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123:1-3-01      **Position audits.**

- (A) General. The director may initiate and make continuing audits, inspections, and investigations of the positions, offices, and employments subject to sections 124.14, 124.15, and 124.152 of the Revised Code. In accordance with sections 124.14 and 124.20 of the Revised Code and Chapters 123:1-7 and 123:1-8 of the Administrative Code, the director may initiate and make continuing audits, inspections and investigations of positions, offices and employment in the classified service of the counties, where employees are paid under provisions other than section 124.15 or 124.152 of the Revised Code. Any employee or any appointing authority, desiring to submit facts for consideration of the director shall be afforded reasonable opportunity to do so. When the director finds that improper classifications of positions exist, the director may reallocate any position to the appropriate classification as is necessary.
- (B) Audits requested by employees. A classified employee of a state agency, including a board or a commission, or county office, or the employee's authorized representative, may request a review of the classification of his or her position, unless otherwise prohibited by law or a collective bargaining agreement.
- (1) The employee's request must include the employee's name, the name of employing agency, the office address, the name of the employee's immediate supervisor, and the address where audit forms are to be mailed.
  - (2) Upon receipt of an employee's request for a position audit, the director shall date and time stamp the request and forward the job audit questionnaire packet to the employee for completion and, at the same time, notify the affected appointing authority of the audit request. The notice shall include a request to the appointing authority to submit the current position description, table of organization and any comments concerning the duties of the position.
  - (3) The employee shall complete part I of the job audit questionnaire packet and forward the completed job audit questionnaire packet to the immediate supervisor within thirty days of receipt. The supervisor shall review the employee form within fifteen days of receipt and complete part II of the questionnaire. The supervisor shall return the job audit questionnaire packet to the employee. The employee shall complete part III within five days and return the job audit questionnaire packet to the director. The appointing authority shall forward the requested position description, table of organization and comments to the director within fifty days of receipt of the requested information.
  - (4) Employee requests for position audits shall generally be processed by the director without an on-site audit unless a substantial conflict in submitted documentation is found. The director may resolve the conflict by requiring additional

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documentation or clarification. If the conflict is not resolved, an on-site audit may be conducted.

(C) Audits requested by appointing authorities. An appointing authority may request the director to review any encumbered classified position within the appointing authority's agency for the purpose of determining whether the position is properly classified, unless otherwise prohibited by a collective bargaining agreement.

(1) The appointing authority's request shall include the name of the employee whose position is to be audited, the position number, the name of the employee's immediate supervisor, the names of other individuals to be interviewed, the name of the person to contact to arrange the audit, a current table of organization and a current position description reflecting the duties currently being performed by the employee. A request from an agency must be signed by the appointing authority or a designee if the appointing authority has provided the department of administrative services with a letter designating the names of individuals authorized to sign on the appointing authority's behalf.

(2) Agency requests for position audits may be scheduled for on-site audits.

(D) Audit findings. The audit findings will be premised upon the information and statements provided. The information and statements submitted will be compared to the existing classification specifications. If the duties being performed are not consistent with the existing classification, The—the classification which most accurately describes the duties performed shall be assigned to the position.

The duties being performed must satisfy the class concept or function statement at least twenty percent of the time unless another percentage has been stated in the class concept or function statement. Other factors, including the table of organization of an agency, may be used to determine the classification of a position and to distinguish among classifications.

(E) On-site audits. An on-site audit may be conducted in person or by video conference. At the time of an on-site audit, the employee, the employee's immediate supervisor, and other persons as deemed necessary by the director shall be interviewed. It shall be the responsibility of the agency to ensure that the requested parties are available for an on-site audit. If any party refuses to attend on-site audit interviews the director shall render a decision based on the information and documentation submitted.

(F) Examination of current duties. Position audits shall examine the duties currently performed. The audit report reflects duties at the time of the audit and shall reflect any change in duties if such has occurred since the date of the audit request. Duties performed while assigned in a temporary work level shall not be considered for the purposes of a position audit.

(G) Cancellation of audit requests. Requests for audits will be deemed cancelled if:

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- (1) The party requesting the audit submits a written withdrawal of the request. Audit requests may be withdrawn any time ~~until the preliminary position audit decision~~ before the final notice of classification is mailed;
  - (2) The employee requesting an audit fails to timely forward the job audit questionnaire to the supervisor; or
  - (3) The employee requesting an audit fails to timely return the job audit questionnaire to the director; or
  - (4) The appointing authority requesting an audit fails to timely return the job audit questionnaire to the director; or
  - (5) An audit, that is made at the request of an appointing authority, is scheduled for an on-site audit and all the parties fail to appear or the appointing authority which requested the audit fails to schedule the interviews on two occasions; unless the appointing authority shows good reason why all parties were not available; or
  - (6) The appointing authority fails to submit a position description reflecting the employee's current duties if the appointing authority requested the position audit.
- (H) Implementation of audit findings. A position audit shall be deemed completed when the director sends written notification of the final results to the employee and the employee's appointing authority.
- ~~(1) The director shall issue a preliminary position audit decision to the employee and the employee's appointing authority. If the employee and the appointing authority disagree with the initial decision and collectively agree to a resolution, the appointing authority must respond to the director within thirty days of receipt of the planned remedy. If the director agrees with the terms of the remedy, the audit will be cancelled and a final order will not be issued.~~
  - ~~(2) If the employee and the appointing authority cannot agree to a remedy within thirty days, the preliminary findings shall be adopted and the director shall send written notification of the final results to the employee and the employee's appointing authority.~~
- (I) Effective date. Whenever a position is reclassified by the director, the employee's classification shall be changed in accordance with division (D) of section 124.14 of the Revised Code. The director shall give to the affected employee and to his or her appointing authority a written notice setting forth the proposed new classification. The effective date of such change shall be the first day of the pay period following DAS' receipt of the audit request.

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- (J) Submission of documents to implement classification change. The documents necessary to implement a classification change shall be submitted by the appointing authority within thirty days after the notification of the determination, unless the agency or the employee appeals the determination to the state personnel board of review.
- (K) Appeal. The final decision rendered by the director on positions in the classified service may be appealed to the state personnel board of review by the appointing authority or the employee. The appeal to the board shall be made according to the rules of the state personnel board of review.
- (L) Effective date after appeal. The state personnel board of review shall determine the effective date of the classification change upon their completion or review of an appeal of an audit decision.
- (M) Audit findings of a lower classification. Subject to the provisions of rule 123:1-24-04 of the Administrative Code, if the results of a position audit indicate that a position would be properly allocated to a classification with a lower pay range assignment than the classification currently assigned, the director shall notify the appointing authority and the employee that the position will be reclassified pursuant to section 124.14 of the Revised Code.
- (N) When position audits will not be performed. Position audits will not be performed on positions that are vacant or while the incumbent is assigned in a temporary work level, on a leave of absence, serving a probationary period, or is receiving disability leave benefits.
- (O) Audits of positions of incumbents who are subject to layoff or displacement. Requests for audits of positions will not be processed if the position is classified in a classification that is designated for calculation of retention points for purposes of a layoff or position abolishment under the provisions of Chapter 123:1-41 of the Administrative Code. The date the lists of classifications are submitted to the director for verification of retention points shall be the date the requests for position audits are suspended.
- (P) Effective date of amended audit. If for any reason, the results of a position audit are amended, a corrective notice for a reclassification of a position shall be made and the effective date of the reclassification shall be the date indicated in the original letter of notification.
- (Q) Positions to be audited no more than once a year. Requests for audits of a position, from either the incumbent or the appointing authority, may not be submitted more often than once a year. An employee may request only one audit of his or her position per year unless the employee provides, at the time of the request, documentation showing that the duties of his position have been substantially

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changed since the date of the completion of the previous audit. The "one-year period" will be defined as one calendar year from the date of the original request for the most recent position audit.

- (R) Audits of positions in state-supported colleges and universities. The department of administrative services shall not conduct audits of positions at state-supported colleges or universities. Employees of state-supported colleges or universities shall submit requests for position audits in accordance with the policies and procedures of their respective institutions.
- (S) Probationary period. An employee who has received a classification change pursuant to a position audit is not required to serve a new probationary period. The employee will continue to be a permanent employee in the classified service.

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123:1-5-01      **Unclassified service.**

- (A) Designation of exemptions. Within sixty days after taking office, each elective officer and each principal appointive officer, board, commission, or body having the power of appointment to, or removal from, positions in the service of the state in any office, department, commission, board or institution, shall designate to the director the positions for which exemption from the competitive classified service is claimed under the provisions of division (A)(8) of section 124.11 of the Revised Code.

Thereafter, no change in the designation of exemptions claimed under this provision shall be made during the incumbency of such officer, board, or commission unless an agency reorganization occurs as a result of legislative action during the appointing officer's, board's or commission's term of office, the appointive officer, board, commission, or body shall file a statement of reasons for such proposed change satisfactory to the director of administrative services.

If exemptions have not been designated by the appointing officer, board, or commission as herein provided within sixty days after taking office, the exemptions previously designated and in effect under this provision shall be considered the exemptions claimed by such appointing authority and will continue to be in effect.

- (B) Deputies and assistants. Notices from appointing authorities of the appointment of deputies and assistants in the service of the state who are exempt from the classified service under the provisions of division (A)(9) of section 124.11 of the Revised Code, shall be accompanied by a statement of the provisions of the law under which such deputies and assistants are appointed and a statement of the duties to be assigned to such appointees that shows they are acting for or on behalf of the agency and/or that they are performing duties that demonstrate an administrative and/or fiduciary relation with their agency, as defined below:

- (1) Administrative relation -- generally means a relationship where an employee has substantial authority to initiate discretionary action and/or in which the agency, board, or commission must rely on the employee's personal judgment and leadership abilities. It is characterized by a position where the employee is in charge of formulating official policy or is in charge of carrying out that policy. The average employee would not possess such qualities or be delegated such discretionary authority.
- (2) Fiduciary relation -- generally means a relationship where the agency, board, or commission reposes a special confidence and trust in the integrity and fidelity of an employee to perform duties which could not be delegated to the average employee with the knowledge of proper procedures. It is characterized by qualities and personal attributes beyond technical competence that cannot be satisfactorily measured by competitive examination.

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- (C) Requests for exemption from the classified service under divisions (A)(10) and (A)(12) of section 124.11 of the Revised Code, shall be accompanied by a written statement from the appointing authority setting forth the reasons why it is impracticable to include such employees or positions in the competitive classified service.
  
- (D) The term "military appointee" as used in division (A)(6) of section 124.11 of the Revised Code shall apply only to those persons who, after appointment, render service of a military character and are in the military service of the state, having some connection with, and some rank in the organized militia of Ohio.

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123:1-7-22      **Reassignments resulting in placing an employee in step X.**

(A) An employee whose position is determined to be overclassified shall be properly classified and may be placed in step X pursuant to section 124.14 of the Revised Code only as a result of any of the following:

(1) A position audit conducted in accordance with rule 123:1-3-01 of the Administrative Code;

~~(2) An on-site audit of a decentralized agency that is conducted by the department of administrative services;~~

~~(3)(2) A class plan change; or~~

~~(4)(3) A classification assigned by the state personnel board of review or an arbitrator's decision; or~~

~~(4) At the approval of the director.~~

(B) An employee that is assigned into a lower classification shall be placed in the step within the new pay range that provides the employee with compensation that is equal to his or her current rate or that provides the least amount of increase, but no decrease, in pay. Appointing authorities shall consider all applicable pay supplements to ensure that an employee reassigned pursuant to this rule does not receive a decrease in pay. If the employee's base rate of pay exceeds the maximum rate of pay in the new pay range, the employee shall be placed in step X.

(C) An employee placed in step X shall not receive an increase in compensation until the maximum rate of pay for the employee's classification exceeds the employee's base rate of pay.

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123:1-33-08      **Subsequent disability.**

- (A) A subsequent disability unrelated to a previous illness, injury, or condition shall be considered the same claim if it occurs while an employee is on an approved disability leave.
- (B) A subsequent unrelated disability that occurs following a previously requested disability leave benefit period shall be considered a new claim. A new waiting period ~~shall must~~ be served before the employee will be eligible to receive disability leave benefits.
- (C) Except as provided in paragraph (F) of this rule, a related disability that occurs beyond six months of the employee's return to active work status ~~shall will~~ be considered a new disability claim. A new waiting period ~~shall must~~ be served before the employee will be eligible to receive disability leave benefits.
- (D) Except as provided in paragraph (F) of this rule, a related disability that occurs before six months have passed since the employee's return to active work status ~~shall will~~ be considered the same disability claim. ~~A Though a new waiting period shall will not be served, before the employee will be eligible to receive disability leave benefits. - benefits shall be payable from the first day of the subsequent disability provided the employee remains disabled and off work for at least fourteen consecutive calendar days. The rate of payment for a related disability shall will~~ be based on the rate of the original disability claim as stated in rule 123:1-33-05 of the Administrative Code.
- (E) Except as provide in paragraph (F) of this rule, a subsequent related disability that occurs within six months of an employee's return to active work status and following a previously requested disability leave benefit that was filed before October 29, 2006 shall be considered a new claim. A new waiting period ~~shall must~~ be served before the employee will be eligible to receive disability leave benefits.
- (F) A subsequent related disability that occurs while the employee is participating in an authorized work program ~~shall will~~ be considered the same disability. ~~Though a new waiting period shall not be served, benefits~~ ~~Benefits may shall~~ be payable from the first day of the subsequent disability ~~provided if~~ the employee remains disabled and off work for at least fourteen consecutive calendar days. The rate of payment for a related disability ~~shall will~~ be based on the rate of the original disability claim as stated in rule 123:1-33-05 of the Administrative Code.