

Handouts from Civil Service  
Commission 8/29/15

**SECTION 9.4 CIVIL SERVICE.**

The Civil Service of the Municipality is hereby divided into the classified and unclassified service.

9.41 Classified Service. All persons who have been continuously employed in the service of the Municipality in the same or similar position, herein included in the classified service, for at least thirty (30) days preceding the adoption of this Charter shall retain their positions until discharged, reduced, promoted or transferred in accordance with the provisions of this Charter.

The classified service shall include:

- a - all full-time members of the Police Department, except for the Police Chief;
- b - all full-time members of the Fire Department, except for the Fire Chief;
- c - all positions which may, consistent with the provisions of this Charter, be classified by ordinance of Council upon recommendation of the Civil Service Commission.

9.42 Unclassified Service. The unclassified service shall comprise all positions not specifically included by Section 9.41.

The unclassified service shall include:

- a - all officers elected by the people;
- b - all directors of departments and their assistants;
- c - all members of all boards and commissions appointed by the Mayor or Council;
- d - any temporary or part-time office requiring qualifications of an expert.

9.43 Police Chief and Fire Chief. The positions of Police Chief and Fire Chief shall be unclassified.

The Mayor shall have the authority to suspend or remove the Police Chief or Fire Chief only as provided for in Section 733.35 of the Ohio Revised Code, provided, however, that such suspension or removal shall have the concurrence of two-thirds (2/3) of the members elected to Council. (Amended 11-4-08)

9.44 Rules and Regulations. The appointment, promotion, transfer, layoff, reinstatement, suspension and removal of persons in the classified service and appeals from the action of the appointing authority shall be subject to the rules established by the Civil Service Commission as directed in Section 5.52 of this Charter.

**ARTICLE X  
MISCELLANEOUS PROVISIONS**

**SECTION 10.01 EFFECTIVE DATE OF CHARTER.**

This Charter will take effect on the first day of January, 1971, except for the provisions relating to elected officials.

**SECTION 10.2 GENDER NEUTRALITY.**

Any reference in this Charter to a particular gender shall be deemed as reference to either gender. (Amended 11-4-08)

10.21 Rights and Privileges Preserved. (EDITOR'S NOTE: The provisions of Section 10.2 were repealed on November 4, 2008.)

## **ESTABLISHING UNCLASSIFIED STATUS**

- \* If the appointing authority alleges an employee is unclassified pursuant to the fiduciary exemption of O.R.C. § 124.11 (A)(28) – which exempts “deputies and assistants of elective or principal executive officers authorized to act for and in the place of their principals or holding a fiduciary relation to their principals” for cities, counties, civil service townships, city health districts, general health districts, and city school districts – the appointing authority must prove a special confidence and trust in the integrity and fidelity of that employee which cannot be delegated to the average employee with knowledge of the proper procedure. See O.A.C. 124-1-02(I) the definition of “fiduciary relationship”.

### **R.C. 124.11**

#### **UNCLASSIFIED SERVICE-CLASSIFIED SERVICE**

- (B) The classified service shall comprise all persons in the employ of the state and the several counties, cities, city health districts, general health districts, and city school districts of the state, not specifically included in the unclassified service. Upon the creation by the board of trustees of a civil service township civil service commission, the classified service shall also comprise, except as otherwise provided in division (A)(17) or (C) of this section, all persons in the employ of a civil service township police or fire department having ten or more full-time paid employees . . . .

## POLITICAL ACTIVITIES

James R. Sprague, Esq.  
Chief SERB/SPBR Administrative Law Judge  
June 13, 2014

### **R.C. 124.57 Prohibition against partisan political activity.**

(A) No officer or employee in the classified service of the state, the several counties, cities, and city school districts of the state, or the civil service townships of the state shall directly or indirectly, orally or by letter, solicit or receive, or be in any manner concerned in soliciting or receiving, any assessment, subscription, or contribution for any political party or for any candidate for public office; nor shall any person solicit directly or indirectly, orally or by letter, or be in any manner concerned in soliciting, any such assessment, contribution, or payment from any officer or employee in the classified service of the state, the several counties, cities, or city school districts of the state, or the civil service townships of the state; nor shall any officer or employee in the classified service of the state, the several counties, cities, and city school districts of the state, or the civil service townships of the state be an officer in any political organization or take part in politics other than to vote as the officer or employee pleases and to express freely political opinions.

(B)

(1) Nothing in division (A) of this section prohibits an officer or employee described in that division from serving as a precinct election official under section 3501.22 of the Revised Code.

(2) Nothing in division (A) of this section prohibits an employee of OSU extension whose position is transferred from the unclassified civil service to the classified civil service and who also holds the office of president of a city legislative authority from completing the existing term of office as president.

Amended by 130th General Assembly File No. 25, HB 59, §101.01, eff. 9/29/2013.

Effective Date: 09-16-1998; 05-07-2004

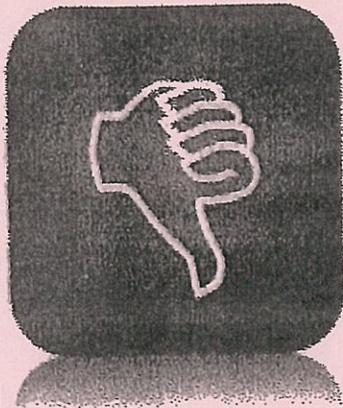
R.C. 124.57

## Prohibition against partisan political activity

(A) No officer or employee in the classified service of the state, the several counties, cities, and city school districts of the state, or the civil service townships of the state shall directly or indirectly, orally or by letter, solicit or receive, or be in any manner concerned in soliciting or receiving, any assessment, subscription, or contribution for any political party or for any candidate for public office; nor shall any person solicit directly or indirectly, orally or by letter, or be in any manner concerned in soliciting, any such assessment, contribution, or payment from any officer or employee in the classified service of the state, the several counties, cities, or city school districts of the state, or the civil service townships of the state; nor shall any officer or employee in the classified service of the state, the several counties, cities, and city school districts of the state, or the civil service townships of the state be an officer in any political organization or take part in politics other than to vote as the officer or employee pleases and to express freely political opinions.

R.C. 124.57

## PROHIBITS



Any officer or employee *in the classified service* from soliciting or receiving (directly or indirectly) specified items for/from a *political party* or for/from any candidate for public office;

Anyone from soliciting (directly or indirectly) specified items from an officer or employee in the classified service;

Any officer or employee *in the classified service* from being an officer in a political organization or from taking part in politics ...

R.C. 124.57

## PERMITS



An officer or employee *in the classified service* to vote as he or she pleases and to freely express political opinions (allows officers and employees in the classified service to exercise their Constitutionally-protected freedom of expression and also to engage in non-partisan political activities.)

An officer or employee *in the unclassified service* to solicit or receive specified items for/from a political party or for/from any candidate for public office.

R.C. 124.57

## PERMITS



An officer or employee *in the unclassified service* to serve as an officer in a political organization and to take part in politics.

An officer or employee *in either the classified or unclassified service* to serve as a "precinct election official" under R.C. 3501.22.

(A)(8), then appointing authority must show compliance with all procedures. (See PBR Case No. 09-REM-01-0024 Klingeman v. Trumbull County Engineer).

- e. Appointing authority must prove, by a preponderance of the evidence, that employee is unclassified pursuant to:
  - 1. an exemption under O.R.C. § 124.11 (A)
  - 2. an exemption under some other specific statute or city charter or ordinance effectuating that charter.
- f. If appointing authority is alleging unclassified pursuant to the **fiduciary exemption** of O.R.C. § 124.11 (A)(28), which states, "For cities, counties, **civil service townships**, city health districts, general health districts, and city school districts, **the deputies and assistants of elective or principal executive officers authorized to act for and in the place of their principals or holding a fiduciary relation to their principals**", then appointing authority must prove a special confidence and trust in the integrity and fidelity of that employee which cannot be delegated to the average employee with knowledge of the proper procedure. See O.A.C. 124-1-02(l) the definition of "fiduciary relationship".
- g. Examples of fiduciary relationship may include, but are not limited to check writing ability, binding the agency to a contract, contractual authority and/or settlement authority.
- h. If appointing authority proves the employee is in an unclassified position, then the Civil Service Commission would have no jurisdiction and case should be dismissed.
- i. If appointing authority does not prove employee is unclassified, the Civil Service Commission would then reinstate the employee to his or her previous position, or would then have jurisdiction to review merits of removal. (Considering the appointing authority filed an order of removal.)

(29) Employees who receive intermittent or temporary appointments under division (B) of section 124.30 of the Revised Code;

(30) Employees appointed to administrative staff positions for which an appointing authority is given specific statutory authority to set compensation;

(31) Employees appointed to highway patrol cadet or highway patrol cadet candidate classifications;

(32) Employees placed in the unclassified service by another section of the Revised Code.

(B) The classified service shall comprise all persons in the employ of the state and the several counties, cities, city health districts, general health districts, and city school districts of the state, not specifically included in the unclassified service. Upon the creation by the board of trustees of a civil service township civil service commission, the classified service shall also comprise, except as otherwise provided in division (A)(17) or (C) of this section, all persons in the employ of a civil service township police or fire department having ten or more full-time paid employees. The classified service consists of two classes, which shall be designated as the competitive class and the unskilled labor class.

(1) The competitive class shall include all positions and employments in the state and the counties, cities, city health districts, general health districts, and city school districts of the state, and, upon the creation by the board of trustees of a civil service township of a township civil service commission, all positions in a civil service township police or fire department having ten or more full-time paid employees, for which it is practicable to determine the merit and fitness of applicants by competitive examinations. Appointments shall be made to, or employment shall be given in, all positions in the competitive class that are not filled by promotion, reinstatement, transfer, or reduction, as provided in this chapter, and the rules of the director of administrative services, by appointment from those certified to the appointing officer in accordance with this chapter.

(2) The unskilled labor class shall include ordinary unskilled laborers. Vacancies in the labor class for positions in service of the state shall be filled by appointment from lists of applicants registered by the director or the director's designee. Vacancies in the labor class for all other positions shall be filled by appointment from lists of applicants registered by a commission. The director or the commission, as applicable, by rule, shall require an applicant for registration in the labor class to furnish evidence or take tests as the director or commission considers proper with respect to age, residence, physical condition, ability to labor, honesty, sobriety, industry, capacity, and experience in the work or employment for which application is made. Laborers who fulfill the requirements shall be placed on the eligible list for the kind of labor or employment sought, and preference shall be given in employment in accordance with the rating received from that evidence or in those tests. Upon the request of an appointing officer, stating the kind of labor needed, the pay and probable length of employment, and the number to be employed, the director or commission, as applicable, shall certify from the highest on the list double the number to be employed; from this number, the appointing officer shall appoint the number actually needed for the particular work. If more than one applicant receives the same rating, priority in time of application shall determine the order in which their names shall be certified for appointment.

(C) A municipal or civil service township civil service commission may place volunteer firefighters who are paid on a fee-for-service basis in either the classified or the unclassified civil service.

(D)

DATE: 4/20/15

TO: All city employees

FROM: Ray Somich

RE: Ongoing budget discussions

Dear valued city employee:

If you do not know me, although I am proud that my colleagues voted me to be council president, I am NOT writing you officially in that capacity. To do so would require that I have the agreement and support of all council members, which I usually do not have. So I am writing this to you not on council letterhead, but just as a 12-year councilman and most of all, as a 26-year resident of our city.

Whether you are full or part time, whether you have been with the city for one week or five decades, and no matter what levels of responsibility you have, know this: I value and appreciate that you are part of our city – and so do many other elected officials and residents.

In this busy world that we live in, these words of thanks and gratitude are unfortunately not spoken enough. But that does not make them any less true. Both in my city position and my career positions, I often hear heart-warming stories of how wonderful our city staff performs, often beyond expectations. And when I hear a rare complaint, there is usually a good reason and, when the situation gets resolved, the problem does not happen again. So please accept my sincere thanks for your very good work and dedication to the people of Willoughby Hills.

I also want to take this opportunity to comment on another critical matter. You are most aware that our city budgets have been the point of many discussions over the last couple of months, and likely will continue to be. Because city council and the administration are truly working to find the best ways of increasing revenues and decreasing expenses while improving or at minimum maintaining efficiency – many suggestions have been made and discussed. But please understand that any suggestions to reduce payroll were NOT made or agreed to collectively by a majority of council members. Some individual members have suggested such action very strongly – but in no case has a majority of council members agreed to cut staff or wages. Such suggestions have not even been put into ordinance format in consideration for a vote. If you would like to discuss this issue with me or with our council clerk, we can detail more specifics, but there has not been collective support for cutting any positions or wages.

As a business owner myself, but more importantly as a father of four married children with ten grandchildren who worries all the time about these families... I understand how serious and worrisome it can be to hear authorities talking about changing your job or pay level, or even eliminating jobs. So I wanted you to know where we are, after the many discussions we have had. Anything that people may have said about widespread council agreement for job cuts or payroll cuts is just not speaking truthfully.

Thank you again for your service to our city and our residents.

Ray Somich (440-567-8316)