

# Managing Employees During a Crisis

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2020

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## **I. RESPONDING TO A CRISIS**

- A. As learned during the recent pandemic**, when faced with a crisis, there are many concerns for a public employer. Concerns include the following:
1. Making sure all necessary services can be maintained;
  2. Ensuring the health and safety of employees;
  3. Ensuring the health and safety of the public;
  4. Adjusting to rapidly changing guidelines from federal, state and local agencies;
  5. Complying with policies and collective bargaining agreements; and
  6. Effectively managing/maintaining the workforce.
- B. In making sure that the appropriate level of services can be maintained**, the agency may be required to determine who is an essential and non-essential employees. Because there is no civil service definition regarding what position is “essential” and what position is “non-essential,” the determination is ultimately left to the agency involved. In determining which positions are essential, it is necessary to review considerations, such as:
1. Job Descriptions;
  2. Collective Bargaining Agreements;
  3. Legal Obligations;
  4. Past Practice; and
  5. Supervisor Input.
- C. In addition to determining which employee classifications are “essential,”** it may also be necessary to modify the current workplace. In modifying the workplace, it may be necessary to consider modifications to the following:
1. Physical structures in the workplace;
  2. Access to the workplace;
  3. Employee work schedules/shifts/“teams;” and

4. Telecommuting;

**D. If a classification is determined to be “non-essential,” then employer considerations may include:**

1. Telecommuting;

**E. Tips for Supervisors Managing Teleworking Employees**

1. Discuss with employees what home office equipment and supplies are necessary to successfully telecommute.

2. Prepare an inventory of any company equipment that employees take home to telecommute.

3. Check with IT about:

a. Remote connectivity to work systems.

b. Computer and internet security and virus protection.

c. Availability of virtual meeting rooms.

d. Ability for IT to connect to at-home work systems to conduct repairs or updates.

4. Plan for a secure way to transmit sensitive or confidential materials to telecommuting employees electronically.

5. Plan work for employees for multiple days at a time as teleworking employees may not have access to their physical office at work and will need to assure that they have adequate files, materials and supplies.

6. Some employees will not be familiar with virtual meeting options (ex. Skype, Go-to-Meeting, Citrix, FaceTime). Prepare step-by-step instructions for those employees and do a “test run” to make sure the equipment is working, and the users are comfortable.

7. Collect all phone numbers of teleworking employees and circulate them to your team.

8. Be patient with the process. Many employees will be adjusting to a new way of working.

9. Schedule a daily call-in to discuss the status of projects, provide updates and answer any questions.

10. Plan for proper storage and retention of work-related documents.

## **F. Tips for Employees While Working Remotely**

Teleworking requires the ability to work independently, with minimal direct supervision. There are many benefits to teleworking, but it may also come with some challenges. Follow these tips to successfully telework:

1. Plan for a full workday.
2. Set a time schedule for each workday.
3. Anticipate when you will have conference calls or online meetings, times that you intend to carve-out to work on specific projects without interruption, and your breaks.
4. Plan work several days ahead so that you can have adequate materials and supplies each day and communicate to your supervisor if you anticipate needing files or materials from the office.
5. Make sure you protect the confidentiality of sensitive materials and communications.
6. Find a space to work that is comfortable and quiet and allows you to focus on work during your workday.
7. Minimize typical household noise in your workspace, such as television, pets and children.
8. Plan for household chores to occur after your workday.
9. Be patient with the process.
10. Communicate with your supervisor about any challenges.

**Don't forget about Cybersecurity issues.**

### **Telecommuting Sample Policy**

## **[EMPLOYER] Teleworking Policy**

Effective \_\_\_\_\_

### **I. Purpose**

The purpose of this policy is to establish requirements and guidelines for employees engaging in authorized teleworking or telecommuting during the COVID-19 State of Emergency. “Teleworking” or “Telecommuting” is a work flexibility arrangement under which an employee performs their work duties and responsibilities from an approved worksite other than the location from which the employee would otherwise work.

## **II. Scope**

This policy applies to all employees specifically authorized by the Employer to perform teleworking or telecommuting. This Policy is effective immediately and until rescinded by the Employer.

## **III. Requirements**

**A. Location of Work.** Employees must provide the Employer the physical address and telephone number of the location at which they will be teleworking.

- The workspace must be safe and free from hazards.
- The workspace must be reasonably free from interruptions and distraction that would affect work performance.
- The workspace must allow for the employee to preserve the confidentiality of sensitive or non-public information. Any Employer provided material or equipment shall not be removed from the workspace while the employee is teleworking.
- For employees who must verbally communicate with others as part of their duties, the workspace must be quiet and allow for professional communications during those times.
- Teleworking employees shall not meet with the public or clients in their home office in any official capacity or connected with the Employer’s business. The Employer is not responsible for any injuries to family members, visitors and others in the employee’s home.
- The Employer is not responsible for any loss to the employee’s property whether caused by physical damage, computer virus attacks or other intrusions via the internet.
- Employees utilizing Employer equipment while teleworking must protect the equipment from damage.

**B. Hours of Work.** Non-Exempt Employees are authorized to engage in teleworking during their normally scheduled workdays and hours, or on days/times pre-approved by their supervisor. Non-Exempt Employees may not work outside of those days and hours without prior supervisor approval. Non-Exempt Employees are responsible for accurately reporting their time worked each day.



## **II. PAID ADMINISTRATIVE LEAVE, LAYOFFS & FURLOUGHS**

### **A. Paid Administrative Leave**

1. Administrative Leave, O.R.C. § 124.388(A).

An appointing authority may, in its discretion, place an employee on administrative leave with pay. Administrative leave with pay is to be used only in circumstances where the health or safety of an employee or of any person or property entrusted to the employee's care could be adversely affected. Compensation for administrative leave with pay shall be equal to the employee's base rate of pay. The length of administrative leave with pay is solely at the discretion of the appointing authority, but shall not exceed the length of the situation for which the leave was granted.

### **B. Layoffs**

1. Layoffs are governed by R.C. 124.321-.328
2. Reasons for layoffs.
  - a. Lack of funds - The appointing authority determines there is a current or projected deficiency of funding to maintain current, or sustain projected, levels of staffing and operations. O.R.C. § 124.321(B).

Positions with a dedicated funding source, i.e., grant funded positions; lack of funds is presumed if funding is reduced or withdrawn. O.R.C § 124.321(A)(2). (HB 187, eff. 7-1-07).

This section of the Revised Code does not require any transfer of funds to offset deficiency for programs funded by federal program, special revenue accounts or proprietary accounts.

- b. Lack of work - The appointing authority has a current or projected temporary decrease in the workload, expected to last less than one year, which requires a reduction of current or projected staffing levels. O.R.C. § 124.321(C).

The appointing authority determines the staffing levels indicated by current or projected decrease in workload and if staffing levels are or will be excessive.

**C. Reasons for Job Abolishments O.R.C. § 124.321(D).**

“Abolishment” means the deletion of a position(s) from an organization, for any one or combination of the following reasons:

1. As a result of a reorganization for the efficient operation of the appointing authority.
2. For reasons of economy.

The reasons for economy shall be based on estimated savings of salary, benefits and related cost. The appointing authority’s decision must be based on the inability to maintain current or projected staffing levels and operations due to:

- a. Reductions of operating appropriation.
- b. Current or projected deficiency in funding.

3. For Lack of Work (permanent).

Lack of work as a basis for the permanent abolishment of positions (and any resulting layoff) anticipates that the lack of work will exceed one year. This basis or rationale for abolishment is generally combined with other reasons such as reorganization or economy.

4. Appointing authority determines which positions are to be abolished. O.R.C. § 124.321(D)(3).
5. If the abolishment of positions results in a reduction of the work force, procedures for layoff apply.

Appointing authorities must first determine whether or not a valid reason for layoffs or job abolishments exists.

Appointing authorities may establish a “paper layoff” process in which employees to be laid off or displaced may be required, before the date of the paper layoff, to pre-select their options for displacing other employees. O.R.C. § 124.321(E).

**D. Cost Saving Programs and Modified Work Schedules**

1. County Cost Savings Program (CSP’s) - O.R.C. § 124.393.

Pursuant to R.C. 124.393(B)(2) a county may implement mandatory cost saving days in the event of a fiscal emergency for exempt employees. Exempt employees are those employees not subject to a collective bargaining agreement.

The CSP may not exceed 80 hours. The CSP may include, but is not limited to, the loss of pay or loss of holiday pay. The CSP may be administered differently among employees based upon their classifications, appointment categories, or other relevant distinctions.

- a. A fiscal emergency is any of the following:
  - i. Fiscal emergency declared by the governor under R.C. 126.05;
  - ii. A fiscal watch or fiscal emergency has been declared under section 118.023 or 118.04 of the Revised Code;
  - iii. Lack of funds as defined in R.C. 124.321; or
  - iv. Reasons of economy as defined in R.C. 124.321.

The county shall issue guidelines concerning how the CSP will be implemented.

## 2. Modified Work Schedules

A county may establish a modified work week schedule program applicable to its exempt employees in the event of a fiscal emergency. Exempt employees are those employees not subject to a collective bargaining agreement. 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 of 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. The program may be administered differently among employees based on classifications, appointment categories or other relevant distinctions.

### III. OTHER CONSIDERATIONS

- A. **Public employers should also be aware of guidance from other entities during a time of crisis.** For example, during the pandemic, the following agencies had significant information for employers:
  1. CDC
  2. EEOC
  3. Ohio Department of Health
- B. **Also, public employers should review policies and collective bargaining agreements regarding the mutual obligations of the parties.** It may be necessary to meet with a union regarding changes and/or policy implementations.

- C. **During a time of crisis, public employers are reminded to consistently apply the terms of their policies.** As such, discipline may be necessary. When issuing discipline, it is important to remember the elements of “just cause.”
- D. **Pursuant to the basic tenet of “just cause”,** the employer cannot implement discipline unless it meets its burden of proving that it has complied with the fundamental elements of “just cause” used by arbitrators, courts and the State Personnel Board of Review.

Generally:

- 1. Whether a standard/rule existed;
- 2. Whether the employee knew, or should reasonably have known, of the standard;
- 3. Whether the employee violated the standard/rule; and
- 4. Whether the penalty imposed was appropriate.

- E. **Additionally, it is necessary to remember that certain due process/procedural requirements must be satisfied, such as:**

- 1. Garrity Warnings
- 2. Piper Notices
- 3. Pre-D Conferences
- 4. 124.34 Order Filings

- F. **Additionally, employers may face employees that refuse to work in the time of a crisis, disrespect a supervisor or engage in other insubordinate behavior.** Employees can be disciplined for insubordination. However, employers should remember the following when disciplining an employee for insubordinate behavior:

- 1. Basic components of insubordination.
- 2. Violation of work rules.
- 3. Refusal to obey orders of superior.
- 4. Improper behavior toward supervisors.

#### IV. **PROFESSIONALISM AND SPEECH POLICIES FOR ON AND OFF DUTY EMPLOYEE SPEECH**

- A. **Introduction.** Under certain circumstances, employers are permitted to impose limitations on the speech of employees when such speech violates the employer’s workplace policies. Having a policy in place is important for employers to be able to maintain control in the workplace, but it is equally as important that those policies are enforced in a non-discriminatory manner. If a policy is applied

sporadically, any application of the policy may be void or used as evidence of discrimination.

- B. Regulating On-Duty Professionalism and Speech.** Although public employees have a First Amendment right to free speech, employers can still implement and enforce workplace policies targeting employee civility. Employers should prohibit employees from engaging in speech that is profane, vulgar, verbally or physically threatening, or discriminatory. Employers also have the right to discipline or terminate employees who harass other employees, refuse to work in diverse groups, or employees who otherwise discriminate on the job.
- C. Regulating Off-Duty Professionalism and Speech.** Even when employees are off the clock and away from the workplace, employers can still take action in response to employee speech or conduct outside of the workplace. The public employee's right to engage in free speech on a matter of public concern is weighed against the public employer's right to efficient government operation.
1. Employers may discipline employees who violate the employer's policies when engaging in speech that is not a matter of public concern.
- D. Social Media Policies.** A well-constructed and universally applied social media policy allows employers to effectively manage common social media use problems in the workplace such as disciplining employees who are distracted or leak confidential information. Employers should devise and enforce social media policies that apply to employees on and off duty. An employer's policy should precisely identify what conduct is prohibited, when it is prohibited, and emphasize that the employer will impose discipline in response to policy violations.
1. **On-Duty Use.** Employers have the right to restrict, or completely prohibit, on-duty access to social media either on employer-owned or personally owned devices. While a complete social media ban may be the easiest to enact, it can be challenging to monitor and enforce. Regardless of how much use is regulated, employers should be specific as to what constitutes "inappropriate conduct."
    - a. **On the Employer's Devices.** Employers may entirely prohibit an employee's personal use of employer-owned devices. This includes restricting access to social media sites like Facebook, Instagram, and Twitter as well as personal email sites.
    - b. **On the Employee's Devices.** Employers may entirely prohibit employees from using their personal devices- including cell phones- during working hours.

2. **Off Duty Use.** Since an employee's off-duty use can still impact their employer, employers have a right to regulate certain off-duty uses. However, employers balance their business concerns against their employee's right to freedom of speech.
  - a. **On the Employer's Devices.** Employers may prohibit the off-duty use of their devices for personal use, however, employers may not prohibit employees from using employer-owned devices to communicate with one another about working conditions.
  - b. **On the Employee's Devices.** Employers may restrict employees' speech regarding management or coworkers, confidential information, or using the employer's logo.
3. **Policy Contents.** Employers can prohibit employees from posting the following on their personal social media accounts, even when their social media account is private, both on and off duty:
  - a. Revealing confidential information about the County or employees;
  - b. Using the County's logo in a slanderous or detrimental way;
  - c. Posting inappropriate material about the County or its employees, such as comments or posts that are vulgar, obscene, threatening, intimidating, harassing, or discriminatory; and
  - d. Using the employer's technology to access personal social media accounts or personal emails.
4. **Policy Limitations.** An employer's social media policy cannot:
  - a. Impose discipline on employees discussing working conditions;
    - i. This limitation does not prevent employers from disciplining employees who make inappropriate comments about coworkers. Such speech is not a matter of public concern.
  - b. Impose discipline for some speech that violates the employer's policies, but not others;
    - i. i.e., discriminatory enforcement.
  - c. Prohibit employees from speaking on matters of public concern; and
  - d. Prevent employees from expressing their political views, so long as the speech does not violate an employer's policy.

## E. Case Law and Examples

### 1. Iowa HR Director Fired for Tupac Emails

Jerry Foxhoven, former Director of Iowa’s Department of Human Services, was abruptly terminated in June 2019 after the governor wanted to go in a “different direction.” The termination came one day after Foxhoven sent an email to the agency’s 4,300 employees which included an inspirational quote from deceased rapper, Tupac Shakur, which read “pay no mind to those who talk behind your back... [i]t simply means that you are 2 steps ahead.” The former director was known for his “Tupac Fridays” where he would play Tupac in the office and even had a Tupac-themed birthday party.

Foxhoven has since filed a \$2 million wrongful discharge claim against the Governor and agency. Foxhoven alleged his ouster stemmed from complaints he made against the governor including one of her staffers in his department’s payroll. Foxhoven also cites the numerous other agency-wide emails which included Tupac references.

### 2. *Bowman v. Butler Twp. Bd. of Trustees*, 185 Ohio App.3d 180 (2009).

Plaintiff had been downloading violent and pornographic files from the internet on work time using Township computers. Plaintiff was terminated as a result of the investigation and filed suit.

The Court ultimately found that Plaintiff’s termination was improper because employees were not provided with adequate notice of what kinds of conduct, and particularly what kinds of computer use, would be grounds for disciplinary action.

## V. CONSTITUTIONAL PROTECTIONS FOR PUBLIC EMPLOYEE SPEECH

**A. First Amendment.** The First Amendment protects public employees’ right to speak on matters of political, social, or other community concerns so long as their speech does not outweigh the government’s interest in maintaining an orderly and efficient operation.

1. However, it does not protect speech about one’s own employment disputes since it does not concern the general community. *Connick v. Myers*, 461 U.S. 138 (1983).
2. It also does not protect speech regarding certain partisan political activities and for a family-member’s employment, as previously explained.

3. Courts will often apply the Pickering Balancing Test to determine whether the speech is permissible. The test involves a two-step inquiry:
  - a. Initially, a court must determine whether the speech that led to an employee's discipline regarded a matter of public concern; and
  - b. If it does, free speech concerns are balanced against efficient public service concerns.

**B. Fourth Amendment.** The Fourth Amendment protects public employees from unreasonable searches and seizures, which generally prohibits employers from searching through an employee's personal belongings. However, the line between personal belongings and communications with others is blurred in the era of social media. Because social media is intended to be used to communicate with others, it is not entirely protected by the Fourth Amendment. Thus, whether an employee's social media use is protected under the Fourth Amendment depends on two criteria; the level of disclosure and access.

1. **Level of disclosure.** The first question to consider is whether the employee had a reasonable expectation of privacy.
  - a. The third-party doctrine holds that an individual "has no legitimate expectation of privacy in information he voluntarily turns over to third parties." *Smith v. Maryland*, 422 U.S. 735, 743 (1973).
    - i. Therefore, when an employee's posts on their public profiles they do not have an expectation of privacy. *Chaney v. Fayette County Pub. School Dist.*, 977 F.Supp.2d 1308 (N.D. Georgia Sept. 30, 2013).
  - b. However, private messaging features on social media are typically regarded similarly as a personal email or traditional personal letter, rather than a public post. *R.S. v. Minnewaska Area Sch. Dist.*, No. 2149, 894 F.Supp.2d 1128 (D. Minn. Sept. 6, 2012).
  - c. Generally, an employee has no expectation of privacy when using a computer owned by the employer. *United States v. Simons*, 206 F.3d 392, (E.D. Va. 2000).
2. **Access.** The second question to consider is whether the government has a legitimate need to obtain the information and whether the government accessed the information in a reasonable way.
  - a. A public employer's search is reasonable if it is justified from the onset, the measures adopted reasonably relate to the objectives of

the search, and not excessively intrusive under the circumstances. *O'Connor v. Ortega*, 480 U.S. 709, 725 (1987).

## C. Case Law

### 1. ***Heffernan v. City of Paterson*, 136 S. Ct. 1412 (2016).**

Jeffery Heffernan was a police officer for the City of Patterson, New Jersey. One day, Heffernan was picking up a candidate's campaign sign for his sick mother. Heffernan's supervisor discovered Heffernan's actions and perceived Heffernan to be violating campaigning laws. Subsequently, Heffernan's supervisor demoted him; believing Heffernan was overtly involved in the candidate's campaign. Heffernan then brought a claim for First Amendment retaliation against his employer. The lower courts both granted summary judgement in favor of the city.

However, the Supreme Court overturned the summary judgement for the city, holding an employer could be sued for First Amendment retaliation even when the employer mistakenly believed the employee was engaged in prohibited political speech. The court emphasized that disciplinary actions taken against one employee instructs other employees about the conduct they can engage in. Therefore, "a discharge or demotion based upon an employer's belief that the employee has engaged in protected activity can cause the same kind, and degree, of constitutional harm whether that belief does or does not rest upon a factual mistake."

### 2. ***Bland v. Roberts*, No. 12-1671 (4th Cir. 2013).**

Six former employees brought suit against the Sheriff of the City of Hampton, Virginia for violating their First Amendment rights by choosing not to reappoint them because they supported the Sheriff's political opponent. Several of the employees had "liked" the Facebook page for the Sheriff's opponent. The court held that liking a political candidate's Facebook page is akin to displaying a candidate's political sign in their front yard; both constitute substantive speech. Accordingly, the court reversed summary judgement for the Sheriff, holding that clicking the "like" button qualifies as constitutionally protected speech. Here, the government's interest in maintaining an orderly and efficient operation was not substantially affected by the employee's likes.

### 3. ***Morgan v. Robinson*, 881 F.3d 646.**

Donald Morgan was a deputy for the Washington County, Nebraska Sheriff's Department and his boss, Michael Robison, was the elected sheriff. In 2014, Morgan decided to run against his boss for the sheriff position. During his campaign, Morgan made numerous statements

regarding the sheriff's office and his plans to improve it. However, despite his efforts, Morgan lost the election and Robinson remained the sheriff. Six days after the election, Robinson fired Morgan; claiming Morgan's campaign statements violated the department's rules of conduct. Subsequently, Morgan sued his former boss for First Amendment retaliation.

Robinson asserted, but was denied, qualified immunity by the district court. Then, the United States Eighth District Court of Appeals reversed the district court's decision and granted the defendant qualified immunity. The court held that the defendant was entitled to qualified immunity because Robinson did not violate a clearly established statutory or constitutional right that a reasonable person would have known.

#### **D. Hypotheticals**

1. Michael is a case manager for the County's Human Resource Department. Michael is very politically involved and frequently engages in political speech. Not everyone who works with Michael agrees with his political views, so there are often complaints when Michael expresses his political opinions. Do any of the following instances violate Michael's constitutional rights?
  - a. After Michael was sent home from work, he logged on to his private Twitter and made several tweets with various insults about the political candidate his coworkers seemed to support. Michael's manager figured Michael would complain online about the discipline he had received earlier in the day. So, Michael's manager used Michael's social media login credentials saved on Michael's work computer to access Michael's private account. His manager collected various tweets and then used them as evidence to pursue further discipline for Michael.
    - i. Answer: This is a fourth amendment violation, can't access an employee's account by using their credentials. Even if the employer has those credentials because the employee used them on their work computer.
  - b. Other members of the twitter community, who had never met Michael, saw his tweets and expressed their concerns with his statements. One particular Twitter user was so upset they contacted Michael's manager and gave the manager screenshots from Michael's twitter. The tweets contained offensive remarks regarding the political candidate Michael dislikes as well as insults towards the coworker Michael got into a dispute with earlier in the day.



## VI. WHAT IS POLITICAL ACITIVITY?

**A. The following discusses the various regulations of, and protections for, political speech by public officials and employees.** Various state and federal laws permit varying levels of political expression, depending on the content of the speech, where the speech was made, and to whom the speech was made.

1. **Political activity-** the partisan political activities of public employees are regulated by R.C. 124.57 and OAC 123:1-46-02.
2. **Nepotism-** federal laws require fair and impartial hiring and state laws prohibit public employees from providing employment benefits to family members.
3. **Free Speech-** public employees have a First Amendment right to speak on matters of political, social, or other community concerns; however, this right is not unlimited.

### **B. Introduction**

1. The political activity of Ohio public employees is generally regulated by R.C. 124.57, which prohibits classified officers and employees from participating in partisan political activities.
  - a. Applies to officers and employees 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.
  - b. Prohibits direct and indirect solicitation or reception.
  - c. Cannot solicit or receive an assessment, subscription, or contribution orally or in writing.
2. Then, OAC 123:1-46-02 provides guidelines for understanding political activity.
  - a. “Classified service”- all persons in active pay status serving in the competitive classified civil service of the state, unless explicitly exempted by the Revised Code.
  - b. “Political activity”- partisan activities, campaigns, and elections involving primaries, partisan ballots, or partisan candidates.

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

1. Classified officers and employees are prohibited from soliciting or receiving any assessment, subscription, or contribution *for* any political party or for any candidate for public office.
2. Classified officers and employees also cannot solicit, or be in any manner concerning solicitation, any assessment, contribution, or payment *from* any classified officer or employee.
3. Classified officers and employees cannot be an officer in any political organization or take part in politics, other than through voting.

**D. R.C. 124.57 expressly does not prevent:**

1. Employees from serving as a precinct election official,
2. Officers or employees from voting to express their political opinions, and
3. An OSU extension employee who is transferred from the unclassified civil service to classified and who also holds the office of president of a city legislative authority from completing the existing term of office as president.

**E. Examples of permissible activity for classified service employees:**

1. Registering to vote;
2. Expressing opinions, orally or in writing;
3. Voluntary financial contributions to political candidates or organizations;
4. Circulating nonpartisan petitions;
  - a. Cannot identify any particular party, and
  - b. Cannot circulate petitions stating views on legislation.
5. Going to political rallies;
6. Signing nominating petitions in support of individuals;
7. Displaying political material at home or on other personal property;
8. Wearing political badges or buttons;

9. Displaying political stickers on private vehicles; and
10. Serving as a precinct election official under R.C. 3501.22.
11. (OAC 123:1-46-02)

**F. Examples of impermissible activity for classified service employees:**

1. Candidacy for public office in a partisan election;
2. Candidacy for public office in a nonpartisan general election if:
  - a. The nomination to candidacy was obtained in a partisan primary; or
  - b. Through the circulation of nominating petitions identified with a political party.
3. Filing petitions for candidacy for partisan office;
4. Circulating nominating petitions for any candidate participating in a partisan election;
5. Serving in an elected or appointed office in any partisan political organization;
6. Accepting a party-sponsored appointment to any office normally filled by partisan election;
7. Campaigning in the form of writing for publications, distributing political material, or by writing;
8. Campaigning by making speeches on behalf of a candidate for partisan elective office;
9. Solicitation, directly or indirectly, of any assessment, contribution or subscription for any political party or political candidate;
  - a. Includes monetary or in-kind contributions.
10. Solicitating the sale of, or actually selling, political party tickets;
11. Partisan activities at the election polls;
  - a. This includes soliciting votes for partisan candidates or issues.
12. Serving as a witness or challenger for any party or partisan committee;

13. Participating in partisan political caucuses; and
14. Participating in a political action committee which supports a partisan activity.
15. (OAC 123:1-46-02)

**G. What happens if I participate in a prohibited political activity?**

1. Employees who engage in prohibited political activities may be terminated at the discretion of the employee's appointing authority or director.
2. The procedures for initiating such removal are located in R.C. 124.34.

**H. Example**

**I. Hypotheticals**

1. Jan is a public employee for the County Sheriff's Office and wants to be more involved in the politics of her local community. With the upcoming election in 2020, Jan is determined to get her favorite candidate, Molly, elected. Which of the following activities may Jan engage in?
  - a. Can Jan give money to Molly's campaign?
    - i. Answer: Yes
  - b. Can Jan go to Molly's campaign rallies after work?
    - i. Answer: Yes
  - c. Can Jan wear her Molly-2020 pin to work the following day?
    - i. Answer: Yes
  - d. Can Jan distribute flyers at work advocating for Molly in the upcoming election?
    - i. Answer: No, she may not distribute flyers in support of a particular candidate.
  - e. Can Jan attend a campaign dinner in support of Molly which requires attendees to pay \$600 a ticket?

