



**Ohio Department of
Administrative Services
Human Resources Division
Office of Collective Bargaining
106 North High Street, 7th Floor
Columbus, Ohio 43215-3019
614-466-0570, 614-466-1859 (Fax)**

**Bob Taft
Governor**

**Sandra A. Drabik
Director**

**COLLECTIVE BARGAINING CLARIFICATION LETTER
NO. 99-03-05**

TO: ALL LABOR RELATIONS OFFICERS AND PERSONNEL OFFICERS

FROM: STEPHEN V. GULYASSY, DEPUTY DIRECTOR

SUBJECT: CIVIL SERVICE EXAMINATIONS

DATE: MARCH 25, 1999

Clarification Letter No. 95-05-02, originally issued on June 6, 1995 is superseded by this letter

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.

Status of Probationary Bargaining Unit Employees when an Eligible List Exists

When an examination is announced for a bargaining unit classification and there are provisional bargaining unit employees currently in that classification, those employees must take the examination in order to be certified. A bargaining unit employee serving as a provisional employee who completes at least six months of service or his/her original probationary period, whichever is longer, and passes an examination for the classification which he/she currently holds will be certified in the current position before the director of administrative services prepares an eligible list. Provisional bargaining unit employees who have yet to successfully complete an original probationary period and who fail the examination, or who cannot be reached on the eligible list, may be probationarily removed in favor of a certified person from the eligible list.

Eligible Lists and Provisional Non-probationary Bargaining Unit Employees

Arbitration decision #264 by Arbitrator John Drotning clarifies that provisional bargaining unit employees who have successfully completed an original probationary period can be removed only for just cause. Regardless of the fact that such an employee may fail the civil service examination for the classification that the employee presently holds, he/she retains the right to the position, unless removed for just cause. If such an employee fails the examination, he/she must take the examination each time it is offered until passed and thus be certified; or until he/she has been in the classification for two years since the last examination given, resulting in an automatic certification.

Where examinations for a classification continue to be given on a continuing basis, e.g. Office Assistant Series, Secretary, etc., employees will never be automatically certified, regardless of their time in the classification. The method for certification of such employee is to successfully complete the examination. It is the expectation of the state, that in order to satisfy Federal requirements for certain types of funding assistance, that **all employees will become certified. Accordingly, human resources staff should encourage provisional employees to continue to take the examinations until certified.** In taking an examination for the employee's current position, the employee should received paid leave of absence for time necessary to travel and to take the exam, as well as appropriate travel reimbursement.

Eligible Lists and Promotional Probationary Bargaining Unit Employees

Bargaining unit employees who have yet to successfully complete a **promotional** probationary period and who take a civil service examination for the promoted classification while in the probationary period, and who fail such examination, may not be removed from the position by certification of another employee. Employees who pass a civil service examination for the promoted classification continue on probation until successful completion. Such employees who successfully complete probation cannot be removed from the promoted position for other than just cause.

- Q1.** Is an employee entitled to reimbursement for travel expenses to and from a civil service examination?
- A1.** Bargaining unit employees are entitled to travel reimbursement as provided for in the appropriate agreement when directed by the Employer to take a civil service examination. Employees choosing to take an examination not directed by the Employer are not entitled to such reimbursements.
- Q2.** Is an employee to be given paid administrative leave to take a civil service examination?
- A2.** When the examination is for the classification currently held by a provisional employee, that employee is to be given paid administrative leave to take the examination. When an employee takes an examination for a classification other than the classification currently held by the employee, an appointing authority **may** grant the employee paid leave to take the exam for up to two examinations in any twelve month period.
- Q3.** Are make-up examinations allowed?
- A3.** Yes. An employee who is unable to attend a scheduled examination should contact the DAS\HRD\Testing Unit to schedule a make-up examination.
- Q4.** How are employees notified of examinations?
- A4.** Provisional employees required to sit for an examination in a classification currently held will be notified by the Employer of the date and time of the next examination. Announcements of examinations are also posted throughout state operated facilities, and are available on the World Wide Web at <http://www.state.oh.us/das/dhr/emprec.html>.
- Q5.** Is a job posting the same as an examination announcement and vice-versa?
- A5.** No. An examination announcement deals only with information about an examination for a specific classification. As job posting notifies potential applicants that a particular position is vacant and that the Employer is seeking applicants.
- Q6.** Can a civil service examination be used as a proficiency instrument as described in the State of Ohio/OCSEA contract?
- A6.** Yes. However, when so used the exam is actually a proficiency test as provided for by OCSEA Article 17 and it's use and for that purpose is governed by the terms of the labor agreement.