



## Ohio Revised Code

### Section 124.321 Reduction in work force - layoffs - job abolishment.

Effective: October 16, 2009

Legislation: House Bill 1 - 128th General Assembly

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(A) Whenever it becomes necessary for an appointing authority to reduce its work force, the appointing authority shall lay off employees or abolish their positions in accordance with sections 124.321 to 124.327 of the Revised Code. If the affected work force is in the service of the state, the reduction shall also be in compliance with the rules of the director of administrative services.

(B)(1) Employees may be laid off as a result of a lack of funds within an appointing authority. For appointing authorities that employ persons whose salary or wage is paid by warrant of the director of budget and management, the director of budget and management shall be responsible for determining, consistent with the rules adopted under division (B)(3) of this section, whether a lack of funds exists. For appointing authorities that employ persons whose salary or wage is paid other than by warrant of the director of budget and management, the appointing authority itself shall determine whether a lack of funds exists.

(2) As used in this division, a "lack of funds" means an appointing authority has a current or projected deficiency of funding to maintain current, or to sustain projected, levels of staffing and operations. This section does not require any transfer of money between funds in order to offset a deficiency or projected deficiency of funding for programs funded by the federal government, special revenue accounts, or proprietary accounts. Whenever a program receives funding through a grant or similar mechanism, a lack of funds shall be presumed for the positions assigned to and the employees who work under the grant or similar mechanism if, for any reason, the funding is reduced or withdrawn.

(3) The director of budget and management shall adopt rules, under Chapter 119. of the Revised Code, for agencies whose employees are paid by warrant of the director of budget and management, for determining whether a lack of funds exists.

(C)(1) Employees may be laid off as a result of lack of work within an appointing authority. For appointing authorities whose employees are paid by warrant of the director of budget and



management, the director of administrative services shall determine, consistent with the rules adopted under division (F) of this section, whether a lack of work exists. All other appointing authorities shall themselves determine whether a lack of work exists.

(2) As used in this division, a "lack of work" means an appointing authority has a current or projected decrease in workload that requires a reduction of current or projected staffing levels in its organization or structure. The determination of a lack of work shall indicate the current or projected decrease in workload and whether the current or projected staffing levels of the appointing authority will be excessive.

(D)(1) Employees may be laid off as a result of abolishment of positions. As used in this division, "abolishment" means the deletion of a position or positions from the organization or structure of an appointing authority.

For purposes of this division, an appointing authority may abolish positions for any one or any combination of the following reasons: as a result of a reorganization for the efficient operation of the appointing authority, for reasons of economy, or for lack of work.

(2)(a) Reasons of economy permitting an appointing authority to abolish a position and to lay off the holder of that position under this division shall be determined at the time the appointing authority proposes to abolish the position. The reasons of economy shall be based on the appointing authority's estimated amount of savings with respect to salary, benefits, and other matters associated with the abolishment of the position, except that the reasons of economy associated with the position's abolishment instead may be based on the appointing authority's estimated amount of savings with respect to salary and benefits only, if:

(i) Either the appointing authority's operating appropriation has been reduced by an executive or legislative action, or the appointing authority has a current or projected deficiency in funding to maintain current or projected levels of staffing and operations; and

(ii) In the case of a position in the service of the state, it files a notice of the position's abolishment with the director of administrative services within one year of the occurrence of the applicable circumstance described in division (D)(2)(a)(i) of this section.



(b) The following principles apply when a circumstance described in division (D)(2)(a)(i) of this section would serve to authorize an appointing authority to abolish a position and to lay off the holder of the position under this division based on the appointing authority's estimated amount of savings with respect to salary and benefits only:

(i) The position's abolishment shall be done in good faith and not as a subterfuge for discipline.

(ii) If a circumstance affects a specific program only, the appointing authority only may abolish a position within that program.

(iii) If a circumstance does not affect a specific program only, the appointing authority may identify a position that it considers appropriate for abolishment based on the reasons of economy.

(3) Each appointing authority shall determine itself whether any position should be abolished. An appointing authority abolishing any position in the service of the state shall file a statement of rationale and supporting documentation with the director of administrative services prior to sending the notice of abolishment.

If an abolishment results in a reduction of the work force, the appointing authority shall follow the procedures for laying off employees, subject to the following modifications:

(a) The employee whose position has been abolished shall have the right to fill an available vacancy within the employee's classification.

(b) If the employee whose position has been abolished has more retention points than any other employee serving in the same classification, the employee with the fewest retention points shall be displaced.

(c) If the employee whose position has been abolished has the fewest retention points in the classification, the employee shall have the right to fill an available vacancy in a lower classification in the classification series.



(d) If the employee whose position has been abolished has the fewest retention points in the classification, the employee shall displace the employee with the fewest retention points in the next or successively lower classification in the classification series.

(E) Notwithstanding any contrary provision of the displacement procedure described in section 124.324 of the Revised Code for employees to displace other employees during a layoff, the director of administrative services or a county appointing authority may establish a paper lay-off process under which employees who are to be laid off or displaced may be required, before the date of their paper layoff, to preselect their options for displacing other employees.

(F) The director of administrative services shall adopt rules under Chapter 119. of the Revised Code for the determination of lack of work within an appointing authority, for the abolishment of positions by an appointing authority, and for the implementation of this section as it relates to positions in the service of the state.