

BOARD EMPLOYEES

“The burden of human resources, more than any other internal organization, is to live the standard about how people ought to be treated.”

-Kathleen D. Ryan and Daniel K. Oestreich

Since ADAMH, CMH and ADAS Boards are jointly sponsored by state agencies and county Boards of Commissioners, it should come as no surprise that the human resource functions of Boards are influenced by both county and state law and practice.

Generally speaking, Board employees are both "public employees" within the meaning of Ohio Revised Code Chapter 145 and form part of the "state service" as defined in Ohio Revised Code Chapter 124. As public employees, Board staff are enrolled in the Ohio Public Employees Retirement System. "State service" is a portion of civil service and includes all such offices and positions in the service of the state, the counties, and general health districts thereof, except the cities, city health districts and city school districts.

Civil Service

Board employees are either in classified or unclassified civil service. All civil service employees that are not specifically identified as part of unclassified service are automatically in classified service. Executive Directors, deputy directors, and program directors employed by boards of alcohol, drug addiction, and mental health services, and secretaries of the Executive Directors, deputy directors, and program directors are unclassified by statute. Ohio Revised Code Section 124.11(A)(18)

Unclassified employees serve at the pleasure of the appointing authority and may be terminated from employment at-will, for any cause and for no cause, subject to the approval of the Board. Unclassified employees are appointed without taking civil service examinations, and they have no right to appeal personnel actions to the State Personnel Board. They may also take part in partisan political activity.

As the appointing authority, the Executive Director may employ and remove classified employees. Classified employees have important rights, including tenure of office and appeal of personnel actions. Classified employees can be further set apart as provisional (hired without an eligible list compiled from results of a civil service test), probationary (60 days to a year), and certified (placed from eligible list). Provisional employees may become certified if they are in their position for six months or more and they pass the civil service test for their classification.

Once certified, classified employees can only be terminated from employment through layoff or job abolishment or removal for cause. Classified employees may appeal disciplinary actions to the Personnel Board of Review.

Board employees (when such board is within a single county) are "county employees" for the purposes of Ohio Revised Code Section 305.17.1 (Group insurance policies).

Ohio Ethics Law

Board employees are also public officials and subject to the provisions of Ohio's ethics laws. Chapter 102 of the Revised Code and the Administrative Code detail the laws and rules that are intended to protect against unethical conduct regarding public contracts, confidentiality, "revolving door" situations, representation, conflicts of interest and supplemental compensation. All Board employees should be thoroughly oriented to their responsibilities under Ohio's ethics law and receive periodic training to update their knowledge.

Ohio law requires that public employers provide new employees with a copy of Chapter 102 and Section 2921.42 of the Revised Code within fifteen days of beginning the performance of their official duties. The employees must acknowledge that they received them in writing. Ohio Revised Code 102.09(D)

See the Legal Considerations Chapter of this handbook for more information on Ohio's ethics laws.

Employee Liability

Board employees are not liable for injury or damages caused by any action or inaction taken within the scope of their employment unless such action or inaction constitutes willful or wanton misconduct. The conduct of an employee is not considered willful or wanton if he/she acted in good faith and in a manner that he/she reasonably believed was in or was not opposed to the best interests of the board and, with respect to any criminal action or proceeding, had no reasonable cause to believe the conduct was unlawful. Ohio Revised Code Section 340.03(D)

See the "Indemnification" section in the Board Governance chapter for more information on how Boards may indemnify employees for judgments obtained against them.

Executive Director

The Board of Directors is responsible for employing a qualified mental health or alcohol or drug addiction services professional with experience in administration, or a professional administrator with experience in mental health or alcohol or drug addiction services, to serve as Executive Director of the Board. Ohio Revised Code Section 340.032. The Board of Directors is responsible for creating the Executive Director's job description, although the Revised Code explicitly includes the following duties:

- (A) Serve as executive officer of the Board and subject to the prior approval of the Board for each contract, execute contracts on its behalf;
- (B) Supervise services and facilities provided, operated, contracted, or supported by the Board to the extent of determining that programs are being administered in conformity

with this chapter of the Ohio Revised Code and rules of the Director of Mental Health and the Department of Alcohol and Drug Addiction Services;

- (C) Provide consultation to agencies, associations, or individuals providing services supported by the Board;
- (D) Recommend to the Board the changes necessary to increase the effectiveness of mental health services and alcohol and drug addiction services and other matters necessary or desirable to carry out this chapter of the Ohio Revised Code;
- (E) Employ and remove from office such employees and consultants in the classified civil service and, subject to the approval of the Board, employ and remove from office such other employees and consultants as may be necessary for the work of the Board, and fix their compensation and reimbursement within the limits set by the salary schedule and the budget approved by the Board;
- (F) Encourage the development and expansion of preventive, treatment, rehabilitative, and consultative programs in the field of mental health with emphasis on continuity of care;
- (G) Prepare for Board approval an annual report of the programs under the jurisdiction of the Board, including a fiscal accounting of all services;
- (H) Conduct such studies as may be necessary and practicable for the promotion of mental health and the prevention of mental illness, emotional disorders, and addiction to alcohol and drugs;
- (I) Authorize the County Auditor, or in a joint-county district the County Auditor designated as the auditor for the district, to issue warrants for the payment of Board obligations approved by the Board, provided that all payments are in accordance with the comprehensive community mental health plan, as approved by the Department of Mental Health, or with the alcohol and drug addiction services plan as approved by the Department of Alcohol and Drug Addiction Services.

Ohio Revised Code Section 340.04

The Board of Directors determines the compensation of the Executive Director and is required to reimburse him or her for “actual and necessary expenses incurred in the performance of his official duties”. By a majority vote, Boards may terminate the employment of the Executive Director for cause, upon written charges, after affording an opportunity for a formal hearing before the Board. Ohio Revised Code Section 340.032

Many Executive Directors have a written employment contract. A typical employment contract includes the following provisions:

- 1) Purpose
- 2) Duties, clarifying authority to manage the day-to-day operations and personnel
- 3) Term
- 4) Conditions:
 - a) Relocation and moving expenses
 - b) Temporary housing
 - c) Performance evaluations
 - d) Physical and mental evaluations to verify competence
 - e) Renewal and termination
 - f) Salary

- g) Health insurance
- h) Life insurance
- i) PERS benefits
- j) Business expenses
 - i) Reimbursement
 - ii) Automobile benefit
- k) Professional development
- l) Vacation
- m) Sick leave
- n) Legal representation
- o) Termination
- p) Severability
- q) Effective date
- r) Whole agreement

Personnel Policy Manual

Boards should develop and approve a personnel policy manual. Personnel policies and practices need to be continually updated as new laws are enacted by the General Assembly and Congress, as administrative agencies write rules and courts interpret the law in specific cases.

As an example, the personnel policy manual may contain the following policy titles:

- 1) Manual Introduction
 - a) Introduction
 - b) Policy Manual Administration
 - c) Policy Amendments
- 2) Organizational Structure and Authority
 - a) Organizational Structure
 - b) Position Descriptions
 - c) Management Rights
- 3) Selection and Employment
 - a) Equal Employment Opportunity
 - b) EEO Grievance Procedure
 - c) Recruitment and Selection
 - d) Procedures Following Selection
 - e) Pre-Employment Drug Testing
 - f) Immigration Reform and Control
 - g) Probationary Periods
 - h) Disability Accommodations
 - i) Employment of Relatives
- 4) Employee Status, Assignments and Work Schedules
 - a) Appointment Status
 - b) Seniority
 - c) Work Hours and Schedules
 - d) Transfers

- 5) Records Administration
 - a) Personnel Files
 - b) Release of Public Records
- 6) Staff Training and Development
 - a) Staff Training
 - b) Memberships
 - c) Performance Reviews
- 7) Separation from Employment
 - a) Resignation
 - b) Retirement
 - c) Layoff
- 8) Employee Conduct
 - a) Attendance and Tardiness
 - b) Ethical Conduct
 - c) Confidential Information
 - d) Privacy of Protected Health Information
 - e) Drug-Free Workplace
 - f) Alcohol and Drugs
 - g) Workplace Harassment
 - h) Political Activity
 - i) Bulletin Boards
 - j) Dress Code
 - k) Solicitation and Distribution
 - l) Gambling
 - m) Personal Property
 - n) Media and Public Inquiries
 - o) Public and Client Relations
 - p) Secondary Employment
- 9) Equipment
 - a) Vehicles for Business Use
 - b) Supplies, Furnishings and Equipment
 - c) Communication Systems
 - d) Promotional Materials
 - e) Computers and the Internet
- 10) Workplace Health and Safety
 - a) Safety and Health
 - b) Serious Illnesses and Diseases
 - c) Security
 - d) Smoking
 - e) Medical Examinations
- 11) Employee Compensation
 - a) Compensation
 - b) Overtime
 - c) Compensatory Time
 - d) Travel and Training Time
 - e) Business-Related Expenses

- f) Business Credit Card Use
- g) Inclement Weather
- 12) Complaints
 - a) Complaint Procedures
 - b) Reporting Violations
 - c) Appeals
- 13) Discipline
 - a) Discipline
 - b) Pre-Disciplinary Conference
- 14) Employee Benefits
 - a) Vacation Time
 - b) Holidays
 - c) Sick Leave
 - d) Sick Leave Conversion
 - e) Sick Leave Donation
 - f) Bereavement Leave
 - g) Civil Leave
 - h) Military Leave
 - i) Family and Medical Leave
 - j) Personal Leave
 - k) Unpaid Leave
 - l) Disability Separation
 - m) Insurance Coverage
 - n) Health Plan Continuation
 - o) Worker's Compensation
 - p) Tuition Reimbursement
 - q) Working at Home

Affirmative Action Program

Boards are required by state law to have a written affirmative action program. Ohio Revised Code Section 340.12. The program must include “goals for the employment and effective utilization of, including contracts with, members of economically disadvantaged groups as defined in division (E)(1) of Section 122.71 of the Ohio Revised Code in percentages reflecting as nearly as possible the composition” of the Board district. The law requires the Board to file a description of the affirmative action program and a progress report on its implementation with the Department of Mental Health or Department of Alcohol and Drug Addiction Services.

Additional Considerations

Because of the complexity of human resource management, Boards should consider hiring a professional on staff or retaining the services of a consultant. The Ohio State Bar Association (www.ohiobar.org) certifies licensed Ohio attorneys as specialists in Labor and Employment Law. Certified specialists must pass a written examination, be substantially involved in the area, participate in ongoing education requirements and be favorably evaluated by attorneys and judges familiar with their work. In addition, most Boards obtain liability coverage for directors

and officers to insure employees against the costs of litigation and penalties resulting from lawsuits.