

## COLLECTIVE BARGAINING CLARIFICATION LETTER

NO. 10-08-09

To: All Labor Relations Officers and Personnel Officers  
From: Michael Duco, Deputy Director  
Date: August 24, 2010  
Subject: **Civil Service Examinations**

This clarification letter replaces clarification letter No. 99-03-05

### Civil Service Examinations compatible with Collective Bargaining Agreements

As a result of the activation of civil service examinations in 1995, a number of questions continue to be raised concerning the application of contractual procedures to the examination and certification processes. Although new hires are made from the eligible lists generated from the examinations, the civil service examination process does not supersede the provisions of the various collective bargaining agreements relating to the filling of bargaining unit vacancies with bargaining unit employees. All actions which affect bargaining unit rights are controlled by applying the appropriate collective bargaining agreement. For example, in OCSEA most actions are controlled by the application of Article 17, Section 17.02, which prescribes the order in which a vacancy must be filled. Only after applying those provisions to all qualified bargaining unit employees that have applied for, or who otherwise possess contractual rights to a vacancy, may a position be filled as an original appointment from a civil service eligible list.

### Filling a Vacancy in a Bargaining Unit Position

The civil service examination process does not replace the contractual obligation for posting a job vacancy. Each agency which is filling a vacancy must ensure that the provisions of the appropriate collective bargaining agreement and civil service laws are followed. Whenever a vacancy occurs within an agency for a bargaining unit position, the vacancy shall be posted pursuant to the terms of the appropriate collective bargaining agreement. If it is determined that there are no qualified bargaining unit employees who possess contractual rights to the vacancy, the agency must seek to fill the position under civil service law. The civil service process requires that the vacancy be filled from an eligible list, or when no eligible list exists, that authorization to appoint provisionally be obtained before the position is filled. Requests for provisional authorization should be sent to the Department of Administrative Services, Human Resources Division, Certification Unit. If an eligible list does not exist for the classification in which the vacancy has been posted, a civil service examination may be held to produce an eligible list, or the Director of DAS may give approval to the agency to hire on a provisional basis.

### Purpose of Civil Service Examinations

Civil service examinations are conducted in order to produce an eligible list for a classification. Applicants who pass the examination meet fitness standards. Examinations further determine who is the best qualified by ranking the applicants by test score. This is the basis of the merit selection process.

**Q1.** Is a job posting the same as an examination announcement and vice-versa?

**A1.** No. An examination announcement deals only with information about an examination for a specific classification. A job posting notifies potential applicants that a particular position is vacant and that the Employer is seeking applicants.

**Q2.** Can a civil service examination be used as a proficiency instrument as described in the State of Ohio/OCSEA contract?

**A2.** Yes. However, when so used the exam is actually a proficiency test as provided for by OCSEA Article 17 and its use and for that purpose is governed by the terms of the labor agreement.