

Rule Summary and Fiscal Analysis

Part A - General Questions

Rule Number: 123:1-30-04
Rule Type: Amendment
Rule Title/Tagline: Right to reinstatement; rights of appeal.
Agency Name: Department of Administrative Services
Division: Division of Human Resources
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I. Rule Summary

1. **Is this a five year rule review?** Yes
 - A. **What is the rule's five year review date?** 5/15/2023
2. **Is this rule the result of recent legislation?** No
3. **What statute is this rule being promulgated under?** 119.03
4. **What statute(s) grant rule writing authority?** 124.09
5. **What statute(s) does the rule implement or amplify?** 124.32, 124.385
6. **Does the rule implement a federal law or rule in a manner that is more stringent or burdensome than the federal law or regulation requires?** No
 - A. **If so, what is the citation to the federal law or rule?** Not Applicable
7. **What are the reasons for proposing the rule?**

Mandatory Rule Review and regulatory restriction requirements.
8. **Summarize the rule's content, and if this is an amended rule, also summarize the rule's changes.**

Sets forth the parameters and procedures associated with an employee's request to be reinstated from a disability separation and the associated appeal process if such a request is denied by the appointing authority. Also removal of regulatory restriction requirements.

9. **Does the rule incorporate material by reference? No**
10. **If the rule incorporates material by reference and the agency claims the material is exempt pursuant to R.C. 121.75, please explain the basis for the exemption and how an individual can find the referenced material.**

Not Applicable

11. **If revising or re-filing the rule, please indicate the changes made in the revised or re-filed version of the rule.**

Not Applicable

II. Fiscal Analysis

12. **Please estimate the increase / decrease in the agency's revenues or expenditures in the current biennium due to this rule.**

This will have no impact on revenues or expenditures.

\$0.00

Not Applicable

13. **What are the estimated costs of compliance for all persons and/or organizations directly affected by the rule?**

Not Applicable

14. **Does the rule increase local government costs? (If yes, you must complete an RSFA Part B). No**

15. **Does the rule regulate environmental protection? (If yes, you must complete an RSFA Part C). No**

16. **If the rule imposes a regulation fee, explain how the fee directly relates to your agency's cost in regulating the individual or business.**

Not Applicable

III. Common Sense Initiative (CSI) Questions

- 17. Was this rule filed with the Common Sense Initiative Office? No
- 18. Does this rule have an adverse impact on business? No
 - A. Does this rule require a license, permit, or any other prior authorization to engage in or operate a line of business? No
 - B. Does this rule impose a criminal penalty, a civil penalty, or another sanction, or create a cause of action, for failure to comply with its terms? No
 - C. Does this rule require specific expenditures or the report of information as a condition of compliance? No
 - D. Is it likely that the rule will directly reduce the revenue or increase the expenses of the lines of business of which it will apply or applies? No

IV. Regulatory Restriction Requirements under S.B. 9. Note: This section only applies to agencies described in R.C. 121.95(A).

- 19. Are you adding a new or removing an existing regulatory restriction as defined in R.C. 121.95? Yes
 - A. How many new regulatory restrictions do you propose adding to this rule? 0
 - B. How many existing regulatory restrictions do you propose removing from this rule? 16

123:1-30-04(A) The appointing authority shall notify the employee of its decision to approve or deny the reinstatement request no later than sixty days after it receives the employee's written request.

123:1-30-04(A) The employee shall not make subsequent requests for reinstatement more than once every three months from the date the employee is notified of a reinstatement denial.

123:1-30-04(B) Upon receiving this evidence, the appointing authority shall either reinstate the employee

123:1-30-04(C) If the appointing authority initially determines that the employee is once again capable of performing the essential job duties, the appointing authority shall reinstate the employee.

123:1-30-04(C) If the appointing authority initially determines that the employee remains incapable of performing the essential job duties, the appointing authority shall institute a pre-reinstatement hearing.

123:1-30-04(D) Pre-reinstatement hearing. An employee shall be provided written notice at least seventy-two hours in advance of the pre-reinstatement hearing.

123:1-30-04(E) If the appointing authority finds the employee capable of performing essential duties, then the appointing authority shall reinstate the employee.

123:1-30-04(E) If the appointing authority finds the employee incapable of performing essential duties, then the appointing authority shall not reinstate the employee.

123:1-30-04(G) If the classification the employee held at the time of disability separation no longer exists or is no longer utilized by the appointing authority, then the employee shall be placed in a similar classification.

123:1-30-04(H) If the employee has been granted disability benefits by a state retirement system, the requirements of this rule shall apply for the length of time

123:1-30-04(H) that the applicable state retirement system requires the employee to be considered for reemployment,

123:1-30-04(H) except that a licensed practitioner shall be appointed by the public employees retirement board

123:1-30-04(H) and application for reinstatement shall not be filed after the date of service eligibility retirement.

123:1-30-04(H) Employers shall restore an employee found to be physically and mentally capable of resuming service pursuant to the statutes and rules of the applicable state retirement system,

123:1-30-04(I) An employee refused reinstatement as provided in paragraph (E) of this rule shall be notified in writing of the refusal to reinstate and of the right to appeal in writing to the personnel board of review within thirty days of receiving notice of that refusal to reinstate.

123:1-30-04(J) An employee who fails to apply for reinstatement within two years from the date that the employee was no longer in active work status due to the disabling illness, injury, or condition shall be deemed permanently separated from service.

- C. If you are not removing existing regulatory restrictions from this rule, please list the rule number(s) from which you are removing restrictions.**
- D. Please justify the adoption of the new regulatory restriction(s).**

Not Applicable