

"CIVIL SERVICE SCHOOL" Key Notes from Class #7

We saw last session how complicated the layoff/abolishment process can be. The ORC does give County appointing authorities 2 other options that may help save \$\$\$ instead.

- Furlough Days
- Modified Work Week
- Political Activity
- County Personnel Dept.

The first option we'll review is the "Mandatory Cost Savings Program", which is essentially "furlough days". The statutory language is found at ORC Section 124.393

Chapter 124 | Department of Administrative Services - Personnel

Ohio Revised Code / Title 1 State Government

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Section 124.392 | Exempt employees cost savings program.

Section 124.393 | Mandatory cost savings program applicable to exempt employees.

Section 124.394 | Modified work week schedule program.

Section 124.40 | Civil service commissions in municipalities and townships.

Section 124.41 | Police department qualifications - police cadet program

It doesn't say
"furloughs" but this
is the section you
need!

Note that Section 124.392 (just above the one we need) also says "cost savings program"; that section applies only to State employees.

ORC 124.393 permits any County appointing authority to establish a “mandatory cost savings program” for its permanent **exempt** employees. The program may include, but isn’t limited to, a loss of pay and/or loss of holiday pay. ORC 124.393 (B)(1)

“Exempt” employees means those who are not covered by a collective bargaining agreement. SO...in order to implement this cost savings program with bargaining unit employees, you must first negotiate with the Union.

The appointing authority **is** permitted to choose which employees **must** participate, based on classification, appointment category, “or other relevant distinctions”. ORC 124.393 (B)(1)

For example, all employees in certain classifications could be required to participate, or all part-time, or all assigned to certain pay grades, etc...

Employees who are required to participate may **NOT** lose more than **80 hours of pay** in a **State fiscal year**. ORC 124.393 (B)(1)

The “State fiscal year” runs from **July 1 through June 30**.

The most common way to structure this is through “furlough” days: scheduled days off work without pay, which may be combined with unpaid holidays, to equal a total of no more than 80 hours of lost pay.

As of June 30, 2013, these “furlough” days can only be implemented due to a “fiscal emergency”, which is defined as:

- 1) A declaration by the Governor of Ohio
- 2) A “fiscal watch” or “fiscal emergency” for the county as declared by the State Auditor
- 3) A “lack of funds” as defined in ORC 124.321 (*same as for layoff*)
- 4) “Reasons of Economy” as defined in ORC 124.321 (*same as for position abolishment*)



BE CAREFUL WHEN READING ORC 124.393!

SECTION 124.393 (D)(1) AND (D)(2) WERE TEMPORARY PROVISIONS ADDED DUE TO COVID, ALLOWING UP TO 160 HOURS OF “FURLOUGH” SPECIFICALLY FOR STATE FISCAL YEAR 2021. THESE SECTIONS NO LONGER APPLY!

- Appointing authority must develop written guidelines (policy) to implement a “mandatory cost savings program/furlough days”
- Employees who are required to participate, must participate; they can’t “bump” into a different classification to avoid this (not considered a “layoff” or “abolishment”)
- There are no appeal rights to State Personnel Board of Review (SPBR)

Section 124.392 | Exempt employees cost savings program.

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Section 124.40 | Civil service commissions in municipalities and townships.

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The other option available is the “Modified Work Week Schedule Program”.

You’ll find that statutory language at ORC Section 124.394 (right below the Section we just looked at).

This statute allows a County appointing authority to reduce the scheduled work hours for the week for exempt employees by up to 50%. ORC 124.394 (B)

Notice that this covers the same “exempt” employees as the “furlough” days, so if you want to reduce the work week **for bargaining unit employees, you must negotiate it with the Union first.**

Similar to “furlough days”, a modified work week program may only be implemented due to a “**fiscal emergency**”, which is defined in the same manner as a fiscal emergency for furlough days (refer back to page 2 of this handout). ORC 124.394(C)

Some more key points:

- The program may be administered differently among employees based on classification, appointment category, or other relevant distinctions
- The statute doesn’t require written guidelines/policy (*but I highly recommend it*)
- Apparently, a reduction in scheduled work hours can continue from year-to-year, as long as the “fiscal emergency” criteria is still being met
- Employees who are required to participate can’t “bump” into a different classification to avoid this (not considered a “layoff” or “abolishment”)
- There are no appeal rights to State Personnel Board of Review (SPBR)
- Know that there are “Affordable Care Act” requirements regarding work hours/week & eligibility for health care benefits—there could be unintended consequences of a reduction in the normal work week. Check with Employee Benefits staff before implementing.



Can you require
both furlough days
& a modified work
week?

There’s nothing in the statutes that prevents that.

However, for practical purposes, you wouldn’t want to do both programs at the same time, & would probably choose to exhaust the 80 hours of furlough first.

An often overlooked civil service statute is the prohibition on certain political activity.

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Section 124.54 | Boards of education to share cost of civil service ad

Section 124.56 | Investigation of violations.

Section 124.57 | Prohibition against partisan political activity.

Section 124.58 | Fraud or false representation in examinations.

This time you're looking for ORC Section 124.57

Although this isn't a particularly large Section, and many folks forget it's even there, it has some important info. Classified County employees—including bargaining unit employees—are prohibited from participating in some common **partisan*** political activities. Specifically, they may **not**:

- Solicit or receive any contributions (not just \$\$\$) on behalf of a political party or partisan candidate (but they **can** make a voluntary contribution)
- Solicit any such contributions or payments from another classified employee
- Be an officer in any political organization
- Take part in politics "other than to vote as the officer or employee pleases and to freely express political opinions"

Unclassified employees are not prohibited from these activities.

**This activity is prohibited when it involves “partisan” politics...that means election activities or candidacy for office that involves a primary election to select a specific political party’s candidate in a general election and/or endorsement by a political party; if the election is not partisan (examples include school board elections usually, referendums, and tax levies), then these activities are NOT prohibited for classified employees. If there is a situation that may potentially violate the statute, consult with the Prosecutor’s Office.*

Great question—it shows you’re paying attention!

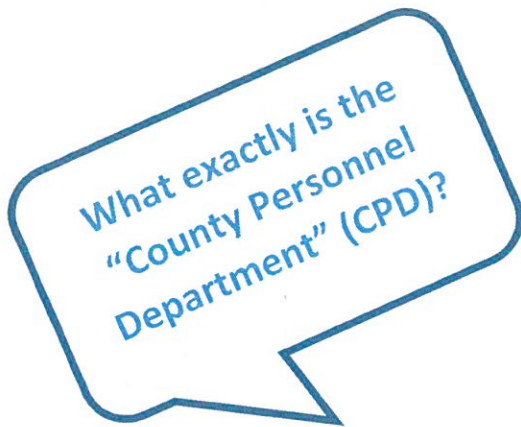


ORC 124.57 (B)(1) makes it clear that employees may still serve as a “precinct election official”, or what we commonly call “poll worker”. While the language in 124.57 refers to ORC 3501.22, that’s the generic statute covering poll workers; **for the paid poll worker leave program, you need to visit ORC 3501.28 (F).**

Uh....ok...so how is it legal for County employees to get paid leave to be poll workers then?

Here’s how this works:

1. Each year, the Lucas County Board of Elections asks the Lucas County Board of Commissioners to approve a resolution that establishes the terms & conditions for this paid leave (application & approval process, required training, limitations on how many employees can participate, etc...).
2. After that, each County appointing authority gets to decide whether their employees will be permitted to participate, under the terms & conditions approved by the Board of County Commissioners.
3. In order to serve as a poll worker, the County employee must be a registered voter in Lucas County.
4. Employees who are registered voters in another county or state are not provided with paid leave to be a poll worker for their own county’s elections (but are permitted to request the use of accrued vacation, personal or comp time, or request an unpaid leave).
5. Employees who are approved for the leave receive their normal pay for the day and receive any payment provided by the Board of Elections, upon verification of their service as a poll worker.



A CPD is an option available to counties by statute. It was created for 2 purposes:

- 1) Give County appointing authorities access to HR professionals in a cost-effective way
- 2) Allow more “local control” over application & enforcement of the various civil service laws we’ve looked at in this series (instead of having oversight by the State’s Department of Administrative Services, or DAS)

Now, the language covering a CPD is a bit harder to find in the ORC. Here’s where you’ll find it:

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Section 124.1511 | Veteran funeral honors detail leave.

Section 124.1512 | Caregiver leave.

Section 124.14 | Job classification - pay ranges.

Section 124.141 | Appointment incentive program.

Section 124.142 | Compensation of chaplains

**Statutory language for a
CPD is found in Section
124.14 (G)**

A CPD is statutorily obligated to ensure that the recruitment & selection process is compliant with civil service law, to monitor correct placement of positions in the classified or unclassified service, to conduct job audits for proper classification purposes, & to ensure compliance with the statutory disciplinary action and layoff/abolishment processes.

Each county's Board of Commissioners can choose to create a CPD by resolution. If they do, then the CPD provides HR services to all departments under the appointing jurisdiction of the Board, and any other county appointing authority can choose to use the services of the CPD upon notice to the CPD. The Board may disband a CPD by resolution at any time. Any participating county appointing authority may end its involvement with the CPD at its discretion upon notice to the CPD.

Lucas County has had a CPD since 1997, and as of today, the following autonomous County appointing authorities have opted into the CPD:

- Board of Elections
- County Coroner
- County Recorder
- County Treasurer
- Data Processing Board (LCIS)
- Family Council
- Guardianship Services Board
- Mental Health & Recovery Services Board
- Veterans Service Commission