APM 0207

Policy Memorandum No. 2 - FY 2007

TO: Elected Officials, Agency Directors and Personnel Officers
State Government Agencies

FROM: Robert E. Bass, Jr.,
State Personnel Director

DATE: April 20, 2006

SUBJECT: ADMINISTRATION OF THE VARIABLE COMPENSATION PLAN FOR FISCAL YEAR 2007

A. Statement of Purpose

Administration of the Variable Compensation Plan for Fiscal Year 2007 shall be governed by policies and procedures in this memorandum. These provisions shall supercede all conflicting policies and procedures for administration of salaries published in the Mississippi State Personnel Board Policy and Procedures Manual, any additional or replacement manuals, and all subsequent changes to the manual, effective close of business June 30, 2006, and shall become an official attachment to the Mississippi SPB Policy and Procedures Manual for Fiscal Year 2007.

The statutory increase or decrease of any salary under the salary setting authority of the State Personnel Board shall comply with the policies below, except where the Legislature may otherwise provide.

The development of the following policies is based upon implementation of legislative intent as expressed in the following language contained in each state service agency's appropriation act:

> Funds are provided herein to adjust the Variable Compensation Plan to ensure that all full-time employees receive a pay increase equal to the realignment component of the Variable Compensation Plan or Fifteen Hundred Dollars ($1,500.00), whichever is greater, with not more than one-half (1/2) to be awarded on July 1, 2006, with the remainder to be awarded on January 1, 2007.
>
> With the funds herein appropriated, it is the intention of the Legislature that it shall be the agency's responsibility to make certain that funds required to be appropriated for "Personal Services" for Fiscal Year 2008 do not exceed Fiscal Year 2007 funds appropriated for that purpose, unless programs or positions are added to the agency's Fiscal Year 2008 budget by the Mississippi Legislature. Based on data provided by

the Legislative Budget Office, the State Personnel Board shall determine and publish the projected annual cost to fully fund all appropriated positions in compliance with the provisions of this act. It shall be the responsibility of the agency head to insure that no single personnel action increases this projected annual cost and/or the Fiscal Year 2007 appropriation for "Personal Services" when annualized, with the exception of escalated funds. If, at the time the agency takes any action to change "Personal Services," the State Personnel Board determines that the agency has taken an action which would cause the agency to exceed this projected annual cost or the Fiscal Year 2007 "Personal Services" appropriated level, when annualized, then only those actions which reduce the projected annual cost and/or the appropriation requirement will be processed by the State Personnel Board until such time as the requirements of this provision are met.

Any transfers or escalations shall be made in accordance with the terms, conditions and procedures established by law or allowable under the terms set forth within this act. The State Personnel Board shall not escalate positions without written approval from the Department of Finance and Administration. The Department of Finance and Administration shall not provide written approval to escalate any funds for salaries and/or positions without proof of availability of new or additional funds above the appropriated level.

No general funds authorized to be expended herein shall be used to replace federal funds and/or other special funds which are being used for salaries authorized under the provisions of this act and which are withdrawn and no longer available.

~~The agency shall not take any action to promote or otherwise award salary increases through reallocation, reclassification, realignment, educational benchmark, career ladder, or any other means to increase salaries of employees or positions unless specifically exempted by the following conditions: the award of teacher pay increases, the advancement of a trainee/cadet to the next level of a bona-fide career ladder, the award of an educational benchmark for the attainment of Certified Public Accountant License or higher level professional certification as determined by the State Personnel Board, the immediate replacement of a departing employee with an individual from within state service or a new hire at a salary level equivalent to that of the departing employee, and the emergency appointment of Nurses, Pharmacists or other health care professionals at a salary to be determined by the State Personnel Board, unless otherwise authorized in this act.~~

B. Coverage of these Policies

1. These policies shall govern employee salary increases and position changes for:

   a. State service employees and positions, and

   b. Non-state service employees and positions excluded from the state service by Mississippi Code of 1972, Annotated, Section 25-9-107(c), but subject to State Personnel Board salary setting authority as listed below:

      (1) Part-time employees and positions [Refer, Mississippi Code of 1972, Annotated, Section 25-9-107(c)(xi)];

      (2) Persons appointed on an emergency basis [Refer, Mississippi Code of 1972, Annotated, Section 25-9-107(c)(xii)];

      (3) Time-limited employees and positions [Refer, Mississippi Code of 1972, Annotated, Section 25-9-107(c)(xiv)];

      (4) Administrative heads appointed by the Governor, board, commission or other authority, unless otherwise fixed by statute [Refer, Mississippi Code of 1972, Annotated, Section 25-9-107(c)(xv)]; and

      (5) Administrative officers, deputies, bureau chiefs, and directors and their positions [Refer, Mississippi Code of 1972, Annotated, Section 25-9-107(c)(xvi)]; and

      (6) Personnel employed by the Mississippi Department of Wildlife, Fisheries and Parks as law enforcement trainees (cadets) [Refer, Mississippi Code of 1972, Annotated, Section 25-9-107(c)(xxi)].

2. Agencies or positions with statutory exclusion (not under the salary setting authority of the State Personnel Board and not subject to the compensation policies of this memorandum) are listed below. ~~Please note, however, that the restrictive appropriations language is applicable to all agencies where the language has been included in FY 2006 appropriations and applies to state and non-state service positions, unless otherwise specifically excepted in law.~~

   a. Non-state service agencies [Refer, Mississippi Code of 1972, Annotated, Section 25-9-107(c)(I) (ii) (iii) (iv) (vii) (viii) (xvii)];

b. Non-state service occupations [Refer, Mississippi Code of 1972, Annotated, Section 25-9-107(c) (v) (vi) (ix) (xiii)];

c. Non-state service positions of associate director, deputy directors and bureau directors within the Department of Agriculture and Commerce [Refer, Mississippi Code of 1972, Annotated, Section 25-9-107(c)(xix)];

d. Non-state service positions of deputy superintendents, associate superintendents and divisional directors within the State Department of Education [Refer, Mississippi Code of 1972, Annotated, Section 37-3-13(2)]; and

e. Non-state service positions of associate directors, deputy directors and bureau directors within the Mississippi Development Authority [Refer, Mississippi Code of 1972, Annotated, Section 57-1-5(3)(c)(xi)].

3. Salaries set by statute shall be implemented strictly in accordance with legislative intent [Refer, Mississippi Code of 1972, Annotated, Sections 25-3-31 and 25-3-35].

C. Policy Provisions for Implementation of Legislative Intent

1. Realignment

a. All starting salaries greater than $10,791 (minimum wage) shall be increased in accordance with realignment, which includes a minimum increase of $900.

b. One-half (1/2) of the realignment increase will be awarded on July 1, 2006, with the remainder to be awarded on January 1, 2007.

c. Part-time employees covered by the above sections shall receive the mandated salary increases on a pro-rata basis.

2. In-service COLA

a. All employees in job classifications with a current starting salary greater than $10,791 (minimum wage), excluding the sworn officers of the Mississippi Highway Patrol, shall receive an in-service increase of $600.

b. Employees in job classifications with a current starting salary of $10,791 or less (minimum wage) shall receive an in-service increase of $1,500.00.

c. One-half (1/2) of the in-service increase will be awarded on July 1, 2006, with the remainder to be awarded on January 1, 2007.

d. Part-time employees covered by the above sections shall receive the mandated salary increases on a pro-rata basis.

e. If an eligible employee is currently at or above the end salary for his/her position or should the salary increases specified above cause an eligible employee's salary to exceed the end salary, that portion of the increase exceeding the end salary shall be built into the employee's base salary.

3. Reallocations

a. Those reallocations, which were appropriated in the agency's appropriations act for Fiscal Year 2007 must be entered by the agency into the ⍋Propose Wage, Salary and Fringe Benefits@ segment (PW BR BQ) in SPAHRS by Thursday, June 1, 2006.

For filled positions, agencies must submit a copy of an Experience and Training Record (initialed by the Personnel Director) completed and signed by the incumbent with a screen print of the appropriate ⍋Prepare Budget Request@ screen stapled to the front. A Job Content Questionnaire (JCQ) also must be submitted to determine if the requested classification is appropriate.

b. Those reallocations, which were recommended in the Fiscal Year 2007 Budget Request, but not appropriated for Fiscal Year 2007 may be entered into the ⍋Position@ segment (PO MP RR) of SPAHRS, at the discretion of the appointing authority, on or after July 1, 2006, in accordance with the following policies:

(1) The on-line notes must identify the position(s) as budgeted but not funded.

(2) A Job Content Questionnaire (JCQ) must be submitted to determine if the requested classification is appropriate.

(3) For filled positions, a copy of an Experience and Training Record (initialed by the Personnel Director) completed and signed by the incumbent must be included, with a print of the appropriate ⍋Reallocation/Reclassification@ screen stapled to the front.

c. For filled positions, only those individuals meeting the education and experience requirements as reflected in the minimum qualifications of the job class will be reallocated.

d. In those cases where individuals do not meet the minimum qualifications for the job classification to which the position is to be reallocated, agencies must resubmit the requested reallocation in their Fiscal Year 2008 Budget Request, if such reallocation is still required.

e. Reallocations not submitted in accordance with these provisions shall be returned without action.

4. Longevity

No funds were appropriated for this component of the Variable Compensation Plan for Fiscal Year 2007.

5. Productivity

No funds were appropriated for this component of the Variable Compensation Plan for Fiscal Year 2007.

6. No Increase to Appropriated Dollars or Projected Annual Cost

On or about July 1, 2006, the State Personnel Board shall publish the projected annual cost to fully fund all appropriated positions in compliance with the provisions of this act.

a. It shall be the responsibility of the agency head to ensure that no single personnel action increases this projected annual cost and/or the Fiscal Year 2007 appropriation for "Personal Services" when annualized.

b. At the end of each day, the SPB will publish a report indicating the flexibility available to each agency with regard to the projected annual cost or the appropriated dollars.

c. If the SPB determines that the agency has taken an action which would cause the agency to exceed this projected annual cost or the Fiscal Year 2007 "Personal Services" appropriated level, when annualized, then the action will not be processed until such time as the agency has sufficiently reduced the projected annual cost and/or the appropriation requirement

d. If it is determined that through administrative error an agency is out of compliance at any time, SPB staff will reverse all necessary actions on a last processed, first reversed basis, unless otherwise promptly directed in writing by the agency.

e. This language is not intended to stop the escalation of time-limited positions. Escalations shall not be considered to cause an agency to exceed the established limits, and will not be accounted for in the monthly reports relative to this language.

D. Scope of State Personnel Director's Authority

1. Requests for State Personnel Board Action

All requests for State Personnel Board action under the Variable Compensation Plan Policy Memorandum No. 2 - Fiscal Year 2007 shall cite the section of the policy memorandum, which authorizes such requests and action by the State Personnel Board. The State Personnel Director shall implement only those salary increases provided for in the appropriation bills for Fiscal Year 2007, which are identified in Section C above, and which are appropriately submitted.

2. Fiscal Year 2007 Promotional Formula

The Fiscal Year 2007 Promotional Formula shall be applied for promotions, as well as promotional transfers, upward reallocations, upward reclassifications, and realignments as directed below. The promotional formula is utilized for the purpose of calculating the promotional max salary. **The actual award up to the max salary is at the discretion of the agency head**. The promotional max salary is the maximum that may be awarded. Unless otherwise permitted by law, no single event, including promotion, reclassification or reallocation, shall exceed the greater of (1) the difference between the starting salary of the current classification and the new classification added to the employee=s current salary, or (2) the salary that could be paid to an equally qualified, newly hired employee. The authorized salary for promotion to a vacant position is determined under the following provisions:

a. When the current salary is greater than the old starting salary, the PRO MAX is equal to the difference between the old and the new starting salaries added to the current salary.

EXAMPLE

Current Salary:	$18,220.80
Old Start Salary:	$12,648.12
New Start Salary:	$18,408.60

$18,408.60 - $12,648.12 = $ 5,760.48
$ 5,760.48 + $18,220.80 = $23,981.28 PRO MAX

b. When the current salary is less than or equal to the old starting salary, PRO MAX is equal to the start salary of the new position.

c. Where the promotional increase authorized under the promotional formula is less than the salary that could be authorized for a new hire (ten percent above start), Promotional Flex may be awarded under the same criteria set forth under the provisions for "New Hire Flexibility," Section D.5.b.

d. The promotional maximum (PRO MAX) should not exceed the end salary of the classification to which promoted.

e. For realignments, maximum eligibility shall be the difference between the old and new starting salaries.

3. Limitations on Non-Budgeted Reallocations and Realignment

All requests for reallocation and realignment must be justified and submitted by the requesting agency as outlined in the Mississippi SPB Policy and Procedures Manual for approval by the State Personnel Board or the State Personnel Director.

Agencies with misclassified positions may include requests for reallocation in their Fiscal Year 2008 Budget Request. However, each agency head shall have the opportunity to document the need for a non-budgeted reallocation ~~downward or lateral reallocations~~ by demonstrating that a bona fide staffing need exists that cannot be adequately addressed through normal budget procedures. The State Personnel Board will consider reallocations outside the legislative process only upon certification by the agency director that adequate funds are available.

a. Non-Budgeted Upward Reallocations

The State Personnel Director shall evaluate the requested classification and make recommendations to the State Personnel Board as to the action to be taken on the request. The State Personnel Director may approve a request for

the upward reallocation of a position that is **vacant** or has: a starting salary of ~~$30,000~~ $34,000 or less; or a starting salary differential between the two classes of twenty percent (20%) or less **and** the new starting salary is $44,000 or less. However, the State Personnel Director shall make recommendations to the State Personnel Board as to the action to be taken on a request for the upward reallocation of a **filled** position when the starting salary differential is more than twenty percent (20%) or the new start salary is greater than $44,000.

Requests for non-budgeted reallocations for Information Technology classifications shall also be considered on a case by case basis by the State Personnel Board with recommendation by the Information Technology Professional Development Committee (ITPDC). See Policy Memorandum No. 5, *Administrative Policies and Procedures for the Special Compensation Plan for Information Technology Classifications for Fiscal Year 2007.*

(1) Reallocations which require State Personnel Director approval should be accompanied by **detailed** on-line justification. The agency should also submit to SPB staff, the appropriate Job Content Questionnaire(s) and organizational chart(s), with a screen print of the AReallocation/Reclassification@ attached.

(2) Reallocations which require State Personnel Board approval must include those items listed in subsection (1) above, as well as a detailed letter of justification signed by the agency head or his/her designee.

(3) If an employee who has received an upward reallocation returns to his/her previous classification within twenty-four (24) months, the employee shall return to his/her salary before the reallocation, except as may be adjusted by legislative increases.

b. Lateral Reallocations

(1) The authorized salary for the lateral reallocation of a filled position is no more than the current salary before the reallocation. However, where the salary authorized for the lateral reallocation is less than the salary which could be authorized for a new hire (ten percent above start), salary flexibility may be awarded under the same criteria set forth under the provisions for "New Hire Flexibility", Section D.5.b.

(2) If an employee who has received a lateral reallocation returns to his/her previous classification within twenty-four (24) months, the employee shall return to his/her salary before the reallocation, except as may be adjusted by legislative increases.

c. Downward Reallocations

All downward reallocations must be justified and submitted by the requesting agency in accordance with State Personnel Board policies and procedures. The salary authorized for the downward reallocation of a **filled** position is determined by the following method:

(1) The authorized salary for any downward reallocation shall be no greater than the difference between the old and the new starting salaries, subtracted from the current salary. However, at agency head discretion, the authorized salary may be reduced to a lower salary within the new job class pay range to ensure equitable compensation with other employees in the same classification. A written acknowledgement signed by the affected employee shall accompany all downward reallocations.

EXAMPLE

Current Salary:	$18,408.60
Old Start Salary:	$18,220.80
New Start Salary:	$12,648.12

$18,220.80 - $12,648.12 = $ 5,572.68
$18,408.60 - $ 5,572.68 = $12,835.92 MAX

(2) In extraordinary circumstances, the agency may request the State Personnel Director to allow the employee to remain at his/her current salary as long as the current salary does not exceed the end salary of the new classification.

(3) Where the salary authorized for the downward reallocation is less than the salary, which could be authorized for a new hire (ten percent above start), salary flexibility may be awarded under the same criteria set forth under the provisions for "New Hire Flexibility," Section D.5.b.

(4) If an employee who has received a downward reallocation returns to his/her previous classification within twenty-four (24) months, the employee shall return to his/her salary before the reallocation, except as may be adjusted by legislative increases.

c. Non-Appropriated Realignment

Except as provided for in Section C.1. above, the State Personnel Board in its sole and absolute discretion on a case by case basis, may approve realignments only if a bona fide and verifiable staffing crisis has arisen due to a substantial increase in salaries in the relevant labor market for the subject job class. In such instances, the agency must provide salary survey data compiled from an acceptable relevant labor market and must justify that delayed implementation of the regular realignment would seriously threaten critical agency services.

Generally, only those job classifications which are specific to the requesting agency will be considered for non-appropriated realignment. However, realignment of generic classes will be considered in the case of extraordinary circumstances, such as court-ordered or legislatively mandated realignment occurring outside the normal budget cycle.

For Fiscal Year 2007, non-appropriated realignment will be coordinated with the legislatively appropriated realignment to maintain consistency in the application of pay increases.

4. Reclassifications

~~Appropriations language, as included in Section A of this policy, suspends reclassifications for Fiscal Year 2006, with the exception of the advancement of a trainee/cadet to the next level of a bona-fide career ladder.~~

In certain limited circumstances, agency heads may be granted authority by the State Personnel Board to reclassify positions within a class series. Once reclassification authority is approved by the State Personnel Board, reclassification actions may be implemented at the discretion of the agency head. This authority shall expire at the end of each fiscal year unless continuation is adequately justified. Each year on a date prior to fiscal year conversion, the State Personnel Board allows each agency to submit requests for changes to, or continuation of, their authorized schedule of reclassifications. Only reclassifications of classes that are on an agency's authorized reclassification list shall be implemented.

~~The maximum salary authorized for an individual receiving reclassification is the difference between the starting salaries of the two positions added to his/her current salary. The award of the maximum is at agency-head discretion~~.

5. Original Appointments

a. Standard New Hire Salary

The authorized salary for a new hire after June 30, 2006, is at or below the starting salary assigned the class in which employed. At the agency head=s discretion, a request to increase an employee=s salary to the starting salary may be submitted at any time. At no time will a new employee be hired below the federally mandated minimum wage of $5.15 per hour.

b. New Hire Flexibility/Promotional Flexibility

New Hire Flexibility or Promotional Flexibility may be awarded when the education, experience, or professional certification possessed by the applicant or employee exceeds the minimum requirements for the job classification to which appointed.

Agency heads may request to the State Personnel Director on a case by case basis the award of New Hire Flexibility or Promotional Flexibility. The justification that accompanies each individual request to apply New Hire Flexibility or Promotional Flexibility should specifically address why it is of greater value for the agency to employ persons with experience, education, or professional certification which exceeds the minimum qualifications of the job classification, along with a synopsis of the extraordinary qualifications of the candidate in relation to the minimum qualifications of the classification. Agencies should also include their methodology for determining the award of New Hire Flexibility or Promotional Flexibility.

When awarding New Hire Flexibility or Promotional Flexibility, a review of employees in the same agency and job classification should be made to determine that there will be no salary inequity between individuals who possess the same qualifications. Should the flexibility cause a salary inequity, the agency may request consideration from the State Personnel Director to award similar flexibility to affected employees.

New Hire Flexibility or Promotional Flexibility shall be computed and awarded using the methodology outlined below or the methodology

submitted by the agency, not to exceed the maximums outlined in the criteria below:

(1) Additional directly related experience of at least one year is valued up to a maximum of five percent (5%); and/or

Additional directly related education of at least one year is valued up to a maximum of five percent (5%); and/or

Professional certification directly related, but in excess of any certification required in the minimum requirements of the job classification, is valued up to a maximum of five percent (5%). However, the maximum percentage allowed for a certification shall not exceed the amount set for that certification by the Professional Development Review Committee (PDRC).

(2) The total cumulative New Hire Flexibility or Promotional Flexibility award for any combination of experience, education, or certification shall not exceed ten percent (10%).

(3) A SPAHRS screen print of the New Hire Flexibility or Promotional Flexibility request attached to an Experience and Training Record must be forwarded to the State Personnel Board.

(4) New Hire Flexibility or Promotional Flexibility awards will not be approved in conjunction with job classifications authorized for Recruitment Flexibility.

(5) In extraordinary circumstances, the agency may request the State Personnel Director to allow more than the maximum of five percent (5%) for additional directly related experience or more than the maximum of five percent (5%) for additional related education. However, under no circumstances shall the total cumulative New Hire Flexibility or Promotional Flexibility award for any combination of experience, education, or certification exceed ten percent (10%).

c. Agency Head Flexibility

Agency Head Flexibility may be awarded to individuals who report directly to the agency head or a key excluded official or advocate substantive agency policy. Requests for Agency Head Flexibility must meet the following criteria:

(1) An employee must be classified in the non-state service under Section 25-9-107(c)(xvi), Mississippi Code of 1972, Annotated.

(2) Agency Head Flexibility increases shall not exceed 25% above the starting salary of the classification.

(3) If an individual who has received Agency Head Flexibility leaves the Exclude Code 16 position, his/her salary shall be calculated by determining what the salary would have been had he/she not received Agency Head Flexibility.

(4) Requests for Agency Head Flexibility increases shall be accompanied by the following documentation:

(a) Online description of the amount awarded;

(b) A signed statement from the employee acknowledging the non-state service status, the amount of salary increase and the subsequent salary withdrawal upon removal from non-state service status. (See Attached Form X16-0700.)

d. Recruitment Flexibility

~~Appropriations language, as included in Section A of this policy, suspends recruitment flexibility for Fiscal Year 2006, with the exception of emergency appointments of Nurses, Pharmacists and other health care professionals.~~

~~Currently approved recruitment flexibility includes:~~

~~Nurse I, II, III, IV, Chief (25%) – Department of Health~~
~~Pharmacist I, II, III, Director (20%) – All user agencies~~
~~Medical Technologist Senior (20%) – Mississippi State Hospital~~
~~Nurse Chief (35%) – Mississippi State Hospital~~
~~Nurse Chief (40%) – Veterans Affairs Board~~

(1) All requests to recruit applicants at a salary exceeding the assigned starting salary are to be submitted for State Personnel Board approval prior to a job offer or appointment of an applicant. Such a request shall be accompanied by a letter of justification from the agency head describing documented recruitment difficulties experienced by the agency.

The recruitment difficulties recognized by the Board include, but are not limited to:

(a) Documented recruitment difficulties for a job class which may be attributed to the established minimum or special qualifications of a job; and/or

(b) Insufficient labor market availability of qualified applicants and/or availability of a limited applicant pool complicated by a salary range for the job which is not competitive with the relevant labor market.

Misclassification of a position shall not be used as the basis for a recruitment flexibility request.

(2) Requests for recruitment flexibility approved by the State Personnel Board for an entire classification or for a specific position shall be valid for a period of twelve (12) months from the effective date of approval. If the agency is unable to fill the position within the twelve (12) month period, the State Personnel Director may authorize an extension of the recruitment flexibility for an additional twelve (12) months.

Should the agency fill the position within the initial twelve (12) months approved by the State Personnel Board and should the incumbent subsequently leave the position, the State Personnel Director may authorize the Recruitment Flexibility for a period of twenty-four (24) months from the original effective date approved by the State Personnel Board.

(3) If within twelve (12) months from the date of hire, the incumbent of a position which has been authorized for recruitment flexibility transfers to a position which has not been authorized for recruitment flexibility, the salary at transfer shall be established by calculating what the incumbent=s salary would have been had the position from which he/she transferred not been authorized for recruitment flexibility.

(4) At the time of hire, the agency shall submit a written acknowledgment signed by the affected employee certifying that he/she has been notified of and fully understands the recruitment flexibility policies and salary calculations.

When awarding Recruitment Flexibility, a review of employees in the same agency and job classification series should be made to determine that there would be no salary inequity between current employees and employees hired using recruitment flex. Should the flexibility cause a salary inequity, the agency may request consideration from the State Personnel Director to award similar flexibility to affected employees.

6. Appointment of New Hires from Agencies or Classifications Not Under the Purview of the State Personnel Board

The authorized salary for an individual hired from a State agency or classification not under the purview of the State Personnel Board into an agency/classification under the purview of the State Personnel Board shall be determined ~~under the provisions for "Original Appointments," Section D.4.~~ with consideration given to the applicant=s related education, experience and length of service in State government. On a case-by-case basis, agency heads may request the State Personnel Director to allow an applicant to be appointed at a salary beyond the limits of New Hire Flexibility, as stated in Section D.5.b., above. The hiring agency must give consideration to other employees in the classification, and place the new hire at a point in the pay range comparable to other employees with similar education, experience and length of service.

7. Appointment of Executive Directors

For the purposes of this section, the supervisory authority is the individual, board or commission which may terminate an agency head either at will or through due process as specified by legislation. For agencies where no supervisory authority is specified, the State Personnel Board will set the salary of the agency head.

a. Initial Salary

The supervisory authority responsible for appointing each Executive Director shall have the flexibility at the time of hire to establish the salary of the appointed official up to mid-point within the appropriate range. If the individual being appointed has served as an executive director for another state agency for at least twelve (12) months, then the appointing authority may establish the salary up to the end salary of the appropriate range. The salary shall be based upon factors directly related to job performance such as previous work experience and educational attainment. The following documentation shall be submitted at the time of the appointment:

(1) A letter of appointment, signed by the Governor or the chairperson of the appointing board or commission;

(2) An Experience and Training Record completed by the employee; and

(3) A copy of the official minutes wherein the employment decision was reached.

b. Subsequent Salary Increases

Upon approval of the State Personnel Director, supervisory authorities may increase the salary of an Executive Director at any time after initial appointment, except as otherwise limited above in section 7(a).

In no case will an Executive Director exceed the end salary of the position. However, the salary range of an incumbent Executive Director shall be increased an amount equal to the education benchmark(s) awarded under the provisions of Section D.9.f.

The salary of an incumbent agency head may not be reduced without approval of the State Personnel Board.

The following documentation shall be submitted at the time of request:

(1) A screen print of the appropriate ~~A~~Change Compensation@ screen in SPAHRS; and

(2) A copy of the official minutes wherein the increase was requested.

c. Executive Salaries Set in Statute

If an Executive Director whose salary is set by statute is transferred or reallocated to an Executive Director position not set in statute, the salary of that individual may be established under the provisions of Section D.7 above.

~~7. Replacement of Departing Employees~~

~~a. In the event an employee transfers to another position within the master agency, the agency may replace that employee with an individual from within state service at current salary or starting salary, whichever is greater; or with a new hire at starting salary.~~

~~b. In the event an employee transfers to another master agency; or leaves state government through his/her own accord, by death, by dismissal or by retirement, the hiring agency may replace that employee with an individual from within state service or with a new hire at a salary level equivalent to that of the departing employee.~~

~~(1) Current employees and new hires are authorized a salary up to the salary of the departing employee. The agency has twelve (12) months from the date of appointment to award the maximum allowed under this provision.~~

~~(2) To qualify for the salary of departing employee, the agency must document in SPAHRS the exceptional education and experience of the individual and the critical nature of the position to which he/she is being appointed. The agency must also certify that the salary being awarded will not create any inequities among current employees in the same classification with similar or greater qualifications or state service.~~

~~(3) The salary awarded must also be based on sound personnel management practices and must be consistent with any applicable state or federal law.~~

~~(4) A SPAHRS screen print of the request attached to an Experience and Training Record must be forwarded to the State Personnel Board.~~

~~c. For the purposes of this section, the replacement of a departing employee must occur within one-hundred twenty (120) calendar days of departure.~~

~~d. If an employee who has been transferred to a higher job class returns to his/her previous classification within twenty-four (24) months, the employee shall return to his/her salary before the transfer, except as may be adjusted by legislative increases.~~

8. Transfers

a. Promotional Transfers

(1) The authorized salary for a promotional transfer is determined under provisions governing the Fiscal Year 2007 Promotional Formula, Section D.2.

(2) Unless otherwise permitted by law, no single event, including promotion, reclassification or reallocation, shall exceed the greater of (1) the difference between the starting salary of the current classification and the new classification added to the employee=s current salary, or (2) the salary that could be paid to an equally qualified, newly hired employee.

(3) Requests for promotions for classifications included in the Information Technology Special Compensation Plan shall be considered on a case by case basis by the appointing authority with recommendation by the ITPDC.

(4) If an employee who has been demoted from a higher job class to a lower job class returns to his/her previous classification within twenty-four (24) months, the employee shall return to his/her salary before the transfer, except as may be adjusted by legislative increases.

b. Lateral Transfers

(1) The authorized salary for a lateral transfer is no more than the current salary before the transfer. However, where the salary authorized for the lateral transfer is less than the salary which could be authorized for a new hire (ten percent above start), salary flexibility may be awarded under the same criteria set forth under the provisions for "New Hire Flexibility", Section D.5.b.

(2) If an employee who has been laterally transferred returns to his/her previous classification within twenty-four (24) months, the employee shall return to his/her salary before the transfer, except as may be adjusted by legislative increases.

c. Demotional Transfers

The authorized salary for any demotional transfer shall be no greater than the difference between the old and the new starting salaries, subtracted from the current salary. However, at agency head discretion, the authorized salary may be reduced to a lower salary within the new job class pay range to ensure equitable compensation with other employees in the same classification.

EXAMPLE

Current Salary:	$18,408.60
Old Start Salary:	$18,220.80
New Start Salary:	$12,648.12

$18,220.80 - $12,648.12 = $ 5,572.68
$18,408.60 - $ 5,572.68 = $12,835.92 MAX

(1) A written agreement signed by the affected employee shall accompany voluntary demotions.

(2) A written acknowledgment signed by the affected employee, or a statement from the appointing authority or his/her designee certifying that the employee has been notified of the demotion, shall accompany involuntary demotions.

(3) If an employee who has been promoted returns to his/her previous classification within twenty-four (24) months, the employee shall return to his/her salary before the promotion, except as may be adjusted by legislative increases.

(4) In extraordinary circumstances, the agency may request the State Personnel Director to allow the employee to remain at his/her current salary, as long as the current salary does not exceed the end salary of the new classification. ~~and provided the employee is transferring between positions within the same sub-agency.~~

(5) Where the salary authorized for the demotional transfer is less than the salary which could be authorized for a new hire (ten percent above start), salary flexibility may be awarded under the same criteria set forth under the provisions for "New Hire Flexibility", Section D.5.b.

9. Policies and Procedures for the Award of Educational Benchmarks for Completion of Training and Development Programs

~~Appropriations language, as included in Section A of this policy, suspends educational benchmarks for Fiscal Year 2006, with the following exceptions:~~

~~Certified Public Accountant~~
~~Masters Degree~~

~~Specialist Degree~~
~~Doctoral Degree~~
~~Passage of the Mississippi Bar~~

It is the intent of the State Personnel Board to establish policies governing the award of monetary benchmarks for completion of employee training and development programs. These policies are for the purpose of providing employees opportunities to continue acquiring professional skills, knowledge, and expertise.

The State Personnel Director is authorized to certify requests to award Educational Benchmark increases on a case by case basis. Employees may receive an educational benchmark for the possession or attainment of education, licensure, certification, or registration, which exceed the level of minimum qualifications listed for the employee's assigned job class.

a. General Benchmark Policies

(1) Requests for Educational Benchmark awards are made at the discretion of the agency head.

(2) Educational benchmarks shall not be awarded for degrees, licenses, certifications or registrations obtained prior to July 1, 1999.

(3) During any one fiscal year, an individual shall not receive more than 5% for educational degrees, 5% for the Certified Public Manager Program, or 5% for licensure, certification, and/or registration. ~~No employee shall receive more than one (1) educational benchmark increase during Fiscal Year 2006.~~

(4) No Educational Benchmark shall be awarded for degrees, licensure, certification or registration which the incumbent possessed at the time of hire.

(5) If the employee being awarded an Educational Benchmark is currently at end salary of his or her classification, or should the benchmark cause an employee's salary to exceed end salary, that portion of the benchmark exceeding end salary shall be paid as a one-time lump-sum payment.

(6) Any new hire flexibility, recruitment flexibility, or other discretionary compensation awarded for or in anticipation of future educational achievement, licensure, or certification shall not result in

a subsequent award of an Educational Benchmark for the same achievement.

(7) Educational Benchmarks shall not be awarded for degrees, licensure, certifications or registrations which are required by law for performance of job duties.

c. Degrees

Increases in increments of up to five percent (5%) **may** be awarded to employees obtaining the following degrees: Associate's, Bachelor's (in no case shall the cumulative award for the achievement of an Associate's Degree and a Bachelor's Degree exceed five percent (5%)), Master's, Specialist and Doctoral.

d. Licensure/Certification/Registration

Increases of up to five percent (5%) **may** be awarded to employees acquiring licensure, certification, or registration **directly related** to their jobs.

Generally, employees in information technology classifications may only receive increases related to the completion of educational degrees, the Basic Supervisory Course, the Certificate in Supervisory Management, the Certified Public Manager program, and the Stennis Executive Development Institute. However, an employee may be awarded an increase for obtaining a certification developed and administered by their employing agency which is directly related to the mission of the agency.

e. Basic Supervisory Course and Certified Public Manager (CPM) Program

In addition to benchmarks for educational degree, employees **may** receive an Educational Benchmark for the Basic Supervisory Course and certification in the Certified Public Manager (CPM) program. The following scale indicates the maximum that may be awarded for achievements in these programs:

1% increase-Basic Supervisory Course (BSC)
2% increase-Certificate in Supervisory Management (CSM)
3% increase-Completion of Certified Public Manager (CPM) Program

Note: An employee who has completed the CSM and /or the CPM will not be eligible for a 1% increase for subsequently completing the BSC.

f. Educational Benchmarks for Executive Directors

In accordance with Section 25-3-34, Mississippi Code of 1972, Annotated, as amended, in addition to the salary established by the State Personnel Board for agency heads previously included in Section 25-3-33 (said section now repealed) agency heads may receive the award of an educational benchmark as defined in State Personnel Board rules for the possession or attainment of any of the following:

(1) The Certified Public Manager designation;

(2) A job-related PhD (Doctor of Philosophy) degree which is not required as a minimum qualification of the position;

(3) A job related certification, licensure, or registration requiring the passage of an examination, which is not required as a minimum qualification of the position.

No such official or employee may receive more than a total of three (3) eligible benchmarks, only one of which may be for a job related certification, licensure or registration.

The end salary may be extended to accommodate educational benchmark increases as provided for in Paragraph 25-3-34 of state law.

10. Special Compensation Plans

~~Appropriations language, as included in Section A of this policy, suspends special compensation plans for Fiscal Year 2006, with the exception of teacher pay increases and school attendance officers.~~

Authorization to implement special compensation plans during Fiscal Year 2007 shall be limited. Only special compensation plans reviewed **prior to the start of Fiscal Year 2007** and approved by the State Personnel Board for implementation or continuation during the fiscal year shall be certified.

Further, to qualify for a teacher pay increase, agencies must complete Form SPC-0705 (Attached), which certifies that recipients of increases are performing duties directly related to the education of patients/clients.

11. Additional Compensation

~~Appropriations language, as included in Section A of this policy, suspends additional compensation for Fiscal Year 2006, with the exception of those positions currently authorized for additional compensation.~~

~~Further, all Detail to Special Duty Pay currently authorized shall expire as indicated in the agency's request, and shall not be recertified during Fiscal Year 2006.~~

Certification of additional compensation shall be limited to those forms of additional compensation previously approved by the State Personnel Board with the exception of call-back/overtime pay and any other form of compensation that may be subject to the Fair Labor Standards Act during Fiscal Year 2007. The State Personnel Board shall consider other requests for additional compensation where the request is justified by demonstrating that delayed implementation would seriously impair critical agency operations. The State Personnel Board shall not consider new requests to undertake additional compensation not currently authorized except as a bona fide staffing need or as a part of the Fiscal Year 2007 budget request.

12. Salary Increases Which Exceed the Agency Head

In accordance with Section 25-3-39, Mississippi Code of 1972, Annotated, as amended:

a. No public officer, public employee, administrator or executive head of any arm or agency of the state, in the executive branch of government, shall be paid a salary or compensation, directly or indirectly, greater than one hundred fifty percent (150%) of the maximum salary fixed in section 25-3-31 Mississippi Code of 1972, Annotated, as amended, for the Governor. All academic officials, members of the teaching staffs and employees of the state institutions of higher learning, the State Board for Community and Junior Colleges, and community and junior colleges, and licensed physicians who are public employees, shall be exempt from this subsection. The Governor shall fix the annual salary of the Executive Director of the Mississippi Development Authority and the annual salary of the Chief of Staff of the Governor's Office, which salaries shall be completely paid by the state and may not be supplemented with any funds from any source, including federal or private funds. Provided, however, that the salary of the Executive Director

of the Mississippi Development Authority and the Governor's Chief of Staff shall not be greater than one hundred fifty percent (150%) of the salary of the Governor. Furthermore, all professional employees who hold a bachelor=s degree or more advanced degree from an accredited four-year college or university or a certificate or license issued by a state licensing board, commission or agency and who are employed by the Department of Mental Health shall be exempt from this subsection if the State Personnel Board approves the exemption.

b. No public officer, employee or administrator shall be paid a salary or compensation, directly or indirectly, in excess of the salary of the executive head of the state agency or department in which he/she is employed. Provided, however, the State Personnel Board may, based upon its findings of fact, exempt **physicians and actuaries** from this subsection when the acquisition of such professional services is precluded based on the prevailing wage in the relevant labor market.

c. Compensation, for purposes of this section, is defined as the employee=s base salary and any additional or special compensation, less paid fringe, authorized by state or federal law or as otherwise provided in State Personnel Board policy. Further, agencies are required to ensure that all employees subject to the overtime provisions of the Fair Labor Standards Act of 1938, as amended, are not scheduled to work hours that could cause the employee=s total annual compensation to exceed that of the governor or the agency director.

d. In reference to the language contained in Section 12.a above, the State Personnel Board shall review requests for salary exemption from the Department of Mental Health for employees who hold a bachelor=s degree or more advanced degree from an accredited four-year college or university or a certificate or license issued by a state licensing board, commission or agency on a case by case basis.

e. In reference to the language contained in Section 12.b above, the State Personnel Board has determined that the salaries of physicians and actuaries are exempt from Section 25-3-39, Mississippi Code of 1972, Annotated, as amended.

13. Reappointments for Employees Returning From an Authorized Leave of Absence without Pay

The authorized salary for an individual returning from an authorized leave of absence to the same job class from which the individual was separated, and within twelve (12) months of separation, is no more than the current salary at the time of the separation, except as may be adjusted by any salary increase authorized by the Legislature and/or through non-appropriated realignment.

14. Reemployment for Employees Returning to State Service after Separation in Good Standing

a. The authorized salary for an individual returning to state service employment within the same job class from which the individual was separated is ~~determined under the provisions for "Original Appointments," Section D.4.~~ no more than the current salary at the time of the separation, except as adjusted by any job class realignment.

b. The authorized salary for an individual returning to state service employment but to another job classification is determined under provisions for "Original Appointments," Section D.5., without regard to the initial reasons for separation.

E. Performance Appraisal Review (PAR) Requirements

1. Each agency shall have the Performance Appraisal Review (PAR) system in place. All state service employees, and non-state service employees whose positions fall under the purview of the State Personnel Board's salary setting authority [Refer to Section B.1.b herein] shall be covered under the Performance Appraisal Review (PAR) policies certified by the State Personnel Board.

2. The Performance Appraisal Review system shall be incorporated in all aspects of personnel administration and shall be maintained for each employee on a continuous basis throughout each year. A current PAR rating shall be on file and be provided with, or submitted prior to, requests for processing personnel actions.

If you have any questions regarding Policy Memorandum No. 2, please contact the Office of Classification and Compensation at 359-2769.

Form X16-0700

ACKNOWLEDGEMENT OF AGENCY HEAD FLEXIBILITY INCREASE

I acknowledge by my signature that I have received the Agency Head Flexibility increase below indicated and have reviewed and understand the following guidelines:

a. I understand that I am classified as non-state service (Exclude Code 16), and therefore, do not have property rights to employment in state government;

b. I understand that State Personnel Board policies and procedures change annually (or more frequently), that such changes or revisions are forwarded to agency heads for dissemination to all employees, and that I am responsible for keeping informed of such changes or revisions;

c. I understand that the salary determination procedures, and any other policy and procedure provisions, may change without prior notice;

d. I understand that transfer, reallocation, demotion, agency reorganization or other action may result in the change of my Exclude Code 16 status, and the subsequent loss of my Agency Head Flexibility money; and

e. I understand that if I leave or am removed from the non-state service status (Exclude Code 16), my salary will be calculated by determining what my salary would have been had I not received an Agency Head Flexibility increase.

Agency Head Flexibility Increase Recipient	Date	Increase Amount
		$

Agency Head	Date

Form SPC-0705

CERTIFICATION OF ACADEMIC TEACHER DUTIES

I acknowledge by my signature that I am acting in the capacity of an Academic Teacher in my respective position and have reviewed and understand the following guidelines for receipt of an increase as outlined in Section 37-19-7, Mississippi Code of 1972, Annotated, as amended, "Minimum Programs"

a. I understand that I am classified in an academic teacher classification, and thus possess a Class A, AA, AAA or AAAA teaching certificate;

b. I certify that I am directly responsible for the instruction of students in various academic courses offered in an institutional setting.

c. I understand that the salary determination procedures, and any other policy and procedure provisions, may change without prior notice; and

d. I understand that transfer, reallocation, demotion, agency reorganization or other action may result in the change of my academic teacher status, and the subsequent cessation of teacher pay increases.

Minimum Programs Recipient/Classification		Increase Amount
		$
Agency Head	Date	

Recommendation:

Approval of Policy Memorandum No. 2 for Fiscal Year 2007, effective July 1, 2006. Further, if there are no public comments or substantive changes, twenty-five (25) days after filing with the Secretary of State pursuant to the Administrative Procedures Law, the proposed policy may be refiled as a final rule.