



## Ohio Revised Code

### Section 4125.03 Duties of organization regarding shared employee - right of control.

Effective: October 3, 2023

Legislation: House Bill 33

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(A) The professional employer organization with whom a shared employee is coemployed shall do all of the following:

(1) Pay wages associated with a shared employee pursuant to the terms and conditions of compensation in the professional employer organization agreement between the professional employer organization and the client employer;

(2) Pay all related payroll taxes associated with a shared employee independent of the terms and conditions contained in the professional employer organization agreement between the professional employer organization and the client employer;

(3) Maintain workers' compensation coverage, pay all workers' compensation premiums and manage all workers' compensation claims, filings, and related procedures associated with a shared employee in compliance with Chapters 4121. and 4123. of the Revised Code, except that when shared employees include family farm officers, ordained ministers, or corporate officers of the client employer, payroll reports shall include the entire amount of payroll associated with those persons;

(4) Provide written notice to each shared employee it assigns to perform services to a client employer of the relationship between and the responsibilities of the professional employer organization and the client employer;

(5) Maintain complete records separately listing the manual classifications of each client employer and the payroll reported to each manual classification for each client employer for each payroll reporting period during the time period covered in the professional employer organization agreement;

(6) Maintain a record of workers' compensation claims for each client employer;



(7) Make periodic reports, as determined by the administrator of workers' compensation, of client employers and total workforce to the administrator;

(8) Report individual client employer payroll, claims, and classification data under a separate and unique subaccount to the administrator;

(9) Within fourteen days after receiving notice from the bureau of workers' compensation that a refund or rebate will be applied to workers' compensation premiums, provide a copy of that notice to any client employer to whom that notice is relevant.

(B) The professional employer organization with whom a shared employee is coemployed shall provide a list of all of the following information to the client employer upon the written request of the client employer:

(1) All workers' compensation claims, premiums, and payroll associated with that client employer;

(2) Compensation and benefits paid and reserves established for each claim listed under division (B)(1) of this section;

(3) Any other information available to the professional employer organization from the bureau of workers' compensation regarding that client employer.

(C)(1) A professional employer organization shall provide the information required under division (B) of this section in writing to the requesting client employer within forty-five days after receiving a written request from the client employer.

(2) For purposes of division (C) of this section, a professional employer organization has provided the required information to the client employer when any of the following occur:

(a) The information is received by the United States postal service;

(b) The information is personally delivered, in writing, directly to the client employer;



(c) The information is delivered by electronic mail to the client employer.

(D) Except as provided in section 4125.08 of the Revised Code and unless otherwise agreed to in the professional employer organization agreement, the professional employer organization with whom a shared employee is coemployed has a right of direction and control over each shared employee assigned to a client employer's location. However, a client employer shall retain sufficient direction and control over a shared employee as is necessary to do any of the following:

- (1) Conduct the client employer's business, including training and supervising shared employees;
- (2) Ensure the quality, adequacy, and safety of the goods or services produced or sold in the client employer's business;
- (3) Discharge any fiduciary responsibility that the client employer may have;
- (4) Comply with any applicable licensure, regulatory, or statutory requirement of the client employer.

(E) Unless otherwise agreed to in the professional employer organization agreement, liability for acts, errors, and omissions shall be determined as follows:

- (1) A professional employer organization shall not be liable for the acts, errors, and omissions of a client employer or a shared employee when those acts, errors, and omissions occur under the direction and control of the client employer.
- (2) A client employer shall not be liable for the acts, errors, and omissions of a professional employer organization or a shared employee when those acts, errors, and omissions occur under the direction and control of the professional employer organization.

(F) Nothing in divisions (D) and (E) of this section shall be construed to limit any liability or obligation specifically agreed to in the professional employer organization agreement.