

**What is “civil service”?**

- Intro to Civil Service
- Navigating the ORC
- Classified vs. Unclassified
- Use of OAC

**Article XV, Section 10 of the Constitution of the State of Ohio:**

“Appointments and promotions in the civil service of the state, counties, and cities must be made according to merit and fitness, to be ascertained as far as practicable by competitive examinations. **Law may be passed to enforce this provision.**”



**When looking for ORC civil service statutes, remember to use this web site:**

<https://codes.ohio.gov/ohio-revised-code>

You should end up on a web page that looks like this:



The screenshot shows the homepage of the Ohio Laws & Administrative Rules website. The header includes the Ohio State Seal, the text "OHIO LAWS & ADMINISTRATIVE RULES", and "LEGISLATIVE SERVICE COMMISSION". Below the header are navigation links for "HOME", "LAWS", "ABOUT", "CONTACT", "RELATED SITES", and "GO TO 101.01". To the right is a "Keyword Search" field with a magnifying glass icon. A message at the bottom states: "The Legislative Service Commission staff updates the Revised Code on an ongoing basis, as it completes its act review of enacted legislation. Updates may be slower during some times of the year, depending on the volume of enacted legislation."

**Ohio Revised Code**



The screenshot shows a list of titles from the Ohio Revised Code. The titles listed are: General Provisions, Title 1 | State Government, Title 3 | Counties, Title 5 | Townships, Title 7 | Municipal Corporations, and Title 9 | Agriculture, Animals, Fences. A blue callout bubble with the text "Then, click on this one...NOT ‘Counties’!" points to the link for "Title 3 | Counties". A circled link "Title 1 | State Government" is also visible on the left.

Next, you'll find yourself on a menu that looks like this:

Title 1 | State Government

Ohio Revised Code

Chapter

Chapter 101 | General Assembly

Chapter 102 | Public Officers - Ethics

Chapter 103 | Legislative Services

Chapter 105 | Governmental Research

Chapter 106 | Rulemaking

Chapter 107 | Governor

Chapter 108 | Lieutenant Governor

Chapter 109 | Attorney General

Chapter 111 | Secretary of State

Chapter 115 | Treasurer of State

Chapter 117 | Auditor of State

Chapter 118 | Local Fiscal Emergencies

Chapter 119 | Administrative Procedure

Chapter 120 | Public Defenders

Chapter 121 | State Departments

Chapter 122 | Department of Development

Chapter 123 | Department of Administrative Services - Public Works

Chapter 124 | Department of Administrative Services - Personnel

Chapter 125 | Department of Administrative Services - Office Services

Chapter 126 | Office of Budget and Management

Chapter 127 | Controlling Board

You will find  
most of the civil  
service statutes  
in Chapter 124  
(in later classes,  
we'll see a few  
other places we  
need to look)

**After you click on Chapter 124, you will land on the page that has most of the current civil service laws, arranged in general topics. Selecting one will then take you to the requirements of the Code that relate to that particular Section.**

## Chapter 124 | Department of Administrative Services - Personnel

Ohio Revised Code / Title 1 State Government

[Expand All](#)

[Close All](#)

### Section

[Section 124.01 | Department of administrative services - personnel definitions.](#)

[Section 124.011 | City school districts - civil service commissions.](#)

[Section 124.02 | Director of administrative services and state personnel board of review to serve as state civil service commission.](#)

[Section 124.03 | State personnel board of review - powers and duties.](#)

[Section 124.04 | Director of administrative services powers, duties, functions.](#)

[Section 124.05 | State personnel board of review organization.](#)

[Section 124.06 | Civil service appointments and removals to be made in accordance with chapter.](#)

[Section 124.07 | Director of administrative services employees, services and facilities.](#)

[Section 124.08 | Director of administrative services offices.](#)

[Section 124.09 | Civil service powers of director of administrative services.](#)

[Section 124.10 | Garnishment actions against state employees and officers.](#)

[Section 124.11 | Unclassified service - classified service.](#)

[Section 124.12 | Notice of appointment to unclassified position.](#)

[Section 124.13 | Vacation leave.](#)

[Section 124.131 | Vacation leave for employees of institution of higher education transferred to state control.](#)

[Section 124.132 | Disaster service leave.](#)

[Section 124.135 | Experimental leave and benefits program.](#)

[Section 124.134 | Vacation leave - employees exempt from collective bargaining.](#)

[Section 124.135 | Jury or trial participation leave - charitable advisory panel leave.](#)

[Section 124.136 | Parental leave and benefits](#)

**Chapter 124 of the ORC currently extends through Section 124.99**

**Be careful!** Many statutes in Chapter 124 apply only to state employees.

Look for **these specific words** in the text of the statute:

- “county” or “counties”
- “civil service”
- “state service”

**But what civil service laws apply to counties?**  
(Look in 124.01)

And pay attention to these words: “Shall” (*must do*), “Shall not” (*cannot do*) and “May” (*discretionary*).

**What's the difference between “classified” & “unclassified”?**  
(Look in 124.11)

“Classified” employees are placed into their position by “competitive exam” (*more on that in a later class*) and are protected by civil service law; “unclassified” employees are not required to have a “competitive exam” but serve at the pleasure of their appointing authority.

Because it's not supposed to be easy to remove protections, **only certain kinds of positions can be placed in the unclassified service. Here's the list of the most common ones available to counties from ORC 124.11:**

|                    |   |
|--------------------|---|
| 124.11 (A) (2)     | All employees of the Board of Elections   |
| 124.11 (A) (3) (b) | All department heads appointed by Board of County Commissioners   |
| 124.11 (A) (4)     | County BOR & up to 5 Deputy County Auditor positions  |
| 124.11 (8)         | <b>For County Commissioners:</b> 4 clerical/administrative support positions for the Board & 1 additional for each County Commissioner; <b>For all other County appointing authorities:</b> 4 clerical/administrative support positions                             |
| 124.11 (A) (9)     | Positions directly responsible to an elected official or County Administrator <u>&amp;</u> holding a significant fiduciary or administrative relationship, <b>OR</b> a county employee whose fitness would be impracticable to determine by competitive examination |
| 124.11 (A) (10)    | Employees of the County Courts  |
| 124.11 (A) (11)    | Assistant County Prosecutors  |
| 124.11 (A) (18)    | Certain positions at Mental Health & Recovery Services Board (see statute)  |
| 124.11 (A) (19)    | Certain positions at Board of Developmental Disabilities  |
| 124.11 (A) (22)    | The Director of JFS & certain “administrators” of JFS (see ORC 329.021)   |
| 124.11 (A) (28)    | Similar to (A) (9)  |
| 124.11 (A) (29)    | Employees serving as intermittent or temporary  |

Need to do 3 things when an employee accepts an unclassified position:

1. Clearly state in the offer letter that the position is unclassified, citing the ORC Section
2. Have them sign a notarized acknowledgement form, specific to that position (ON DAY ONE!)
3. Have them sign a copy of their position description clearly showing the duties and unclassified status (WITHIN 30 DAYS)

How do we tell an employee their position is unclassified?

(Look in 124.12)

Why? So you are prepared if an unclassified employee contests with the State Personnel Board of Review (SPBR)

(Look in 124.03)

While an employee in an unclassified position serves at the pleasure of their appointing authority, if the appointing authority takes a negative action, that employee may contest their unclassified status. If SPBR agrees, then the employee becomes classified and can appeal the negative action taken.

While some positions are clearly placed in the unclassified service by statute, others require specific information to defend, particularly when 124.11 (A)(9) or 124.11 (A)(28) are used.

## What duties will meet the requirement?

### FIDUCIARY:

- Special confidence & trust placed in them
- Duties that could not be reasonably delegated to other employees
- Acts on behalf of or in place of the appointing authority
- Ability to sign on behalf of the appointing authority
- Job duties require a high degree of integrity

### ADMINISTRATIVE:

- Formulates policy
- Exercises personal judgment in making decisions for the appointing authority
- Supervising the daily activities of other staff
- Make take discretionary action without receiving permission from the appointing authority first

**Remember:** the SPBR can look back as far as **2 years** to see what duties the “unclassified” employee was actually performing to reach their decision!

**Also:** an employee in a “classified” position cannot have that position re-designated as “unclassified” or be transferred to an “unclassified” position, **without their voluntary consent.**

## **AND FINALLY, A WORD ABOUT THE OHIO ADMINISTRATIVE CODE (OAC)...**

*Separate from the Ohio Revised Code, the OAC provides the rules & procedures to carry out the requirements of the ORC...**BUT**...the OAC no longer applies to counties (it used to, but as of 2012 counties are no longer required to follow these additional rules).*

*We do still use a few specific portions of the OAC as guidelines, particularly where discretion to the County is permitted by statute, or where an action taken by the County may be appealed. We'll explore those later in the “Civil Service School” series.*

**One particular Chapter of OAC that is helpful is OAC 123:1-47, “Definitions”.** Often, words are used in the civil service statutes but not defined in the statute, and this Chapter of OAC provides necessary guidance. Here's how to navigate there.



The Legislature is slower due to the Revised Code on an ongoing basis, as it completes its act review of enacted legislation. Updates may be slower due to the volume of enacted legislation.

First, if you are already on the page for the Ohio Revised Code, just click on “Ohio Administrative Code” on the drop-down menu under “Laws” (see above). Otherwise, you can go to this website:

<https://codes.ohio.gov/ohio-administrative-code>

## Then, click on 123:1, Department of Administrative Services – Division of Human Resources

### Ohio Administrative Code

#### Agency / Division

- 011 | Apportionment Board
- 101 | Joint Legislative Ethics Committee
- 102 | Ohio Ethics Commission
- 103 | Ohio Legislative Service Commission
- 107 | Office of the Governor
- 109 | Attorney General
  
- 122:29 | Department of Development | Transformative Mixed Use Development Credit
- 122:50 | Department of Development | Ohio Residential Broadband Expansion Grant
- 125 | Department of Administrative Services
- 123:1 | Department of Administrative Services | Division of Human Resources**
- 123:2 | Department of Administrative Services | Division of EEO for Construction
- 123:3 | Department of Administrative Services | Office of Information Technology

**That will get you to the page listing all of the civil service “chapters” of the OAC; from here, click on Chapter 123:1-47, Definitions**

### 123:1 | Division of Human Resources

#### Ohio Administrative Code

#### Chapter

- Chapter 125:1-1 | General Provisions
- Chapter 125:1-5 | Position Audits and Changes to Classification Plan
- Chapter 125:1-5 | Classified and Unclassified Service Classification
- Chapter 125:1-7 | Classification
- Chapter 125:1-9 | Examinations
- Chapter 125:1-10 | Automatic Certification
- Chapter 125:1-11 | Applications for Examination
- Chapter 125:1-15 | Eligibility Lists
  
- Chapter 125:1-46 | Miscellaneous Provisions**
- Chapter 125:1-47 | Definitions**
- Chapter 125:1-49 | Equal Employment Opportunity Policy

One more step before you get to the actual definitions—click on “Definition of terms”

## Chapter 123:1-47 | Definitions

Ohio Administrative Code / 123:1

[Expand All](#)

[Close All](#)

### Rule

Rule 123:1-47-01 [Definition of terms.](#)

**Scroll down to see the various civil service & employment-related terms or phrases and their definition (they're in alphabetical order).**

(1) "Abolishment" - means the permanent deletion or removal of an encumbered position or positions from the organization or structure of an appointing authority due to a lack of continued need for a position, as a result of a reorganization for the efficient operation of the appointing authority, for reasons of economy, or due to a lack of work.

(2) "Active pay status" - means conditions under which an employee is eligible to receive pay, and includes, but is not limited to, vacation leave, sick leave, bereavement leave, administrative leave, compensatory time, holidays, and personal leave. For the purpose of determining overtime or compensatory time for an employee who is eligible for overtime compensation, active pay status does not include sick leave or leave used in lieu of sick leave.

(3) "Active work status" - means the conditions under which an employee is actually in a work status and is eligible to receive pay but does not include vacation pay, sick leave, bereavement leave, compensatory time, holidays, personal leave, and disability leave.

(4) "Adverse effect" - means, for the purpose of reclassification; for an employee, a reduction in pay or reduction in duties; and for an agency, an increase in an employee's pay.

(5) "Agency" - means any unit of government, including a board or commission, headed by an officer or group having the power to appoint

### HERE ARE SOME KEY TERMS THAT YOU MAY NEED TO DEFINE FROM TIME TO TIME:

**ACTIVE PAY STATUS**

**LATERAL CLASSIFICATION CHANGE**

**ACTIVE WORK STATUS**

**LEAVE OF ABSENCE WITHOUT PAY**

**BREAK IN SERVICE**

**RECLASSIFICATION**

**CLASSIFICATION**

**SPECIFICATION**

**DISPLACEMENT**

**TEMPORARY APPOINTMENT**

**IMMEDIATE FAMILY (UNLESS DEFINED BY POLICY OR CBA)**