

123:1-41-11

Displacement and appeal rights of employees.

- (A) General. Each employee laid off, or displaced as a result of a layoff, shall have the right to displace another employee with the fewest retention points in the manner provided in this rule. Displacement rights of an employee may only be exercised within the employee's appointing authority and within the layoff jurisdiction as established in this chapter.

For purposes of this chapter and division (A) of section 124.324 of the Revised Code, a "same or similar classification" is a classification that has the same or similar duties as the classification from which an employee is laid off and is listed as a same or similar classification in accordance with division (B)(2) of section 124.311 of the Revised Code and listed in rules 123:1-24-06 to 123:1-24-08 of the Administrative Code and lists legally adopted by county commissioners resolution for county departments of job and family services.

An "equivalent or lower classification" shall be, for purposes of displacement rights, a classification with an equivalent or the same pay range assignment or a classification with a lower pay range assignment.

Any displacement of an employee paid by warrant of the director of budget and management ~~auditor of state~~ to another headquarter county within the same layoff jurisdiction due to the abolishment of positions and the operation of this chapter shall not be construed to be a transfer.

- (B) Exercising of option to displace. An employee who is to be laid off may exercise displacement rights under the provisions of this chapter or be laid off. Displacement occurs the date an employee is notified that another employee has exercised his or her right of displacement and that the employee with fewer retention points is to be displaced. A displaced employee may exercise his or her right to displace another employee if such right to displace exists. If the displaced employee does not have the right to displace another employee, then the displaced employee shall be laid off.
- (C) Time to exercise displacement rights. Employees shall notify their appointing authorities, in writing, of their intention to exercise their displacement rights within five calendar days after receipt of notice of layoff or displacement.
- (D) Displacement of employee with fewest retention points. Within the order of displacement set forth in this rule a laid-off employee exercising displacement rights shall displace the employee with the fewest retention points. Employees shall only have the right to displace employees with fewer retention points in the order established in rule 123:1-41-07 of the Administrative Code.
- (E) Displacement of certified employees. In no event shall a laid-off provisional

employee have the right to displace a certified employee except as provided in paragraph (D) of rule 123:1-41-12 of the Administrative Code.

- (F) Classifications with parenthetical subtitles. For purposes of displacement the parenthetical subtitles of a classification are deemed separate but equivalent classifications. Employees in positions with a parenthetical subtitle may displace into the classification(s) in the classification series with the equivalent or lower pay range(s). Employees in positions in a classification series that contains parenthetical subtitles may displace employees in positions with parenthetical subtitles.

Any displacement rights into or from positions with parenthetical subtitles are subject to the displacement provisions of this chapter.

- (G) Displacement into positions with special qualifications. No employee shall displace an employee for whose position or classification requires special minimum qualifications unless the employee desiring to displace another employee possesses the requisite minimum qualifications or bona fide occupational qualifications for the position or the classification. The special qualifications must be established by a position description for the position, by classification specification minimum qualifications statement, or by bona fide occupational qualifications for the position(s) or classification. The appointing authority shall be responsible for establishing the necessity of special qualifications for a position.

- (H) Rate of pay for an employee following displacement. An employee exercising displacement rights to a position, or an employee displaced as a result of a layoff or abolishment, shall be paid according to the pay range assigned to the classification into which the employee displaced or was displaced. The employee shall be assigned to a rate in the pay range assigned to the new classification which is equivalent or nearest to, but not exceeding, the rate the employee was paid in his or her prior classification. If the rate the employee was assigned in his or her prior classification exceeds the highest rate in the pay range assigned to the new classification the employee will be assigned the highest rate assigned to the new classification.

- (I) Appeal rights. A classified employee may appeal a layoff, or a displacement which is the result of a layoff, to the state personnel board of review. Such appeal must be filed or postmarked no later than ten calendar days after the employee receives notice of the layoff or the date the employee is displaced. An employee shall be considered displaced the date the employee is notified that another employee has exercised his or her right to displace the employee from the employee's position. An appeal shall be made in accordance with the rules promulgated by the state personnel board of review.

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