Classified Civil Service Law Reform for Ohio’s Universities

Implementation Guidelines

The charge of the Inter-University Council of Ohio’s Human Resource Committee is to “develop guidelines and standards that are to be used by the boards of trustees … in adopting the rules concerning the matters of governance … as required by division (F) of 124.14 of the Revised Code” as amended by Sub. H.B. 187.

The IUC-HR Committee is further charged with recommending to institutions the adoption of guidelines and plans that implement any changes to rules impacting university employees in the classified civil service in a “controlled and incremental fashion” in accordance with Sub. H.B. 187.

The IUC-HR Committee recommends the following:

I. Member institutions may submit to their Board of Trustees a resolution recognizing the authority granted under Sub. H.B. 187 and committing the institution to proceeding with changes to the civil service rules in a controlled and incremental fashion. It is anticipated that the majority of institutions will adopt such a resolution by the end of fall term 2007.

NOTE: if a member institution chooses to not pass a Board of Trustees’ resolution, then the institution will continue operating their respective human resources office within the current set of workplace rules set forth in Ohio Revised Code, Chapter 124 and the Ohio Administrative Code, Chapter 123.

II. Once these Guidelines are adopted, an institution’s Board of Trustees may consider the adoption of new institutional civil service rules in a controlled and incremental fashion in accordance with the IUC guidelines and pursuant to Section 111.15 of the Ohio Revised Code. A common-sense approach to ‘controlled and incremental’ is described in the attached document entitled: Civil Service Law Reform Continuum.

III. Each institution’s Board of Trustees shall adhere to the IUC’s implementation guidelines and standards, as further outlined in the following pages.
Inter-University Council of Ohio
Implementation Guidelines and Standards for Sub. H.B.187

Under Sub. H.B. 187, the Ohio public four-year institutions of higher education have been granted authority to adopt and implement policies and procedures applicable to classified civil service employees in place of the Classified Civil Service rules existing in Chapter 124 of the Ohio Revised Code and other similar regulations at each institution as approved by their respective Board of Trustees. As provided in Sub. H.B. 187, the Inter-University Council of Ohio hereby establishes guidelines and standards which must be followed by each Board of Trustees.

Each institution may create a set of Classified Civil Service rules and regulations ("CCS Rules"), including but not limited to the following specific areas:

- Classification plans;
- Recruitment, selection, and appointment processes;
- Performance, discipline, and termination processes;
- Layoff and reduction-in-workforce processes;
- Paid leave and holiday leave;
- Appeal processes for classification, reduction, abolishment, and disciplinary actions; and
- Metrics and measures as appropriate for implementation and modernization of the above listed matters of personnel governance.

Consultation and Communication for CCS Rule Creation and Changes

CCS rules may only be adopted using a consultative and transparent process. These processes may include the following:

- Consultation with an institutional staff committee, which includes CCS staff, if such a committee exists;
- Posting of draft rules or rule changes on an institutional website for a minimum of 30-calendar days;
- Appropriate interactions with collective bargaining unit representatives; and
- If appropriate to the nature of the rule change, staff forums and/or focus groups should be held to foster a dialogue with stakeholders before final recommendation and implementation of rule changes.
Controlled and Incremental Manner

Each institution undertaking any and all CCS Rule changes must do so in a controlled and incremental manner. Each Board of Trustees must ensure that this requirement is met.

Required Content for CCS Rules for each institution

The following is a guide that member institutions agree to follow during the creation of new CCS Rules.

1. Recruitment, Selection and Appointment Processes

The processes for selection of classified staff will ensure that selections are made on the basis of merit and fitness. Institutions shall seek to adopt best/next practices of private sector businesses and institutions of higher education. Recruitment, selection and appointment processes should consider the following factors, which are mere examples and not an all inclusive list:

- Development of written position descriptions that include essential job functions, required experience and education;
- Guidance on appropriate recruitment and job posting processes;
- Screening and comparison of applications to position requirements;
- Structured interviews of qualified candidates;
- Use of valid forms of testing, where appropriate, including simulation tests of key job functions;
- Background checks, to include checking of references; and
- A commitment to affirmative action consideration in employment and advancement of veterans of U.S. Armed Forces and to individuals representing the diversity needs on our respective university campuses.

2. Definition of Classified Civil Service

Each institution may define which of their non-student positions shall be within the classified civil service. One possibility would be to exempt from the classified civil service those positions that teach, conduct research, or that are generally exempt from overtime earnings under the federal Fair Labor Standards Act. Each institution defining their classified civil service staff shall establish a process and schedule to achieve this new definition, while seeking to minimize the impact on affected individuals.
3. **Performance, Discipline and Disciplinary Processes**

An employee in a position defined to be within the classified civil service, who has successfully completed a probationary period and is in a non-temporary position, will be entitled to pre-disciplinary due process rights, not less than those established by *Cleveland Bd. of Educ. v. Loudermill*, 470 U.S. 532 (1985).

Specifically, appropriate pre-disciplinary due process measures must be afforded prior to the following actions becoming effective:

- □ Suspension for 24 or more work hours;
- □ Demotion;
- □ Discharge;
- □ Unpaid leave, other than suspension for less than 24 work hours or as otherwise permitted by law.

Nothing in these guidelines shall be construed to limit the right of an employee who possesses the right of appeal to the State Personnel Board of Review to continue to possess that right of appeal.

4. **Layoff and Reduction-in-Force Processes**

Classified Civil Service staff may be subject to layoff or reduction in force processes. Each institution may implement an orderly and systematic process governing layoffs and reductions in force. Nothing in these guidelines shall be construed to limit the right of an employee who possesses the right of appeal to the State Personnel Board of Review to continue to possess that right of appeal.

5. **Classification & Compensation Plans**

Each institution will continue to operate their own comprehensive classification and compensation plans, pursuant to a developed methodology for classifying and assigning compensation and pay structures.
6. **Appointing Authority**

The construct of an “Appointing Authority” will be retained. The Appointing Authority’s accountability for and oversight over university personnel systems as they relate to classified civil service staff will adhere to the intent and principles outlined by these guidelines.

7. **Appeal Rights**

Classified staff at each institution will have the ability to appeal certain adverse employment actions, such as suspension, demotion, job abolishment, layoff or discharge. Employees will have the flexibility to select from campus-approved options for appeal processes. Appeal options will include the State Personnel Board of Review and may also include (a) external panels or hearing officers; and/or, (b) internal panels or hearing officers. Employees will not have to fund the cost of these hearings, but would continue to fund their own legal representation and any miscellaneous costs (e.g., copies of transcripts). Alternative Dispute Resolution mechanisms may also be considered as a voluntary avenue for employees to pursue resolution before enacting the formal appeal processes.

8. **Holiday, Leave, and Benefit Programs**

Leave programs may be redesigned to be more effective for individual institutions and their staff. Further, other benefits programs may be modified as needed for appropriate recruitment and retention of classified staff.

9. **Institutional Accountability**

In recognition of the fact that the universities will no longer be subject to periodic audit by the Ohio Department of Administrative Services, it is recommended that for all classified civil service rules, a peer review process be commissioned at least once every five (5) years regarding CCS policies, for the first ten (10) year period and each ten (10) years thereafter. The resulting written study by the peer review process will be made available at each respective institution along with a plan for necessary improvements, if any, called for by the peer review.

In the spirit of collaboration and continuous improvement, the peer review process will foster the sharing of best practices from across the state of Ohio and from other known sources.
10. **Whistleblower Protection**

It is important to each institution that the specific whistleblower protections outlined in Section 124.341 of the Ohio Revised Code that apply to university staff be maintained and enforced by the institutions and by the State Personnel Board of Review.

11. **Collective Bargaining Agreements**

Sub. H.B. 187 makes clear that nothing in the Act “abrogates, annuls, or modifies, or may be construed as abrogating, annulling, or modifying, any collective bargaining agreement between a public employer and an exclusive representative that was entered into before the effective date of the Act.”

12. **Amendment of the Guidelines**

These Guidelines may be amended by written agreement of the Inter-University Council.