

# AOHC 2025 Fall Conference

## Civil Service Layoffs

presented by



CONSULTANTS TO MANAGEMENT

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# Civil Service Layoff – R.C. 124.321-327

- A classified civil servant may be laid off for lack of work, lack of funds, or job abolishment.
- CAUTION – Do not wait until too late!

# Collective Bargaining Agreement

- The provisions of a collective bargaining agreement (CBA) will supersede the civil service layoff procedure

# Layoff Order

- Layoff Order
  - Part-time Probationary
  - Part-time Permanent
  - Full-time Probationary
  - Full-time Permanent

# “Lack of Work” and “Lack of Funds”

- **Lack of Work**
  - Means an appointing authority has a current or projected decrease in workload that requires a reduction of current or projected staffing levels in its organization or structure. The determination of a lack of work shall indicate the current or projected decrease in workload and whether the current or projected staffing levels of the appointing authority will be excessive.

# “Lack of Work” and “Lack of Funds”

- **Lack of Funds**

- Means an appointing authority has a current or projected deficiency of funding to maintain current, or to sustain projected, levels of staffing and operations. This section does not require any transfer of money between funds in order to offset a deficiency or projected deficiency of funding for programs funded by the federal government, special revenue accounts, or proprietary accounts. Whenever a program receives funding through a grant or similar mechanism, a lack of funds shall be presumed for the positions assigned to and the employees who work under the grant or similar mechanism if, for any reason, the funding is reduced or withdrawn.

# “Job Abolishment”

- **Job Abolishment**

- Appointing authority may abolish positions for any one or any combination of the following reasons:
  - Reorganization for the efficient operation of the appointing authority
  - For reasons of economy
  - For lack of work

# “Reasons of Economy”

- **Reasons of Economy**

- Permitting an appointing authority to abolish a position and to lay off the holder of that position under this division shall be determined at the time the appointing authority proposes to abolish the position. The reasons of economy shall be based on the appointing authority's estimated amount of savings with respect to salary, benefits, and other matters associated with the abolishment of the position, except that the reasons of economy associated with the position's abolishment instead may be based on the appointing authority's estimated amount of savings with respect to salary and benefits only, if:
  - (i) Either the appointing authority's operating appropriation has been reduced by an executive or legislative action, or the appointing authority has a current or projected deficiency in funding to maintain current or projected levels of staffing and operations; and
  - (ii) In the case of a position in the service of the state, it files a notice of the position's abolishment with the director of administrative services within one year of the occurrence of the applicable circumstance described in division (D)(2)(a)(i) of this section.



# “Reasons of Economy”

- **Reasons of Economy (*continued*)**

...

- (i) The position's abolishment shall be done in good faith and not as a subterfuge for discipline.
- (ii) If a circumstance affects a specific program only, the appointing authority only may abolish a position within that program.
- (iii) If a circumstance does not affect a specific program only, the appointing authority may identify a position that it considers appropriate for abolishment based on the reasons of economy.

# Displacement (bumping)

- Generally...
  - (1) Within the classification from which the employee was laid off;
  - (2) Within the classification series from which the employee was laid off;
  - (3) Within the classification the employee held immediately prior to holding the classification from which the employee was laid off, except that the employee may not displace employees in a classification if the employee does not meet the minimum qualifications of the classification or if the employee last held the classification more than three years prior to the date on which the employee was laid off.

# Paper Layoff

- The Appointing Authority can require employees to preselect bumping rights.

# Notice Period and Right to Appeal

- 14 days hand-delivery; 17 days certified mail
- Appeals – 10 days from notice
- Caveat: this was per DAS rules that no longer apply.....

# Recall

- One (1) year
- Inverse Order by Class and Appointment Type

# Supporting Documentation

- State of Rationale – keep internally
- Budget #s
- “Efficiency” Justification
- Careful of “shotgun” approach - Penrod v. DAS, 113 Ohio St. 3d 239
- Calculation of Retention Points (in OAC, not statute)
- Many clients have mirrored the DAS rules for the layoff notice process (may be able to shorten notice period) and for calculating retention points.
- Must have Class Plan in Order (#’s, parenthetical subclassifications)

# Alternatives to Layoff

- Mandatory Cost Savings Program – R.C. 124.393
- Modified Workweek – R.C. 124.394

# Key Terminology

- **Exempt employee**
  - Means a permanent full-time or permanent part-time county, township, or municipal corporation employee who is not subject to a collective bargaining agreement between a public employer and an exclusive representative



# Key Terminology

- **Fiscal Emergency**

- Means

- 1) A fiscal emergency declared by the governor under section 126.05 of the revised code;
- 2) A fiscal watch or fiscal emergency has been declared or determined under section 118.023 or 118.04;
- 3) Lack of funds as defined in section 124.321 of the Revised Code;
- 4) Reasons of economy as described in section 124.321.

# Mandatory Cost Savings

- Maximum of 80 hours – may include, but is not limited to, a loss of pay or loss of holiday pay
- May be administered differently among employees based on their classifications, appointment categories, or other relevant distinctions.
- Method – EACH appointing authority shall issue guidelines how the appointing authority will implement the cost savings program. Analyze departments and impact.
- Caution: Impact on FLSA-exempt employee; exception for budget-related furlough

# Modified Workweek

- The program may provide for a reduction from the usual number of hours worked during a week by exempt employees immediately before the establishment of the program by the appointing authority. The reduction in hours may include any number of hours so long as the reduction is not more than fifty percent (50%) of the usual hours worked by exempt employees immediately before the establishment of the program.
- The program may be administered differently among employees based on classifications, appointment categories, or other relevant distinctions.

# Voluntary Cost-cutting Measures

- **Voluntary Reduction in Hours**
  - Form or agreement
  - Duration and Appointment status
  - Understand the impact on unemployment benefits
  - No appeal to SPBR
  - Effect on other fringe benefits

# Voluntary Cost-cutting Measures

- **Voluntary Layoff**
  - Employees can still receive unemployment
  - Agreement with duration listed
  - Some CBAs have this option (or MOU)

# Modify Hours of Operation

- 4 – day workweek
- Building vs. personnel costs
- Effect on client service

# Buy Outs

- Non-pension
- OPERS

# Non-pension Buy-out

- Negotiated through CBA
- Payment to entice retirement
- Fill at lower salary or leave vacant



# OPERS

- More rigid (1 year, minimum of 5%)
- Calculate Costs

# QUESTIONS?



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