirt roads being paved, city water being installed in 1964, picking apples at an orchard at what is now Loehman's plaza, and enjoying hikes along the Chagrin River. I also participated in the Willoughby Hills Boys League Football and Baseball programs. In many ways Willoughby Hills mirrored the fictitious town of Mayberry on the Andy Griffith show.

My education includes Graduating from Willoughby South High School, Richmond Hts. Hospital Paramedic Program and an Associate's Degree in Fire Science from Lakeland Community College.

Work experience includes 36 years as a full time firefighter/ paramedic, and work as a part-time firefighter /paramedic including 20 years with the Willoughby Hills Fire Department. Communities I have worked for include the cities of Cleveland, Eastlake, and Kirtland; also, experience as an outreach instructor for the State of Ohio Fire Academy. I am currently a Shift Officer/Lieutenant/ Paramedic with the City of Pepper Pike and the Assistant Chief /Fire Safety Inspector with the Village of Gates Mills.

The Civil Service Commission had to be restarted, due to the fact that all previous members were deceased. Fortunately, I got to work with two wonderful people on the commission, Carolyn and Tom. We began work by studying area Civil Service Commissions such as Mentor, Willowick, and Kirtland. Interviewing of both department heads and attending seminars have also helped us to educate ourselves for the task. It was very apparent that many of our regulations were dated and out of step with State of Ohio Regulations and acceptable employment practices. We have continued to update and improve our regulations. The Commission has also researched and offered opinions to administration and council.

Testing procedures updated and include: Certifications and credentialing for employment and promotions, establishment of review boards for oral testing, quality control testing by Commission members and uniform agility testing that is nationally recognized and also saves the city money on the overall testing procedure. The Commission also generates yearly reports to the state of Ohio, SERB Board. The final duty of the Commission is to act as the local personnel appeals and mediation board, under the regulations of the State SERB Board.

To date we have administered a Police entry test hiring 4 full time officers, a Police promotional hiring 2 Sergeants, and a Firefighter/ Paramedic test hiring two full time Fire/Medics.

Also, with the Mayors approval we have begun a program of checking credentials, and establishing a uniform approach to hiring part time Police officers and Fire/Medics.

It is our role on the Civil Service Commission to make sure there is fair and equal treatment given to all candidates for classified positions.

Tonight, I would ask the Board to look at several provisions of the Charter.

As I have stated before Section 9 of the charter should have complete review by the board.

I especially have a problem with section 9.2 which current language seems to be an attempt to deprive me of my rights under the constitution of the United States. It virtually attempts to prohibit individuals from serving in any capacity in the service of the City of Willoughby Hills if any relation (undefined) is already in service to Willoughby Hills. Provisions have already been spelled out by state of Ohio regulations, and the Charter should reflect or be subservient to these regulations.

Next section 9.3 is removal from office. I see no definite provision for due process for the individual so charged, or how the due process is to be carried out. Although, the department head may have the ability to temporarily suspend, actual removal from the position should be done by due process in all cases. The text "immediately remove" does not define if it is a suspension until due process is carried out or arbitrary termination of employment or appointment.

Also note: July 25, 2008 meeting minutes of your board suggest that this entire section be deleted and was to be combined into changes in Section 2.21. What happened?

The next item section 9.4 deals with classified and unclassified service. In Willoughby Hills only the Full-time Police and Firefighters are in the classified service. In many of the communities in the area, almost all employees of the workforce are in the classified service, including the Police and Fire Chiefs. This also acts as a balance of power between the administration and council, due to the fact that classified positions are under civil service regulation. The term "Fiduciary Relationship" is the legal term used to define if an individual's job is to be classified. I am asking the board to look at this item and decide which jobs to classify, or to transfer this duty over to Civil Service to avoid political influence.

Tom Kicker, Vice Chairman of Civil Service will be relating some more information on Section 9.4.

Please feel free to contact me directly to explain or answer any questions you may have. (440-773-0371)

I believe that the Charter Review Commission is the most important board in the city. It establishes the framework in which the city conducts its business; continue your work to make our city great.

Thank You,

Tom Majeski

124.11 Unclassified service - classified service.

The civil service of the state and the several counties, cities, civil service townships, city health districts, general health districts, and city school districts of the state shall be divided into the unclassified service and the classified service.

(A) The unclassified service shall comprise the following positions, which shall not be included in the classified service, and which shall be exempt from all examinations required by this chapter:

(1) All officers elected by popular vote or persons appointed to fill vacancies in those offices;

(2) All election officers as defined in section 3501.01 of the Revised Code;

(3)

(a) The members of all boards and commissions, and heads of principal departments, boards, and commissions appointed by the governor or by and with the governor's consent;

(b) The heads of all departments appointed by a board of county commissioners;

(c) The members of all boards and commissions and all heads of departments appointed by the mayor, or, if there is no mayor, such other similar chief appointing authority of any city or city school district;

Except as otherwise provided in division (A)(17) or (C) of this section, this chapter does not exempt the chiefs of police departments and chiefs of fire departments of cities or civil service townships from the competitive classified service.

(4) The members of county or district licensing boards or commissions and boards of revision, and not more than five deputy county auditors;

(5) All officers and employees elected or appointed by either or both branches of the general assembly, and employees of the city legislative authority engaged in legislative duties;

(6) All commissioned, warrant, and noncommissioned officers and enlisted persons in the Ohio organized militia, including military appointees in the adjutant general's department;

(7)

(a) All presidents, business managers, administrative officers, superintendents, assistant superintendents, principals, deans, assistant deans, instructors, teachers, and such employees as are engaged in educational or research duties connected with the public school system, colleges, and universities, as determined by the governing body of the public school system, colleges, and universities;

(b) The library staff of any library in the state supported wholly or in part at public expense.

(8) Four clerical and administrative support employees for each of the elective state officers, four clerical and administrative support employees for each board of county commissioners and one such employee for each county commissioner, and four clerical and administrative support employees for other elective officers and each of the principal appointive executive officers, boards, or commissions, except for civil service commissions, that are authorized to appoint such clerical and administrative support employees;

(9) The deputies and assistants of state agencies authorized to act for and on behalf of the agency, or holding a fiduciary or administrative relation to that agency and those persons employed by and directly responsible to elected county officials or a county administrator and holding a fiduciary or administrative relationship to such elected county officials or county administrator, and the employees of such county officials whose fitness would be impracticable to determine by competitive examination, provided that division (A)(9) of this section shall not affect those persons in county employment in the classified service as of September 19, 1961. Nothing in division (A)(9) of this section applies to any position in a county department of job and family services created pursuant to Chapter 329. of the Revised Code.

(10) Bailiffs, constables, official stenographers, and commissioners of courts of record, deputies of clerks of the courts of common pleas who supervise or who handle public moneys or secured documents, and such officers and employees of courts of record and such deputies of clerks of the courts of common pleas as the appointing authority finds it impracticable to determine their fitness by competitive examination;

(11) Assistants to the attorney general, special counsel appointed or employed by the attorney general, assistants to county prosecuting attorneys, and assistants to city directors of law;

(12) Such teachers and employees in the agricultural experiment stations; such students in normal schools, colleges, and universities of the state who are employed by the state or a political subdivision of the state in student or intern classifications; and such unskilled labor positions as the director of administrative services, with respect to positions in the service of the state, or any municipal civil service commission may find it impracticable to include in the competitive classified service; provided such exemptions shall be by order of the commission or the director, duly entered on the record of the commission or the director with the reasons for each such exemption;

(13) Any physician or dentist who is a full-time employee of the department of mental health and addiction services, the department of developmental disabilities, or an institution under the jurisdiction of either department; and physicians who are in residency programs at the institutions;

(14) Up to twenty positions at each institution under the jurisdiction of the department of mental health and addiction services or the department of developmental disabilities that the department director determines to be primarily administrative or managerial; and up to fifteen positions in any division of either department, excluding administrative assistants to the director and division chiefs, which are within the immediate staff of a division chief and which the director determines to be primarily and distinctively administrative and managerial;

(15) Noncitizens of the United States employed by the state, or its counties or cities, as physicians or nurses who are duly licensed to practice their respective professions under the laws of this state, or medical assistants, in mental or chronic disease hospitals, or institutions;

(16) Employees of the governor's office;

(17) Fire chiefs and chiefs of police in civil service townships appointed by boards of township trustees under section 505.38 or 505.49 of the Revised Code;

(18) Executive directors, deputy directors, and program directors employed by boards of alcohol, drug addiction, and mental health services under Chapter 340. of the Revised Code, and secretaries of the executive directors, deputy directors, and program directors;

(19) Superintendents, and management employees as defined in section 5126.20 of the Revised Code, of county boards of developmental disabilities;

(20) Physicians, nurses, and other employees of a county hospital who are appointed pursuant to sections 339.03 and 339.06 of the Revised Code;

(21) The executive director of the state medical board, who is appointed pursuant to division (B) of section 4731.05 of the Revised Code;

(22) County directors of job and family services as provided in section 329.02 of the Revised Code and administrators appointed under section 329.021 of the Revised Code;

(23) A director of economic development who is hired pursuant to division (A) of section 307.07 of the Revised Code;

(24) Chiefs of construction and compliance, of operations and maintenance, of worker protection, and of licensing and certification in the division of industrial compliance in the department of commerce;

(25) The executive director of a county transit system appointed under division (A) of section 306.04 of the Revised Code;

(26) Up to five positions at each of the administrative departments listed in section 121.02 of the Revised Code and at the department of taxation, department of the adjutant general, department of education, Ohio board of regents, bureau of workers' compensation, industrial commission, state lottery commission, opportunities for Ohioans with disabilities agency, and public utilities commission of Ohio that the head of that administrative department or of that other state agency determines to be involved in policy development and implementation. The head of the administrative department or other state agency shall set the compensation for employees in these positions at a rate that is not less than the minimum compensation specified in pay range 41 but not more than the maximum compensation specified in pay range 47 of salary schedule E-2 in section 124.152 of the Revised Code. The authority to establish positions in the unclassified service under division (A)(26) of this section is in addition to and does not limit any other authority that an administrative department or state agency has under the Revised Code to establish positions, appoint employees, or set compensation.

(27) Employees of the department of agriculture employed under section 901.09 of the Revised Code;

(28) For cities, counties, civil service townships, city health districts, general health districts, and city school districts, the deputies and assistants of elective or principal executive officers authorized to act for and in the place of their principals or holding a fiduciary relation to their principals;

(29) Employees who receive intermittent or temporary appointments under division (B) of section 124.30 of the Revised Code;

(30) Employees appointed to administrative staff positions for which an appointing authority is given specific statutory authority to set compensation;

(31) Employees appointed to highway patrol cadet or highway patrol cadet candidate classifications;

(32) Employees placed in the unclassified service by another section of the Revised Code.

(B) The classified service shall comprise all persons in the employ of the state and the several counties, cities, city health districts, general health districts, and city school districts of the state, not specifically included in the unclassified service. Upon the creation by the board of trustees of a civil service township civil service commission, the classified service shall also comprise, except as otherwise provided in division (A)(17) or (C) of this section, all persons in the employ of a civil service township police or fire department having ten or more full-time paid employees. The classified service consists of two classes, which shall be designated as the competitive class and the unskilled labor class.

(1) The competitive class shall include all positions and employments in the state and the counties, cities, city health districts, general health districts, and city school districts of the state, and, upon the creation by the board of trustees of a civil service township of a township civil service commission, all positions in a civil service township police or fire department having ten or more full-time paid employees, for which it is practicable to determine the merit and fitness of applicants by competitive examinations. Appointments shall be made to, or employment shall be given in, all positions in the competitive class that are not filled by promotion, reinstatement, transfer, or reduction, as provided in this chapter, and the rules of the director of administrative services, by appointment from those certified to the appointing officer in accordance with this chapter.

(2) The unskilled labor class shall include ordinary unskilled laborers. Vacancies in the labor class for positions in service of the state shall be filled by appointment from lists of applicants registered by the director or the director's designee. Vacancies in the labor class for all other positions shall be filled by appointment from lists of applicants registered by a commission. The director or the commission, as applicable, by rule, shall require an applicant for registration in the labor class to furnish evidence or take tests as the director or commission considers proper with respect to age, residence, physical condition, ability to labor, honesty, sobriety, industry, capacity, and experience in the work or employment for which application is made. Laborers who fulfill the requirements shall be placed on the eligible list for the kind of labor or employment sought, and preference shall be given in employment in accordance with the rating received from that evidence or in those tests. Upon the request of an appointing officer, stating the kind of labor needed, the pay and probable length of employment, and the number to be employed, the director or commission, as applicable, shall certify from the highest on the list double the number to be employed; from this number, the appointing officer shall appoint the number actually needed for the particular work. If more than one applicant receives the same rating, priority in time of application shall determine the order in which their names shall be certified for appointment.

(C) A municipal or civil service township civil service commission may place volunteer firefighters who are paid on a fee-for-service basis in either the classified or the unclassified civil service.

(D)

(1) This division does not apply to persons in the unclassified service who have the right to resume positions in the classified service under sections 4121.121, 5119.18, 5120.38, 5120.381, 5120.382, 5123.08, 5139.02, and 5501.19 of the Revised Code or to cities, counties, or political subdivisions of the state.

(2) A person who holds a position in the classified service of the state and who is appointed to a position in the unclassified service shall retain the right to resume the position and status held by the person in the classified service immediately prior to the person's appointment to the position in the unclassified service, regardless of the number of positions the person held in the unclassified service. An employee's right to resume a position in the classified service may only be exercised when an appointing authority demotes the employee to a pay range lower than the employee's current pay range or revokes the employee's appointment to the unclassified service and:

(a) That person held a certified position prior to July 1, 2007, in the classified service within the appointing authority's agency; or

(b) That person held a permanent position on or after July 1, 2007, in the classified service within the appointing authority's agency.

(3) An employee forfeits the right to resume a position in the classified service when:

(a) The employee is removed from the position in the unclassified service due to incompetence, inefficiency, dishonesty, drunkenness, immoral conduct, insubordination, discourteous treatment of the public, neglect of duty,

violation of this chapter or the rules of the director of administrative services, any other failure of good behavior, any other acts of misfeasance, malfeasance, or nonfeasance in office, or conviction of a felony; or

(b) Upon transfer to a different agency.

(4) Reinstatement to a position in the classified service shall be to a position substantially equal to that position in the classified service held previously, as certified by the director of administrative services. If the position the person previously held in the classified service has been placed in the unclassified service or is otherwise unavailable, the person shall be appointed to a position in the classified service within the appointing authority's agency that the director of administrative services certifies is comparable in compensation to the position the person previously held in the classified service. Service in the position in the unclassified service shall be counted as service in the position in the classified service held by the person immediately prior to the person's appointment to the position in the unclassified service. When a person is reinstated to a position in the classified service as provided in this division, the person is entitled to all rights, status, and benefits accruing to the position in the classified service during the person's time of service in the position in the unclassified service.

Amended by 130th General Assembly File No. 25, HB 59, §101.01, eff. 9/29/2013.

Amended by 129th General Assembly File No. 127, HB 487, §101.01, eff. 9/10/2012.

Amended by 128th General Assembly File No. 9, HB 1, §101.01, eff. 10/16/2009.

Amended by 128th General Assembly ch. 9, SB 79, §1, eff. 10/6/2009.

Effective Date: 10-10-2000; 06-30-2006; 07-01-2007; 2008 HB130 04-07-2009

The amendment to this section by 129th General Assembly File No. 10, SB 5, §1 was rejected by voters in the November, 2011 election.

124.56 Investigation of violations.

When the state personnel board of review or a municipal or civil service township civil service commission has reason to believe that any officer, board, commission, head of a department, or person having the power of appointment, layoff, suspension, or removal, has abused such power by making an appointment, layoff, reduction, suspension, or removal of an employee under his or their jurisdiction in violation of this chapter of the Revised Code, the board or commission shall make an investigation, and if it finds that a violation of this chapter, or the intent and spirit of this chapter has occurred, it shall make a report to the governor, or in the case of a municipal or township officer or employee, the commission shall make a report to the mayor or other chief appointing authority, or in the case of a civil service township, the commission shall make a report to the board of township trustees, who may remove forthwith such guilty officer, board, commission, head of department, or person. The officer or employee shall first be given an opportunity to be publicly heard in person or by counsel in his own defense. The action of removal by the governor, mayor, or other chief appointing authority is final except as otherwise provided in this chapter of the Revised Code.

Effective Date: 08-09-1974

board of review or the agency including its administrative law judges and other employees.

(G) "Classification" means any of the following:

(1) A group of positions of sufficiently similar duties that the same title and specification may be assigned to each.

(2) The title assigned to a position or the employee appointed to fill a position.

(3) The act of assigning a classification title to a position based upon the duties performed in that position.

(H) "Displacement" means for the purposes of layoffs and job abolishments the process by which an employee with more retention points exercises his or her right to take the position of another employee with fewer retention points pursuant to the provisions of Chapter 123:1-41 of the Administrative Code.

(I) "Fiduciary relationship" generally means a relationship where the appointing authority reposes a special confidence and trust in the integrity and fidelity of an employee to perform duties which could not be delegated to the average employee with knowledge of the proper procedures. These qualifications are over and above the technical competency requirements to perform the duties of the position. Whether one position occupies a fiduciary relationship to another is a question of fact to be determined by the board.

(J) "Filed" means received, in writing, and time stamped in the offices of the board.

(K) "Layoff" means a suspension of employment, expected to last less than twelve months, due to either a lack of work or a lack of funds.

(L) "Non-competitive examination" means any written device by which a prospective employee's qualifications to hold a position may be determined (e.g. , an application form).

(M) "Notice" means the date of receipt by the employee, in writing, of the action. If the employee did not receive a written notification, then "notice" means the date of the actual implementation of the action.

(N) "Order of involuntary disability separation" means an order issued by an appointing authority involuntarily separating an employee from employment in his or her position when the appointing authority has determined that said employee is unable to perform the essential job duties of his or her position due to a disabling illness, injury or condition.

(O) "Parenthetical subtitle" means a group of positions logically falling within a general classification but distinguished from other positions within that classification by the performance of specific duties requiring specialized skill, knowledge or training.

(P) "Party" means an individual or agency who participates in and is directly affected by an action brought before the state personnel board of review. As used in these rules, "party" is not limited to the

DEPARTMENT MEMORANDUM

TO: Tom Lobe, Law Director

FROM: Police Chief Collins & Fire Chief Harmon

DATE: May 6, 2013

RE: Request for Review & Comment – Civil Service Letter Tom Majeski April 25, 2013

1. The following joint responses are to the questions raised by Tom Majeski, Civil Service Chairman, with regard to Pending Ordinance 2013-14 – Compulsory Retirement Age Police and Fire Departments.
 - a. The point regarding Social Security and Medicare eligibility is not relevant. The City traditionally does not provide Health Care to part-time members. Therefore, the need for medical benefits is not associated with employment status. COBRA is also a non-relevant issue.
 - b. All Members who have met the service credit (25 years) and age requirement (48 changing to 52) receive the same Health Care and associated benefits. Additional service up to 33 years increases the payment amount. Twenty-Five years is NOT a partial pension and does not have reduced opportunity for Health Care. Health Care is a retiree option the members pay to join if they choose to.
 - c. The pending legislation would not impact our current lateral transfer options available for hiring full time police officers, because we require any candidate who qualifies for a lateral transfer to meet the Ohio Police & Fire Pension Fund “normal service retirement” qualifications of 25 years of service at age 48 or age 52 after July 1, 2013. However, the Civil Service Language for maximum hiring ages for Willoughby Hills Police and Fire addressed in the Civil Service Manual, Section 4.4, paragraphs D and E would need to be adjusted, as both Chiefs support, to provide the same requirements to wit:

“By operation of ORC 124.1 and 124.42, no person shall be eligible to receive an original appointment on or after his or her thirty-first (31st) birthday. However, the commission may grant an age waiver for service that is transferable to the Ohio Police and Fire Pension System. Maximum age at the time of original appointment with the City of Willoughby Hills shall not exceed age thirty five or be able to obtain twenty five years (25) of service in the Police and Fire Pension system by age sixty (60).”

Current Civil Service Manual Requirements are as follows:

D. Police Maximum Age for Appointment

By operation of ORC 124.1, no person shall be eligible to receive an original appointment after his or her thirty-fifth (35th) birthday. However, the commission may grant an age waiver for service that is transferable to the Ohio Police and Fire Pension System. Maximum age at time of original appointment with the City of Willoughby Hills shall not exceed age forty (40) or be able to obtain twenty five years (25) of service in the Police and Fire Pension system by age sixty five (65).

E. Fire Department Maximum Age for Appointment

By operation of ORC 124.42, no person shall be eligible to receive an original appointment on or after his or her thirty-first (31st) birthday. However, the commission may grant an age waiver for service that is transferable to the Ohio Police and Fire Pension System. Maximum age at the time of original appointment with the City of Willoughby Hills shall not exceed age thirty five or be able to obtain twenty five years (25) of service in the Police and Fire Pension system by age sixty (60).

- d. This point does not impact the pending legislation. Any part-time fire or police employee selected for a full time position with the City of Willoughby Hills would have to meet all “normal service retirement” standards as determined by the Ohio Police and Fire Pension Fund. Part-time fire and police personnel are currently not able, nor have they been able to my knowledge, to transfer part-time service credit with PERS to full time service with the Ohio Police & Fire Pension Fund.
- e. All full time police and fire personnel hired by the City are required to meet all the essential job functions specified in their position description and by the Ohio Police and Fire Pension Fund to complete a thorough fitness for duty medical examination within the first 60 days of employment. Ordinance 2013-14 sets a mandatory retirement age of 60, but gives the Mayor/Safety Director the option to grant a waiver up to age 62. We recommended to the Mayor, and believe it is only prudent, to require the same medical examination to ensure an employee meets the full requirements of their position description if granting a waiver. The “fitness for duty” requirement is a step in approval for the waiver and would require cause for other employees.
- f. During our research on Ordinance 2013-14, we learned many states and cities exempt their Chief Officers from any mandatory retirement age, but we thought it was sensible to set the age at 65 for Chiefs and Deputy Chiefs because these leaders are critical to the overall function and management of the department. It also gives the City more options for hiring since the Charter was changed to allow the City to hire Chiefs from the outside.

The second part of Mr. Majeski’s statement is inaccurate. The position descriptions for the Police and Fire Chief do not require us to perform the basic duties of a patrol officer or firefighter or to meet those standards. The duties of the Police Chief, Fire Chief and their Chief Deputies are nearly 100 percent administrative functions as is the industry standard. The duties and task required of the Police Chief and Fire Chief is the basis of the Job Description, not the other way around. On occasion, the Chiefs may perform basic public safety duties; however, it is normally of limited duration and does not have the same effect as those performing these tasks on a daily basis. Copies of our position descriptions were provided to the Mayor and City Council Members.

- g. As stated many times, all new employees will be required to meet the “normal service retirement” qualifications established by the Ohio Police and Fire Pension Fund. Our City has no control over these changes, but current full time employees will be eligible for normal service retirement with 25 years of service at age 48 or 52 after July 1, 2013. Additionally, the Ohio Police and Fire Pension Fund currently offers health care options to retired members; however, there is no statutory requirement for them or any Ohio Pension System to offer health care benefits.
 - h. No appeal process is necessary, because the authority to grant an age waiver is left solely to the Mayor/Safety Director no differently than it is to appoint or hire full time police and fire employees. The Mayor/Safety Director is the appointing authority for the City. The Civil Service Commission and Fire and Police Chiefs can provide recommendations, but ultimately, the decision is that of the Mayor.
2. We hope this information is helpful and we’ll be available to discuss this matter further if need be. Thank you.

PERSONAL MEMORANDUM

TO: Law Director Tom Lobe
Council President Dave Reichelt

FROM: Thomas Majeski, Civil Service Chairman

DATE: May 8, 2013

SUBJ: May 6, 2013, Department Memorandum from Police Chief Collins & Fire Chief Harmon

Chief Collins, Civil Service Vice Chairman Tom Kicher and I met recently, to discuss concerns about Pending Ordinance 2013-14- Compulsory Retirement Age Police and Fire Departments. At this meeting, the Police Chief read off rebuttals to points I had made in my letter to Mr. Lobe, many of which are outlined to you in his memo of May 6, 2013.

Once again, I offer the following regarding the misconceptions both Chiefs are offering you in their memo dated May 6:

Point (a): All public pension systems in Ohio are tied in to Medicare at age 65, so the point regarding Medicare and Social Security IS relevant. There is a definite need for medical benefits associated with employment; such as when someone is mandatorily made to leave at age 60, they are going to need to find health care. For example, a part-time firefighter in the City of Willoughby Hills is under Social Security, not necessarily a public pension system. When that PT Firefighter is made to leave at age 60, he will then not be eligible for Medicare until age 65. In the interim, he will have no wage with which to purchase private health care. He may be forced to go on unemployment or Welfare or COBRA. A second scenario would be your Full-time Fire or Policeman who is made to leave at age 60 and that leaves him with only the option of BUYING his own health care coverage. He does not receive full medical coverage for himself or his family. Current cost for police/fireman with a family of two is approximately \$1000 per month, and with children is even more.

Point (b): While Chief states facts, the truth of the matter is that a 25 year pension is 60% of one's salary calculated on a 5-year time span (not including the health care that needs to be purchased for the rest of your lifespan). The normal "full service pension" is 33 years in the Ohio Police and Fire Pension system. The other option that the pension system offers is a 25 year service retirement, with a minimum of 5 years of DROP (Deferred Retirement Option Program).

Obviously, if only a 25 year pension was necessary, both our Police and Fire Chief could already be retired; however, they opted to enter the DROP program for further personal financial gain.

Point (c): Pending legislation does have a definite impact on current lateral transfer options, contrary to Chiefs' point of view. If someone were to accept a FT police/fire job with the City of Willoughby Hills, by current Civil Service regulations, they would be able to be hired at age 40 and able to complete a 25-year pension at age 65, then qualifying them for Medicare. With the changes suggested by the Chiefs, a person would start at age 35 and after 25 years of service, they would be age 60 and would not be able to enter DROP or be eligible for Medicare for five more years, qualifying at age 65. Whoever wrote the original qualifications in the Civil Service Manual realized that you had to tie it to the Medicare qualifying age. I would not support the change in the Civil Service manual that is suggested in Item (c) of the Chiefs' memo. This certainly seems like age discrimination.

Even though our current policy provides for lateral transfer, at the last Police appointment, the jobs were turned down by a Mentor policeman, Gates Mills policeman and a Richmond Heights policeman . One of the only candidates who DID accept the position, quit within 60 days of appointment to return to his previous employer. It makes one wonder how effective the lateral transfer policy really is. As we look at hiring processes, I think it is prudent for our Council to really look at the overall hiring practices of the City to make them more efficient. Civil Service has strived to accomplish that, but sometimes there is real resistance to change in policy.

Point (d): We both agree that our part-time police officers in PERS and our fire fighters in Social Security may not be able to complete even the minimum requirement for eligibility in Ohio Police and Fire Retirement System, even if they wanted to take the Civil Service test for full-time employment. This DOES impact the pending legislation because those members in PERS and Social Security have no means to provide for their health care, possibly as late as age 65 for Medicare. We may be taking able-bodied people and, by age discrimination alone, not allow them to work and provide for their well being.

Point (e): Although we agree with fitness for duty medical examinations at some age determined by Council, again, why would we discriminate by age alone unless they can at least qualify for Medicare as a means of health care? Why would the Mayor have anything to say about these people working if they have successfully passed their fitness for duty standard?

Point (f): Although some cities do exempt their chief officers from ANY mandatory retirement age, many cities also tie the mandatory age to all of their employees equally. Equal treatment under the law has always been a precursor of good government practices. While the position descriptions of the Police and Fire Chief are stated to be 100% administrative functions, this is far from true in the City of Willoughby Hills. Although the current chiefs are both administrative and field supervisors, they both perform base level functions, if necessary. For example, the Police Chief has to have qualifications for firearms and other basic necessities in the event he has to protect the citizens of Willoughby Hills. The Fire Chief must carry current State of Ohio paramedic and firefighting certifications in the event it becomes necessary for him to carry out these functions. We are a small town and every fire fighter and police officer should be expected to perform essential tasks to protect the public, no matter what his rank. All Civil Service positions for police and firefighter now include this language at all levels as a matter of record. Council should review these two appointed positions and update their job

descriptions accordingly. Incidentally, both of these Chiefs currently take home City-owned vehicles in the event of an emergency. If they are acting in only an administrative capacity, that would be a frivolous expenditure of tax money. I also noticed that the Chief keeps using the title of "Deputy Chief" because it appears that he wants to create that position. We were told in Civil Service that the position of Police Lieutenant was eliminated, which was a tested position. We assume when Council creates this position of Deputy Chief, that has like responsibilities of Police Lieutenant, that it will be a tested position, also, in correlation with Civil Service regulations.

Point (g): Although this is a restatement of minimal normal service retirement by Ohio Police and Fire, many of our current employees again would only be able to finish a basic minimum retirement without DROP. The health care offered by Ohio Police and Fire Pension Fund has to be purchased by the retiree and without the ability to have funds available to pay for this. Those having to leave at age 60 would then be forced to pay for this for a longer period of time out of their own pocket. Note: There is no statutory retirement for the Police and Fire Chief to have more than their minimum pension; however, again, they both entered the DROP Program to provide for themselves.

Point (h): While the Chiefs may be happy with "no appeal process", this is probably an item Council would want to reconsider. While the Mayor has the power to hire individuals, there is a testing and interviewing process that should take place that ensures prudent selection. It is truly not in the "hands only" of the Mayor with this process. The mandatory age requirement then should have a similar process, including a fitness for duty and employee performance evaluation review to avoid a situation that could be overly subjective and ultimately discriminatory.

Enclosed is an ad for a Firefighter/Paramedic Exam for the City of Highland Height which appeared in last week's News-Herald. "All applicants must be no more than 41 years of age at hiring" which correlates to age 65 and the age for Medicare eligibility. This is just an example that not everyone is doing an age 60 mandatory retirement and for every one that IS doing it, there is another one that IS NOT.

In closing, I appreciate the ability to give you some input and hope that this enlightens you to make an informed decision. The eyes of both the safety forces and the citizens of Willoughby Hills are upon you.

Yours in Safety,

A handwritten signature in black ink that reads "Tom Majeski". The signature is written in a cursive, flowing style.

Tom Majeski

exceed age forty (40) even with lateral transfer. Full Time Police Officers must be able to obtain thirty years (30) in the Police and Fire Pension System and/or twenty five (25) years pension and five years of DROP (Deferred Retirement Option Plan).

Maximum age at time of Retirement for all classified police personnel is sixty-five (65) unless age sixty five has been obtained by January 1, 2013.

All Full-time Police Officers age sixty (60) and over will have to pass an annual medical screening (physical) and/or agility test (as established by Civil Service) to continue employment.

E. Fire Department Maximum Age For Appointment

By operation of ORC 124.42, no person shall be eligible to receive an original appointment on or after his or her thirty-first (31st) birthday. However, the commission may grant an age waiver for service that is transferable and the employee agrees to obtain the service credit to the Ohio Police and Fire Pension System (Lateral Transfer). Maximum age at the time of appointment shall not exceed thirty five (35) even with lateral transfer.

Full-Time Firefighter/Paramedics must be able to obtain thirty (30) years in the Police and Fire Pension System and/or twenty five years pension and five (5) years in DROP (Deferred Retirement Options Plan).

All Full-time Firefighter/Paramedics age 60 and over shall pass an annual medical screening (physical) and/or agility test (as established by Civil Service) to continue employment.

Maximum age for full-time classified Fire personnel is age sixty-five (65).

**4.5 Non-Acceptance Of Applications/Refusal To Certify
Removal From List**

A. The Civil Service Commission or Commission Secretary shall be justified in refusing to permit the examination or certification of an applicant, or removing an individual from an eligible list, if satisfactory information is produced, either before or after an examination, demonstrating that an applicant:

1. has committed acts deemed detrimental to the successful performance of the employment sought;
2. has engaged in a pattern of poor work habits and performance with previous employers;
3. has been dismissed for just cause from any branch of public service;
4. has been dishonorably discharged from the Armed Services of the United States;
5. has been convicted of a felony;
6. habitually uses intoxicating liquors to excess;

Within ten (10) days after the filing of any petition, the Director of Elections or the Clerk of Council, as the case may be, shall examine each part of the petition to see if it is sufficient and in proper form, and certify his findings to the Board of Elections or to the Council, as the case may be. If any petition is found insufficient or incorrect in form or substance, the petitioners shall be notified of the findings, including what particulars have been found defective.

Any petition with the required number of valid signatures may be amended for other defects within a ten (10) day grace period after the notification and refiled upon additional forms in the manner provided for filing the original, including the repayment of filing fees, if any.

The sufficiency of the number of signatures on any petition shall be determined as being the required percentage of the number of electors voting in the last general Municipal election. (Amended 11-4-08)

8.33 Official Notice. At least thirty (30) days before any election at which an initiated or referred ordinance, recall of an elected official, or Charter amendment is to be submitted, the Clerk of Council shall have printed and mailed to each elector an official notice containing a full text of any such ordinances with their respective ballot titles, or the ballot title for a recall election; provided, however, that notice of Charter amendments may be given by newspaper advertising in accordance with the general laws of the State. The validity of the election result on such ordinances or recall shall not be questioned because of errors or irregularities in such mailing or newspaper advertising. (Amended 11-4-75)

ARTICLE IX PERSONNEL

SECTION 9.1 OFFICERS.

The word "officer" as used in this section shall include the Mayor, members of Council, the Clerk of Council, members of all Council or Charter-established Committees, Bureaus, Commissions or Agencies and the Directors of all administrative departments.

SECTION 9.2 GENERAL QUALIFICATIONS.

9.21 For All Personnel. No officer or employee shall have any financial interest, either directly or indirectly, in any contract to which the Municipality is a party, or in the expenditure of money by the Municipality, except for his lawful compensation and reimbursable expenses.

No officer or employee shall hold any other elective public office, nor any other employment incompatible with his duties as an officer of this Municipality.

No officer or employee shall accept or receive a gratuity, directly or indirectly, from any person, firm or corporation having, or having had business dealings with the Municipality.

9.22 For Officers. No member of the immediate family of any officer of the Municipality may be employed by the Municipality in any noncivil service employment.

Every officer shall comply with such qualifications as may be stated in the section regarding his election or appointment.

Every officer shall, before entering upon the duties of his office, take and subscribe his oath or affirmation to support the Constitution of the United States and of the State of Ohio and the Charter and ordinances of Willoughby Hills, and faithfully, honestly and impartially discharge the duties of the office.

SECTION 9.3 REMOVAL FROM OFFICE.

9.31 Removal by the Mayor. The Mayor shall remove immediately any such officer or employee for violation of any of the requirements stated in Section 9.2, for gross misconduct, malfeasance or non-feasance in office, or upon conviction while in office of a felony or other crime involving moral turpitude.

The Mayor may authorize the head of a department to make such removals in his department. (Amended 11-4-08)

9.32 Removal by Council. The Council shall remove immediately any councilman and any other officer to whom it may appoint a successor who fails to comply with the residential qualifications stated in the section regarding his election or appointment.

Any councilman, officer or employee to whom the Council may appoint a successor may be removed by the Council at any time, subject to the provisions of Section 9.4 where applicable.

The Council shall remove immediately any such councilman, officer or employee for violation of the requirements of Section 9.2, for gross misconduct, malfeasance or non-feasance in office, or upon conviction while in office of a felony or other crime involving moral turpitude.

9.33 Finality of Removals. The decision of the Council or the Mayor or other officer in removing any officer or employee after compliance with this Section 9.3 and subject to the provisions of Section 9.4 when applicable, shall be final, and thereupon the office or post of any such person shall be vacant.

9.34 Removal by Council of Mayoral Appointees. If after Council has requested him to do so, the Mayor fails to remove any officer or employee in the unclassified service to whom he may appoint a successor for violation of any of the reasons or grounds enumerated in Section 9.31 for which the Mayor is required to remove immediately such officer or employee, Council may, in accordance with the procedure provided in this section, remove such officer or employee. Proceedings for the removal by Council of an officer or employee to whom the Mayor may appoint a successor shall be commenced by filing of a written complaint setting forth the charge or charges which shall be limited to violations of any of the requirements stated in Section 9.2, gross misconduct, malfeasance or nonfeasance in office, or conviction in office of a felony or other crime involving moral turpitude. Such complaint shall be signed by at least five (5) members of Council and shall be filed with the Clerk of Council, who shall cause a copy thereof to be served upon the accused officer or employee at least ten (10) days before a hearing by Council on the matters specified in such complaint. Such hearing, which shall be open to the public, shall be had within thirty (30) days of the filing of the complaint, unless Council extends the time for hearing, which shall be done only upon the application of the accused officer or employee. The accused officer or employee may appear in person and by counsel, examine all witnesses, and answer all charges against him. A decision by Council to remove the accused officer or employee shall state the facts which support the grounds specified in the complaint and shall require the concurrence of at least five (5) members of Council. Any officer or employee so removed from office shall not be eligible for appointment to the vacancy thereby adopted.

(Adopted 11-4-75)

SECTION 9.4 CIVIL SERVICE.

The Civil Service of the Municipality is hereby divided into the classified and unclassified service.

9.41 **Classified Service.** All persons who have been continuously employed in the service of the Municipality in the same or similar position, herein included in the classified service, for at least thirty (30) days preceding the adoption of this Charter shall retain their positions until discharged, reduced, promoted or transferred in accordance with the provisions of this Charter.

The classified service shall include:

- a - all full-time members of the Police Department, except for the Police Chief;
- b - all full-time members of the Fire Department, except for the Fire Chief;
- c - all positions which may, consistent with the provisions of this Charter, be classified by ordinance of Council upon recommendation of the Civil Service Commission.

9.42 **Unclassified Service.** The unclassified service shall comprise all positions not specifically included by Section 9.41.

The unclassified service shall include:

- a - all officers elected by the people;
- b - all directors of departments and their assistants;
- c - all members of all boards and commissions appointed by the Mayor or Council;
- d - any temporary or part-time office requiring qualifications of an expert.

9.43 **Police Chief and Fire Chief.** The positions of Police Chief and Fire Chief shall be unclassified.

The Mayor shall have the authority to suspend or remove the Police Chief or Fire Chief only as provided for in Section 733.35 of the Ohio Revised Code, provided, however, that such suspension or removal shall have the concurrence of two-thirds (2/3) of the members elected to Council. (Amended 11-4-08)

9.44 **Rules and Regulations.** The appointment, promotion, transfer, layoff, reinstatement, suspension and removal of persons in the classified service and appeals from the action of the appointing authority shall be subject to the rules established by the Civil Service Commission as directed in Section 5.52 of this Charter.

ARTICLE X MISCELLANEOUS PROVISIONS

SECTION 10.01 EFFECTIVE DATE OF CHARTER.

This Charter will take effect on the first day of January, 1971, except for the provisions relating to elected officials.

SECTION 10.2 GENDER NEUTRALITY.

Any reference in this Charter to a particular gender shall be deemed as reference to either gender. (Amended 11-4-08)

10.21 **Rights and Privileges Preserved.** (EDITOR'S NOTE: The provisions of Section 10.2 were repealed on November 4, 2008.)

Charter Review Minutes
June 25, 2008

ROLL CALL: Chris Biro, Dale Fellows, Linda Fulton, Joyce Grady, Andy Gardner, Billie Kamis, Tony Manfredi, Jim Shannon, Pete Corbissero (absent)

APPROVAL OF MINUTES: Andy Gardner made motion to accept the May 28,2008 minutes with a second by Tony Manfredi. Motion Carried 8-0
Joyce Grady made motion to accept the June 11,2008 minutes with a second by Jim Shannon. Motion Carried 8-0.

Jim Shannon made a motion to have remainder of meetings viewed on Channel 12 with a second by Billie Kamis. Motion Carried 8-0

OLD BUSINESS: Article 5 Independent Audit Committee was brought up by Andy Gardner. Discussion followed whether or not to put this committee in the Charter. The question was raised who would put this in place; perhaps Council? Does it have merit enough. Dale and Andy to get together to discuss whether we need it in the Charter. Chris Biro stated that the State Auditor's office mandated that we have such committee. Dale asked for straw vote to give this further consideration. Motion Failed 3-6.

Section 2.21: Adding of sentence; The Mayor shall have the authority to hire, supervise, and fire all other employees. Based in part upon proposed changes to Section 2.21 the Charter involving appointments to key positions within the City. Section 4.5 deleted in its entirety. Andy Gardner motioned to add sentence and delete 4.5 with a second by Tony Manfredi. Motion Carried 8-0.

Section 6.3: Emergency Ordinances - no action

Section 7.5: Fire and EMS Levy - Atty. Lobe talked with Chief Collins and indicated that the Chief did not want such levy nor be combined with the Fire Department.

Section 9.3: Removal of Office - It was suggested that this section be deleted in its entirety due to proposed changes in Section 2.21.

Recommendations to Mayor:

Section 5.15 - To form a separate committee for a later date.

Section 7.4 - Income tax - look at in the future as it's too big right now and should be a separate issue.

BZA Letter: Joyce Grady made motion to accept the recommendation from the BZA Commission as presented with the amendments (except as noted herein), with a second by Jim Shannon. Motion Carried 8-0.

Public Portion:

Bob Kowalski and Dave Reichelt both spoke on Independent Audit Committee Meeting adjourned at: 9:00pm Minutes prepared by: Linda Fulton, Secty.

City of Willoughby Hills
35405 Chardon Road, Willoughby Hills, OH 44094
Phone (440) 946-1234 / Fax (440) 975-3535

CIVIL SERVICE COMMISSION

Thomas J. Majeski, Chairman

Thomas Kicher, Vice Chairman

Carolyn Patton, Secretary

February 28, 2014

Mayor Robert M. Weger
City of Willoughby Hills
35405 Chardon Road
Willoughby Hills, OH 44094

RE: Civil Service Commission Appointment

Dear Bob:

I understand resident Linda Fulton brought up my ineligibility to serve on the Civil Service Commission at last night's Council Meeting's Public Portion. Please consider this letter a request to waive this Charter provision, similar to how Council waived Council Clerk Savage's non-residency provision at the January 6, 2014, Organizational Meeting.

This waiver should be retroactive to my April 30, 2008, appointment date so as to not have to negate my following actions during my tenure:

- Review and revision of the Civil Service Manual
- Administration of the Full-time Police Officer test (affecting full-time appointments for Police Officer Jamie Onion, Police Officer Gregory Leonbruno, Police Officer Tony Mino and Police Officer Michael Jones)
- Administration of the Promotional Police Officer test (affecting promotion to Sergeant rank for Officer Matt Naegele and Officer Mike Gerardi)
- Administration of the Full-time Firefighter test (affecting Part-time firefighters Jon Havel, Jeff Planisek, Jason Brothers, Micah Nerone, Sean Lawler, Cindy Sabo, Edward Shannon, Richard Quinn and Robert Vencl.
- Opinion given to then Council President Dave Reichelt regarding provisions for pensionability and mandatory retirement age for safety forces in the city. (Incidentally, I was commended personally by Councilwoman Fellows and Councilman Fiebig at the time for my input into this matter)
- Review of Fire Department job descriptions
- Acted as Quality Control representative for all Civil Service testing done during my appointment

In addition, I add the following points to my request:

- I receive no compensation for my position on the Civil Service Commission.
- I have been a member of the public service sector for 40 years, which includes over 20 years of prior service to the City of Willoughby Hills, as well as an active resident in our community for over 50 years. In addition, I have educational experience with an Associates Degree in Fire Science, American Heart Association Basic Life Support and Advanced Cardiac Life Support Instructor, Certified State of Ohio Fire Safety Inspector, Paramedic, Continuing Education Instructor/Paramedic, Certified Fire Instructor for the State of Ohio, Outreach Instructor for the Ohio Fire Academy, Shift Officer for the City of Pepper Pike Fire Department, Assistant Fire Chief for the Village of Gates Mills and Certified Professional Firefighter and Assistant Scoutmaster of Willoughby Hills Boys Scout Troop 562. You recognized this experience and offered me the appointment, rather than me seeking the appointment from you.
- I was successful with the help of my fellow Commission members, Tom Kicher and Carolyn Patton, in resurrecting a Civil Service Commission that had been dormant over the past administrations due to the passing of Chairman George Whittington, whose widow I contacted to obtain records upon my appointment.

In closing, while I recognize this charter provision waiver is in order to continue my appointment, there are other members who may possibly also fall into this category that Ms. Fulton did not identify, but I would bring to your attention at this time. They are as follows:

Dale Fellows, member of Charter Review Commission, appointed 3/20/08 conflicts with Councilwoman Nancy Fellows

Dee Germano, member of Recreation Commission, appointed 3/13/11, reappointed 1/8/14 conflicts with Councilman Frank Germano

Lynn Hallum, member of Recreation Commission, reappointed 1/8/14 conflicts with Councilman Chris Hallum

Dan Philipp, member of Recreation Commission, reappointed 1/8/14, conflicts with Recreation Coordinator Denise Edwards

Devin Edwards, Property Staff Employee hired 6/22/13 conflicts with Recreation Coordinator Denise Edwards

Jeannette Nelson, Member of Recreation Commission, reappointed 2012, conflicts with Property Staff employee Bradley Nelson hired 1/19/13.

I hope this will serve to provide you with the information to waive the charter provision identified in Article IX of the City Charter so I can continue the excellent work I have done on behalf of the City as Chairman of the Civil Service Commission.

Sincerely,


Thomas J. Majeski
Civil Service Chairman

**LAKE COUNTY MAYORS
AND
CITY MANAGERS ASSOCIATION**

**THE FUTURE OF
CIVIL SERVICE
IN OHIO:
HB 153**

March 26, 2012

Presented by:

**CLEMANS, NELSON & ASSOCIATES, INC.
6500 Emerald Parkway, Suite 100
Dublin, Ohio 43016-6235
614-923-7700 / 800-282-0787
www.clemansnelson.com**

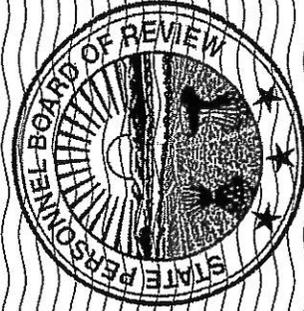
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Ohio State Personnel Board of Review
Certificate of Achievement

This Certifies That

Thomas Majeski

has completed the
State Personnel Board of Review Academy
Friday, June 13, 2014, Columbus, Ohio



A handwritten signature in black ink, appearing to read "Terry L. Casey".

Terry L. Casey
Chairman

Summary of State Personnel Board of Review Academy: June 13, 2013

Class or Classified Positions should be planned for each working department of a city and requirements (job descriptions) and testing procedures should be on file.

How to utilize Classified and Unclassified in Civil Service. Nearly all non-federal governmental positions in Ohio fall into two statuses: Classified and Unclassified. See section on establishing unclassified service from handbook.

What political activities are permitted by Classified and Unclassified positions. Classified positions cannot generally partake in partisan political activity, however they may express their own political views freely and actively engage in activity for non-candidate (i.e. school levy, etc.). Unclassified may be an officer may serve in a political organization and take part in politics.

Home rule vs. statutory. Home rule should contain at least the basic format of statutory law and Ohio minimum requirements.

Residency: Emergency Call back only for residency requirements.

Home Rule track: Columbus Civil Service Presentations on exams, competency boards, etc. Note: Columbus also uses a panel of members to interview candidates for initial hire and promotions. Also, union contracts should reflect Civil Service Regulations to avoid conflict.

How to conduct effective Administrative Hearings when an incident or problem occurs and how to move the hearing to the state level.

Note: see attached document from Carolyn Patton, on statutory track.

Tom Majeski

STATE PERSONNEL BOARD OF REVIEW CONFERENCE

COLUMBUS, OHIO JUNE 13, 2014

PURPOSE OF THE SPBS

- Resource for CSC charters and rules
- Appoints and removes members
- Monitors and assists CSC
- Helps CSC in hiring, discipline, etc. matters
- Investigative agency (RC 134.40A)
- Emphasizes that most complaints can be resolved by SPBR and CSC partnership
- In case of a serious violation, SPBR gives 45 days to rectify
- Prehearings are important for CSC....saves money.....information can be presented
- Important to get a timely decision from the hearing
- DO NOT let it go for a long time
- SPBR needs a full, fair and timely record if it goes to this board for review
- FULL means no superfluous information...only present what is relevant
- FAIR means if the info is really needed

DISCIPLINARY PROCESS

- May affect back pay (124A 27.A)
- Notify correctly
 -24 hour notice MUST be given
 -when the order is given have a witness with you
 -be ready to explain the employers evidence (as in a trial)
 -actions must comply to all requirements in the code or charter
 -infractions must be proven
 -employee needs to understand the evidence

PARTISAN POLITICAL ACTIVITIES (PPA)

- (Revised code 124.57) prohibits soliciting funds, being a party officer

OAC 123: 1-46-02 GOOD REFERENCE for PPA activities allowed and not allowed

- For clarification, ask SPBR or local election board regarding the question.

WHISTLEBLOWER

- **Who is protected? Classified and non-classified personnel reporting the breaking of a law or misuse of property**
- **Whistleblower protection includes...no retaliation of employee, employer has all the accurate information regarding the infraction**
- **If the employee lied about the facts, disciplinary action should follow.**
- **There must be a link between the person and the action.**

LAWYER TIPS

- **Administrative agency needs to exhaust remedies before a Court will hear the issue.**
- **Use a binder with tabs for filed case paperwork to expedite the process.**
- **Use as many exhibits as needed (do not overload) and stipulate the authenticity.**
- **Law Director needs to check the materials and verify relevancy.**
- **When hearing begins, all exhibits are treated as Public Record.....thus, monitor information (remove SS #'s), or submit under seal or exclude from file**

PLEASE REFERENCE THE STATE PERSONNEL BOARD OF REVIEW ACADEMY MANUAL, using the specific tabs as topic indicators.

MEMO

TO: Thomas G. Lobe / file
FROM: Todd D. Cipollo
DATE: June 4, 2014
RE: Willoughby Hills Charter Review – Civil Service

As an initial matter, it is correct to identify the two classification of Civil Service. However, everyone fits into one of these two categories. ORC §124.10 defines, Civil service to “includes **all offices and positions of trust or employment** in the service of the state and in the service of the counties, cities, city health districts, general health districts, and city school districts of the state.” There is no separate, third “non civil service” classification. It is the equivalent of having a classification for male or female. Everyone necessarily fall into one of the two classifications. The same is true for Classified and Unclassified Civil Service.

It appears to me that the terminology of “non civil service” from the Charter is merely a poor language choice. I would understand the term “non civil service” as utilized within the section 9 of the Charter to be synonymous to Unclassified civil service. I did not see another utilization of “non civil service”. The Civil Service Commission has no jurisdiction over entities the City contract with for services, but I would not assume that “non civil service” would be referring to agents or various parties to contract with the City.

As to your “non civil service” list, the Building Clerk should be unclassified as the executive assistant to Building Commissioner. The Prosecutor and Magistrate are clearly unclassified. I am not sure what the Economic Development Director does to form an opinion on that position.

Are the Full-time Service Department Workers and Full-time Dispatchers currently not under the Civil Service Commission. I would have expected them to be in the Classified Service and subject to testing and oversight of the commission.

Ben Rose, *Chair*
Shirley Mays, *Vice Chair*
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INFORMATION SHEET: ADVISORY OPINION NO. 2010-03
NEPOTISM RESTRICTIONS

What are the questions addressed in the opinion?

Can public officials or employees hire their family members or recommend their family members for a public job? If a public official's family member is lawfully hired, can the official participate in matters affecting the family member's employment? Can two family members serve the same public agency?

What are the answers in the opinion?

Public officials and employees cannot: (a) hire or use their positions to secure employment for their family members; (b) recommend or nominate their family members for public jobs with their own, or any other, public agencies; or (c) give to their family members, or use their positions to secure for their family members, raises, promotions, job advancements, overtime pay or assignments, favorable performance evaluations, or any other things of value related to their employment. Two family members can work for the same public agency, provided that both are able to comply with these restrictions.

What prompted this opinion?

As a reminder to all public officials and employees in the state, the Commission is issuing this advisory opinion that gathers information from its many previous advisory opinions on nepotism and provides examples of the law.

When will the conclusions of the opinion become effective?

The opinion became effective upon approval by the Commission.

For More Information, Please Contact:

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**THIS COVER SHEET IS PROVIDED FOR INFORMATION PURPOSES.
IT IS NOT AN ETHICS COMMISSION ADVISORY OPINION.
ADVISORY OPINION NO. 2010-03 IS ATTACHED.**

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Advisory Opinion
Number 2010-03
May 25, 2010

Syllabus by the Commission:

- (1) Division (A)(1) of Section 2921.42 of the Ohio Revised Code provides that no public official shall knowingly “authorize or employ the authority or influence of” the official’s office to secure authorization of the employment of a family member;
- (2) Divisions (D) and (E) of Section 102.03 of the Ohio Revised Code prohibit public officials and employees from using or authorizing the use of their public positions to secure employment, or employment-related benefits, for their family members;
- (3) Public officials and employees cannot: (a) hire or use their positions to secure employment for their family members; (b) recommend or nominate their family members for public jobs with their own, or any other, public agencies; or (c) give to their family members, or solicit or use their positions to secure for their family members, raises, promotions, job advancements, overtime pay or assignments, favorable performance evaluations, or any other things of value related to their employment.

* * *

For more than twenty-five years, the Commission has issued many advisory opinions about the nepotism restrictions in the Ethics Law and related statutes. The Commission has explained that the public contract (R.C. 2921.42(A)(1)) and conflict of interest (R.C. 102.03(D) and (E)) restrictions apply to public officials and employees whose family members are seeking employment, or already working, with the agencies they serve. In this opinion, the Commission gathers information from its advisory opinions on nepotism and provides examples of the restrictions in the law.

Public Contract Law—R.C. 2921.42(A)(1)

R.C. 2921.42(A)(1) provides that no public official shall knowingly:

Authorize, or employ the authority or influence of the public official's office to secure authorization of any public contract in which the public official, a member of the public official's family, or any of the public official's business associates has an interest.

A "public official" includes: "[A]ny elected or appointed officer, or employee, or agent of the state or any political subdivision, whether in a temporary or permanent capacity." R.C. 2921.01(A). The restriction in R.C. 2921.42(A)(1) applies to all individuals who are elected or appointed to, or employed by, any public agency, including but not limited to any state agency, county, city, township, school district, public library, and regional authority. The restriction applies regardless of whether the person is: (1) compensated or uncompensated; (2) serving full time or part time; or (3) serving in a temporary or permanent position.

A "public contract" is the purchase or acquisition of property or services, by or for the use of any public agency, specifically including the employment of an individual by the state, any of its political subdivisions, or any agency or instrumentality of either. A public contract can be a written or oral agreement. Since 1985, before the General Assembly amended the definition in 1994 to specifically include employment, the Commission had consistently held that the "purchase or acquisition . . . of services" includes employment. Ohio Ethics Commission Advisory Opinions No. 85-011, 90-010, and 92-012. See also *Walsh v. Bollas* (1992), 82 Ohio App. 3d 588. A person has an interest in one's own employment. See, generally, *State v. Urbin* (2002), 148 Ohio App. 3d 293, 100 Ohio St. 3d 1207 (2003).

"Authorizing" a contract includes voting on, signing, or taking any other action to award the contract. Adv. Op. No. 2001-02. Employing the "authority or influence" of one's position to "secure authorization of" a contract includes a much broader range of activities, such as recommending, deliberating or discussing, and formally or informally lobbying any public official or employee about the contract. Id.

Member of the Family

The definition of "member of a public official's family" includes, but is not limited to, these relatives of an official or employee, *regardless of where they live*:

1. Parents and step-parents;
2. Grandparents;
3. Spouse;
4. Children and step-children, whether dependent or not;
5. Grandchildren; and
6. Siblings.

Adv. Op. No. 2008-03. Any other individual related to an official or employee by blood or marriage is a "member of the official's family" if he or she lives in the same household with the official or employee. Id. For example, if a public official's cousin, uncle or aunt, niece or

nephew, or in-law lives in the same household with the official, that person is a member of the official's family.

Conflict of Interest Laws—R.C. 102.03(D) and (E)

In addition to the public contract restrictions, R.C. 102.03(D) and (E) apply to public officials or employees when their family members are seeking employment with, or are employed by, the same public agency they serve. R.C. 102.03(D) and (E) provide that:

- (D) No public official or employee shall use or authorize the use of the authority or influence of office or employment to secure anything of value or the promise or offer of anything of value that is of such a character as to manifest a substantial and improper influence upon the public official or employee with respect to that person's duties.
- (E) No public official or employee shall solicit or accept anything of value that is of such a character as to manifest a substantial and improper influence upon the public official or employee with respect to that person's duties.

R.C. 102.03(D) and (E) apply to any person who is elected or appointed to, or employed by, any public agency, except teachers, instructors, and other educators who do not perform or have the authority to perform, supervisory or administrative functions. R.C. 102.01(B) and (C).¹

"Anything of value" includes money and every other thing of value. R.C. 103; 102.03(G). Employment and the compensation and benefits that accompany it are within the definition of anything of value. Adv. Op. No. 92-012.

A thing of value manifests a "substantial and improper influence" on a public official or employee if it could impair the official's or employee's objectivity and independence of judgment with respect to his or her public duties. Adv. Ops. No. 91-010 and 95-001.

The Commission has stated that voting on, recommending, deliberating about, discussing, lobbying, or taking any other formal or informal action within the scope of a public official's or employee's public authority is "use of," or "authorization of the use of" the authority or influence of a public official's or employee's office or employment. Adv. Op. No. 88-005. Therefore, any such conduct related to the hire of a family member would be a violation of this section.

¹ While teachers and other educators are exempted from the conflict of interest law, they are fully subject to the public contract law (R.C. 2921.42), also discussed in this opinion.

General Nepotism Restrictions

The “nepotism” or “family hire” restrictions in R.C. 2921.42(A)(1) and 102.03(D) and (E) prohibit all public officials, regardless of their job duties or level of authority, from:

- a. Hiring any of their family members;
- b. Voting to authorize the employment of a family member; and
- c. Recommending, nominating, or using their positions in any other way to secure a job for a family member.

The Ethics Commission has held, however, that R.C. 2921.42(A)(1) and 102.03(D) and (E) do not amount to a “no-relatives” policy. Adv. Op. No. 90-010. See also *State ex rel. Halleck v. Delaware County Commissioners* (Dec. 13, 1996), Delaware App. No. 96CA-E-04-021 (holding that R.C. 124.11(B)(1) prevents local governments from implementing a broadly inclusive “no relatives” employment policy). The Ethics Law and related statutes usually do not prohibit two family members from working for the same public agency. In most cases, provided that public officials comply with nepotism restrictions, their family members can compete with others for public employment. For example, the adult daughter of a city council member could compete for a posted job in the city’s transportation department and, if she is the most qualified candidate, can be hired by city council. However, the council member is prohibited from directly hiring his or her daughter, voting to authorize his or her daughter’s employment, recommending the hire of his or her daughter, and taking any other action to secure the hire, such as discussing his or her daughter’s qualifications with the transportation director.

If a public official’s family member has been lawfully hired by the agency, without the official’s involvement in the hire, R.C. 2921.42(A)(1) and 102.03(D) and (E) prohibit the official from:

- a. Giving the family member raises, promotions, job advancements, overtime pay or assignments, favorable performance evaluations, or other things of value related to employment; and
- b. Using such official’s or employee’s public position to secure any of these employment-related benefits for a family member.

R.C. 2921.42(A)(4) prohibits a public official from having an interest in a public contract entered into by a public agency with which he or she is connected. A prohibited “interest” is a definite and direct interest, rather than an indirect interest. Adv. Op. No. 92-017. If a public official’s family member is hired by the public agency, he or she generally does not have an interest prohibited by R.C. 2921.42 in the family member’s employment contract, unless the family member is the official’s minor child. See Adv. Op. No. 93-008 (a parent has an interest in the earnings of an unemancipated minor child). Even though the official may benefit from the hire of a family member, because his or her family member’s income helps to support the household or the official is covered under the family member’s insurance, the Commission has concluded that the official does not have an “interest” in the contract. Adv. Op. No. 92-017.

However, if the official receives some thing of value, as a direct result of his or her family member's employment, the official may have an interest in the contract.

Official Required to Participate in Hiring Process

Whenever any statute, resolution, ordinance, rule, or policy requires that a particular public official participate in any part of the hiring process, the family members of that official cannot be hired by the public agency without a violation of R.C. 2921.42(A)(1).

For example, R.C. 3319.07(A) states: "In all school districts and in service centers no teacher shall be employed unless such person is nominated by the superintendent of such district or center." There is a similar requirement for the nomination of administrative officials (including assistant superintendents, principals, assistant principals, and other administrators). R.C. 3319.02(B) and (C). Because the law requires that a superintendent nominate the hire of all teachers and administrators, a superintendent's family member cannot be hired by the district or service center without a violation of R.C. 2921.42(A)(1).

Continued Employment

If a person is elected, appointed or employed in a position in an agency where a family member is already employed, the law does not prohibit the family member from continuing to work for the agency. However, a public official who is an administrator or governing board member for an agency is prohibited from using such official's public authority, in any way, to secure job-related benefits for the employee who is a family member. A public official is not prohibited from taking actions that affect all employees of the agency, including the official's family member, in the same manner. Adv. Ops. No. 92-012 and 98-003.

For example, if the adult child of a newly elected county recorder worked for the recorder's office before the parent was elected, the employee can continue in that position after the parent becomes recorder. However, the county recorder would be prohibited from promoting or giving raises to the child, and from taking any other action to secure unique or differential benefits for the child.

Union Contracts and Uniform Benefits

If a public official's family member, other than a spouse, is employed by the same public agency, the official can vote, discuss, deliberate, lobby, or otherwise participate in the ratification or rejection of a negotiated collective bargaining agreement that affects the family member in the same way as all other employees of the agency, unless the family member is an officer or employee of the union, or on the negotiating team for the union. Adv. Ops. No. 89-005 and 98-003. Public officials who are members of a governing board can also participate in the board's discussions of contract terms and negotiation strategy for a collective bargaining agreement affecting family members, although the Commission has recommended that public officials refrain from taking a more active role in the negotiation of these agreements. Adv. Op. No. 89-005. But see Adv. Op. No. 98-003 (a school district superintendent can participate in the

negotiation of a collective bargaining agreement affecting a family member (other than his or her spouse) employed by the district, provided that the family member is affected in the same manner as other similarly situated employees and is not an officer, board member, or a member of the negotiating team of the labor organization).

Because a person can be covered by his or her spouse's employer-provided health insurance, the law may apply somewhat differently to a public official whose *spouse* is employed by the same public agency. If a public official's spouse is employed by the same public agency, and the official is covered by the spouse's employment-related health insurance, the official cannot participate, in any way, in the ratification of a collective bargaining agreement covering the family member. Adv. Op. No. 92-013. If the official is not covered by his or her spouse's employment-related health insurance, the official can participate in ratification or rejection of the contract in the same manner that is discussed in the previous paragraph.

Voting to Authorize Employment—Governing Board Member

A governing board member, such as a township trustee, county commissioner, or city council member, is prohibited from voting on an ordinance, resolution, or other decision that authorizes the employment of a family member even if the board member did not participate in the hiring process. Conversely, the governing board member should not discuss or deliberate about the hire, or recommend the family member for employment, even if the board member abstains from the vote. Both of these restrictions apply to an official even if another official or employee of the agency interviewed the candidate, and has selected the family member, after a fair and open process.

A governing board member is prohibited from voting on an ordinance, resolution, or other decision to authorize the hire of a family member even if the board member's vote is not the "deciding" vote necessary to pass the ordinance or resolution.

Recommending, Reviewing Applications, or Taking Other Actions Affecting Employment

A public official is prohibited from recommending a family member for public employment, even if other officials and employees will make the final decision about whether to hire the employee. When a public official's family member has submitted an application for a public job, or is otherwise competing for the position, the official cannot review other applications, interview, rate, or rank other candidates, or take any other action in connection with the hiring activity for that position.

An official cannot recommend a family member for employment by the agency he or she serves or recommend the hire of a family member by *any other* public agency. For example, a city council member who has frequent official interactions with a township is prohibited from asking a township official or employee to hire the council member's relative.²

² Public officials are also prohibited from using their positions to secure employment for their family members from a private company or organization that is doing or seeking to do business with, regulated by, or interested in matters before the agencies they serve. Adv. Op. No. 2009-06.

Penalties

The Ethics Law and related statutes are criminal laws. If an official is convicted of violating an ethics law, the official may receive a jail sentence and/or be fined.

R.C. 2921.42(A)(1) (authorizing a family member's contract) is a fourth-degree felony with a maximum penalty of eighteen months in prison and/or a \$5000 fine. R.C. 102.03(D) and (E) (soliciting or using position to secure anything of value) are first-degree misdemeanors with maximum penalties of six months in prison and/or a \$1000 fine.

Also, R.C. 2921.42(H) provides that a contract entered into in violation of R.C. 2921.42 is void and unenforceable. Therefore, an employment contract entered into in violation of R.C. 2921.42(A)(1) would be void and unenforceable.

Conclusion

This advisory opinion is limited to questions arising under Chapter 102. and Sections 2921.42 and 2921.43 of the Revised Code, and does not purport to interpret other laws or rules.

Therefore, it is the opinion of the Ohio Ethics Commission, and you are advised as follows: Division (A)(1) of Section 2921.42 of the Ohio Revised Code provides that no public official shall knowingly "authorize or employ the authority or influence of" the official's office to secure authorization of the employment of a family member. Divisions (D) and (E) of Section 102.03 of the Ohio Revised Code prohibit public officials and employees from using or authorizing the use of their public positions to secure employment, or employment-related benefits, for their family members. As a result, public officials and employees cannot: (a) hire or use their positions to secure employment for their family members; (b) recommend or nominate their family members for public jobs with their own, or any other, public agencies; or (c) give to their family members, or solicit or use their positions to secure for their family members, raises, promotions, job advancements, overtime pay or assignments, favorable performance evaluations, or any other things of value related to their employment.

By my signature below, I certify that Advisory Opinion No. 2010-03 was rendered by the Ohio Ethics Commission at its meeting on May 25, 2010.



Ben Rose, Chair
Ohio Ethics Commission