



## Ohio Revised Code

### Section 124.11 Unclassified service - classified service.

Effective: September 29, 2015

Legislation: House Bill 64 - 131st General Assembly

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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, and 5139.02 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 any of the following apply:

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

(b) That person held a permanent position on or after July 1, 2007, in the classified service within the appointing authority's agency, and was appointed to the position in the unclassified service prior to January 1, 2016;

(c) That person held a permanent position on or after January 1, 2016, in the classified service within the appointing authority's agency, and is within five years from the effective date of the person's appointment in the unclassified service.

(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.