



HANDBOOK

Ohio County Commissioners

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37 West Broad Street, Suite 650 • Columbus, Ohio 43215-4195
Phone: 614-221-5627 • Fax: 614-221-6986 • www.ccao.org

CHAPTER 64

COUNTY PERSONNEL DEPARTMENTS

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64.01 INTRODUCTION

On July 26, 1991, Sub. HB 298 became law. This law included major changes in personnel law, including provisions for the option of establishing a local county personnel department (CPD) to perform the personnel functions of the Ohio Department of Administrative Services (DAS). County personnel department law is found in Section 124.14(G) of the Revised Code.

64.02 GENERAL SUMMARY

The law gives county commissioners the option once every two years to establish a county personnel department to assume the duties and responsibilities of the director of the Ohio Department of Administrative Services for oversight of the civil service system pursuant to Chapter 124 of the Revised Code for those county employees for whom the commissioners are the appointing authority or co-appointing authority. All other elected officials, boards and agencies have the option to choose to receive services from the county personnel department or continue under DAS supervision.

Every two years thereafter the commissioners have the option of disbanding the county personnel department and individual officials, boards or agencies have the option to remove themselves from jurisdiction of the county department and return to DAS supervision. Even for those officials who choose to receive services from the county personnel department, the law does not give the department the authority to limit the right of the official to hire, fire and compensate employees of that official.

The law does not specify how a county personnel department is to be structured, how it is to be funded or how it should operate. It merely makes the county personnel department

responsible for enforcement of the personnel provisions of Chapter 124 of the Revised Code.

The law does not change the authority and jurisdiction of the State Personnel Board of Review. Employees in a county which establishes a county personnel department will continue to have the right to appeal to the State Personnel Board of Review unless they bargain that right away in a collective bargaining contract.

The law requires DAS to periodically audit the county personnel system and resume supervision if non-compliance with the civil service law is found and is not corrected. The law also makes the county responsible for any loss of federal funds incurred by the failure of the county personnel department to meet federal merit system standards.

The county personnel option will allow more flexibility and local control for counties which have the fiscal and human resources to shoulder the significant responsibilities entailed in enforcing civil service laws locally.

64.03 ORGANIZATION OF COUNTY PERSONNEL DEPARTMENTS

A county personnel department is directly under the control of the county commissioners who would appoint the director and all employees. There is no prescribed organizational structure. There are no requirements regarding number of employees or the duties or qualifications of individual employees. Such employees are in the classified civil service because they are not specifically excluded by law, but class plans, specifications and salaries would be at the discretion of the commissioners.

The director should be someone knowledgeable in civil service law and procedures and the number of employees should be adequate to perform the policy making, processing and record keeping necessary to carry out the functions of the civil service system locally. Access to expert legal services through the county prosecuting attorney or by hiring an attorney on the staff of the CPD with the prosecutor's cooperation is a must.

64.04 WHO IS COVERED BY COUNTY PERSONNEL DEPARTMENTS? (ORC 124.14(G)(2))

1. Automatically, only those employees for whom the commissioners are the appointing authority or co-appointing authority i.e. commissioners office, any special offices set up by the commissioners (e.g. office of budget, development department, accounting department, etc.), the county home, building department, dog warden, department of human services, child support enforcement agency (unless operated by the court or prosecutor).
2. If an elected official or a board takes action to receive services from the county personnel department, then the CPD will take responsibility for enforcing Chapter 124 of the Revised Code for all employees of that official or board including: auditor,

clerk of courts, coroner, engineer, judge, prosecuting attorney, recorder, sheriff, treasurer, children services board, alcohol, drug addiction and mental health services board, board of mental retardation and developmental disabilities, county health department, etc. If an elected official or board does not choose to receive services from the CPD, the employees of that official or board remain under the jurisdiction of DAS and the CPD has no authority over or responsibility for those employees.

64.05 POWERS OF DAS TO BE ASSUMED BY A COUNTY PERSONNEL DEPARTMENT (ORC 124)

If a county personnel department is established it assumes the following powers of the Ohio Department of Administrative Services:

1. To prepare, conduct and grade competitive examinations and unstructured, non-competitive examinations.
2. To prepare eligible lists of persons qualified for appointment to positions.
3. To prepare, amend and maintain class plans and class specifications.
4. To assign covered employees to proper classification.
5. To develop and conduct personnel recruitment.
6. To develop and conduct personnel training programs in cooperation with appointing authorities.
7. To appoint such examiners, inspectors, clerks and other assistants as are necessary to carry out the functions of the department.
8. To keep a journal of final decisions regarding classification of positions and assignment of employees to classifications.

64.06 POWERS AND DUTIES OF DAS DIRECTOR TO BE ASSUMED BY COUNTY PERSONNEL DEPARTMENTS (ORC 124.09)

In addition to the powers assumed by a CPD from DAS, the department also assumes the following powers and duties of the DAS director:

1. To prescribe, amend and enforce administrative rules for the purpose of carrying out the functions, powers and duties of the department.
2. To keep records of all applications and examinations, open to inspection of the public.

3. To prepare, continue and keep in the office a complete roster of all persons in the classified service.
4. To approve the establishment of all new positions.
5. To make investigations concerning all matters touching the enforcement and effect of Chapter 124 of the Revised Code (in other words, the DAS director is responsible for seeing that the civil service system and the merit system contained in ORC 124 are enforced appropriately for all employees of the state and its subdivisions. The county personnel department becomes responsible for all such functions for that particular county only).

64.07 WHAT A COUNTY PERSONNEL DEPARTMENT CAN DO

A county personnel department has the authority to:

1. Replace the DAS rules and procedures with local rules and procedures as long as they do not violate Chapter 124 of the Revised Code.
2. Enforce civil service law and be responsible for maintaining merit selection.
3. Develop class plans, and position descriptions for participating employees including county department of human services. Section 124.14(E)(3) of the Revised Code exempts employees of county human services departments in counties where a county personnel department is established from the state class plan and salary schedule.
4. Assist with recruitment and selection of employees to the extent desired by participating appointing authorities.
5. Develop necessary plans and systems for compliance with affirmative action and other federal requirements.
6. Develop and maintain personnel policies, procedures and grievance procedures.
7. Keep and manage central personnel records on employment history, vacation, sick leave, etc. to the extent desired by appointing authorities.
8. Provide liaison with personnel board of review, workers' compensation, unemployment compensation, etc.
9. Manage and maintain employee benefit systems including health insurance, etc.
10. Coordinate and provide liaison with appropriate officials for collective bargaining and managing contracts.

11. Receive reports from a participating MR/DD board. Section 124.20 of the Revised Code provides that personnel actions of a county board of mental retardation/developmental disabilities traditionally submitted to DAS be submitted to the county personnel department with jurisdiction, if one exists.

64.08 WHAT A COUNTY PERSONNEL DEPARTMENT CAN NOT DO

County personnel departments, however, have no authority to:

1. Ignore civil service law. All local policies and procedures must conform to Chapter 124 of the Revised Code and pertinent case law.
2. Do away with merit selection and testing. Article XV Section 10 of the Ohio Constitution states in part, "all appointments and promotions in the civil service of the state, the several counties and the cities shall be made according to merit and fitness, to be ascertained, as far as practicable, by competitive examinations".
3. Force a class plan or salary schedule on a county elected official. Section 124.14(B) of the Revised Code lists the exceptions to standard class plans under control of the director of DAS. The law (ORC 124.14(B)(4)) exempts from the standard class plan "any position for which authority to determine compensation is given by law to any other individual or entity". Since county elected officials are given authority to hire and compensate employees in their respective sections of Title III of the Revised Code, the CPD has no authority to apply standard classes and salary ranges to the employees of elected officials except by agreement of the individual official.
4. Create a system for hearing employees appeals which bypasses the State Personnel Board of Review. Section 124.14 of the Revised Code requires that the SPBR retain jurisdiction over employees subject to a CPD.
5. Change which positions are in the classified or unclassified service.

64.09 FLEXIBILITY TO CONTRACT FOR SERVICES (ORC 124.14(G)(2))

County commissioners may contract with DAS, another political subdivision or an appropriate public or private entity to provide competitive testing services or other appropriate services (ORC 124.14 (G)(2)). This means one county could establish a personnel department and one or more other counties could contract for all personnel services or any one or a group of services. A county could contract with another county, a city, the state or even a private company to provide testing or recruitment, computer services, or the establishment of class plans, etc. in any combination desired.

It is very important for commissioners to understand that, no matter what services they contract for or with whom, they remain responsible for seeing that civil service laws and merit system standards are enforced.

64.10 HOW ELECTED OFFICIALS AND BOARDS RELATE TO COUNTY PERSONNEL DEPARTMENTS (ORC 124.14(G)(3))

The county personnel option is actually a double option. First, county commissioners have the option to establish a CPD. Second, each elected official or board has the option to receive services from the CPD or remain under the jurisdiction of DAS. This option is available to each official or board every two years on July 1. The option also exists to terminate the relationship, once established, every two years on July 1.

If an elected official or board opts to receive services from the CPD, the CPD becomes fully responsible for seeing that civil service laws are followed by the elected official or board in dealing with employees, just as DAS is now responsible.

This does not allow the CPD to control who is hired or fired or the salary of that individual, only that the law is followed in those regards (see section 64.08 on What a CPD Can Not Do). The scope and extent of services used by an individual official or board could be negotiated locally (see section 64.07 on What a CPD Can Do).

64.11 WHAT COMMISSIONERS SHOULD CONSIDER BEFORE ESTABLISHING A COUNTY PERSONNEL DEPARTMENT

1. DOES THE COUNTY HAVE THE RESOURCES TO DO THE JOB?

a. Personnel Resources

The department must be operated by a director who knows civil service laws and procedures well enough to keep the county out of legal problems.

In addition, qualified people must be hired to develop rules and policies, provide testing or a merit system which will stand a legal test (unless the commissioners contract for such services), build and maintain a recordkeeping system, deal with contracts and deal with the State Personnel Board of Review.

Access to expert legal advice on personnel matters with the county prosecutor or separate counsel is also needed.

b. Financial Resources

The establishment of a CPD will cost money, not only for personnel, but for supplies, equipment, etc. If the county already has a personnel office

performing most of the functions allowable under the law prior to July 1991, the major additional cost would be to develop and maintain local rules and to provide for testing merit selection. All of this will be general fund expense.

c. Physical Resources

The county will need to provide office space, insurance, and similar resources to support all of this personnel activity.

2. PERSONALITIES/COUNTY STRUCTURE

a. Personalities

The more of county government which decides to participate in a CPD, the cheaper the CPD becomes. Commissioners should discuss the possibility of a CPD with all other officials and boards, to determine the support a CPD and the number of offices which would join.

b. Structure

Is the county structured administratively, fiscally and physically in such a way that a central personnel operation would work? Will a central system cause records or computer problems?

3. RESPONSIBILITIES BEING ASSUMED

a. Legal

Once a CPD is established, the department and the commissioners are responsible for the enforcement of civil service laws. Currently, if an office is not using testing or other appropriate merit selection, is not using a class plan or position descriptions, DAS is legally responsible for any violations of civil service law. If a CPD is established, the CPD and the commissioners are responsible for violations of civil service law.

b. Recordkeeping

Currently, if employment records, evaluations, discipline records, etc. are not followed and kept, it is a DAS responsibility. They must determine retention points and oversee layoffs. If a CPD is established these are CPD/commissioner responsibilities. The CPD would also become responsible for maintaining records open to the public.

c. Financial

In addition to the additional cost of operating a county personnel department, the law (ORC 124.14(G)(6)) makes counties financially liable for any loss of federal funds to human services or child support agencies for failure to adhere to merit system standards.

DAS is required to periodically audit a CPD for compliance with Chapter 124 of the Revised Code. The county is responsible for half of the cost of the audit.

64.12 WHAT ARE THE WRONG REASONS FOR ESTABLISHING A COUNTY PERSONNEL DEPARTMENT?

Counties should take care before establishing a CPD. It is generally agreed that the following reasons for establishing a department are ill advised:

1. Just to get out from under DAS.
2. To get rid of civil service requirements. Civil service requirements are contained in Chapter 124 of the Revised Code which the CPD must enforce.
3. To get rid of testing or a merit system. A merit system is required by Article XV, Section 10 of the Ohio Constitution.
4. To revise salaries and classes downward. Employees have property rights regarding reductions which they can defend in court.
5. To get out from under the State Personnel Board of Review. The law specifically retains employees under a CPD within the jurisdiction of the SPBR.

The right reason to establish a CPD is that the county has the personnel, physical and financial resources, along with the intent to operate civil service efficiently and effectively at the local level.

64.13 EXERCISING THE OPTION TO ESTABLISH A COUNTY PERSONNEL DEPARTMENT (ORC 124.14(G)(2))

The first opportunity to establish a CPD was January 1, 1992. County commissioners which did not establish a CPD on January 1, 1992 may do so on July 1 in any odd numbered year with official notice to DAS by March 1 of that year. Any elected official or board may elect to receive services effective July 1 of any odd numbered year, with notice by March 1.

64.14 DISBANDING A COUNTY PERSONNEL DEPARTMENT (ORC 124.14(G)(4))

County commissioners may disband a CPD effective July 1 of any odd numbered year by giving certified mail notice to DAS by March 1 of that year. All county employees would return to DAS jurisdiction.

64.15 ELECTED OFFICIAL/BOARD OPTION TO WITHDRAW FROM A COUNTY PERSONNEL DEPARTMENT (ORC 124.14(G)(5))

Any participating elected official or board may elect to withdraw from a CPD effective July 1 of any odd numbered year. Certified notice must be sent to the county commissioners and the director of DAS by March 1 of that year. Employees of such an official or board would return to the jurisdiction of DAS.