

TO BE RESCINDED

5123-7-11

Unclassified service.

- (A) Purpose. The purpose of this rule shall be to establish procedures governing the revocation of an unclassified employee's appointment, and the removal or suspension of unclassified employees.
- (B) Application. The provisions of this rule shall be applicable to all unclassified employees of the department of mental retardation and developmental disabilities.
- (C) Definitions. The following definitions shall apply to this rule:
- (1) "Appointing authority" means any office or body having the power of appointment to, or removal from, positions in the department of mental retardation and developmental disabilities.
 - (2) "Backup position" means a position with the department of mental retardation and developmental disabilities within the classified service which an employee held immediately prior to his or her appointment to a position in the unclassified service; or if the position the person previously held has been placed in the unclassified service, "backup position" means a position in the classified service that the director of the department of administrative services certifies is comparable in compensation to the position previously held.
 - (3) "Classified service" means the competitive civil service of the state in which incumbents may only be reduced, suspended, or removed for cause as specified in section 124.34 of the Revised Code.
 - (4) "External interim employee" means an appointment under section 124.30 of the Revised Code for an indefinite period of time to perform the duties of an employee who is absent due to sickness, disability, or approved leave of absence.
 - (5) "Intermittent employee" means an appointment under section 124.30 of the Revised Code where an employee works on an irregular schedule which is determined by the fluctuating demands of the work and is not predictable and is generally characterized as requiring less than one thousand hours per year.
 - (6) "Removed" means a dismissal from duty for reasons specified in section 124.34 of the Revised Code.
 - (7) "Revocation of appointment" means the withdrawal of an employee's

appointment to the unclassified service.

- (8) "Suspension" means a temporary deprivation of employment without pay as a disciplinary measure.
 - (9) "Unclassified service" means the noncompetitive service of the state in which employees are appointed to positions at the discretion of the appointing authority and in which the incumbent serves, without tenure, at the pleasure of the appointing authority.
 - (10) "Working suspension" means a disciplinary action in which an employee is required to report to work and receive compensation, but such period shall be recorded as a suspension.
- (D) Reasons for revocation. The appointing authority may revoke the unclassified appointment of any individual appointed to the unclassified service for any reason.
- (E) Procedure for revocation of an unclassified appointment. The following procedure shall be followed when the appointing authority determines that revocation of an unclassified appointment, including the unclassified appointment of an external interim or intermittent employee appointed prior to October 25, 1995, may be necessary. The procedure outlined in paragraph (F) of this rule shall apply to the revocation of the unclassified appointment of an external interim or intermittent employee appointed on or after October 25, 1995.
- (1) The appointing authority shall provide to the employee advance written notice of action proposed. The notice shall:
 - (a) Inform the employee of the reason(s) for the proposed action;
 - (b) Inform the employee of the date, time, and place for the revocation meeting;
 - (c) Inform the employee that he or she will be permitted to have representation and present evidence in his or her own behalf in the form of documentation;
 - (d) Inform the employee that absent any extenuating circumstances, failure to appear at the conference will result in a waiver of the employee's right to a hearing; and

- (e) Be sent to the employee at least three calendar days before the revocation meeting.
 - (2) The appointing authority or his or her designee shall meet with the employee to inform him or her that revocation of his or her unclassified appointment is being considered and shall discuss the reason(s) why the revocation is being considered. At this time, the employee shall be requested to resign his or her unclassified appointment to eliminate the need for further consideration of a revocation action. If the employee is entitled to a backup position and the appointing authority does not wish to retain him or her in such a position, the employee may also be requested to waive his or her backup position in the classified service. If the employee is willing to voluntarily resign his or her unclassified appointment and waive his or her right to a backup position, his or her resignation should state this fact.
 - (3) Within seven calendar days after the meeting, the appointing authority shall decide whether the employee's unclassified appointment is to be revoked and shall inform the employee of this decision in writing. If the decision of the appointing authority is to revoke the employee's appointment, the notice of decision shall inform the employee of the effective date of this action and the backup position in the classified service, if applicable, which the department of administrative services has identified.
- (F) Procedure for revocation of an external interim or intermittent employee appointed on or after October 25, 1995. The following procedure shall be followed when the appointing authority determines that revocation of the unclassified appointment of an external interim or intermittent employee appointed on or after October 25, 1995, may be necessary.
- (1) The appointing authority shall provide to the employee written notice of the action proposed. The notice shall:
 - (a) Inform the employee of the reason(s) for the proposed action;
 - (b) Inform the employee of the effective date of the revocation;
 - (2) The external interim or intermittent employee hired on or after October 25, 1995, may have the opportunity to resign but is not entitled to a backup position.
 - (3) The external interim or intermittent employee hired on or after October 25, 1995, shall not be entitled to a revocation meeting.

(G) Discipline for cause. When determined by the appointing authority to suspend or terminate an unclassified employee for cause, it is not necessary to follow progressive discipline.

- (1) Suspension or working suspension. When, in the opinion of the appointing authority, an unclassified employee should be disciplined via a suspension or working suspension, the appointing authority may effect a suspension or working suspension without regard to section 124.34 of the Revised Code. Therefore, no order of suspension or working suspension need be prepared and no statutory cause for suspension or working suspension need be cited. However, reason(s) for the suspension or working suspension shall be discussed with the employee and a personnel action documenting the suspension or working suspension shall be prepared and filed with the department of administrative services.
- (2) Removal. When, in the opinion of the appointing authority, an employee appointed to an unclassified position from the classified service should be removed for cause (sufficient to remove a classified employee under section 124.34 of the Revised Code), the appointing authority shall remove the unclassified employee by holding a predisciplinary hearing, filing an order under section 124.34 of the Revised Code with the state personnel board of review, and preparing and filing a personnel action with the department of administrative services.

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CERTIFIED ELECTRONICALLY

Certification

03/14/2012

Date

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