



## Ohio Administrative Code Rule 123:1-5-01 Unclassified service.

Effective: April 4, 2024

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(A) Designation of exemptions. Within sixty days after taking office, each elective officer and each principal appointive officer, board, commission, or body having the power of appointment to, or removal from, positions in the service of the state in any office, department, commission, board, or institution, shall designate to the director the positions for which exemption from the competitive classified service is claimed under the provisions of division (A)(8) of section 124.11 of the Revised Code.

Thereafter, no change in the designation of exemptions claimed under this provision will be made during the incumbency of such officer, board, commission, or body unless a reorganization occurs as a result of legislative action during the appointing officer's, board's, commission's, or body's term of office, or the duties of the position have changed to an extent that warrants a change in the classification of the position. When a change in duties warrants a change in classification under this rule, only the classification of the position can be changed, otherwise the actual position's unclassified status will remain the same. The appointive officer, board, commission, or body will file a statement of reasons for such proposed change with the director and receive confirmation from the director that the change is acceptable prior to the change becoming effective.

If exemptions have not been designated by the appointing officer, board, commission, or body as herein provided within sixty days after taking office, the exemptions previously designated and in effect under this provision are considered the exemptions claimed by such appointing authority and will continue to be in effect.

(B) Deputies and assistants. Notices from appointing authorities of the appointment of deputies and assistants in the service of the state who are exempt from the classified service under the provisions of division (A)(9) of section 124.11 of the Revised Code will be accompanied by a statement of the provisions of the law under which such deputies and assistants are appointed and a statement of the duties to be assigned to such appointees that shows they are acting for or on behalf of the agency and/or that they are performing duties that demonstrate an administrative and/or fiduciary relation



with their agency, as defined below:

(1) Administrative relation -- generally means a relationship where an employee has substantial authority to initiate discretionary action and/or in which the agency, board, or commission must rely on the employee's personal judgment and leadership abilities. It is characterized by a position where the employee is in charge of formulating official policy or is in charge of carrying out that policy. The average employee would not possess such qualities or be delegated such discretionary authority.

(2) Fiduciary relation -- generally means a relationship where the agency, board, or commission reposes a special confidence and trust in the integrity and fidelity of an employee to perform duties that could not be delegated to the average employee with the knowledge of proper procedures. It is characterized by qualities and personal attributes beyond technical competence that cannot be satisfactorily measured by competitive examination.

(C) Requests for exemption from the classified service under division (A)(12) of section 124.11 of the Revised Code for positions in the service of the state will be accompanied by a written statement from the appointing authority setting forth the reasons why it is impracticable to include such employees or positions in the competitive classified service.

(D) The term "military appointee" as used in division (A)(6) of section 124.11 of the Revised Code applies only to those persons who, after appointment, render service of a military character and are in the military service of the state, having some connection with, and some rank in the organized militia of Ohio.