



UPCOMING TRAININGS

SUPERVISORY TRAINING

Effectively Managing Staff Who Telework	1/20/09
Excelling as a First-Time Supervisor	1/21/09
Managing for PEAK Performance	1/29/09
Effective Grievance Handling	2/19/09
Facilitative Leadership: Tapping the Power of Participation (3 days)	2/23/09
Project Management Quick Start	3/4/09

GENERAL TRAINING

Preparing to Telework	1/20/09
Diversity I: Nurturing Our Excellence, Leveraging Our Diversity	1/21/09
Effective Written Communication	1/28/09
Emotional Intelligence	2/3/09
Diversity II: Overcoming Barriers to Diversity	2/11/09



View a [print version](#) of this eNewsletter (PDF).

Contact Information

For questions or feedback about countywide training, please [email our staff](#).

Success in Interest Arbitration Awards

This past fall Multnomah County prevailed in two interest arbitrations with the MCDA and Local 86 (Juvenile Custody Service Specialists). • [continued](#) •

Federal Changes in the Americans with Disabilities Act (ADA)

On January 1st the federal government enacted important changes in the ADA, including the definition of "disability," in ways that will impact Multnomah County employees. • [continued](#) •

Red Alert! New FMLA Regulations

The Department of Labor has published new FMLA regulations that take effect on January 16, 2009. • [continued](#) •

Multnomah County Approves Telework Policy

The Board of County Commissioners recently approved a new policy that provides parameters and guidelines for employees who are able to perform some of their routine job functions from a home office. • [continued](#) •

Employees' Right to Comp Time

All employees have a right to comp time. What are the guidelines on how and when they use it at Multnomah County? • [continued](#) •

Additional Info

- Temporary Appointment Table for Local 88
- FAQs about Inclement Weather

A Note from the Central HR Director

Dear County Managers,

Welcome to the first e-newsletter edition of "Management Matters," our popular quarterly communication from Labor Relations, a section of Multnomah County's Central Human Resources. We have recently changed from a PDF format to an HTML newsletter.

In a work climate that is constantly changing, Central Human Resources believes timely, accessible communications with Multnomah County's managers helps us to stay informed about issues of critical importance to the organization.

In the next few months you'll also be seeing a monthly communication from other sections of Central Human Resources:

- Talent Development will have a quarterly newsletter for all employees on trainings and organizational development activities;
- Central Human Resources will have one general newsletter to all employees on HR topics of interest across all departments;

We developed this family of e-newsletters so that Central Human Resources can communicate critical information to our valued "customer base"...Multnomah County managers and employees.

Please let us know what you think.

— Travis Graves, Director
Central Human Resources



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Success in Interest Arbitration Awards continued

Multnomah County prevailed in interest arbitration with both the Multnomah County Corrections Deputies Association (MCCDA) and the Juvenile Custody Services Specialists Unit (JCSS) in awards issued, respectively, in September and October of this year.

Under the state's Public Employees Collective Bargaining Act (PECBA), certain emergency and public safety personnel are prohibited from striking (ORS 243.736). The Multnomah County Corrections Deputies Association (MCCDA) and AFSCME's Juvenile Custody Service Specialists (JCSS) unit are deemed non-strikeable under that provision and are permitted to pursue binding interest arbitration when negotiations for a successor bargaining agreement or a reopener are unsuccessful. In interest arbitration, a neutral third party resolves bargaining impasses by dictating the some of the terms of the parties' collective bargaining agreement. The interest arbitrator in Oregon is obligated to award either the employer's last best offer (LBO) or the union's LBO and does not have the authority to blend the parties' proposals. The arbitrator's award, once issued, becomes new contract language for the parties.

The County and MCCDA went to interest arbitration—which involved a four-day hearing from May 13-16 before Arbitrator Katrina Boedecker—when they were unable to come to a negotiated agreement for a limited reopener for FY 2008. The parties had jointly reopened wages and health insurance along with two additional articles in accordance with the language of their 2004-2010 CBA. The County had reopened sick Article 10 (Sick Leave) for the purpose of addressing sick leave verification and sick leave abuse language.

The County also opened Article 15 (Hours of Work) for the purpose of capping the total amount of compensatory time that an employee could use and accrue in the course of a year, in addition to curtailing the inequitable distribution of time off opportunities among bargaining unit members. With respect to wages, the County proposed a 2.7% increase for FY 2008. The County also proposed a 1.5% non-retroactive Uncontrolled Environment (UNET) premium for those members who obtain UNET certification which positively impacts safe operations of the jails. All of the above, in addition to the County's health care proposal, were included in the County's LBO which was upheld by Arbitrator Boedecker in her September 15, 2008 award.

The County and JCSS were also unable to reach agreement on a successor CBA after their existing CBA expired on June 30, 2007. The parties agreed to a number of articles including health care, but wages and the length of the successor agreement were in dispute when the parties went to interest arbitration. The two-day hearing was held August 18th and 19th before Arbitrator Norman Brand. The County proposed a 2.7% wage increase for FY 2008 and a 3.8% increase for FY 2009. The County further proposed a third year for the successor CBA with wages based on CPI-W Portland 2nd Half with a minimum of 2.0% and a maximum of 5.0%. Furthermore, the County proposed shift differential increases of \$0.25/hour for both swing and graveyard/relief shifts. All of the above were incorporated in the County's LBO that was awarded by Arbitrator Brand on October 14, 2008. The new contracts are in the process of being proofed and readied for printing, and will be available both in print and on the Labor Relations website in the next few weeks.



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Federal Changes in the Americans with Disabilities Act (ADA) continued

On September 17, 2008, the House approved the ADA Amendments Act (ADAAA) of 2008 (S. 3406). The Bill was signed into law on September 25, 2008 and went into effect on January 1, 2009.

The ADA's 3-part definition remains the same:

- A physical or mental impairment that substantially limits a major life activity;
- A record of such an impairment; and
- Being regarded as having such impairment.

The ADAAA changes several key terms.

- **Substantially Limits:** The ADA Amendments Act states that the determination of whether an impairment substantially limits a major life activity must be made without regard to mitigating measures such as: medication, medical supplies, equipment, appliances; or use of assistive technology; auxiliary aids or services; or learned behavioral or adaptive neurological modifications. Prescription eyeglasses and contact lenses are excluded.
- **Major Life Activities:** The definition has been expanded and now provides a nonexclusive list of major life activities, including "caring for oneself, performing manual tasks, seeing, hearing, eating, sleeping, walking, standing, lifting, bending, speaking, breathing, learning, reading, concentrating, thinking, communicating and working." It also includes the "operation of major bodily functions," such as functions of the "immune system, normal cell growth, digestive, bowel, bladder, neurological, brain, respiratory, circulatory, endocrine and reproductive functions."
- **"Regarded As" Disabled:** An employee may still bring a claim that he or she is "regarded as" disabled. They no longer need to show that an employer regarded him or her as "substantially impaired in a major life activity." It is enough to show that an employer based an employment decision on an employee's perceived impairment. Employees "regarded as" disabled are not entitled to reasonable accommodation. The Amendment clarifies that the "regarded as" prong of the disability definition does not apply to "impairments that are transitory and minor," which it defines as those impairments that have "an actual or expected duration of 6 months or less."
- **Reverse Discrimination Claims:** The ADAAA Amendment specifically prohibits "reverse discrimination" claims based on a disability. Reverse discrimination claims were rejected by the courts in most cases; this Amendment simply makes it clearer.

Employers must continue to provide accommodations, unless it creates an undue hardship, to qualified employees. Managers should continue to engage in the interactive process with employees who request a reasonable accommodation. Human Resources Professionals are encouraged to contact the County Attorney's Office and/or their Labor Relations Representative concerning ADA-related issues.

Red Alert! New FMLA Regulations continued

The Department of Labor has published new FMLA regulations that take effect January 16, 2009. Highlights of the new regulations are as follows.

- **Communication with Health Care Providers:** An employee may now choose to provide authorization allowing their employer to communicate directly with their health care provider for the purposes of clarification and authentication of an incomplete or insufficient FMLA certification.

***Important Note:** Only a human resources professional, a leave administrator or a management official may contact the health care provider. Under no circumstances may the employee's direct supervisor contact the employee's health care provider.*
- **Fitness-For-Duty Certifications:** FMLA allows employers to enforce uniformly-applied policies that require employees who take leave to provide a fitness-for-duty certification that they are able to resume work. The new regulations now allow employer to require that the certification specifically address the employee's ability to perform the essential functions of the employee's job. Additionally, where reasonable job safety concerns exist, an employer may require a fitness-for-duty certification before an employee may return to work when the employee takes intermittent leave.
- **Medical Recertification:** Even if a medical certification indicates that the employee will need leave for a period in excess of six months (i.e. for a lifetime condition), the employer is permitted to request recertification every six months in connection with an absence.
- **Completeness of Medical Certification:** The new regulations specify that if an employer deems a medical certification to be incomplete or insufficient, the employer must specify in writing what information is lacking, and give the employee seven (7) calendar days to cure the deficiency.
- **Employee Notice:** The final rule modifies the current provision that has been interpreted to allow some employees to provide notice to an employer of the need for FMLA leave up to two full business days after an absence, even if they could have provided notice more quickly. An employee needing FMLA leave must follow the employer's usual and customary call-in procedures for reporting an absence.
- **Perfect Attendance Awards:** Employers can now deny perfect attendance awards to employees who do not have perfect attendance because of taking FMLA leave so long as the employer treats other non-FMLA employees the same way.
- **Holidays:** For the purposes of determining the amount of leave used by an employee, the new regulations clarify that the fact a holiday occurs within the week taken as FMLA leave has no effect—the week is counted as a full week of FMLA leave. However, if an employee is using FMLA leave in increments of less than one week, the holiday will not count against the employee's FMLA entitlement unless the employee was otherwise scheduled and is expected to work during the holiday. • *continued* •



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New FMLA Regulations

continued

- **Physical Impossibility Exception to Intermittent Leave:** When it is physically impossible for an employee using intermittent leave or working a reduced leave schedule to commence or end work mid-way through a shift, such as where a flight attendant is scheduled to work aboard an airplane, the entire period that the employee is forced to be absent counts against the employee's FMLA entitlement.
- **Military Family Leave:** The National Defense Authorization Act (NDAA) amended the FMLA to provide two new leave entitlements:
 1. **Military Caregiver Leave** (also known as Covered Service Member Leave): Eligible employees who are family members of covered service members can take up to twenty-six (26) workweeks of leave in a single twelve (12)-month period to care for a covered service member with a serious illness or injury incurred in the line of duty on active duty. This entitlement extends FMLA job-protected leave beyond the normal twelve (12) weeks of leave and extends FMLA protection to additional family members beyond those who may take FMLA leave for other qualifying reasons.
 2. **Qualifying Exigency Leave:** The second provision makes the normal twelve (12) workweeks of FMLA leave available to eligible employees with a covered military member serving in the National Guard or Reserves to use for "any qualifying exigency" arising out of the fact that a covered military member is on active duty or called to active duty status in support of a contingency operation. The final rule defines qualifying exigency by referring to a number of broad categories for which employees can use FMLA leave: (a) short-notice deployment; (b) military events and related activities; (c) childcare and school activities; (d) financial and legal arrangements; (e) counseling; (f) rest and recuperation; (g) post-deployment activities; and (h) additional activities not encompassed in the other categories, but agreed to by the employer and employee.

Multnomah County Approves Telework Policy

continued

Placeholder for this article...

One of the major milestones in the plan was the August 2007 adoption of the *Multnomah County Competency Model* by the Chair's Office and Department Directors.

PPR is more than a performance evaluation process. It is a comprehensive process focused on manager-employee communication, identifying performance driving behaviors (competencies), goal-setting, and employee development—occurring throughout the year, not just at year-end. *PPR* is founded on the most current industry standards for best practices in management and organizational effectiveness. The successes and learnings from our *PPR* pilot provide both a valuable baseline and a springboard for continuous process improvement.

The Goal

Maximize organizational performance throughout Multnomah County. Implement a system that enables managers and employees to engage in meaningful performance planning, feedback and review processes by using standard, consistent, and effective tools.



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Employees' Right to Comp Time

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Maximize organizational performance throughout Multnomah County. Implement a system that enables managers and employees to engage in meaningful performance planning, feedback and review processes by using standard, consistent, and effective tools.

The Successes

There are 116 managers trained in competency-based performance planning, feedback and review processes. *DCS*, *DCJ*, and *Central HR* were the forerunners in the *PPR* pilot. We applaud their efforts, honor their feedback and recognize their support. An additional 240 managers will be trained by the end of FY08–FY09, and 5 departments will be using *PPR* at the exempt management level.

The Learnings

An evaluation of the pilot was completed and made available for review in October 2008. The next table presents some of the initial feedback themes and what we are doing to respond.

Feedback Themes	Process Improvement Actions
FORM TOO COMPLEX: busy, lengthy, unclear who/when to fill in comments	simplified PPR form
COMMUNICATION & PLANNING: liked goal-setting, expectation, clarification, feedback, recognition, knowing "on-track"	keep PPR process; continue to enhance elements of planning and communication
CONFUSION ABOUT GOALS vs COMPETENCIES: hard to differentiate between them; action steps seemed redundant for each section...they overlap	clarify how Competencies and Goals relate
CONSISTENCY, STRUCTURE, ACCOUNTABILITY: liked that it is not year-end only process; accountable to goals; sets up consistency for communication	keep PPR process; simplify form to better support process
FORM RATINGS: language and levels not strengths-based	adjusted language and rating levels on PPR form