MISSISSIPPI STATE PERSONNEL BOARD

POLICIES AND PROCEDURES MANUAL

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CHAPTER 1
INTRODUCTION

1.0 ABOUT THIS MANUAL

This manual is effective as of [illegible]. The most up-to-date version of this manual is always located on the Mississippi State Personnel Board web site at ~~www.spb.state.ms.us~~ http://www.spb.ms.gov. As an official product of state government, this document is in the public domain and may be copied or redistributed without permission.

~~1.0 ADMINISTRATION~~

1.05~~0 1~~ INTRODUCTION Scope and Intent of the Manual

This manual contains the policies and rules of the Mississippi state employment service and applies to all employees placed under the purview of the Mississippi State Personnel Board by Mississippi Code Annotated § 25-9-101, et seq. and other pertinent laws. This manual supersedes all prior and editions.

The purpose of this manual is to provide a standardized, comprehensive system of human capital administration consistent with Mississippi laws. In addition, the policies, rules, and procedures contained herein should be followed in a manner consistent with any federal statutes or regulations which are applicable to a particular agency. If any part of this manual is inconsistent with state federal law, or regulations, the federal law takes precedence.

The policies and rules contained in this manual and all other publications of the Mississippi State Personnel Board are in accordance with the following principles as found in Mississippi Code Annotated § 25-9-101:

> Principle I: Recruiting, selecting, and advancing employees shall be based on their relative ability, knowledge, and skills including open consideration of qualified applicants for initial appointment.
>
> Principle II: Equitable and adequate compensation shall be provided.

Principle III. Employees shall be trained as needed to ensure high quality performance.

Principle IV. Employees shall be retained based on the adequacy of their performance. Provisions shall be made to correct inadequate performance and to separate employees whose inadequate performance cannot be corrected.

Principle V. Fair treatment of applicants and employees in all aspects of personnel administration shall be ensured without regard to race, religious creed, sex, national origin, political affiliation, age, or disability.

Principle VI. Employees shall be free from coercion for partisan or political purposes, and employees shall be prohibited from using their official authority to interfere with or to affect the result of elections or nominations for office.

1.0.2 Amendments to this Manual

The Mississippi State Personnel Board may amend the policies, rules, and procedures which establish and maintain the state human capital system as circumstances and conditions require. Any appointing authority, agency head, or member of the Personnel Advisory Council operating under the Mississippi State Personnel Board may recommend an amendment to policies and rules which is inconsistent in the state personnel system causes unnecessary hardship or when the efficiency of the system may be improved.

1.1 MISSISSIPPI STATE PERSONNEL BOARD

The Mississippi State Personnel Board, hereinafter referred to as MSPB, consists of five members appointed by the Governor for staggered five-year terms. The Board holds meetings at least once a month as provided in Mississippi Code Annotated § 25-9-113. All Board meetings are open to the public unless an executive session is declared by an affirmative vote of a minimum of 3/5 of all members present. The Board may make and enforce reasonable rules and regulations for the conduct of persons attending its meetings. Minutes of all meetings are kept, whether the meeting is open or in executive session. The minutes will show members present and any final actions taken by the Board, and are available to the public during business hours a reasonable time after review or approval.

The Board, as the governing authority for the statewide human capital system as established in Title 25, Chapter 9 of the Mississippi Code Annotated has delegated much of its authority to the Executive Director.

[illegible] on behalf of the Board when such action is necessary for the timely, effective, and efficient implementation of the state's human capital system. The day-to-day business of the Board is therefore carried out by the staff agency also known as the Mississippi State Personnel Board.

Following an organizational restructuring in 2009, MSPB is divided into six sections. Agency directors, personnel officers, ~~and~~ personnel assistants and members of the public requiring assistance are urged to direct any inquiry to the ~~State Personnel Board~~ MSPB staff section assigned the applicable responsibility. Functional assignments are outlined below. If you are unsure where to direct your inquiry, contact the MSPB switchboard at (601) 359-2700 or your agency's Human Capital Core Processes Consultant.

~~STATE PERSONNEL BOARD – CENTRAL PHONE~~

For a complete listing of MSPB employees, go to ~~www.spb.state.ms.us~~ http://www.spb.ms.gov

ADMINISTRATION EXECUTIVE OFFICE — (601) 359-2702

~~State Personnel Director (601) 359-2702~~

Agency Budget ♦ Annual Report ♦ Executive Support ♦ General Administration ~~♦ SPB Personnel Office ♦ SPB Business Office~~ ♦ Strategic Planning ♦ Discipline ♦ Employee Handbook ♦ Policy Development and Interpretation ♦ Grievances ♦ Leave Administration ♦ ~~Performance Appraisal Review ♦~~ Federal Employment Laws ♦ Legal Questions ♦ Statutes relating to Mississippi State Personnel Board Matters

~~Office of Policy~~

~~Discipline ♦ Employee Handbook ♦ Grievances ♦ Leave Administration ♦ Performance Appraisal Review ♦ Policy Development and Interpretation~~

~~Legal Services (601) 359-2704~~
~~Discipline and Appeals ♦ Federal Employment Laws ♦ Grievance ♦ Legal Questions ♦ State Attorney General Opinions ♦ State Statutes relating to Personnel Board Matters~~

EMPLOYEE APPEALS BOARD — (601) 359-2708

Appeals Filing ♦ Appeals Scheduling ♦ General Appeals Information

OFFICE OF ~~CLASSIFICATION AND COMPENSATION~~ HUMAN CAPITAL EFFECTIVENESS — (601) 359-2764

Benchmarks ♦ Compensation Surveys ♦ Class Specifications ♦ Consultative Services ♦ Job Classification ♦ Job Description Development and Validation ♦ Job Reclassification ♦ ~~Manpower~~ Staffing Management ♦ Organizational Charts ♦ ~~Personnel~~ Transactions Processing ♦ Program Budget ♦ Salary Certification ♦ ~~Salary Surveys~~ ♦ Technical Assistance ♦ Application Evaluation ♦ Application Storage ♦ Certification of Eligible Applicants to Agencies ♦ Consultative Services ♦ Organizational Studies ♦ New Hire Flexibility ♦ Recruitment Flexibility ♦ Agency Hiring Flexibility ♦ Promotion Flexibility ♦ Recruitment Announcements ♦ Substitution of Education and Experience

OFFICE OF ~~TRAINING~~ WORKFORCE PLANNING — (601) 359-2758

~~Administrative Support Certification Program ♦ Agency Sponsored On-Site Training ♦ Basic Supervisory Course ♦ Certified Public Manager Program ♦ Consultative Services ♦ Human Resources Certification ♦ Information and Referral ♦ Management Training ♦ Performance Management Training ♦ Professional Development Courses ♦ Technical Assistance ♦ Training Certification ♦ Training Evaluation ♦ Training Needs Assessments ♦ Training Programs~~ Agency Sponsored On-Site Training ♦ Career Pathing ♦ Consultative Services ♦ Electronic Learning Center ♦ Internship Programs ♦ Management Certification Programs ♦ Organizational Design ♦ Performance Review ♦ Professional Development Courses ♦ Succession Planning ♦ Support Staff Certification Programs ♦ Talent Management ♦ Technical Assistance ♦ Training Certification ♦ Training Evaluation ♦ Training Needs Assessments ♦ Training Programs ♦ Workforce Analysis

~~**OFFICE OF RECRUITMENT AND SELECTION — (601) 359-2740**~~

~~Application Evaluation ♦ Application Storage ♦ Certification of Eligible Applicants to Agencies ♦ Consultative Services ♦ Organizational Studies ♦ New Hire Flexibility ♦ Personnel Transaction Processing ♦ Recruitment Announcements ♦ Substitution of Education and Experience ♦ Technical Assistance~~

PERSONAL SERVICE CONTRACT REVIEW BOARD — (601) 359-6517

Personal Services Contract Procurement Policy Development ♦ Personal Services Contract Review and Approval ♦ Personal Services Contract Training

MANAGEMENT INFORMATION SYSTEMS OFFICE OF ADMINISTRATIVE SERVICES — **(601) 359-6717**

Agency Queries ♦ Data Management ♦ Special Reports ♦ Technical Assistance ♦ SPMS Personnel Office ♦ SPMS Business Office ♦ Information Systems ♦ Performance Measures ♦ Cost Center Budgeting ♦ Communications ♦ Security ♦ Business Continuity ♦ Grant Writing

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1.10 SCOPE AND INTENT OF THE MANUAL

This manual contains the policies and rules of the Mississippi state employment service, which apply to all employees, covered by Section 25-9-101 et. seq., Mississippi Code of 1972, Annotated, as amended, and other pertinent laws. This volume replaces all previous editions of the Mississippi State Personnel Board Policy and Procedures Manual.

These policies, rules, and procedures provide a standardized, comprehensive system of personnel administration for the State of Mississippi, consistent with Mississippi laws. These policies, rules, and procedures shall apply to all positions in state service as defined by state law, including current and future positions, which are required to be under the purview of the State Personnel Board. Certain policies are provided as guidelines to provide the appointing authority flexibility in implementation. In addition, the manual:

1. Provides interpretative guidelines for agency compliance with applicable federal laws;

2. Decentralizes administrative procedures to provide flexibility for management in administering programs;

3. Encourages professionalism in personnel management;

4. Represents the public interest in the improvement of personnel administration in state government;

5. Promotes public understanding of the purpose, policies, and practices of the state personnel system; and

6. Promotes open communication between employers and employees within the state service with due regard to proper administrative channels.

The policies, rules, and procedures contained in this manual should be followed in a manner consistent with the federal statutes and regulations, which are applicable to the particular agency. If these rules are inconsistent with the federal law or regulation under which an agency functions, the federal law shall take precedence.

A glossary of terms is included, and the definitions are applicable to all sections of the manual. Organization of the manual is by the following areas of personnel administration:

Section 1.0	Administration
Section 2.0	Personnel Services
Section 3.0	Recruitment
Section 4.0	Selection
Section 5.0	Classification and Compensation
Section 6.0	Staffing Management
Section 7.0	Employee Relations
Section 8.0	Performance Appraisal Review
Section 9.0	Discipline and Corrective Action
Section 10.0	Grievances and Appeals
Section G.0	Glossary
	Appendices

The manual shall be distributed to employees assigned supervisory and management responsibilities in personnel administration. Distribution is coordinated in conjunction with each appointing authority, and the Policy Director maintains a register of all manuals assigned to employees in order to supply additions and revisions to the manual. It is the appointing authorities' responsibility to notify the State Personnel Board of any changes, which might affect manual distribution. Manuals are not the property of any employee; they are assigned by position and will be reassigned as warranted.

The policies and rules contained in this manual and all other publications of the State Personnel Board are in accordance with the following principles as listed in Section 25-9-103, Mississippi Code of 1972, Annotated, as amended:

~~Principle I: Recruiting, selecting, and advancing employees shall be based on their relative ability, knowledge, and skills including open consideration of qualified applicants for initial appointment.~~

~~Principle II: Equitable and adequate compensation shall be provided.~~

~~Principle III: Employees shall be trained, as needed, to ensure high quality performance.~~

~~Principle IV: Employees shall be retained based on the adequacy of their performance. Provisions shall be made to correct inadequate performance and to separate employees whose inadequate performance cannot be corrected.~~

~~Principle V: Fair treatment of applicants and employees in all aspects of personnel administration shall be ensured without regard to race, religious creed, sex, national origin, political affiliation, age, or disability.~~

~~Principle VI: Employees shall be free from coercion for partisan or political purposes, and employees shall be prohibited from using their official authority to interfere with or to affect the result of election or nomination for office.~~

~~1.15 AMENDMENTS TO THE MANUAL~~

~~The State Personnel Board shall amend the policies, rules, and procedures, which establish and maintain the state personnel system as circumstances and conditions require. Any appointing authority, agency head, or member of the Personnel Advisory Council operating under the State Personnel Board may recommend an amendment to policies and rules when a provision in the state personnel system causes unnecessary hardship or when the efficiency of the system may be improved.~~

~~In amending the rules, the State Personnel Board shall conform to the provisions of the Administrative Procedures Act, Sections 25-43-1 and 25-9-119 (2)(e), Mississippi Code of 1972, Annotated, as amended.~~

~~It is not the intent of the State Personnel Board to adopt policies, rules, and/or procedures which are inoperative or which fail because the rules are unconstitutional or invalid for other reasons. If any section, sentence, clause, or phrase of the State Personnel Board's policies, rules, and/or procedures is held to be inoperative, unconstitutional, void, or invalid, the validity of the remaining portion of the State Personnel Board policies, rules, and procedures will not be affected.~~

~~1.20 AGENCY ASSESSMENTS~~

~~Operating funds for the State Personnel Board shall be obtained by the establishment of a cost assessment procedure, which shall be prorated among all the departments, agencies, and institutions based upon the number of employment positions authorized by the Legislature. Departments, agencies, and institutions shall pay their share of the cost upon receipt of billing from the Board.~~

~~1.25 ADMINISTRATIVE REPORTS~~

~~The State Personnel Board will provide an annual report to the Governor and Legislature concerning the operation of the state personnel system and the status of personnel administration in state government as required by Section 25-9-115 (m), Mississippi Code of 1972, Annotated, as amended.~~

~~1.30 MAINTENANCE AND REVIEW OF RECORDS~~

~~Each appointing authority shall keep a current personnel file for each employee in accordance with guidelines issued by the State Records Committee.~~

~~It is the responsibility of each appointing authority to ensure that central records in the Statewide Payroll and Human Resource System (SPAHRS) are correct. Modification of records maintained within the SPAHRS may require SPB approval.~~

~~All employees must sign a statement indicating they have received a copy of the Mississippi State Employee Handbook. The statement must be kept in each employee's personnel file.~~

~~Each employee's personnel file must contain the following information, and the file must be accessible to the employee:~~

1. ~~Attendance Records~~
2. ~~Performance Appraisal Documents~~
3. ~~Major Medical Leave Balance~~
4. ~~Personal Leave Balance~~
5. ~~Discipline Records, if applicable~~
6. ~~Letter of Commendation, if applicable~~
7. ~~Notice of Separation, Termination Date, and Notice of Resignation, if applicable~~

8. Retirement Benefits
9. Tax Records
10. Bond, if required
11. Other items required by statute (e.g., Section 45-14-19, Mississippi Code of 1972, Annotated, as amended)
12. State of Mississippi Application
13. Proof of Education and Training
14. Selective Service Documentation

It is recommended that the following items also be included in each personnel file:

1. Interviewer's Notes
2. Personnel Actions
3. Proof of Veteran Status
4. Medical Information, Waivers^
5. Counseling Reports
6. Expense Reimbursements
7. Names of Next of Kin
8. Date of Death
9. Training Records

^Medical information must be maintained in separate, confidential files.

In addition to maintaining individual personnel files, each agency shall maintain a classification plan, which includes a current organizational chart and a position questionnaire detailing the duties of each employment position.

Certain personnel records are exempt from public access. Personnel records and applications for employment in the possession of a public body, as defined by Section 25-61-3 (a) of Mississippi Code of 1972, Annotated, as amended, except those which may be released to the person who made the application or with the prior written consent of the person who made the application, shall be exempt from the provisions of the Mississippi Public Records Act of 1983, as required by Section 25-1-100 (1) of Mississippi Code of 1972, Annotated, as amended.

1.35 SUGGESTED EMPLOYEE ORIENTATION

~~Assistance shall be given to every new employee of the agency to ensure that a timely and thorough orientation to the work environment is received. This orientation should include a minimum of (1) a tour of the office facilities; (2) proper introduction to co-workers; (3) an explanation of the duties and responsibilities of the position to which assigned; (4) instruction in the safe and efficient operation of any necessary equipment; and (5) exposure to the personnel policies and procedures pertinent to employment and the overall mission of the agency.~~

~~The supervisor will review with the new employee the Job Content Questionnaire and the Performance Appraisal Review duties/performance standards of his/her position within two weeks of hire date. The supervisor will also ensure that the employee has the opportunity to study the Mississippi State Employee Handbook and any other personnel policies. The supervisor will answer any questions the employee may have concerning the personnel policies and procedures contained therein. The supervisor shall assure the new employee that these documents will be available for consultation by the employee at any time.~~

~~1.40 SUGGESTED EMPLOYEE ORIENTATION TOPICS~~

~~The Mississippi State Employee Handbook serves as the basis for any employee orientation. Topics which should be discussed with the employee include the following:~~

1. ~~Personnel policies~~
2. ~~Drug policy for employees of agencies receiving federal grants~~
3. ~~The confidential nature of any job-related information, records, or documents~~
4. ~~How personal and major medical leave is earned and the proper procedure for applying for use of such leave once earned~~
5. ~~The correct procedure for reporting an unexpected absence from duty due to illness, injury, or an emergency situation~~
6. ~~Administrative procedure(s) to be followed in the case of a grievance/complaint (agency grievance procedure) and an explanation of what constitutes a grievable or non-grievable issue. (Information and forms are contained in the Mississippi State Employee Handbook.)~~
7. ~~The normal hours of work, the lunch and break schedules, the work site and any applicable standard operating procedures~~
8. ~~Explanation of process to follow in case of injury while at work and how such injury is to be reported~~
9. ~~Safety measures to be observed in the event of an emergency (fire, tornado, etc.)~~
10. ~~Available employment benefits~~

11. Timetable for receipt of paychecks
12. Location for parking automobiles and the rules and regulations that may govern the parking facilities
13. How leave authorizations and work records are to be completed
14. Required documents for Immigration Reform and Control Act of 1986 (IRCA)

The employee orientation shall be accomplished within two (2) weeks of employment. The following form (Section 1.45) should be completed following the employee orientation. The signatures of the employee and the supervisor attest the required orientation was completed. The form indicating completion of the orientation should be included in the official personnel file of the employee.

1.45 FORM

As an employee of the _____, I have been provided a Mississippi State Employee Handbook (publication date _____) and I agree to abide by all _____ policies and procedures.

_____
Employee Signature

_____
Date

_____
Supervisor Signature

_____
Date

1.50 OPEN MEETINGS

The State Personnel Board shall hold meetings at least once a month as provided in Section 25-9-113, Mississippi Code of 1972, Annotated, as amended. All State Personnel Board meetings are open to the public unless an executive session is declared by an affirmative vote of a minimum of 3/5 of all members

~~present. The State Personnel Board may make and enforce reasonable rules and regulations for the conduct of persons attending its meetings.~~

~~Minutes of all State Personnel Board meetings are kept whether the meeting is open or in executive session. The minutes will show members present and any final actions taken by the Board. Minutes of State Personnel Board meetings are available to the public during business hours or at a reasonable time after recess or adjournment.~~

~~**1.55 DELEGATION OF AUTHORITY**~~

~~The State Personnel Board, as the governing authority for the statewide personnel system established and promulgated in Title 25, Chapter 9 of the Mississippi Code of 1972, Annotated, as amended, hereby delegates authority to the State Personnel Director to act on behalf of the Board, when such action is necessary for the timely, effective and efficient implementation of the State Personnel System, except as provided in Section 6.30.~~

~~Further, it is the policy of the State Personnel Board that the State Personnel Director shall be authorized to administer the rules and regulations and all other operational aspects of the state personnel system and to ensure compliance therewith by all departments, agencies, and institutions covered by the state personnel system, subject to review by the Board upon the request of an appointing authority or as may be deemed necessary by the Board.~~

1.60 2 PUBLIC RECORDS ACT ~~REGULATIONS~~ REQUESTS

The Mississippi State Personnel Board is in support of, and complies with, requests for information under the Mississippi Public Records Act of 1983, Mississippi Code Annotated § 25-61-1 et seq., according to the following policies:

1. Requests for information under the Mississippi Public Records Act of 1983 should be marked "Request for Public Records" and must be submitted in writing by U.S. mail to the ~~State Personnel Director~~ Executive Director, Mississippi State Personnel Board, ~~Robert G. Clark, Jr. Building,~~ 301 North Lamar Street, Suite 203, Jackson, MS 39201.
2. Requests should describe in reasonable detail the records sought, and, if possible, should include a description of the type of records, names, dates, dates of birth, social security numbers, job class and county, title of a publication, and other information which may aid in locating records.

3. Upon receipt of a request, the ~~State Personnel Director~~ MSPB Executive Director shall determine whether the records sought are exempt from production under the Mississippi Public Records Act, and shall either produce or deny production of the records sought within fourteen (14) working days of the receipt of the request. If the ~~State Personnel Director~~ MSPB Executive Director determines that the records requested are exempt or privileged under the law, he or she shall deny the request and shall send the person making the request a statement of specific reasons for the denial. Such denials shall be kept on file for inspection by any person for three (3) years.

   Information gained from third parties containing trade secrets or confidential commercial or financial information will not be released until a reasonable time after notice has been sent to the third parties, unless the material is protected by a court order.

   Where possible, non-exempt material will be separated from exempt material, and only the exempt material will be withheld.

4. The request for information should be accompanied by sufficient funds, payable by cashier's check or money order, to defray the actual costs of searching, reviewing, copying and, if applicable, mailing the records. Fees charged for the records will not exceed the actual costs, and any overpayment will be refunded. Fees shall be collected prior to compliance with the request. The fees charged will be according to the following schedule:

   Employee time.....Salary rate plus 17% for fringe

   Photocopies.....$.13 per page

   Automated records search ..... $90.00 setup charge, and computer time and paper cost

   (Programming time in excess of one (1) hour will be charged at $40.00 per hour)

   Other printed materials.....Actual cost
   Mailing.....Actual cost

The ~~State Personnel Director~~ MSPB Executive Director shall promptly notify the person making the request of the estimated fees if the estimate exceeds the funds accompanying the request. The above schedule of fees will apply even if the search is unproductive.

1.3 STATEWIDE PAYROLL AND HUMAN RESOURCE SYSTEM

The Statewide Payroll And Human Resource System (SPAHRS) is the repository of record for agencies which fall under the purview of the Mississippi State Personnel Board. Transactions entered through SPAHRS are considered to be initiated and approved by the head of the submitting agency. Once entered, transactions are automatically forwarded to the proper reviewer at MSPB for approval or disapproval. Transactions which are invalid, incorrect, or incomplete will be returned to the submitter without action with notes attached indicating items that must be corrected prior to resubmission. SPAHRS is maintained by the Mississippi Management and Reporting System, hereinafter referred to as "MMRS" within the Department of Finance and Administration. For more information on SPAHRS, including training and reference materials, contact the MMRS Helpdesk at (601) 359-3347 or see http://www.mmrs.state.ms.us/statewide_applications/SPAHRS

Chapter 2.0 ~~PERSONNEL SERVICES~~ DEFINITIONS

2.0 INTRODUCTION

This chapter contains definitions which are used throughout this manual. However, if anything in this chapter is found to be inconsistent with any state or federal statute, the statute takes precedence.

~~2.10 AUTHORIZED SIGNATURE~~

~~Transactions entered through SPAHRS will be considered initiated and approved by the agency head. Only those employees designated by the agency head and so noted in the SPAHRS System Administration Segment (User Security) should enter transactions into SPAHRS.~~

~~2.20 RETURN WITHOUT ACTION~~

~~Requests for position, personnel, additional compensation, or data changes that are invalid, incorrect, or incomplete shall be returned without action in SPAHRS with notes attached to the request indicating items that must be corrected prior to resubmission.~~

2.30 | STATE SERVICE ~~STATUS~~

"State Service" shall mean all employees of state departments, agencies, and institutions as defined in ~~Section~~ Mississippi Code Annotated § 25-9-101 *et seq.*, ~~Mississippi Code of 1972, Annotated, as amended, except Section~~ § 25-9-107(c).

A. SPAHRS shall automatically place all state service employees in a probationary status upon original appointment and reemployment. The probationary period shall be the initial twelve (12) months of service. State service employees~~, having~~ who have served a full twelve (12) month probationary period, shall retain permanent status as long as they maintain continuous state service. [~~Refer, Section~~ Mississippi Code Annotated § 25-9-127, ~~Mississippi Code of 1972, Annotated, as amended~~.]

B. A probationary period shall be required when transferring a current non-state service status employee into a permanent state service position within the same agency or into a different agency. Time spent in a non-state service position of the same classification or of a higher classification within the same job class series may be counted toward the probationary period upon approval by the ~~State Personnel Director~~ Executive Director of the Mississippi State Personnel Board. [~~Refer, Section~~ Mississippi Code Annotated § 25-9-143, ~~Mississippi Code of 1972, Annotated, as amended~~.]

C. Extended probationary status shall be assigned only to those employees previously exempted from the selection process as a result of pending litigation. [~~Refer, Sections~~ Mississippi Code Annotated §§ 25-9-139, and 25-9-143, ~~Mississippi Code of 1972, Annotated, as amended~~.]

2.~~30.1~~ 1.1 Conferment of ~~Permanent~~ State Service Permanent Status

Employees not otherwise excluded from the state service, with at least twelve months continuous state service in an agency and who have not been assigned extended probationary status, shall have permanent state service status. [~~Refer, Sections~~ Mississippi Code Annotated §§ 25-9-143, and 25-9-127, ~~Mississippi Code of 1972, Annotated, as amended~~.] SPAHRS will automatically update the status of employees who have completed the twelve-month probationary period.

Upon original appointment into state service, each incumbent shall automatically receive a status date the same as the hire date. This date reflects the beginning date of the incumbent's status in state service. The term "Probationary" will automatically be placed in the "Employee Status" field when the transaction is processed. Upon completion of 12 months of continuous state service, each employee shall attain permanent state service status and the term "Permanent" will automatically be placed in the "Employee Status" field by SPAHRS.

Once an employee has attained permanent state service status, the status date shall remain the same on any requests for in-service movement except in the following cases: state service to non-state service; non-state service to state service; and litigated classes to state service.

Any request processed for in-service movement in the above-mentioned cases shall automatically reset the status and the status date of the employee to the effective date of the transaction.

2.40 2 NON-STATE SERVICE ~~STATUS~~

All personnel transactions in the non-state service shall be effected through appointments to authorized employment positions by the appointing authority. The ~~State Personnel Director~~ Office of Human Capital Care Processes shall be notified of each appointment and may acknowledge the appointment. [~~Refer, Sections~~ Mississippi Code Annotated § 25-9-107 (c), ~~25-9-139, Mississippi Code of 1972, Annotated, as amended~~.]

To ensure that the ~~State Personnel Director~~ Office of Human Capital Care Processes is informed of all appointments to authorized vacant non-state service positions under the salary setting authority of the Mississippi State Personnel Board, all ~~personnel~~ human capital transactions pertaining to personnel in these non-state service positions shall be submitted through SPAHRS in accordance with the procedures contained herein. Requests for salary certifications shall be acknowledged, rather than certified, by ~~the State Personnel Board~~ MSPB for non-state service employees not under the salary setting authority of the Mississippi State Personnel Board.

2.40.1 2.1 Non-state Service Appointment, ~~Section 25-9-107(c), Mississippi Code of 1972, Annotated, as amended~~

Unless otherwise provided for by law, the appointing authority shall determine job qualifications for non-state service employees. "Non-state service" is defined by Mississippi Code Annotated § 25-9-107(c) as follows:

A)

"Non-state service" shall mean the following officers and employees are excluded from the state service by this chapter. The State Personnel Director acknowledges the appointing authority actions for the following, which are excluded from the state service:

(i) Members of the State Legislature, their staffs and other employees of the legislative branch;

(ii) The Governor and staff members of the immediate office of the Governor;

(iii) Justices and judges of the judicial branch or members of appeals boards on a per diem basis;

(iv) The Lieutenant Governor, staff members of the immediate office of the Lieutenant Governor and officers and employees directly appointed by the Lieutenant Governor;

(v) Officers and officials elected by popular vote and persons appointed to fill vacancies in elective offices;

(vi) Members of boards and commissioners appointed by the Governor, Lieutenant Governor, or the State Legislature;

(vii) 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;

(viii) Officers and enlisted members of the National Guard of the State;

(ix) Prisoners, inmates, student or patient help working in or about institutions;

(x) Contract personnel; provided, that any agency which employs state service employees may enter into contracts for personal and professional services only if such contracts are approved in compliance with the rules and regulations promulgated by the State Personal Service Contract Review Board under Section 25-9-120(3), Mississippi Code of 1972, Annotated, as amended. Before paying any warrant for such contractual services in excess of One Hundred Thousand Dollars ($100,000.00), the Auditor of Public Accounts, or the successor to those duties, shall determine whether the contract involved was for personal or professional services, and, if so, was approved by the State Personal Service Contract Review Board;

(xi) Part-time employees; provided, however, part-time employees shall only be hired into authorized employment positions classified by the board, shall meet minimum qualifications as set by the board, and shall be paid in accordance with the Variable Compensation Plan as certified by the board;

(xii) Persons appointed on an emergency basis for the duration of the emergency; the effective date of the emergency appointments shall not be earlier than the date approved by the

State Personnel Director and shall be limited to thirty (30) working days. Emergency appointments may be extended to sixty (60) working days by the State Personnel Board.

Authority to hire under emergency conditions is defined as hiring personnel in order that appropriate care and protection for life and/or property and supplies may be implemented and/or maintained. Salary certification for emergency appointments shall be at the start salary of the range of the job class;

(xiii) Physicians, dentists, veterinarians, nurse practitioners and attorneys, while serving in their professional capacities in authorized employment positions who are required by statute to be licensed, registered or otherwise certified as such, provided that the State Personnel Director shall verify that the statutory qualifications are met prior to issuance of a payroll warrant by the auditor;

(xiv) Personnel who are employed and paid from funds received from a federal grant program, which has been approved by the Legislature or the Department of Finance and Administration whose length of employment has been determined to be time-limited in nature. This paragraph shall apply to personnel employed under the provisions of the Comprehensive Employment and Training Act of 1973, as amended, and other special federal grant programs which are not a part of regular federally funded programs wherein appropriations and employment positions are appropriated by the Legislature. Such employees shall be paid in accordance with the Variable Compensation Plan and shall meet all qualifications required by federal statutes or by the Mississippi Classification Plan;

(xv) The administrative head who is in charge of any state department, agency, institution, board or commission, wherein the statute specifically authorizes the Governor, board, commission or other authority to appoint said administrative head; provided, however, that the salary of such administrative head shall be determined by the State Personnel Board in accordance with the Variable Compensation Plan unless otherwise fixed by statute;

Salary certification for administrative officers, deputies, bureau chiefs, and directors who report directly to the department, agency, institution, or commission, unless otherwise set by statute shall be determined by the appointing authority and the State Personnel Board not to exceed the end of the salary range assigned;

(xvi) The State Personnel Board shall exclude top-level positions if the incumbents determine and publicly advocate substantive program policy and report directly to the agency head, or the incumbents are required to maintain a direct confidential working relationship with a key excluded official. Provided further, a written job classification shall be approved by the board for each such position, and positions so excluded shall be paid in conformity with the Variable Compensation Plan;

(xvii) Employees whose employment is solely in connection with an agency's contract to produce, store or transport goods, and whose compensation is derived there from;

(xviii) Repealed;

(xix) The associate director, deputy directors, and bureau directors within the Department of Agriculture and Commerce;

(xx) Personnel employed by the Mississippi Industries for the Blind, provided, that any agency may enter into contracts for the personal services of MIB employees without the prior approval of the State Personnel Board or the State Personal Service Contract Review Board; however, any agency contracting for the personal services of an MIB employee shall provide the MIB employee with not less than the entry level compensation and benefits that the agency would provide to a full-time employee of the agency who performs the same services; and

(xxi) Personnel employed by the Mississippi Department of Wildlife, Fisheries, and Parks ~~and the Mississippi Department of Marine Resources~~ as law enforcement officer trainees (cadets); such personnel shall be paid in accordance with the Colonel Guy Groff State Variable Compensation Plan.

~~B. The State Personnel Director shall certify, prior to appointment, that the applicant meets established minimum job qualifications for the following:~~

~~1. Part-time employees; provided, however, part-time employees shall only be hired into authorized employment positions;~~

~~2. Physicians, dentists, veterinarians, nurse practitioners and attorneys, while serving in their professional capacities in authorized employment positions who are required by statute to be licensed, registered, or otherwise certified. The appointing authority shall submit verification of license, registration or certification to the State Personnel Board prior to the issuance of a payroll warrant [Refer, Section 25-9-107 (c) (xiii), Mississippi Code of 1972, Annotated, as amended]; and~~

~~3. Time-limited employees, except those employees in positions funded by federal contracts or grants, which require that employees be given additional rights. The appointing authority shall send a copy of the portion of the contract or grant which mandates such additional rights to the State Personnel Board. Nothing in this rule shall be construed to confer permanent state service upon an employee appointed to a time-limited position. [Refer, Section 25-9-107, Mississippi Code of 1972, Annotated, as amended]~~

2.~~40.2~~ Salary Certification

Salaries for appointment to ~~the~~ non-state service ~~positions~~ shall be certified in accordance with the provisions governing appointments. ~~[Refer, Section~~ ~~Mississippi Code Annotated~~ § 25-9-119 (2)(c)(i) ~~and~~ (ii), ~~Mississippi Code of 1972, Annotated, as amended.]~~

2.40.3 2.3 Notification of Non-state Service Status

Each applicant, who accepts appointment to a non-state service position, shall be given written notice by the appointing authority that permanent state service status will not be attained while employed in that position and that the State of Mississippi is under no obligation to continue their employment in such a position. ~~[Refer, Section 25-9-125, Mississippi Code of 1972, Annotated, as amended.]~~

~~2.40.4 Loss of Permanent State Service Status~~

Permanent state service status employees who accept appointment to a non-state service position lose their permanent employment status at the time of the appointment, except under the provisions of ~~Section~~ Mississippi Code Annotated § 25-9-125, ~~Mississippi Code of 1972, Annotated, as amended~~, and shall be so notified in writing prior to the appointment. ~~Employment into a state service position from a non-state service position is governed by policies and rules contained herein. (Refer to Section 4.13.1.)~~

~~2.40.5 Notification of Status~~

~~Each applicant, including state service employees who have attained permanent status, shall be given written notice, prior to their appointment to a non-state service position by the appointing authority, that the State of Mississippi is under no obligation to continue their employment in a non-state service position.~~

CHAPTER 3.0
RECRUITMENT

3.0 INTRODUCTION

Following an organizational restructuring of the Mississippi State Personnel Board in 2004, the functions of recruitment have been subsumed into the Office of Human Capital Core Processes. Any questions regarding these functions should be addressed to your Human Capital Core Processes Consultants.

The ~~State Personnel Director~~ Executive Director of the Mississippi State Personnel Board shall administer a recruitment program. [~~Refer, Section~~ Mississippi Code Annotated § 25-9-119(2)(c), ~~Mississippi Code of 1972, Annotated, as amended~~.] This program shall ensure the fair and equitable treatment of all applicants without regard to political affiliation, race, national origin, sex, religious creed, age, or disability. [~~Refer, Section~~ Mississippi Code Annotated § 25-9-149, ~~Mississippi Code of 1972, Annotated, as amended,~~ and Intergovernmental Personnel Act Programs: Standards for a Merit System of Personnel Administration, 5 C.F.R. ~~Section~~ §§ 900.603 ~~and Section~~ 900.604 (1983).]

3.10 RECRUITMENT PROGRAMS

Recruitment shall be tailored to the number and nature of positions to be filled and to labor market conditions. The recruiting efforts of the ~~State Personnel Director~~ Office of Human Capital Core Processes and agencies will be coordinated and carried out in a timely manner.

3.10.1 Open Consideration of Qualified Candidates

The ~~State Personnel Director~~ Executive Director of the Mississippi State Personnel Board shall respond to agency needs by developing methods of reaching qualified applicants. Recruitment efforts for initial appointments shall be planned and carried out in a manner that ensures open competition and equal consideration of all qualified candidates, except as provided in Section 4. Recruitment activities may include, but not be limited to, contact with institutions and organizations, personal contact, and public announcements.

3.10.2 Regular Recruitment

The ~~State Personnel Director~~ Executive Director of the Mississippi State Personnel Board shall initiate recruitment efforts in response to current or projected agency staffing requirements. Agencies that anticipate vacancies due to circumstances such as a termination, transfer of an employee, or authorization for additional positions, may request that those positions be placed on recruitment to build a list of eligible applicants. Recruitment to build a list of eligible applicants may be authorized by the ~~State Personnel Director~~ Executive Director of the Mississippi State Personnel Board.

Agencies will use the SPAHRS Recruitment Master List screen to request recruitment to build a list of applicants. Agencies using the SPAHRS Recruitment Master List screen are requested to notify the ~~State Personnel Director~~ Executive Director of the Mississippi State Personnel Board when an appointment has

been made to the position. The position will be assigned a closing date of five (5) working days from the date of notification.

3.~~10.3~~ Special Recruitment

The ~~State Personnel Director~~ Executive Director of the Mississippi State Personnel Board may initiate additional recruitment efforts for certain difficult-to-fill job classifications or upon agency requests. In order for the ~~State Personnel Director~~ Executive Director of the Mississippi State Personnel Board to coordinate agency recruitment efforts, agencies will advise the ~~State Personnel Director~~ Executive Director of the Mississippi State Personnel Board five (5) working days in advance, when planning is initiated for any and/or all recruitment efforts and/or advertising. Notification is essential to enable the ~~State Personnel Director~~ Executive Director of the Mississippi State Personnel Board to ensure that the agency recruitment efforts are in accordance with state policy and procedure.

Agencies that require ~~the~~ assistance from the ~~State Personnel Director~~ Executive Director of the Mississippi State Personnel Board in developing special recruitment plans must notate on the SPAHRS Recruitment Master List screen the obstacles that inhibit recruitment. Information must include, in detail, any special qualification required, and the reason for the requirement, noted in the area designated for notes on the screen. The ~~State Personnel Director~~ Executive Director of the Mississippi State Personnel Board determines the dates and length of the special recruitment period.

3.~~10.4~~ Authority to Take a Position off Recruitment

Positions placed on recruitment may be assigned a closing date due to, but not limited to, the following circumstances:

A. a vacancy has been filled;

B. there is an adequate list of eligible applicants;

C. a class specification revision has been initiated; or

D. there is a request by the appointing authority.

Positions placed on recruitment for an indefinite period may not be assigned a closing date until an adequate list of names is acquired or a vacancy is filled. The authority to take a position or occupational class off recruitment rests with the ~~State Personnel Director~~ Executive Director of the Mississippi State Personnel Board.

3.~~10.5~~ Determination to Place a Position on Recruitment

The decision to recruit for a position or occupational class may be determined by the following:

A. the number of names currently on the List of Eligibles - (per request);

B. the number of positions in the occupational class - (per request);

C. the adequacy of the existing list and the length of eligibility time remaining for applicants;

D. special qualifications under which an agency desires recruitment.

The final determination to place a position or occupational class on recruitment shall rest with the ~~State Personnel Director~~ Executive Director of the Mississippi State Personnel Board.

3.10.6 1.6 Length of Recruitment

Once a position or occupational class has been placed on recruitment, it may be recruited continuously in accordance with Sections 3.20 and 3.30 until it is taken off recruitment in accordance with Section 3.10.4. The ~~State Personnel Director~~ Executive Director of the Mississippi State Personnel Board may elect to take the position off recruitment when deemed appropriate.

3.10.7 1.7 Non-State Service Recruitment

The ~~State Personnel Director~~ Executive Director of the Mississippi State Personnel Board does not determine recruitment programs for non-state service positions. However, recruitment or advertising for these positions must be coordinated with the ~~State Personnel Director~~ Executive Director of the Mississippi State Personnel Board in accordance with the advertising requirements below ~~of Section 3.40.1~~.

Agencies with non-state service positions that wish to recruit may request assistance from the ~~State Personnel Director~~ Executive Director of the Mississippi State Personnel Board. Staff will be available to assist in the development of a plan for recruitment that addresses procedures such as posting of announcements, advertising, evaluation, and referral procedures for applicants.

3.20 2 RECRUITMENT ANNOUNCEMENTS

Recruitment announcements shall, at a minimum, be listed ~~at the Mississippi Department of Employment Security Workforce Investment Network (WIN) job centers and~~ on the Mississippi State Personnel Board web site. All recruitment announcements shall be advertised for not less than five (5) working days.

3.30 3 CONTENT OF ANNOUNCEMENT

Recruitment announcements may contain the Mississippi State Personnel Board class specification of the vacancy or the equivalent of a Mississippi Department of Employment Security job announcement, including the following: title of the position, summary of education and experience requirements, beginning and ending dates of recruitment, salary, and geographic location.

3.40 ADVERTISING

For special recruitment purposes, the ~~State Personnel Director~~ Executive Director of the Mississippi State Personnel Board may utilize advertising to supplement the public notice requirements above ~~of Section 3.20~~.

3.40.1 Agency Advertising Efforts

Agencies ~~must~~ MUST coordinate their advertising efforts with the ~~State Personnel Director~~ Executive Director of the Mississippi State Personnel Board. Commercial advertising shall be at the expense of the requesting agency unless the Mississippi State Personnel Board sponsors the advertising and provides the agency with prior written confirmation of sponsorship. Prior notification will ensure that:

A. the job title is correct and the position is placed on open recruitment;

B. the brief summary of education and experience requirements is reviewed for consistency;

C. special qualifications are developed (when applicable);

D. the statement "An Equal Opportunity Employer", is included in the advertisement;

E. the ~~State Personnel Director~~ Executive Director of the Mississippi State Personnel Board is aware of the agency's intentions and will be able to provide information to applicants regarding the advertisement;

F. agency advertisements do not request that resumes be forwarded to the Mississippi State Personnel Board or the local Mississippi Department of Employment Security Workforce Investment Network (WIN) job centers. Any exception to this procedure must be approved by the ~~State Personnel Director~~ Executive Director of the Mississippi State Personnel Board;

G. the address where applications are to be sent is correct on the advertisement; and

H. the ~~State Personnel Director~~ Executive Director of the Mississippi State Personnel Board may determine the dates and length of the advertising.

~~Agencies may use SPB Form 140-89, Notification of Job Advertisement by Agency, to coordinate their advertising efforts with the State Personnel Director. A sample of SPB Form 140-89 may be found on page 6 of this chapter.~~ Agencies may coordinate coordinate efforts with the Mississippi State Personnel Board by forwarding a copy of the advertisement to their assigned Office of Human Capital Core Processes Consultant via email.

3.40.2~~4.2~~ Notice of Advertising

Appointing authorities will notify the ~~State Personnel Director~~ ~~Executive Director of the Mississippi State Personnel Board~~ at least five (5) working days prior to all recruitment advertising, whether the advertising is donated, paid for by the agency, or sponsored and paid for by the ~~Mississippi~~ State Personnel Board.

3.50~~5~~ RECRUITMENT AND COUNSELING

The ~~Mississippi~~ State Personnel Board will provide information and assistance to state agencies and applicants. These services may include, but are not limited to: recruitment efforts; the processing of applications; and counseling/assistance regarding the evaluation and selection processes.

~~The State Personnel Director, on a time-available basis, may provide state government employment information on non-state service positions listed in Section 25-9-107 (e), Mississippi Code of 1972, Annotated, as amended.~~

3.60~~6~~ EXEMPT STATUS RECRUITMENT AND SELECTION

The ~~State Personnel Director~~ ~~Executive Director of the Mississippi State Personnel Board~~ does not determine recruitment programs for job classes or positions exempted under Rule 4.11.9. However, R~~r~~ecruitment or advertising for these classifications must be coordinated with the ~~State Personnel Director~~ ~~Executive Director of the Mississippi State Personnel Board~~ in accordance with the requirements ~~above~~ ~~of Section 3.40.1~~.

~~Appointments to non-competitive occupational classes exempted from the selection process by action of the State Personnel Board may not be made from a Certificate of Eligibles. The State Personnel Director only certifies candidates referred by the appointing authority who meet the minimum requirements for the occupational class.~~

~~Each appointing authority is responsible for all hiring decisions pertaining to that specific agency.~~

CHAPTER 4.0
SELECTION

4.0 INTRODUCTION

Following an organizational restructuring of the Mississippi State Personnel Board in 2009, the functions of selection have been subsumed into the Office of Human Capital Core Processes. Any questions regarding these functions should be addressed to your Human Capital Core Processes Consultants.

4.10 1 APPLICANT PROCESSING

The Mississippi State Personnel Board shall set forth standardized procedures for processing applications, uniformly evaluating training and experience, maintaining lists of eligibles, and certifying eligibles.

4.11 2 THE APPLICATION PROCESS

4.11.1 2.1 Application Form

A. All applications for state service positions and the non-state service positions in Section 4.13.1 shall be on the State of Mississippi Application.

B. The ~~State Personnel Director~~ Executive Director of the Mississippi State Personnel Board shall be responsible for the format and may amend the State of Mississippi Application as needed.

C. The ~~State Personnel Director~~ Executive Director of the Mississippi State Personnel Board may require that only the original State of Mississippi Application be accepted by the Mississippi State Personnel Board for evaluation. Photocopied State of Mississippi Applications may be returned without consideration.

4.11.2 2.2 When Applications Shall Be Filed

A. The ~~State Personnel Director~~ Executive Director of the Mississippi State Personnel Board may establish procedures, which allow the following employees and/or applicants to file applications for employment at any time:

1. current employees with at least six (6) months of continuous service;
2. persons who were terminated from the state service due to a Reduction in Force (RIF) within the last twelve (12) months;
3. former employees who left the state service in good standing within the past twelve (12) months, and who had completed at least six (6) months of continuous employment.

B. Applicants not meeting the criteria for the above must file an application during a period ~~of announced recruitment~~ when the job class is listed on the Mississippi State Personnel Board's Active Recruitment List.

C. Applicants for job classifications on open recruitment shall file all applications on or prior to the closing date specified in the announcement.

~~4.11.3~~ 4.2.3 Locations Where Applications May Be Filed

A. Applications for state service positions may be filed at the Mississippi State Personnel Board in Jackson ~~or at~~ the Mississippi Department of Employment Security Workforce Investment Network (WIN) job centers statewide or in any other location where the necessary technology is made available. The Mississippi State Personnel Board may provide for the filing of applications at additional locations.

B. An individual is not considered a bona fide applicant until the application is received by either the Mississippi State Personnel Board or the Mississippi Department of Employment Security. Individuals who file an application directly with a state agency/board, etc., are not considered a bona fide applicant until the application is received by the Mississippi State Personnel Board.

C. Applications for positions and job classifications falling under Section ~~4.11.9~~ 4.2.4 shall be exempt from ~~Section 4.11.3~~ this section.

~~4.11.4~~ 4.2.4 Who May Apply For State Employment

A. An applicant is defined as any individual who files his/her State of Mississippi Application in accordance with Sections ~~4.11.1, 4.11.2, and 4.11.3~~ 4.2.1, 4.2.2, and 4.2.3.

B. All State of Mississippi Applications shall be signed by the applicant, and the truth of the statements contained within the Record shall be certified by the applicant's signature. If the application is submitted electronically, all statements in the application are considered true and correct. The applicant's signature is required when an offer of employment is made by the appointing authority.

C. The ~~State Personnel Director~~ Executive Director of the Mississippi State Personnel Board shall have final authority in determining the validity of the application.

D. A State of Mississippi Application determined to be invalid shall be returned to the applicant.

E. A State of Mississippi Application returned as invalid and subsequently re-submitted must meet the validity requirements effective on the last date received.

F. Agencies may submit a State of Mississippi Application for agency-only non-competitive promotion with a formal petition for approval.

~~4.11.5~~ 2.5 Evaluation of Experience and Training

A. All prospective or current state service employees shall have their State of Mississippi Application formally evaluated prior to appointment or promotion except as provided in these rules. The Mississippi State Personnel Board shall uniformly evaluate the qualifications of applicants as stated in their State of Mississippi Application. Applicants shall be evaluated without regard to political affiliation, race, national origin, sex, religion, creed, age, or disability except as provided by law.

B. All State of Mississippi Applications received at the Mississippi State Personnel Board are reviewed to assess the applicant's training and experience as listed in the application to determine qualifications for the ~~occupational~~ job class for which the applicant is applying. All college education and training related to the position for which application is made shall be assessed at a maximum of 120 semester hours (or the equivalent) for a ~~Baccalaureate~~ Bachelor's degree; a maximum of 150 semester hours (or the equivalent) for a ~~Masters~~ Master's degree; a maximum of 180 semester hours (or the equivalent) for a Specialist degree; and 210 semester hours (or the equivalent) for a doctoral degree. All experience entries listed on the application related to the position for which the application is made, including military, paid, and unpaid volunteer work, shall be assessed at a maximum of forty (40) hours per week. This forty (40) hour limit will also apply where a combination of related work is gained through concurrent jobs. The applicant must meet the minimum requirements outlined in the current active class specification.

C. The ~~State Personnel Director~~ Executive Director of the Mississippi State Personnel Board along with the agencies may develop evaluation aid(s) to assist in uniformly assessing training and experience for given job titles.

~~4.11.6~~ 2.6 Additional Documentation Supplied for Evaluation

A. Applicants may be required to submit proof of the possession of any license, certificate, degree, or other evidence of eligibility or qualification required by state law, class specification or evaluation aid. Applicants may be disapproved for failure to provide the requested documentation.

B. Applicant(s) will be notified in writing regarding additional information or documents necessary to complete processing of application(s).

~~4.11.7~~ 2.7 Verification of Experience and Training

A. An applicant's educational record and work history may be investigated by the ~~State Personnel Director~~ Executive Director of the Mississippi State Personnel Board or the hiring agency.

B. Investigative procedures may include but not necessarily be limited to contacting present and previous employers and/or schools, colleges, or other institutions to verify

information contained in the State of Mississippi Application or related documents supplied by the applicant and/or the hiring agency.

C. The appointing authority may require the applicant to submit proof of the possession of any license, certificate, degree, or other evidence of eligibility or qualification required by state or federal law, class specification or evaluation aid.

D. The hiring agency shall ultimately be held accountable for verifying the correctness of information recorded in the State of Mississippi Application.

4.11.8 Falsification of Experience and Training

A. Should an agency, after investigation, discover an applicant's State of Mississippi Application to be falsified, the agency should immediately inform the ~~State Personnel Director~~ Executive Director of the Mississippi State Personnel Board of such falsification in writing. The State Personnel Director may remove the applicant from consideration as provided for in Sections ~~4.14.5 and 4.15.3~~ 14.5.

B. The falsification of a State of Mississippi Application by a state employee may result in dismissal, suspension for up to thirty (30) days, demotion to the previous position and pay level, or a combination thereof.

C. When such action is taken, written notification will be mailed to the applicant's last known mailing address.

4.11.9 Non-Competitive Initial Appointment Occupational Classes (State Service), Section under Mississippi Code Annotated § 25-9-105, ~~Mississippi Code of 1972, Annotated, as amended~~

A. Non-competitive appointments to occupational classes exempted from the selection process by state law or by action of the Mississippi State Personnel Board are not required to be made from a Certificate of Eligibles. The ~~State Personnel Director~~ Executive Director of the Mississippi State Personnel Board only certifies the candidates referred by the appointing authority who meet the minimum requirements for the occupational class.

B. Exempt classifications may consist of, but are not limited to, the following: (1) skilled or semi-skilled labor, domestic or custodial work; (2) classifications which involve professional or technical skills not normally available in the general applicant population and for which recruiting procedures produce recurring deficiencies; (3) classifications which include a small number of positions; (4) classifications which are unique to a particular agency; ~~and~~ (5) classifications which have high turnover rates and (6) classifications which require professional licensure and/or certification.

C. The ~~State Personnel Director~~ Executive Director of the Mississippi State Personnel Board shall review agency proposed classifications or positions and make recommendations to

the Mississippi State Personnel Board to develop a list of job classifications exempt from the use of Certificates of Eligibles. The list of exempt classifications may be furnished to the agencies.

D. Agencies may request classifications be reinstated to a competitive appointment basis and may recommend changes to the list of exempt classifications.

E. Exempt classifications may apply to entire classifications or specific positions assigned to a classification.

F. The appointing authority shall submits ~~position-employee data and either~~ a current ~~copy of the~~ State of Mississippi Application ~~or the E-Resume with the properly executed Applicant Certification Form (ACF)~~ to the ~~State Personnel Director~~ Executive Director of the Mississippi State Personnel Board. The applicant is required to meet the minimum qualifications to be certified for the class or position.

G. Incumbents in positions exempt by actions of the Mississippi State Personnel Board have the same rights as any other state-service employee.

H. Each agency is responsible for ensuring that its workforce complies with all state and federal laws, guidelines, and court orders regarding Equal Opportunity Employment.

~~**4.11.10 State Personnel Board Electronic Resume (E-Resume)**~~

~~The State Personnel Board Electronic Resume (E-Resume) is a computerized form, which allows an individual to electronically register his/her credentials with the State Personnel Board at any time. The E-Resume may be accessed on the State Personnel Board web site at www.spb.state.ms.us.~~

~~A. The E-Resume is not an application; however, it may be substituted for the State of Mississippi Application only when it is submitted with a properly executed ACF and the position to be filled is within a classification exempt from the State Personnel Board selection process or at any other time deemed appropriate by the State Personnel Director. (Refer, Chapter 4, Section 4.11.9.)~~

~~B. The E-Resume will be housed in an electronic database maintained by the Mississippi State Personnel Board. Mississippi state government agencies may use the E-Resume database as one of several recruiting tools for selected positions.~~

~~C. The E-Resume will remain active for a period of one (1) year from the date it is submitted or updated. The resume may be updated at any time.~~

~~D. Where applicable, the policies and procedures governing the State Personnel Board's processing of the State of Mississippi Application shall also apply to the E-Resume.~~

~~E. All E-Resumes submitted to the State Personnel Board by the agency for evaluation **must** be accompanied by the Applicant Certification Form (ACF). The ACF is **only** required when the hiring agency transmits the E-Resume to the State Personnel Board for~~

~~evaluation or the appointing authority formally evaluates the E-Resume. (Refer, Chapter 4 to Page 38)~~

~~**Procedures for Completing the Applicant Certification Form (ACF)**~~

~~A. The agency must print the applicant's E-Resume summary and allow the applicant to review the document for accuracy and make changes, if necessary.~~

~~B. The appointing authority or an employee duly authorized by the agency to sign must complete the agency's section of the ACF.~~

~~C. The applicant must complete the applicant's section of the Applicant Certification Form as witnessed by the agency representative.~~

~~D. If the applicant cannot complete the ACF on site, the agency must forward the ACF to the applicant. The applicant must complete the appropriate section of the ACF and have it notarized prior to returning the original notarized ACF to the hiring agency.~~

~~E. If the State Personnel Board's approval is required, the agency must transmit the ACF and the printed E-Resume to the State Personnel Board.~~

~~F. If the State Personnel Board's approval is not required, the E-Resume, along with the ACF, must be filed in the agency's files.~~

~~G. The transaction will be returned without action if not properly submitted.~~

~~H. The State Personnel Board will action the ACF to indicate whether the applicant meets the minimum qualifications for the classification indicated and return the original ACF, along with the E-resume to the agency. A copy of the ACF, along with the E-Resume, will remain on file at the State Personnel Board.~~

~~4.12~~ EVALUATION OF APPLICANTS BASED ON MINIMUM QUALIFICATIONS

Applicant's qualifications shall be evaluated to determine if they meet the minimum requirements for the position for which they applied. Established standards shall be uniformly applied to all applications without regard to the applicant's political affiliation, race, national origin, sex, religion, creed, age, or disability except as provided by law.

~~4.12.1~~ Minimum Qualifications

The minimum qualifications for an occupational class shall consist of the minimum qualifications listed on the class specification plus any special qualifications for the position applied for as requested by an agency and as approved by the ~~State Personnel Director~~ Executive Director of the Mississippi State Personnel Board.

A. An applicant's training and experience background, as stated on the State of Mississippi Application, is reviewed in detail to determine qualifications for the position applied for, in line with the approved minimum requirements in the class specification, applicable evaluation aids and any special qualifications levied by the user agency as approved by the ~~State Personnel Director~~ Executive Director of the Mississippi State Personnel Board.

B. The ~~State Personnel Director~~ Executive Director of the Mississippi State Personnel Board shall determine a formula for the evaluation of the training and experience qualifications of applicants. This formula shall give due regard to relatedness as well as quantity of the training and experience.

C. An applicant not meeting the minimum educational qualifications may be allowed to submit an application if, as a result of the completion of further educational work, the applicant shall fully meet the requirements within the six (6) month period immediately following the closing date for receipt of ~~an~~ State of Mississippi Application.

An applicant who is qualified under the six (6) month provision shall be eligible for placement on the List of Eligibles. Failure to complete the qualifying level of education shall necessitate removal of the applicant's name from the List of Eligibles. No applicant qualifying under the six (6) month provision may be appointed into a state service position prior to meeting minimum qualifications of the classification. It is the responsibility of the hiring agency to verify completion of the required education prior to appointment.

~~4.12.2~~ 4.2 Notification of Failure to Meet Minimum Qualifications

A. A standardized letter approved by the ~~State Personnel Director~~ Executive Director of the Mississippi State Personnel Board shall be sent by mail to all applicants who do not meet the minimum qualifications of the occupational class for which they have made application.

B. An applicant shall have the right to make a written request for the review of the disapproval by the Director of the Office of ~~Recruitment and Selection~~ Human Capital Class Programs.

~~4.12.3~~ 4.3 Waiver of Minimum Qualifications

An appointing authority within the state service may formally request in writing that the Mississippi State Personnel Board waive the minimum training and experience requirements required for entry into an occupational class, thereby allowing the appointment of an individual who does not meet the minimum qualifications as listed on the class specification.

Where employees do not possess the minimum qualifications necessary for promotions, demotions, transfers, or reallocations, agencies shall submit the prescribed forms necessary to document possession of knowledge, skills, and abilities necessary to perform in the proposed position. Requests for waiver of minimum qualifications must be approved by the Mississippi State Personnel Board.

A. There shall be no consideration given to waiving minimum requirements for original appointments.

B. The Mississippi State Personnel Board shall review all requests by state agencies to waive minimum qualifications of a class specification to accomplish movements within state service.

C. The Mississippi State Personnel Board shall consider but shall not limit its consideration to the following when reviewing a request to waive minimum qualifications:

1. The amount of related experience as demonstrated by a current State of Mississippi Application; Job Content Questionnaire; enumeration of Knowledge, Skills, and Abilities (KSAs); and Performance ~~Appraisal~~ Review ~~(PAR)~~ duties/performance standards;
2. The number of related college credit hours;
3. The number of years of related experience;
4. The availability of qualified employees and applicants;
5. The feasibility of a trainee classification; and
6. Applicable federal and state statutes, licensure, certification, and registration requirements.

D. A waiver of minimum qualifications approved by the Mississippi State Personnel Board applies only to the classification for which the waiver was requested.

E. Decisions of the Mississippi State Personnel Board shall be final and no further consideration of a request for waiver shall be afforded.

F. Requests for waivers of minimum qualifications by state agencies shall include:

1. Relevant position-employee data;
2. State of Mississippi Application;
3. Job Content Questionnaire (current and proposed position);
4. Letter of Justification including but not limited to:
   demonstration that no qualified employee or applicant is available;
   explanation of why subject employee was chosen and/or best qualified, and
   discussion of alternative actions.
5. Organizational Chart of the unit where the position is located along with functional statements for the unit;
6. Performance Appraisal Duties/Performance Standards (proposed position);
7. Enumeration of KSAs derived from JCQ task statements (proposed position).

~~4.12.4~~ Substitution of Minimum Qualifications

An employee or applicant who possesses the substantial equivalent of the minimum qualifications may request in writing that the ~~State Personnel Director~~ Executive Director of the Mississippi State Personnel Board substitute the substantial equivalent of education/training and experience for the minimum qualifications required for entry into an occupational class, thereby allowing the certification to the list of eligibles or in-service movement of an individual not otherwise meeting the stated minimum qualifications.

A. There shall be no consideration given to the substitution of equivalent education/training or experience where relevant ~~licenses, certifications or the equivalent thereof~~ licensing, certifications, or similar requirements or where state or federal statutes or regulatory guidelines preclude evaluation on this alternative basis.

B. The ~~State Personnel Director~~ Executive Director of the Mississippi State Personnel Board shall appoint a committee of staff members to review all requests.

C. The review committee shall consider, but not limit its consideration to, the amount of related experience and formal education/training as documented by an State of Mississippi Application.

D. Decisions of the review committee shall be binding; however, final consideration may be made by the ~~State Personnel Director~~ Executive Director of the Mississippi State Personnel Board upon written justification submitted by the employee, applicant, and/or agency.

E. Requests for substitutions of the substantial equivalent of training and experience by applicants, employees, or agencies may include:

1. Detailed and current State of Mississippi Application;
2. Letter of request;
3. Transcript of related college credit hours;
4. Certificates of completion of any related training courses where applicable; and
5. Other pertinent documents deemed necessary by the review panel.

~~4.12.41~~ 4.15 Special Qualifications

A special qualification is an additional requirement used in conjunction with the minimum qualifications of a job class to designate specific skills, abilities, education, and/or experience necessary for a particular position.

A special qualification may be utilized when requesting a Certificate of Eligibles (COE), or when requesting a job classification be placed on recruitment. In either case, the special qualification must be approved by the ~~State Personnel Director~~ Executive Director of the Mississippi State Personnel Board prior to usage. Upon approval of the request for a special qualification, the State Personnel Board staff will automatically begin the process of evaluating the application of those individuals whose names currently appear on the List of Eligibles (LOE) for the job class to determine if they meet the special

qualification. Names of applicants meeting the special qualification will be placed on the Certificate of Eligibles (COE) in accordance with Mississippi State Personnel Board policies. If, at the end of this process, the COE contains the required number of names (ten or more), the COE, along with copies of the applications, will be forwarded to the requesting agency. NO open recruitment is required. Should this process yield an insufficient number of names (nine or fewer), the ~~State Personnel Director~~ Executive Director of the Mississippi State Personnel Board will automatically place the job on open recruitment with the special qualification attached. No additional justification is required to place the job on recruitment.

When requesting the use of a special qualification, the following shall be in effect:

A. In no case shall the special qualifications exceed the minimum qualifications as outlined on the class specification for the job class. For example, the minimum qualifications might read: A bachelor's degree from an accredited four-year college or university and seven (7) years of experience. A valid special qualification might read: A bachelor's degree in biology and four (4) of the seven (7) years of experience must have been in a laboratory environment.

B. Special qualification requests must contain the following documentation:

1. A detailed explanation of the need for a special qualification which includes a description of the specific skills, abilities, education, and/or experience required and why;
2. Copies of any federal or state regulations, guidelines, statutes or case law which are relevant to qualifications of the position; and
3. Additional documentation as may be specified by the ~~State Personnel Director~~ Executive Director of the Mississippi State Personnel Board.

C. The ~~State Personnel Director~~ Executive Director of the Mississippi State Personnel Board shall have the authority to modify and/or deny any request for special qualifications.

D. Exceptions to this policy will be reviewed on a case-by-case basis by the ~~State Personnel Director~~ Executive Director of the Mississippi State Personnel Board.

~~4.12.5 Ratings of Qualified Applicants~~

~~After applicants are determined to have met the minimum qualifications for an occupational class, they shall be assigned a numerical score. The numerical score shall be determined by the amount and job relatedness of the education/training and experience documented on the applicant's State of Mississippi Application. (Refer to Section 4.15.2.)~~

4.~~13~~4 MISSISSIPPI STATE PERSONNEL BOARD STATUTORY SELECTION AUTHORITY OVER NON-STATE SERVICE PERSONNEL

~~4.13.1~~4.1 Non-State Service Personnel Evaluation

The ~~State Personnel Director~~ Executive Director of the Mississippi State Personnel Board only acknowledges the appointment of non-state service personnel except as provided by statute and regulations prescribed pursuant to statute.

A. Part-Time Positions - The appointing authority shall submit position-employee data along with a copy of a current State of Mississippi Application and other required documentation to the ~~State Personnel Director~~ Executive Director of the Mississippi State Personnel Board when appointing to part-time positions. The individual to be appointed must meet the minimum qualifications for the occupational class as set by the Mississippi State Personnel Board and be certified as such prior to appointment unless otherwise authorized by the Executive Director of the Mississippi State Personnel Board.

B. Physicians, dentists, veterinarians, nurse practitioners and attorneys, while serving in their professional capacities in authorized employment positions who are required by the State to be licensed, registered, or otherwise certified as such, shall submit State of Mississippi Applications and other documentation as needed to substantiate their professional status. The ~~State Personnel Director~~ Executive Director of the Mississippi State Personnel Board shall verify such licensure, registration, or certification as being current and valid prior to acknowledging the appointment of such personnel. The appointing authority shall submit position-employee data along with a copy of a current State of Mississippi Application and other required documentation to the ~~State Personnel Director~~ Executive Director of the Mississippi State Personnel Board when appointing to such positions.

C. Time-Limited Positions - The appointing authority shall submit position-employee data along with a copy of a current State of Mississippi Application to the ~~State Personnel Director~~ Executive Director of the Mississippi State Personnel Board when appointing to time-limited positions. The individual to be appointed must meet the minimum qualifications for the occupational class as set by the Mississippi State Personnel Board as well as qualifications required by federal laws and regulations and be certified as such prior to appointment unless otherwise authorized by the ~~State Personnel Director~~ Executive Director of the Mississippi State Personnel Board [~~Section~~ Mississippi Code Annotated § 25-9-107(c)(xiv)~~, Mississippi Code of 1972, Annotated, as amended~~].

D. Applicants for top-level positions excluded from the state service by ~~Section~~ Mississippi Code Annotated § 25-9-107(c)(xvi)~~, Mississippi Code of 1972, Annotated, as amended,~~ shall submit a State of Mississippi Application to the appointing authority. The appointing authority shall submit position-employee data along with a copy of a current State of Mississippi Application to the ~~State Personnel Director~~ Executive Director of the Mississippi State Personnel Board. ~~(Refer, Chapter 4, Section 4.13.1-E. below.)~~

E. With the exception ~~of part-time, time-limited, and~~ those positions stipulated in ~~Section 4.13.1 B.~~ sections A, B, and C above, the ~~State Personnel Director~~ Executive Director of the Mississippi State Personnel Board only acknowledges the appointment of non-state service personnel. In those instances when the appointee fails to meet the minimum qualifications of the occupational class as set by the Mississippi State Personnel Board, the ~~State Personnel Director~~ Executive Director of the Mississippi State Personnel Board shall notify the appointing authority, in writing, of the failure of the applicant to meet minimum qualifications.

~~4.15~~5 EVALUATIONS OVERVIEW

A. Applicants for occupational classes must be evaluated and found minimally qualified by the ~~State Personnel Director~~ Executive Director of the Mississippi State Personnel Board prior to being assigned a numerical rating and placed on the List of Eligibles.

B. The ~~State Personnel Director~~ Executive Director of the Mississippi State Personnel Board shall maintain uniform standards for rating the experience and training of minimally qualified applicants for positions.

C. The established uniform standards shall be applied to all applications without regard to the applicant's political affiliation, race, national origin, sex, religion, creed, age, or physical disability except as provided by law.

D. All State of Mississippi Applications for the same occupational class are afforded uniform and equal treatment in all phases of the rating process.

~~4.15.1~~5.1 Minimum Rating by Which Eligibility Is Earned

A. The ~~State Personnel Director~~ Executive Director of the Mississippi State Personnel Board shall determine the minimum rating through which eligibility on a list of eligibles is earned.

B. The minimum rating through which eligibility on a list of eligibles is earned may be amended or revised by the ~~State Personnel Director~~ Executive Director of the Mississippi State Personnel Board at any time.

~~4.15.2~~5.2 Rating of Applications

A. After applicants are determined to have met the minimum qualifications for a classification, they shall be assigned a score of seventy (70).

A. B. Ratings shall be determined by the amount and relatedness of the training and experience documented on the applicant's State of Mississippi Application as compared to the minimum qualifications, characteristics of work, and description of duties contained in the class specification and any evaluation aid of the occupational class for which application has been made. ~~(Refer, Chapter 4, Section 4.12.5.)~~

B. The ~~State Personnel Director~~ Executive Director of the Mississippi State Personnel Board shall determine a formula for the evaluation of the training and experience qualifications of the applicants. This formula shall give due regard to job relatedness as well as quantity of the experience and training.

C. Any applicant claiming credit for training and/or experience gained through unpaid and/or volunteer activities and/or military service shall receive appropriate credit for such training and/or experience when it is related to the duties of the occupational class for which application is made.

4.15.3 Disqualification of Applicants

The ~~State Personnel Director~~ Executive Director of the Mississippi State Personnel Board may refuse to rate an applicant or, after rating, may disqualify the applicant, remove the applicant's name from the List of Eligibles, refuse to certify an applicant on a Certificate of Eligibles, or may consult with the appointing authority in taking steps to remove a person already appointed if the individual:

A. Has provided job-related information which indicates inability to perform the tasks assigned to the occupational class for which rated;

B. Has made a false statement of material fact in the State of Mississippi Application;

C. Has used or attempted to use political pressure or bribery to secure an advantage in the rating process;

D. Has directly or indirectly obtained information regarding the rating process to which an applicant is not entitled;

E. Has failed to submit the State of Mississippi Application correctly or within the prescribed time limits;

F. Has taken part in the compilation, administration, or correction of the selection procedures applied;

G. Has otherwise willfully violated the provisions of these rules; and/or

H. Does not meet any one (1) of the minimum qualifications established for the occupational class for which rated.

4.15.4 Notification of Evaluation Results

A. Applicants will be notified of their evaluation results in a timely manner.

B. Agencies authorized to maintain lists of eligibles shall be responsible for furnishing qualified applicants with notification of evaluation results. In all cases, the ~~State~~

~~Personnel Director~~ Executive Director of the Mississippi State Personnel Board shall notify in writing any applicant who failed to meet the minimum qualifications of the occupational class for which application was made.

C. The ~~State Personnel Director~~ Executive Director of the Mississippi State Personnel Board may prohibit the disclosure of evaluation results by phone, in person, or by any other means except mail.

~~4.15.5~~5.5 Adjustment of Errors

A. The ~~State Personnel Director~~ Executive Director of the Mississippi State Personnel Board shall take whatever action deemed necessary to correct a manifest error in the evaluation of an applicant's qualifications for the occupational class for which application is made. Due consideration will be given to the circumstances surrounding the cause of the error.

B. Such corrective action may include, but is not limited to, removing an applicant's name from the list of eligibles and/or canceling any Certificates of Eligibles deemed flawed due to the manifest error.

C. Such corrective action shall not invalidate an appointment previously made unless the applicant fails to meet qualifications imposed by federal or state law, or does not possess licensure, registration, or certification required for the job class to which appointed.

4.16~~5~~ AWARD OF VETERANS' PREFERENCE POINTS

The veteran status of an applicant may increase his/ or her numerical score. If the applicant is otherwise qualified to be placed on a list of eligibles, a total of five (5) points will be added to the final score for veteran status, and a total of ten (10) points will be added for disabled veteran status. The final score for an applicant is normally based on a ~~one hundred (100)~~ ~~accurate (70)~~ point scale. Scores of applicants awarded veterans' preference points may exceed the ~~one hundred (100)~~ ~~accurate (70)~~ point scale. Points shall not be awarded for periods of active duty when duty was for "training purposes only" to meet obligations in the Reserve Forces, National Guard, etc. Terms in this section are as follows:

A. Veteran: A person who has served in the active Armed Forces of the United States for a period of ninety (90) days during a period of war or armed conflict and was granted an honorable discharge there from; or was discharged there from for a service-connected injury in less than ninety (90) days. [~~Refer, Section~~ Mississippi Code Annotated § 25-9-301(a)~~, Mississippi Code of 1972, Annotated, as amended~~.]

B. Disabled Veteran: A veteran whom the Veterans Administration has certified within the last ninety (90) days to have a service-connected disability. [~~Refer, Section~~ Mississippi Code Annotated § 25-9-301(b)~~, Mississippi Code of 1972, Annotated, as amended~~.]

C. Proof of Eligibility: A certified copy of the veteran's discharge papers and separation record or certification from the Veterans Administration or the Department of Defense will be accepted as proof of veteran status. Applicants requesting disabled veteran status

shall submit, on such forms as may be required by the ~~State Personnel Director~~ Executive Director of the Mississippi State Personnel Board, proof of disability certified by the Veterans Administration.

4.~~17~~6 SELECTION PROCEDURE DEVELOPMENT AND VALIDATION

4.~~17.1~~6.1 Development of Selection Procedures

A. A comprehensive system of evaluation for all occupational classes within the state service is maintained.

B. The ~~State Personnel Director~~ Executive Director of the Mississippi State Personnel Board determines the need for technical assistance to supplement staff expertise in the development of valid selection procedures. Subject to approval by the Mississippi State Personnel Board, the ~~State Personnel Director~~ Executive Director of the Mississippi State Personnel Board may contract for selection procedure services or purchase selection procedure material or may utilize qualified technical consultants. When technical assistance is required to supplement staff expertise, criteria for selecting said assistance shall consist of, but is not limited to, the lowest cost proposal, meeting time requirements set forth by the ~~State Personnel Director~~ Executive Director of the Mississippi State Personnel Board, methodology to be used, and the amount of time of professional level staff, which is allocated to the project.

4.~~17.2~~6.2 Validation of Selection Procedures

A. It is the intent of the Mississippi State Personnel Board to validate selection procedures used as the basis for making employment decisions with regard to choosing prospective employees for employment or current employees for in-service placement. Selection procedures will be validated by methods and techniques that are feasible, practical, and consistent with federal guidelines and professional standards, as permitted by necessary levels of funding and staff.

B. Important elements of job content shall be determined through interviews and/or the completion of appropriate questionnaires. Employees and/or supervisors and other subject matter experts shall identify and rate job tasks and related knowledge, skills, and abilities, as necessary.

C. Employees and/or supervisors and other subject matter experts are required to evaluate potential selection procedure items under strict security provisions.

D. Objective methods using employees' and/or supervisors' and other subject matter experts' ratings of selection procedure items are used to establish minimum qualifications for each selection procedure validated.

4.20~~7~~ REFERRAL OF APPLICANTS TO AGENCIES

The appointing authority of hiring agencies shall appoint applicants to positions as follows:

A. The ~~State Personnel Director~~ Executive Director of the Mississippi State Personnel Board may determine to be invalid any appointments not made in conformance with Mississippi State Personnel Board procedures.

B. All appointments to the state service shall be from Certificates of Eligibles, except as provided in ~~4.11.9 and 4.21.10~~ 4.12.9 and 4.8.1.

C. All initial appointments to the state service shall be on a competitive basis, except as provided in ~~4.11.9 and 4.21.~~10 4.12.9 and 4.8.1.

D. Names on Certificates of Eligibles shall be derived from names appearing on lists of eligibles in accordance with Mississippi State Personnel Board policies, rules, and procedures.

4.21~~8~~ LISTS OF ELIGIBLES

Lists of eligibles shall be maintained in accordance with policies, rules and procedures promulgated by the Mississippi State Personnel Board. Selection and procedural requirements shall be balanced with the interest of economy. It is the applicant's responsibility to review the policies and procedures pertaining to the maintenance of lists of eligibles. The Mississippi State Personnel Board shall make such policies and rules accessible to all applicants. The Mississippi State Personnel Board may respond to applicant requests for information or assistance. A separate, original State of Mississippi Application is required for each occupational class for which application is made.

~~4.21.1~~8.1 Establishment and Maintenance of Lists of Eligibles

The ~~State Personnel Director~~ Executive Director of the Mississippi State Personnel Board establishes and maintains lists of eligibles necessary to provide an adequate supply of qualified candidates for positions in state service.

The appointing authorities shall notify the ~~State Personnel Director~~ Executive Director of the Mississippi State Personnel Board as far in advance as possible of vacancies, which may occur in the agencies. The ~~State Personnel Director~~ Executive Director of the Mississippi State Personnel Board is responsible for the establishment and maintenance of appropriate lists for all state service occupational classes except as provided for in Section 4.11.9 and for the determination of the adequacy of existing lists. Lists of eligibles are categorized as:

A. Type 1: RIF Reemployment

B. Type 2: Alternate Reemployment/State Service Promotional/Transfer

C. Type 3: Open Competitive

B. After it has been determined that a list of eligibles is inadequate for filling anticipated vacancies, recruitment may be initiated to replenish the list.

C. Replenishment of Open Competitive lists of eligibles shall be accomplished by public announcement.

D. Agencies may request replenishment of a particular list of eligibles by providing justification to the ~~State Personnel Director~~ Executive Director of the Mississippi State Personnel Board.

4.21.5~~8.5~~ RIF/Reemployment Lists of Eligibles

A. Reduction-In-Force (RIF) Lists

1. Any employee in a state service position, who has been laid off while in good standing in accordance with the rules governing RIF, may, upon submission of a current State of Mississippi Application within twelve (12) months of the termination date, be placed on the RIF Reemployment list of eligibles established for the job classification for which application is made. It is the responsibility of the terminated employee to notify the ~~State Personnel Director~~ Executive Director of the Mississippi State Personnel Board of his/her RIF status for each application filed.

2. Reemployment into occupational classes exempted from the selection process shall be made in the same manner as original appointments to the occupational classes. ~~(Refer, Chapter 4, Section 4.11.9.)~~

3. An applicant's score for the job class from which terminated and for lower job classes in that class series will be determined by a rating of his/her training and experience. If for any reason the employee does not meet the current minimum qualifications for the job class or lower job classes in the class series from which terminated, he/she may still be placed on the RIF/Reemployment list of eligibles with a qualifying score of seventy (70). However, any requirement set by state or federal laws or guidelines, or any requirement for a license, certification, or certificate of training must be met.

4. Applicants for higher job classes within the class series from which terminated or other job classes must meet the current minimum qualifications.

5. Applicants on a RIF list shall be on any Certificate of Eligibles issued for the occupational class for the locality the applicant indicated availability except Agency-Only Promotional Competitive Certificates of Eligibles. The names of applicants who have been terminated by a reduction in force shall appear on all appropriate Certificates of Eligibles immediately following the posting of the termination in SPAHRS.

6. Applicants on the RIF list shall be listed in the first section of a Certificate of Eligibles.

B. Alternate Reemployment Lists

1. A former state service status and/or those probationary state service, part-time, time-limited and/or other Mississippi State Personnel Board purview non-state service employees, who have completed at least six (6) months of continuous employment and who voluntarily terminated in good standing may be placed on the Alternate Reemployment list of eligibles through submission of a current State of Mississippi Application within twelve (12) months of their termination date.

2. Reemployment into occupational classes exempted from the selection process shall be made in the same manner as original appointments to the occupational classes. ~~(Refer, Chapter 4, Section 4.11.9.)~~

3. Applicants must meet the current minimum qualifications.

4. Applicants on the Alternate Reemployment lists of eligibles shall be ranked with applicants on the State Service Promotional and State Service Transfer lists of eligibles.

5. Applicants on the Alternate Reemployment list of eligibles shall be certified in line with their rank in the second section of a Certificate of Eligibles.

~~4.21.6~~ State Service Competitive Promotional Lists of Eligibles

A. A permanent state service status, probationary state service, part-time, time-limited and/or other Mississippi State Personnel Board purview non-state service employee, who has been continuously employed for six (6) months, may be placed on the State Service Competitive Promotional list of eligibles through submission of a current State of Mississippi Application.

B. Promotion into occupational classes exempted from the selection process (~~Refer, Chapter 4,~~ Section ~~4.11.9~~) shall be made in the same manner as original appointments to the occupational classes.

C. Applicants must meet the current minimum qualifications.

D. Applicants on the State Service Competitive Promotional lists of eligibles shall be ranked with applicants on the Alternate Reemployment and the State Service Transfer lists of eligibles.

E. Applicants on the State Service Competitive Promotional Lists of eligibles shall be certified in line with their rank in the second section of a Certificate of Eligibles.

~~4.21.7~~ State Service Transfer Lists of Eligibles

A. A permanent state service status, probationary state service, part-time, time-limited, and/or other Mississippi State Personnel Board purview non-state service employee who

has been continuously employed for six (6) months, may be placed on the State Service Transfer lists of eligibles through submission of a current State of Mississippi Application.

B. Transfer into occupational classes exempted from the selection process (See Section ~~4.11.9~~ 4.2.4.) shall be made in the same manner as original appointments to the occupational classes.

C. Applicants must meet the current minimum qualifications.

D. Applicants on the State Service Transfer lists of eligibles shall be ranked with applicants on the Alternate Reemployment and the State Service Competitive lists of eligibles.

E. Applicants on the State Service Transfer lists of eligibles shall be certified in line with their rank in the second section of a Certificate of Eligibles.

~~4.21.8~~8.8 Agency-Only Competitive Promotional Lists of Eligibles

A. The appointing authority may be authorized by the Mississippi State Personnel Board to maintain lists of those permanent state service status employees and/or probationary state service and part-time, time-limited or other Mississippi State Personnel Board purview non-state service employees who have been continuously employed for six (6) months and who have applied and met the selection criteria only for job classifications utilized by the agency. These individuals and state service employees on competitive promotional lists may receive consideration prior to employing or transferring non-agency employees.

B. The Mississippi State Personnel Board reserves the right to modify or rescind the maintenance authorization.

C. Agency procedures are subject to review by the ~~State Personnel Director~~ Executive Director of the Mississippi State Personnel Board for consistency with statutes and Mississippi State Personnel Board policies and procedures.

D. The agency is responsible for determining and implementing, within the guidelines established by the Mississippi State Personnel Board, standardized criteria, and procedures to establish and maintain the lists of eligibles and for maintaining records, which support and reflect all activities.

E. Agencies shall conduct in-house recruiting for Agency-Only Competitive Promotional lists.

F. Agencies shall transmit the State of Mississippi Applications received from such advertising to the ~~State Personnel Director~~ Executive Director of the Mississippi State Personnel Board for evaluation.

G. State of Mississippi Applications shall be transmitted to the ~~State Personnel Director~~ Executive Director of the Mississippi State Personnel Board along with the Agency Transmittal Form 343-82 (Refer, to the and to Chapter 4~~, Page 37~~).

H. In making a final employment decision, agencies may give, but not necessarily limit, consideration to length of service, training, and performance appraisals ratings.

I. The Mississippi State Personnel Board ~~(SPB)~~ shall be responsible for adding Veterans' Preference points ~~to the final score~~ in addition to the applicant's passing rank.

J. The agency shall indicate by submission of position-employee data to accomplish the action that the principles for competitive promotion have been followed. A copy of the agency's certificate of eligibles must accompany the action.

K. Applicants whose applications are transmitted for placement on an Agency-Only Competitive Promotional list of eligibles ARE NOT placed on the list of eligibles maintained by the Mississippi State Personnel Board.

~~**General Instructions for Preparing Agency Transmittal Form**~~

~~Complete blank Agency Transmittal Form in accordance with:~~

~~1. Type of Evaluation: AO (Intra-Agency Promotional)/AM (Agency Maintained)~~
~~2. Agency Name~~
~~3. Master Agency Code~~
~~4. Occu Code~~
~~5. Pay Level~~
~~6. Occu Title~~
~~7. Social Security Number – Applicant's SSN.~~
~~8. Applicant Name - Full name as shown on applications attached.~~

~~The form must be signed and dated by the agency personnel officer or other authorized agency representative.~~

~~The Mississippi State Personnel Board will enter Action Code and Score and return approved applications to agency when processing has been completed. The agency will notify in writing applicants approved to be added to the agency maintained list of eligibles of his/her score. The Mississippi State Personnel Board will maintain all disapproved applications and will notify in writing all applicants who fail to meet the minimum requirements for the occupational class for which application is made.~~

4.21.9~~8.9~~ Open Competitive Lists of Eligibles

A. Individuals not meeting the criteria for RIF/Reemployment Lists of Eligibles, State Service Promotional Lists of Eligibles or State Service Transfer Lists of Eligibles, who have applied for a position during an announced recruitment period and met the selection

criteria for specific job classifications, are placed on the Open Competitive list of eligibles.

B. The applicant must file a valid State of Mississippi Application during an announced recruitment period.

C. Applicants must meet the current minimum qualifications.

D. Applicants are ranked according to their final rating.

E. Applicants on the Open Competitive lists of eligibles shall be certified in line with their rank in the third section of a Type 3 Certificate of Eligibles.

4.21.10 Agency Only Non-Competitive Promotional Eligibility

A. Agency only non-competitive promotions shall include (1) promotion of state service employees to state service positions, and (2) promotion of state service, part-time, time-limited and/or other Mississippi State Personnel Board purview non-state service employees to non-state service positions. Agencies may consider only employees who are employed by the appointing authority and who have completed at least six (6) months of continuous service.

B. Agencies shall submit a current copy of a State of Mississippi Application along with the appropriate position-employee data for those employees to be considered for agency only non-competitive promotion.

C. Only those employees meeting the applicable selection criteria shall be approved for non-competitive promotion by the ~~State Personnel Director~~ Executive Director of the Mississippi State Personnel Board.

4.21.11 Duration of Lists of Eligibles

~~A. Eligibility to remain on the RIF/Reemployment list, shall be determined by the State Personnel Director, but shall not be for a period of less than six (6) months.~~

~~B. Eligibility to remain on the Alternate Reemployment list shall be determined by the State Personnel Director, but shall not be for a period of less than six (6) months.~~

~~C. Eligibility to remain on the State Service Promotional and State Service Transfer lists shall be determined by the State Personnel Director, but shall not be for a period of less than six (6) months.~~

~~D. Eligibility to remain on the Open Competitive list shall be determined by the State Personnel Director, but shall not be less than six (6) months.~~

A. Eligibility to remain on the Bill Reemployment list, the Alternate Reemployment list, the State Service Promotional and State Service Transfer list, and the Open Competitive list shall be determined by the Executive Director of the Mississippi State Personnel Board but shall not be less than six (6) months.

~~E.~~ B. The term of an applicant's name on the list of eligibles begins on the date of placement of the applicant's name on the list of eligibles or in accordance with the applicant's work available date.

~~F.~~ C. The applicant's time on a list shall expire automatically at the end of the appropriate validity period.

~~G.~~ D. No notification of removal shall be sent to the applicant as this information is stipulated in the section SUMMARY OF POLICIES on the State of Mississippi Application.

~~H.~~ E. To remain on a list of eligibles beyond the established expiration date, an applicant must file a new valid State of Mississippi Application or submit a written request no less than fifteen (15) working days prior to expiration date. Applications received after the expiration date as stated herein, must meet the same criteria for acceptance as an original application.

~~4.21.12~~ 8.12 Delegation of Authority to Maintain Lists of Eligibles

A. The Mississippi State Personnel Board may delegate to agencies the authority to establish and maintain lists of eligibles.

B. The Mississippi State Personnel Board reserves the right to modify or rescind the maintenance authorization.

C. Agency procedures are subject to review by the State Personnel Director for consistency with statutes and Mississippi State Personnel Board policies and procedures.

D. The agency is responsible for determining and implementing, within the guidelines established by the Mississippi State Personnel Board, standardized criteria, and procedures to establish and maintain the lists of eligibles and maintain records, which support and reflect all activities.

E. The ~~State Personnel Director~~ Executive Director of the Mississippi State Personnel Board shall administer the selection criteria and refer all qualified candidates to the agency.

F. Except as otherwise provided, State of Mississippi Applications shall be transmitted to the ~~State Personnel Director~~ Executive Director of the Mississippi State Personnel Board for evaluation using the Agency Transmittal Form. Which is available from the MSPB website at http://www.spb.ms.gov ~~(page 4.F.2)~~.

G. The ~~State Personnel Director~~ Executive Director of the Mississippi State Personnel Board shall be responsible for adding Veteran's Preference points to the final rating.

H. The agency shall indicate by submission of the position-employee data that merit principles have been followed.

I. Applicants approved for placement on an AGENCY MAINTAINED Open-Competitive list of eligibles ARE NOT placed on the Mississippi State Personnel Board list of eligibles.

~~4.21.13~~ 8.13 Removal of Name from Lists of Eligibles

A. To maintain a viable list of eligibles, the ~~State Personnel Director~~ Executive Director of the Mississippi State Personnel Board may remove the name of an eligible candidate from the active list of eligibles:

1. For any of the causes stipulated in provisions governing disqualification of applicants (~~Refer, Chapter 4,~~ See Sections 4.7.3, ~~4.14.5 and 4.15.3~~);

2. On evidence that the eligible cannot be located by postal authorities;

3. On receipt of a written statement from the eligible requesting that he/she no longer be considered for a position in that class;

4. If the eligible declines an offer of appointment to the class for which the list was established;

5. Upon showing, either through agency objection or investigation, that the eligible is not qualified or is unsuitable for appointment to the class for which the list is established;

6. If the eligible was listed on a Certificate and reported by an appointing authority as not available or failed to reply to an offer of interview;

7. If the eligible accepts an appointment and fails to be present for duty at the time and place agreed to without giving reasons for the delay satisfactory to the appointing authority;

8. If the eligible fails to return availability inquiries requested by the ~~State Personnel Director~~ Executive Director of the Mississippi State Personnel Board;

9. When the appointing authority passes over the name of an eligible on a Certificate in connection with three (3) separate appointments, which had been made from the list, written request may be made of the ~~State Personnel Director~~ Executive Director of the Mississippi State Personnel Board that the name of such eligible be omitted from any subsequent certifications from the same list to

the same appointing authority. This request shall contain sufficient evidence to indicate the eligible's unsuitable job-related characteristics for an appointment to the class for which the list was established. If the ~~State Personnel Director~~ Executive Director of the Mississippi State Personnel Board approves the request, either the name of the eligible is not thereafter certified to the appointing authority for other vacancies in that class or the eligible's name is removed from the list; in such instances where the agency's request of agency-exception is approved by the ~~State Personnel Director~~ Executive Director of the Mississippi State Personnel Board, it shall be the requesting agency's responsibility to notify the applicant in writing of such action. It shall also be the responsibility of the requesting agency to maintain records of all approved agency exceptions and resulting notifications;

10. Upon an appointment to a position in the classification for which the list of eligibles was issued.

B. Eligibles removed from lists for reasons stipulated in ~~Section 4.21.13 A. 1 and 5~~ A(1) and A(5) above shall be notified by the ~~State Personnel Director~~ Executive Director of the Mississippi State Personnel Board of such action in writing.

C. An eligible shall not be notified upon removal from a list of eligibles ~~as stipulated in Section 4.21.13 A. 2, 3, 4, 6, 7, 8, and 10~~ if removed for one of the other reasons listed in A above.

D. Any eligible whose name is removed from a list may make a written request to the ~~State Personnel Director~~ Executive Director of the Mississippi State Personnel Board for reinstatement to such list for the duration of his/her validity period. Such request shall set forth the reasons resulting in removal from the list and shall specify the reasons advanced for reinstatement to the list. The ~~State Personnel Director~~ Executive Director of the Mississippi State Personnel Board, after full consideration of such a request, may restore the eligible's name to the list or may deny such a request. In the event the request is denied, the eligible shall be notified by letter mailed to the eligible's last known address of the ~~State Personnel Director~~ Executive Director of the Mississippi State Personnel Board's action and of the right of appeal. Those individuals whose names have been removed within the validity period for duration of the lists shall be reinstated for a time not to exceed the original validity period.

E. Those individuals who have been removed due to the expiration of the validity period of remaining on the list may submit a current State of Mississippi Application during a period of announced recruitment.

Exception: Announced recruitment is not required for applicants meeting the criteria for placement on the Reduction in Force, Alternate Reemployment, State Service Promotional, and State Service Transfer Lists.

F. Individuals are required to inform the ~~State Personnel Director~~ Executive Director of the Mississippi State Personnel Board in writing of any change in mailing address.

4.22[illegible] CERTIFICATION OF ELIGIBLES

It is the policy of the Mississippi State Personnel Board to certify ~~the most qualified~~ applicants who meet the minimum qualifications to fill vacancies within the state service.

4.22.1[illegible].1 Request for Certificate of Eligibles

A. To fill vacancies for classifications, which are not exempt from the selection process, the appointing authority shall submit a request for a Certificate of Eligibles.

B. Initial appointments to full-time, state-service positions or job classes which are not exempt from the selection process shall be accomplished through a Certificate of Eligibles.

C. A single request for a Certificate of Eligibles may be made for one (1) or more positions provided each position is for the same classification and in the same county or zone.

D. A request for a Certificate of Eligibles shall be submitted by an individual duly authorized by the agency.

E. Part-time appointments and appointments to time-limited positions shall be accomplished by the submission of position-employee data and a current copy of the State of Mississippi Application to the ~~State Personnel Director~~ Executive Director of the Mississippi State Personnel Board. Candidates for these appointments are to possess the minimum requirements contained in the class specification.

F. Agencies may request Certificates of Eligibles for filling time-limited or part-time vacancies. Final authority for issuing certificates rests with the ~~State Personnel Director~~ Executive Director of the Mississippi State Personnel Board.

G. Demotion of state service employees shall be accomplished by the submission of the position-employee data and a current copy of a State of Mississippi Application to the ~~State Personnel Director~~ Executive Director of the Mississippi State Personnel Board. Candidates for demotion are to possess the minimum qualifications contained in the class specification.

H. Emergency appointments shall be made in accordance with ~~Section~~ Mississippi Code Annotated § 25-9-107(c)(xii)~~, Mississippi Code of 1972 Annotated, as amended~~, and shall be accomplished by the submission of the position-employee data to the ~~State Personnel Director~~ Executive Director of the Mississippi State Personnel Board. Except where otherwise required by federal or state law, licensure, certification or registration, such appointments are made without regard to minimum requirements contained in the class specification. Emergency appointments shall not exceed sixty (60) working days.

I. In-service placement of incumbents as a result of reallocations or reclassifications shall be accomplished by the submission of position-employee data. Reallocations or

reclassifications shall not be approved where incumbents do not meet minimum requirements for the new classifications except where an agency request has been approved under Sections ~~4.12.3~~ 4.2.3 or ~~4.12.4~~ 4.2.4. All reallocation and reclassification requests shall be accompanied by a current copy of a State of Mississippi Application except when otherwise authorized by the ~~State Personnel Director~~ Executive Director of the Mississippi State Personnel Board.

J. A lateral transfer of a permanent state service employee, or a state service employee who has completed six (6) months of his/her probationary period, into the same job class may be accomplished by the submission of the appropriate position-employee data.

K. Permanent appointments to full-time positions in job classes or positions, which are exempt from the selection process, shall be accomplished in accordance with 4.11.9.F.

4.9.2 Procedures for Completing Request for Certificate of Eligibles

When requesting a CERTIFICATE OF ELIGIBLES for consideration in filling a vacancy, the following shall be in effect:

A. Please reference the SPAHRS User Training Workbook~~, Selection Segment,~~ at http://www.mspb.state.ms.us for detailed instructions regarding the procedures to be followed to request a Certificate of Eligibles.

B. SPAHRS will assign the Certificate of Eligibles request number.

C. Indicate requested certification type:

Type 1 - RIF/Reemployment Only - All applicants who were laid off from state service due to a reduction-in-force (RIF) and who applied within twelve (12) months of their termination.

Type 2 - Alternate Reemployment/State Service Promotion/Transfer - All Type 1 applicants and the authorized number of applicants meeting the criteria for placement on the Alternate Reemployment/State Service Promotion/Transfer List. (Refer, Chapter 4, Sections ~~4.21~~ 4.2.5 B, ~~4.21~~ 4.2.6 A and ~~4.21~~ 4.2.7 A.)

Type 3 - Open Competitive - All Type 1 applicants; the authorized number of Type 2 applicants; and the authorized number of applicants not meeting the criteria for Type 1 or 2.

Type 4 - Agency-Only Promotional - To be used when the agency desires a Certificate of Eligibles listing only the names of qualified applicants employed by the particular master agency and meeting the criteria for placement on the promotional list (~~Refer, Chapter 4,~~ Section ~~4.21.6~~ 4.2.6.)

D. Special requirements should be noted. All requests for special qualifications must be accompanied by appropriate justification and must be approved by the State Personnel Director prior to usage.

E. Travel Code **MUST** be noted and **MUST** be consistent with the travel code advertised during the recruitment period. If not indicated, it will be assigned by the ~~State Personnel Director~~ Executive Director of the Mississippi State Personnel Board "no travel required".

F. Shift Code **MUST** be: A - Day only; B - Evening only; C - Night only. If not indicated, it will be considered as "day shift."

F. When vacant positions are located in different counties and/or zones, a separate request is required for each location.

G. The request shall be submitted by an individual duly authorized to sign for the agency.

H. The request will be returned without action if not properly submitted.

4.22.2~~0.3~~ Selective Certification

Requests for selective certification of eligibles are considered upon adequate justification submitted to the ~~State Personnel Director~~ Executive Director of the Mississippi State Personnel Board.

A. An individual serving an approved Institute of Higher Learning internship with a state agency may, with the approval of the ~~State Personnel Director~~ Executive Director of the Mississippi State Personnel Board and on completion of the internship and subsequent graduation, be selectively certified to fill a position on a non-competitive basis, provided the individual meets the minimum educational and/or experience requirements of the position.

B. The ~~State Personnel Director~~ Executive Director of the Mississippi State Personnel Board may provide for an individual participating in a Mississippi State Personnel Board approved agency co-op program, upon completion of the approved co-op program and subsequent graduation, to be selectively certified to fill a position on a non-competitive basis, provided the individual meets the minimum educational and/or experience requirements of the position.

C. Requests for selective certification shall be made by the appointing authority or his/her designee.

1. The special requirements for selective certification must be clearly stated and justification for the request must be attached.

2. The ~~State Personnel Director~~ Executive Director of the Mississippi State Personnel Board shall have the authority to modify and/or deny any request for selective certification.

~~4.22.3~~ 7.4 Supplying of Certificates of Eligibles

A. No Certificate of Eligibles shall be issued unless the agency has a vacancy or an impending vacancy. The receipt by the ~~State Personnel Director~~ Executive Director of the Mississippi State Personnel Board of a notice of termination with a specific date of termination shall signify a vacancy or an impending vacancy.

B. Upon receipt of a properly filed request, a Certificate of Eligibles shall be submitted to the appointing authority. The Certificate of Eligibles shall contain the ~~appropriate number of~~ names ~~authorized for the Certification Type as indicated on the Request for Certificate of Eligibles~~ of all applicants meeting the qualifications of the job and the requirements specified by the agency.

The Type 3 Certificate of Eligibles includes all the names of Type 1 (RIF/Reemployment Only) applicants, the names of Type 2 (Alternate Reemployment/State Service Promotion/Transfer) certified applicants, and the names of Type 3 (Open Competitive) certified applicants.

~~C. The State Personnel Director shall determine a reasonable maximum number of eligibles certified. Upon issuance of a Type 3 Certificate of Eligibles, the cut-off score for Type 2 applicants shall be no higher than the cut-off score for Type 3 applicants.~~

~~When a Certificate of Eligibles issues with the appropriate number of eligibles and consists of applicants with scores greater than 100, the State Personnel Director may increase the number of eligibles certified for consideration.~~

~~D.~~ C. A copy of each eligible's State of Mississippi Application for that job class shall be furnished with the certificate unless otherwise requested by the agency.

~~E.~~ D. When there are less than ten (10) names on a Certificate of Eligibles, recruitment may be announced. The certificate may update on a seven (7) day basis, and may update sooner when deemed appropriate.

~~F.~~ E. A certificate containing less than ten (10) names on an Open Competitive Certificate may be completed through the use of a related list(s).

~~G. In the event one (1) or more eligibles listed on a Certificate of Eligibles is removed from consideration for appointment, the appointing authority may request, by coding the certificate accordingly, that a supplemental Certificate of Eligibles be issued.~~

~~H.~~ F. An eligible is removed from consideration for appointment by:

1. Declining appointment or requesting not to be considered for appointment;

2. Failing to reply, within a period of ten (10) workdays from date mailed, to the written request of the appointing authority for an interview or within five (5) workdays to a telephone or facsimile request; or for not reporting for the interview.

3. Accepting an appointment and failing to report for duty at the time and place agreed to without giving reason for the delay satisfactory to the appointing authority.

~~I. A supplemental certificate shall contain as many names as necessary to provide the appointing authority with a complete certificate.~~

~~J.~~ H. Written, facsimile or telephone inquiry with letter of confirmation as to availability may be sent by the appointing authority to selected eligible(s) certified for appointment. Evidence of having sent a written or other notice to selected eligible(s) reported as having failed to reply to the inquiry or as unavailable for appointment shall be maintained by the agency.

~~K.~~ I. When a substantial change is made to an occupational classification, i.e., change in minimum qualifications, the ~~State Personnel Director~~ Executive Director of the Mississippi State Personnel Board may withdraw any outstanding Certificates of Eligibles and may not certify eligibles until such time as the changes have been finalized.

4.22.4~~9.5~~ Appointments from Certificates of Eligibles

A. ~~An appointment to fill a vacancy is usually made from the top ten (10) eligibles plus those with the same whole score as the tenth eligible.~~ The appointing authority may appoint any applicant certified to the agency on the Certificate of Eligibles ~~regardless of score or rank.~~

~~B. Appointments not made from the top ten (10) available eligibles shall only be made in strict conformance with State Personnel Board policy, rules, and procedures.~~

~~C. When a concurrent certificate is issued, appointment will not necessarily be made from the top ten (10). (Refer, Chapter 4, Section 4.22.7.)~~

~~D.~~ B. Initial appointments to full-time state service positions shall be made from those eligibles on the Certificate of Eligibles.

~~E.~~ C. The agency shall submit to the ~~State Personnel Director~~ Executive Director of the Mississippi State Personnel Board notification of intent to appoint from a Certificate of Eligibles. Such notification shall consist of the actioned Certificate of Eligibles and position-employee data. When selection is made for more than one (1) position, the position number (PIN) must be noted beside the appointed eligible's name.

F. The life of a Certificate of Eligibles shall be ninety (90) calendar days from the date of last issue unless the time is otherwise extended by the ~~State Personnel Director~~ Executive Director of the Mississippi State Personnel Board. Each supplemental issue extends the life of each previously issued certificate.

G. The expiration date is printed on each issue of the certificate.

H. The appointing authority may return the certificate, without any action taken, prior to the ninety (90) day expiration period. The reason for such cancellation should be noted in the appropriate space provided.

4.9.6 General Instructions for Actioning a Certificate of Eligibles

When filling vacant positions through competitive certification, a Certificate of Eligibles is issued by the ~~State Personnel Director~~ Executive Director of the Mississippi State Personnel Board in response to a properly filed REQUEST FOR CERTIFICATE OF ELIGIBLES. The following shall be in effect:

1. A certificate can be used only for positions (PINS) identified on the Request for Certificate of Eligibles. Additional PINS in the same classification and geographical location may be added to an active request.

2. The certificate lists the names of applicants eligible for consideration in hiring.

3. Action taken concerning each eligible should be noted in the appropriate space on the certificate according to the junior codes **provided below**. Please reference the SPARTA Line Training Workbook at http://www.mspersonnelboard.com for detailed instructions regarding specific codes.

4. Note the date of hire and PIN in the appropriate space for each appointment.

5. If selection is not made, additional names may be requested, up to the number authorized for the particular request. Supplemental certificates will not be issued on expired certificates, or where the number of appointments equal the number of PINS stipulated on the original request.

6. The agency is responsible for maintaining documentation for each eligible actioned on the certificate. Do not send this documentation to the ~~State Personnel Director~~ Executive Director of the Mississippi State Personnel Board. However, Justification must be submitted to the ~~State Personnel Director~~ Executive Director of the Mississippi State Personnel Board for any applicant reported as "AE" (Agency Exception).

7. The date of appointment may not be earlier than the date the certificate is issued. The ~~State Personnel Director~~ Executive Director of the Mississippi State Personnel Board may consider earlier dates when justified by the agency.

8. The life of a certificate is ninety (90) days, unless extended through issuance of a supplemental certificate or by written request from the agency (with justification). Extensions may be granted by the ~~State Personnel Director~~ Executive Director of the Mississippi State Personnel Board.

~~Codes for Actioning Certificates of Eligibles~~

~~Code Explanation~~

~~A Appointed~~
~~C Considered~~
~~I Interviewed~~
~~DJ Declined Job~~
~~DI Declined Interview~~
~~NA Not Available~~
~~AF Appointed-Failed to Report~~
~~FW Failed to Reply to Written Inquiry~~
~~FR Failed to Report for Interview~~
~~WA Wrong Address (Be sure address used is that printed on certificate.)~~
~~SI Scheduled Interview (for agency use only)~~
~~AE Agency Exception – Justification must be submitted for each agency exception requested. State Personnel Director~~ Executive Director of the Mississippi State Personnel Board ~~shall have the final decision on approving or disapproving the agency's action.~~
~~ZR Zone Request – May be used only when certification by area/district/zone was requested and an individual is not interested in the particular location. This code will entitle the agency to an additional name. CODE MAY NOT BE USED WHEN CERTIFICATION WAS MADE BY COUNTY.~~

~~4.22.5~~ 4.17 Inadequate Certificates of Eligibles

A. Generally, an inadequate list shall be considered one with less than ten (10) names of the type of certificate requested.

B. When the number of names available for filling a vacancy is inadequate to complete the Certificate, the appointing authority may decline certification for that vacancy, may accept the inadequate Certificate, may await automatically issued supplements to the Certificate, or the agency may request that the ~~State Personnel Director~~ Executive Director of the Mississippi State Personnel Board complete the Certificate of Eligibles from a related list of eligibles.

C. The ~~State Personnel Director~~ Executive Director of the Mississippi State Personnel Board may initiate recruitment upon the issuance of an inadequate Certificate of Eligibles.

4.22.6 Certification from Reemployment Lists

A. Agencies are encouraged to consider any applicant whose name appears in the Reduction in Force/Reemployment Section 1 of a Certificate of Eligibles.

B. Agencies should give full consideration to any applicant whose name appears in the Alternate Reemployment/Promotional/Transfer Section 2 of a Certificate of Eligibles.

4.22.7 Concurrent Certification

A. The ~~State Personnel Director~~ Executive Director of the Mississippi State Personnel Board shall initiate concurrent certification procedures when a request for certification is received by the ~~State Personnel Director~~ Executive Director of the Mississippi State Personnel Board for a job classification for which an active Certificate of Eligibles has been issued for the same geographical location.

B. Agencies shall receive one additional name for each concurrent PIN for which active Certificates of Eligibles have been issued for the same occupational code for the same geographical location.

C. The number of additional names based on concurrent certification may vary from one issue of the certificate to another issue of the same certificate.

4.22.8 Availability for Appointment

A. Applicants may request in writing to have counties added and/or deleted to area(s) of availability for a given occupational class.

B. Applicants may request in writing to restrict their availability to a specific agency for a specific occupational class (a restriction applies to ONLY ONE AGENCY).

C. Applicants may request in writing to exclude an agency, or agencies, from his/her availability for a specific occupational class.

4.22.9 Correction of Errors In Certification Process

A. When errors are corrected by the ~~State Personnel Director~~ Executive Director of the Mississippi State Personnel Board, they may not nullify an active certificate or appointment, but may result in the removal of an eligible's name from the Certificate of Eligibles.

B. In the event that a Certificate of Eligibles is flawed through error and the error is discovered <u>before</u> an appointment is made from the certificate, the erroneous certificate may be withdrawn and a correct certificate issued.

C. In the event that a Certificate of Eligibles is flawed through error and is discovered after an appointment is made from the Certificate, the certificate shall not be withdrawn, except by the direction of the ~~State Personnel Director~~ Executive Director of the Mississippi State Personnel Board.

~~4.22.10~~ 4.12 Confirmation of Availability for Appointment

A. Agencies may make written, facsimile or telephone inquiries to those eligibles it chooses to interview.

B. Agencies are solely responsible for maintaining supporting documentation concerning action taken on individuals whose names appear on a Certificate of Eligibles.

C. Agencies are required to maintain documentation of compliance with the requirements of ~~Section~~ Mississippi Code Annotated § 25-9-351~~, Mississippi Code of 1972, Annotated~~ (Selective Service Registration). Males between the ages of 18 and 26 must submit proof of Selective Service Registration as a condition for appointment and/or promotion.

4.23 10 APPLICANT'S REVIEW PROCEDURE

The State Personnel Director shall establish a review procedure for assistance to applicants pertaining to the selection process.

~~4.23.1~~ 10.1 Review of Action

Individuals or eligibles requesting a review of actions of the Office of ~~Recruitment and Selection~~ Human Capital Core Processes shall make a written request to the Director of the Office of ~~Recruitment and Selection~~ Human Capital Core Processes. Such written request shall stipulate the reason the review is requested and shall contain documentation supporting the applicant's position.

Should the decision of the Director of the Office of ~~Recruitment and Selection~~ Human Capital Core Processes not prove satisfactory to the applicant, the applicant shall make a written request to the ~~State Personnel Director~~ Executive Director of the Mississippi State Personnel Board for review of the action.

~~4.23.2~~ 10.2 Appeals

Applicants may appeal only as provided for in Section ~~10.10.2~~ 10.9.

4.30 11 MEMORANDA OF AGREEMENTS

Notwithstanding the policy and procedures outlined in Sections 3.0 through 4.23 10, the ~~State Personnel Director~~ Executive Director of the Mississippi State Personnel Board may enter into agreements with state agencies and/or other entities to accomplish the tasks specified herein.

4.40 12 APPLICANT INTERVIEWS

Agencies are urged to interview all applicants referred on Certificates of Eligibles.

Any agency employee interviewing an applicant for a vacant position, whether for original or promotional appointment, should document each interview by making notes and maintaining a file of the following information: job title, interviewer's name, date and time, names of those interviewed, questions asked, major topics covered, whether or not applicant was hired, and reasons for hire or non-hire.

4.41 13 QUESTIONS ASKED IN INTERVIEWS

Agencies should not ask applicants any questions, which may be discriminatory or are prohibited by state or federal law. Federal laws and regulations applicable to employment discrimination include but are not limited to Title VII of the ~~Federal~~ Civil Rights Act of 1964, The Equal Employment Opportunity Act of 1972, the Rehabilitation Act of 1972, the Americans with Disabilities Act of 1990, the Age Discrimination in Employment Act, the Older Workers Benefit Protection Act, and the Uniform Guidelines on Employee Selection Procedures.

~~4.41.1~~ 13.1 Questions to Avoid Asking Applicants

Unless job relatedness can be established as a bona fide occupational qualification, interviewers should not ask applicants leading questions including but not limited to: age or date of birth, arrest, or conviction records, credit or garnishment records, family matters such as number and age of children, childcare requirements, marital status, health history, political affiliation, or religious preference.

The interviews should focus primarily on a discussion of the essential functions of positions and a consideration of the applicable written position descriptions as compared to the ability of applicants to perform the essential functions of the position with or without reasonable accommodations. Agencies are permitted, nevertheless, under the Americans with Disabilities Act, to establish a standard that no individual poses a direct threat to the health or safety of other individuals in the work place. Agencies are responsible for making certain that interviewers and other employees are knowledgeable of the prohibitions imposed by the above-referenced federal laws regarding pre-employment activities.

4.50 14 EMPLOYMENT AUTHORIZATION

A. Employment Requirements Under the Immigration Reform and Control Act of 1986 (IRCA)

Under the Immigration Reform and Control Act of 1986, Public Law No. 99-603, November 6, 1986 (IRCA), it is unlawful for an employer in the United States to hire an alien or to continue employing an alien, knowing the alien is an unauthorized alien. It is also unlawful for an employer to employ any individual without complying with certain provisions for verification of both identity and eligibility for employment. To comply with IRCA, state agency employers must examine certain documents, after an individual has been hired (the term "hire" under IRCA means the actual commencement of employment for wages or other remuneration), and attest on a form called the Form I-9, that the documents provided by the employee have been examined

and that they establish both the employee's identity and eligibility for employment. The employer must then retain the Form I-9, which is subject to inspection by both the U.S. Immigration and Naturalization Service (INS) and the U.S. Department of Labor (DOL).

IRCA also prohibits discrimination against applicants and employees because of national origin or citizenship status in matters involving hiring, recruitment, job referrals where a fee is involved, and discharges. However, persons lacking lawful status are not protected.

For detailed instructions on completing the Form I-9, refer to the Handbook for Employers published by the INS, contained in the Appendices. The Appendices also contain the federal regulations governing IRCA. All state agency employers must adhere to IRCA and the rules and regulations pertaining thereto.

A. Employment Requirements ~~Under Senate Bill 2988, Passed During the 2008 Mississippi Legislative Session~~ pursuant to Mississippi Code Annotated § 71-11-3 (2008)

Effective July 1, 2008, state agencies under the purview of the Mississippi State Personnel Board shall verify the employment authorization for any person or entity that is hired to perform work within the State of Mississippi and to whom a United States Internal revenue Service Form W-2 or Form 1099 must be issued and any person or company that provides workers for another company, including but is not limited to leasing companies and contract employers.

Verification of employment authorization must be conducted in accordance with the Federal E-Verify Program and it shall be the responsibility of the employing agency to verify employment authorization and to maintain records of employment verification as required by state and federal laws.

REQUEST FOR CERTIFICATE OF ELIGIBLES

MISSISSIPPI STATE PERSONNEL BOARD PAGE 1
CERTIFICATE OF ELIGIBLES 03/10/93

AGENCY: 0001-AGENCY X FY: 93 REQUEST NO: 042
PIN(S): 0024
OUTSTANDING NO: 1 CONCURRENT NO: 3 REQUEST TYPE: 3
JOBCD: 0004 ACCOUNTANT/AUDITOR II COUNTY: 25 EXPIRES: 06/08/93
STARTING YEARLY SALARY: $21,685.44

TYPE: PROMOTION/TRANSFER/REEMPLOYMENT (NON-RIF)

DOE, JANE M SCORE: 84 SEQ: 1 SSN:111-11-1111
245 COUNTRY DR YRS ED:16 HOME PH:601-555-1111 OTH PH:601-555-1112
PEARL, MS 39208
EFF. DATE OF HIRE: PIN: ACTION:

SMITH, JOHN SCORE: 77 SEQ: 2 SSN:222-22-2222
908 HOY ROAD YRS ED:16 HOME PH:601-555-2222 OTH PH:601-555-2223
CLINTON, MS 39056
EFF. DATE OF HIRE: PIN: ACTION:

BROWN, SUSAN SCORE: 75 SEQ: 3 SSN:333-33-3333
PO BOX 1234 YRS ED:17 HOME PH:601-555-3333 OTH PH:601-555-3334
JACKSON, MS 39286
EFF. DATE OF HIRE: PIN: ACTION:

TYPE: OPEN-COMPETITIVE

JONES, JAMES SCORE: 83 SEQ: 4 SSN:444-44-4444
796 LANNY DR YRS ED:16 HOME PH:601-555-4444 OTH PH:601-555-4445
JACKSON, MS 39211
EFF. DATE OF HIRE: PIN: ACTION:

BLACK, DAVID SCORE: 76 SEQ: 5 SSN:555-55-5555
5640 LAUREL DR YRS ED:16 HOME PH:919-555-5555 OTH PH:919-555-5556
FAYETTEVILLE, NC 28303
EFF. DATE OF HIRE: PIN: ACTION:

SMITHSON, MARY SCORE: 72 SEQ: 6 SSN:666-66-6666
PO BOX 5678 YRS ED:17 HOME PH:601-555-6666 OTH PH:214-555-6667
JACKSON, MS 39289
EFF. DATE OF HIRE: PIN: ACTION:

SELECTION MADE
SIGNATURE OF CERTIFYING OFFICIAL DATE
SEND ADDITIONAL NAMES

AGENCY AUTHORIZED SIGNATURE DATE CANCEL REQUEST

SPB Form 343-82 Rev. 7/99 11/2000	MISSISSIPPI STATE PERSONNEL BOARD OFFICE OF RECRUITMENT AND SELECTION HUMAN CAPITAL CORE PROCESSES TRANSMITTAL FORM

Type of Evaluation		Agency Name:			
	AL (SPB Promotional)	Master/Agency Code:			
	AM (Agency Maintained)	Occu Code:			
	AO (Intra-Agency Promotional)	Occu Title:			
	AE (Agency Exempt)				

APPLICANTS' SOCIAL SECURITY NUMBERS	APPLICANTS' NAMES	FOR SPB USE ONLY		
		**S/AR	SCORE	ACTION CODES*

Agency Personnel Human Capital Officer Date:	Evaluation Division MSPB Consultant Date:
* Action Codes: A Approved AT Approved for Testing D Disapproved PE Passed Examination	

SPB Form 343-82 Rev. 7/99 11/2009	MISSISSIPPI **STATE PERSONNEL BOARD OFFICE OF RECRUITMENT AND SELECTION** HUMAN CAPITAL CORE PROCESSES **TRANSMITTAL FORM**

Type of Evaluation		**Agency Name:**			
	AL (SPB Promotional)	**Master/Agency Code:**			
	AM (Agency Maintained)	**Occu Code:**			
FE – Failed Examination **** S/AIR – Supplemental/Additional Information Requested**					

APPLICANT CERTIFICATION FORM (ACF)

General Instructions for Completing the ACF

1. The ACF is required ONLY when the hiring agency transmits the E-Resume to the Mississippi State Personnel Board (MSPB) for evaluation or when the authorized agency representative formally evaluates the E-Resume.

2. Procedures for completing the ACF. Use this procedure when an onsite visit to the agency by the applicant **does not** create a hardship.

   a. Agency prints the applicant's E-Resume summary
   b. Applicant reviews the printed E-Resume summary for accuracy
   c. Applicant makes changes to the printed E-Resume and initials any changes
   d. Applicant completes the applicant section of the ACF
   e. Agency completes agency section of the ACF
   f. Agency forwards copies of ACF and E-Resume to MSPB for evaluation or agency evaluates E-Resume, if authorized
   g. Agency files ACF and E-Resume in agency files
   h. MSPB completes Mississippi State Personnel Board section of ACF
   i. MSPB notifies agency of evaluation results

3. Procedures for completing the ACF. Use this procedure when an onsite visit to the agency by the applicant creates a hardship.

   a. Agency forwards a copy of the ACF and a printed copy of the applicant's E-Resume to the applicant
   b. Applicant reviews the printed E-Resume for accuracy
   c. Applicant makes changes to the printed E-Resume and initials any changes
   d. Applicant completes applicant section of ACF

e. Applicant returns the original, notarized ACF and the printed copy of the applicant's E-Resume to the agency
f. Agency completes agency sections of the ACF
g. Agency forwards copies of ACF and E-Resume to MSPB for evaluation or agency evaluates E-Resume, if authorized
h. Agency files originals of ACF and signed E-Resume in agency files
i. MSPB completes Mississippi State Personnel Board section of ACF
j. MSPB notifies agency of evaluation results

To be Completed by the Employing Agency

Applicant:_____Agency No:_____PIN:_____
Job Title:_____Classification Code:_____
Evaluator:_____Evaluation Status:_____Evaluation Date:_____
Agency Witness:_____Date:_____
APPLICANT CERTIFICATION FORM (ACF)
General Instructions for Completing the ACF

To be Completed by the Applicant

I certify that the statements made in the E-Resume and on all attached documents are true and complete to the best of my knowledge. I authorize the verification of this information by the State of Mississippi and the release of this information to any agency considering me for employment. I understand by certifying the information provided in the E-Resume that I am submitting a formal application for employment with the State of Mississippi and I know that any misrepresentation I make herein may lead to the rejection of my application, and/or the dismissal from state employment. I understand that, as a condition of employment, I will be required to present documentation, which verifies both my identity and my employment eligibility pursuant to federal immigration law.

Signature:_____SSN:_____DOB:_____
(optional)

To be Completed by Notary

COUNTRY:_____STATE/PROVINCE:_____COUNTY:_____
_____

Personally appeared before me a notary public in the Country, State/Province, and County aforesaid _____the applicant, who, after being duly sworn, certifies that the information provided in the E-Resume and the attached documents is true and complete to the best of his/her knowledge.

SWORN TO AND SUBSCRIBED before me, this the____day of_____A.D.,_____

_____
Notary Public

~~For Mississippi State Personnel Board Use Only~~

~~Evaluator:~~ _____ ~~Evaluation~~ _____ ~~Status:~~ _____ Evaluation Date: _____

CHAPTER ~~5.00~~
CLASSIFICATION AND COMPENSATION

5.0 INTRODUCTION

Following an organizational restructuring of the Mississippi State Personnel Board in 2007, the functions of classification and compensation have been subsumed into the Office of Human Capital Core Processes. Any questions regarding these functions should be addressed to your Human Capital Core Processes Consultant.

5.01 CLASSIFICATION

The ~~State Personnel Director~~ Executive Director of the Mississippi State Personnel Board shall maintain the statewide classification plan, which shall be based upon objective analysis of the duties of each employment position. ~~The State Personnel~~ Executive Director shall assign each position an occupational class from the inventory of classes based upon the duties performed. The statewide classification plan shall apply to state service as well as non-state service positions under the purview of the Mississippi State Personnel Board. The plan shall be arranged so that positions essentially alike are grouped into an appropriate occupational class, thereby ensuring uniform treatment; likewise, positions not so alike shall be grouped into distinctive occupational classes, thereby ensuring recognition of the nature and extent of any differences.

The assignment of a position to an occupational classification shall be based upon job analysis data, to include the Job Content Questionnaire (JCQ) or the Role Description Questionnaire (RDQ), professionally accepted principles and guidelines for position classification, and review of class specifications.

The Mississippi State Personnel Board shall have the sole authority to limit, increase, combine, or delete occupational classes in the statewide classification plan. Upon recommendation by the ~~State Personnel Director~~ Director of the Office of Human Capital Core Processes, an occupational class may be deleted from the statewide classification plan if another occupational class already adequately describes the class, or if there are no employees in that occupational class. Further, upon evidence that two or more occupational classes have substantially the same tasks, duties, responsibilities and minimum qualifications, the ~~State Personnel~~ Director of the Office of Human Capital Core Processes may recommend that occupational classes be combined.

5.01.1 Class Series

The ~~State Personnel~~ Director of the Office of Human Capital Core Processes shall provide for class series within the classification plan. Class series are arrangements of two (2) or more related occupational classes, sufficiently similar in types of work that they are assigned identical occupational titles except for terminology, which reflects distinct class levels differing in complexity and importance of duties and responsibilities. Class series shall provide an established framework to recognize the increased value of an employee who has acquired additional experience, skills, and/or education, which are directly related to the job, and to provide for career mobility within the manning level for the positions.

The ~~State Personnel~~ Director ~~of the Office of Human Capital Lean Processes~~ shall establish a staffing level for each position allocated to an occupational class, which is part of a job class series.

5.01.2 Creation of New Occupational Classes

The ~~Mississippi~~ State Personnel Board shall have the sole authority to create new occupational classes. To discourage the proliferation of unnecessarily similar occupational classes, requests for new occupational classes shall be approved by the Board only upon the production of compelling documentation in support of the need to create new classes. In the absence of compelling documentation, such requests shall result in the positions being assigned to already existing occupational classifications in the ~~Mississippi~~ State Personnel Board's schedule of occupational classes.

A. Class establishment requests must include the following documentation:

1. A detailed letter of justification addressed to the ~~State Personnel~~ ~~Executive~~ Director ~~of the Mississippi State Personnel Board~~, which includes:

   a. the total number of affected positions;
   b. the types of occupational classifications affected, if any;
   c. the exact nature by which the job has evolved, and/or internal and external conditions precipitating establishment of the new class;
   d. clearly drawn distinctions between the proposed class and the most similar classes in the existing ~~Mississippi~~ State Personnel Board inventory of job classes;
   e. the precise consequences of not establishing the new class;
   f. why current job classifications do not meet current needs.

2. The proposed class specification for the requested class.

3. ~~A current (less than twelve (12) months), legible representative Job Content Questionnaire (JCQ) or Role Description Questionnaire (RDQ) signed by the employee (if any) and current or prospective supervisor. However, where the job responsibilities of prospective positions are so broad or general that substantial variance among job duties exists, agencies shall provide a separate JCQ or RDQ for each prospective position of the new class.~~

4. All current regulatory and legal authority materials (including citations) governing performance of job functions ~~or which mandate or require the creation of a new class.~~

5. ~~A copy of the current organizational chart, signed by the agency authorized signatory, highlighting the current and proposed placements of each affected position.~~

6. Valid salary survey data submitted on a completed Agency Salary Survey Data Sheet ~~(Refer, Chapter 5, Page 55)~~

~~7.~~ Any other documentation ~~deemed appropriate~~ requested by the ~~State Personnel Director~~ Human Capital Core Processes Consultant.

~~B. On-site desk audits, conducted by State Personnel Board staff, may be required as a component of the analysis of class establishment requests.~~

~~C.~~ Class establishments shall be effective ~~on the first day of the month~~ following approval by the Mississippi State Personnel Board.

~~5.01.3 Assignment of Salary Ranges for New Occupational Classes~~

~~Salary ranges for new occupational classes will be based on valid salary survey data or established relative to comparable job classifications or classification series. In the absence of valid salary survey data, the salary range for a new occupational class shall not exceed the salary range of the most similar occupational class already existing for a year or more in the State Personnel Board's schedule of occupational classes, unless the tasks, duties, responsibilities or minimum requirements of the new occupational class substantially exceed those of the most similar class.~~

5.01.4 ~~.3~~ Class Specifications

Each occupational class shall have a unique class specification, which includes the minimum qualifications an individual should possess to perform the duties of the particular position at entry. ~~Statements of job duties and responsibilities are descriptive and not restrictive and are used to indicate the characteristics of positions allocated to classifications. They~~ Statements of job duties and responsibilities do not limit the authority of the appointing official to assign, direct, and control the work of employees. The use of a particular illustration of duties does not exclude others that are similar in nature, nor do the specifications dictate that each position allocated to the class will be assigned all the duties outlined. In determining the proper classification of a position, each class is considered to have entry-level characteristics as well as characteristics exhibited at full performance.

No minimum qualification shall be established which excludes individuals based on age, sex, physical requirement or disability unless such qualification constitutes a bona fide occupational qualification necessary for performance of essential functions. ~~Qualifications generally required of incumbents for all positions in any class such as honesty, integrity, initiative, and willingness to cooperate are deemed to be implied as qualification requirements for entrance into and continued employment within each classification.~~

5.01.5 ~~.4~~ Class Specification Revision

When revision of an existing classification is requested by a user agency either through a change in the title, characteristics, examples of work, or minimum qualifications, the ~~State Personnel~~ Director ~~or the Office of Human Capital Core Processes~~ shall evaluate the justification for the request. Only those revisions approved by the ~~State Personnel Director~~ Executive Director of the Mississippi State Personnel Board shall be implemented.

A. Class specification revision requests must include the following documentation:

1. Detailed letter of justification to the Director of the Office of Human Capital Core Processes which indicates:

   a. the total number of positions and type(s) of occupational classifications affected in the agency;

   b. quantitatively documented recruitment difficulties experienced (if any);

   c. the exact nature by which the job has evolved, including clearly drawn distinctions between current specifications and proposed ~~minimum qualifications~~ changes;

   d. the precise consequences of not revising the class specification; and

   e. why the existing job classification does not meet current needs.

2. The agency must annotate ~~(in red ink)~~ the proposed revisions on the current Mississippi State Personnel Board class specification.

3. A current (less than twelve (12) months), legible Job Content Questionnaire or Role Description Questionnaire signed by the employee (if any) and current or prospective supervisor, for each affected position. A representative JCQ or RDQ, appropriately signed, may be submitted when all incumbents perform substantially the same work.

4. All current regulatory and legal authority materials (including citations) governing performance of job functions.

~~5. A copy of the current organizational chart, signed by the agency authorized signatory, highlighting the location of each affected position.~~

~~6.~~ 5. Any other documentation ~~deemed appropriate~~ requested by the ~~State Personnel Director~~ Human Capital Core Processes Consultants.

~~B. On-site desk audits, conducted by State Personnel Board staff, may be required as a component of the analysis of class specification revision requests.~~

~~C.~~ B. ~~Revisions to class specifications shall be effective on the first day of the month following the month in which the revision is approved~~. Revisions to class specifications for occupational classes currently on recruitment shall not be effective until ~~the first day of the month following the month in which~~ the class is taken off recruitment.

~~D.~~ Agencies will be notified when the validation process begins for occupations utilized by the agency. Should an agency request revision to a classification after the validation process is complete, the agency may be required to incur the cost of such revision.

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

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

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

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

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

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

C. Agencies or positions with statutory exclusion (not under the salary setting authority of the State Personnel Board and not subject to its compensation policies) are listed below:

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

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

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

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

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

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

~~**5.02.2 Step Chart of Salaries**~~

~~The step chart of salaries was abolished effective July 1, 1999.~~

5.02.3 2.1 Pay Range Assignment

The ~~State Personnel Board~~ Executive Director of the Mississippi State Personnel Board shall assign salary ranges to occupational classes in recognition of the relative level of duties and responsibilities assigned to positions in an occupational class. Salary ranges for new occupational classes will be based on valid salary survey data or established relative to comparable job classifications or classification series.

In the absence of valid salary survey data, the salary range for a new occupational class shall not exceed the salary range of the most similar occupational class already existing for a year or more in the Mississippi State Personnel Board's schedule of occupational classes, unless the tasks, duties, responsibilities or minimum requirements of the new occupational class substantially exceed those of the most similar class.

5.02.4 2.2 General Compensation Rules

The rate of compensation certified by the ~~State Personnel Director~~ Executive Director of the Mississippi State Personnel Board under these provisions constitutes total remuneration for services rendered. No supplementary compensation for additional work performed for the state is paid except as authorized under policies governing additional compensation. [~~Refer, Section~~ See Mississippi Code Annotated § 25-9-119(2)(c), ~~Mississippi Code of 1972, Annotated, as amended~~.]

A. All requests for salary certification shall be submitted to the ~~State Personnel Board~~ Office of Human Capital Core Processes.

B. The ~~State Personnel Director~~ Executive Director of the Mississippi State Personnel Board certifies all salaries within the state service and non-state service unless otherwise authorized by the Mississippi State Personnel Board or by statute.

C. In no case shall a salary increase or other action result in the incumbent exceeding the end salary of the job classification, unless specifically provided for in legislation.

D. In coordination with appointing authorities, the Mississippi State Personnel Board may set the annual salaries of those appointed officials whose salaries are not otherwise set by statute who work on a full-time basis in the capacity of agency head, executive director or administrator of any state department, agency, institution, board or commission under the jurisdiction of the Mississippi State Personnel Board as provided in ~~Section~~ Mississippi Code Annotated § 25-9-101, *et seq.*, ~~Mississippi Code of 1972, Annotated, as amended~~, in conformity with the Mississippi State Personnel Board's compensation plan. Salaries of ~~incumbents~~ such officials who serve in their professional capacity as a physician, dentist, nurse practitioner, veterinarian, or attorney shall be set in accordance with ~~Section~~ Mississippi Code Annotated § 25-9-107(c)(xiii) ~~Mississippi Code of 1972, Annotated, as amended~~.

E. No employee under the salary setting authority of the Mississippi State Personnel Board shall receive an annual salary or compensation greater than one hundred fifty percent (150%) of the maximum salary fixed in law for the Governor and no employee within an agency shall receive an annual salary greater than the agency head. However, in accordance with ~~Section~~ Mississippi Code Annotated § 25-3-39(2), ~~Mississippi Code of 1972, Annotated, as amended,~~ the Mississippi State Personnel Board, based upon its findings of fact, may exempt physicians and actuaries when the acquisition of such professional services is precluded based on the prevailing wage in the relevant labor market. Compensation, for the 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 Mississippi State Personnel Board policy. Further, agencies are required to ensure that no employees subject to the overtime provisions of the Fair Labor Standards Act of 1938, as amended, are scheduled to work hours that could cause the employee's total annual compensation to exceed that of the governor or the agency director.

~~Note: The State Personnel Board has determined that salaries of physicians and actuaries are exempt from Section 25-3-39 Mississippi Code of 1972, Annotated, as amended.~~

F. Payment of retroactive pay shall be certified by the ~~State Personnel Board~~ Executive Director of the Mississippi State Personnel Board for employees in the state service in accordance with the Constitution of Mississippi, Article 4, Chapter 96 (1890).

G. The salary range of an employee in a supervisory status ~~shall~~ should be superior in salary range to that of the employees being supervised. Exceptions will be established by the Office of Human Capital Core Processes on a timely basis. So as not to violate the principle of seniority or time-in-service, a subordinate employee may have an actual salary equal to or greater than the supervisor.

H. The rate of compensation to be paid an employee or prospective employee shall be certified on the basis of the standard work period for full-time employment and in conformity with the salary range assigned the job class for which employed. Payment for part-time service shall be certified on this basis and in proportion to time actually worked (~~Section~~ Mississippi Code Annotated § 25-9-119, ~~Mississippi Code of 1972, Annotated, as amended~~). An employee's starting salary shall be set in accordance with the salary range of the job class to which he/she is assigned. The monthly rate of the corresponding salary is to be used for positions authorized to work forty (40) hours per week and the hourly rate is to be used for positions authorized to work less than forty (40) hours per week.

~~I. The salaries of individuals hired into positions under the purview of the State Personnel Board must be approved by the State Personnel Director through SPAHRS to be paid.~~

5.02.5 Implementation of Salaries

~~The~~ An appointing authority shall notify the ~~State Personnel~~ Director of the Office of Human Capital Core Processes of the need to establish a salary or to adjust an existing salary as the result of an approved employment position or personnel transaction in accordance with reporting procedures. [~~Refer, Section~~ See Mississippi Code Annotated § 25-9-119(2)(c), ~~Mississippi Code of 1972, Annotated, as amended~~.]

A. Only those salary increases resulting from approved position and personnel transactions for which provisions have been made during the legislative appropriations shall be implemented during the fiscal year, except where the Mississippi State Personnel Board authorizes implementation outside the condition of this rule.

B. All salary adjustments shall be effective on the first day of the month. The transaction may be transmitted to the Mississippi State Personnel Board before the requested effective date or in the month of the requested effective date.

~~C. The Executive Director of the Department of Finance and Administration shall have the authority to set the salaries of all licensed jet pilots assigned to the Office of Air Transportation within the salary range set by the State Personnel Board. Further, all licensed jet pilots assigned to the Office of Air Transportation Services shall serve at the will and pleasure of the Executive Director of the Department of Finance and Administration.~~

5.03 ALLOCATION OF EMPLOYMENT POSITIONS

State service positions and those non-state service positions under the purview of the Mississippi State Personnel Board shall be allocated by the ~~State Personnel Director~~ MSPB Executive Director to an appropriate occupational class based on the level and complexity of tasks, duties and responsibilities assigned to that position.

5.03.1 Reallocation of Positions

The Mississippi State Personnel Board provides for the adjustment in classification of a position through the reallocation process when the ~~State Personnel Board~~ Office of Human Capital Civil Services determines that significant job content changes have occurred.

Downward and lateral reallocation requests are processed throughout the year. Upward reallocations are typically requested through the legislative budget process in accordance with the provisions of the Staff Management Planning Instructions for the appropriate fiscal year. However, each agency head shall have the opportunity to document the need for a non-budgeted reallocation by demonstrating that a bona fide staffing need exists that cannot be adequately addressed through normal budget procedures. The Mississippi State Personnel Board will consider reallocations outside the legislative process only upon certification by the agency director that adequate funds are available. The submission of any transaction through SPAHRS ~~to the State Personnel Board~~ shall be considered an official request from the agency head or appointing authority. Such ~~transactions~~ submission shall serve as ~~verification~~ certification ~~to the State Personnel Board~~ that adequate funding is available.

5.03.2 Requests for Reallocations (Upward, Downward, Lateral)

~~When requesting a reallocation of a filled or vacant position outside the legislative process, the request must be forwarded in accordance with the policies and procedures outlined in the Policy Memorandum No. 2, *Administration of the Variable Compensation Plan*, for the current fiscal year, and in conformance with the provisions below.~~

Requests for reallocations must be submitted through SPAHRS and supporting documentation sent to the agency's Human Capital Core Processes Consultants. In addition, reallocation requests for positions which exercise supervisory responsibilities and for which the starting salary is $45,000 or greater should also be submitted to the Executive Director of the Mississippi State Personnel Board in a detailed letter of justification, together with the appropriate documentation, and will be presented to the Board for an approval. For all other reallocation requests, the same as entered into SPAHRS serve as the agency's justification; however, when deemed necessary, the agency's Human Capital Core Processes Consultants may request additional justification.

All reallocation requests approved by the Board will be effective on the date specified by the Board. All other approved reallocation requests will be effective no earlier than the first day of the month in which the request and its supporting documentation were received by the agency's Human Capital Core Processes Consultants. In extraordinary circumstances, the MSPB Executive Director or the Director of the Office of Human Capital Core Processes may at their discretion approve an earlier effective date.

Downward and lateral reallocations may be approved by the agency's Human Capital Core Processes Consultants. Upward reallocations of vacant positions must be approved by the Director of the Office of Human Capital Core Processes. Upward reallocations of filled positions which do not require Board approval must be approved by the MSPB Executive Director.

The justification for a reallocation request as entered into SPAHRS or in a letter to the Executive Director of the Mississippi State Personnel Board must include:

1. A description of how the position's duties have substantially changed;
2. Why the agency believes the proposed classification better describes the new duties; and
3. A description of the consequences, if any, of disapproval of the request.

The following is required with every reallocation request:

1. A valid Job Content Questionnaire (JCQ) or Role Description Questionnaire (RDQ) completed within the last twelve months and signed by the position's incumbent and direct supervisor, or, if vacant, by the direct supervisor only;
2. Organizational chart page, signed by the appointing authority or an authorized designee, depicting both the current and the proposed placements for which reallocation is requested as well as the placement of any other relevant positions;
3. Copies of any federal or state regulations, case law, or opinions that have bearing on the proposed action;
4. Justification for any change from non-state service to state service or the reverse. In either case, statutory authority must be cited. [See Mississippi Code Annotated § 25-9-107(c) of the Mississippi Code of 1972 (Annotated)]. Incumbents of filled positions changing from non-state to state service status must be selected from a Certificate of Eligibles except where the proposed classification is exempt from the usual competitive selection process.
5. Any additional documentation requested by the Human Capital Core Processes Consultants.

On-site desk audits, conducted by Mississippi State Personnel Board staff, may be required as a component of the analysis of upward reallocation requests.

In addition, the following is also required for filled positions:

1. A current completed within the last twelve months State of Mississippi application;
2. A written acknowledgement signed by the affected employee if the request is a downward reallocation; and
3. A written acknowledgement signed by the affected employee indicating agreement with loss of state service status, if applicable.

Before the request can be approved, the incumbent must have a valid performance review rating. Following approval, SPAHRS will create a new 365-day performance review period beginning the effective date of the reallocation.

The authorized salary for an upward reallocation of a filled position shall be in accordance with the provisions for the Promotional Formula indicated in Policy Memorandum No. 2, *Administration of the Variable Compensation Plan*, for the current fiscal year.

~~A. All approved reallocation requests for filled and vacant positions received by the State Personnel Board will be effective no earlier than the first day of the month the request, along with the required documentation, is received at the State Personnel Board, unless extenuating circumstances prevent such processing. Agencies should ensure that requests are submitted in a timely manner to allow sufficient time for processing.~~

~~B. The authorized salary for an upward reallocation shall be in accordance with the provisions for the Promotional Formula indicated in Policy Memorandum No. 2, *Administration of the Variable Compensation Plan*, for the current fiscal year. In no case shall the salary of an employee be certified at a salary higher than the end salary of the new classification.~~

~~C. Incumbents of filled positions changing from non-state to state service status must be selected from a Certificate of Eligibles, except where the proposed class is "exempt" from the initial competitive selection process. In addition, reallocation requests for filled positions involving change from state service to non-state service status must be accompanied by a letter signed by the employee indicating agreement with loss of state service status.~~

~~D. A valid performance appraisal rating shall be required prior to processing the transaction. (Refer, Chapter 8, Section 8.40.B.)~~

~~E. SPAHRS will create a new 365-day performance appraisal period beginning the effective date of the personnel transaction. (Refer, Chapter 8, Section 8.40.B.)~~

~~F. On-site desk audits, conducted by State Personnel Board staff, may be required as a component of the analysis of upward reallocation requests.~~

~~G. Reallocation requests must contain the following documentation:~~

1. Detailed justification, which contains the following information:

   a. Position Identification Number (PIN);
   b. Current occupational title and occupational code;
   c. Proposed occupational title and occupational code;
   d. Status of the position (filled or vacant);
   e. Explanation of bona fide staffing need;
   f. Any federal or state regulations, guidelines, case law, or statutes that impact action;
   g. Justification for any change from state service to non-state service. Alternatively, a change from non-state service to state service must be justified. In either case, statutory authority must be cited. [Refer, Section 25-9-107 (c), Mississippi Code of 1972, Annotated, as amended.];
   h. Description of a substantial change in the position's assigned duties;
   i. Description of the consequences of disapproval of the request; and
   j. If the reallocation request must be reviewed by the State Personnel Board, the agency must submit a detailed letter of justification addressed to the State Personnel Director in addition to entering the request into SPAHRS.

2. Organizational Chart pages, signed by the appointing authority, depicting both current and proposed placements of the position for which reallocation is requested, as well as the placement of other relevant positions;

3. For filled positions, a current (less than twelve (12) months), original State of Mississippi Application;

4. A valid Job Content Questionnaire or Role Description Questionnaire (Refer, Chapter 5, Page 55);

5. Copies of any federal or state regulations, guidelines, statutes, or case law that may be relevant to the proposed reallocation(s);

6. Additional documentation as may be specified by the State Personnel Director; and

7. A copy of the "reallocation/reclassification" screen generated from SPAHRS;

8. A written acknowledgement signed by the affected employee, if the request is a downward reallocation of a filled position.

5.03.4 Reclassification Authority

A reclassification is a change in the classification of a position to a higher occupational class within the same occupational class series, where the change in job title is a result of the individual obtaining certification or licensure or acquiring proficiency in job duties. It is the policy of the Mississippi State Personnel Board to provide for reclassification of a position belonging to a class series by recognizing the increased value of an employee who has acquired additional experience, skills, and/or education, which is

directly related to this job. Reclassification provides a career ladder affording mobility for qualified individuals to advance to higher classified positions, which are substantially similar in the type of work performed. The reclassification authority also allows the agency to reverse the reclassification. Each ~~Y~~ear, on an announced date prior to the fiscal year conversion, the Mississippi State Personnel Board accepts requests for additions and deletions to the authorized schedule of reclassifications. Once reclassification authority is approved by the Mississippi State Personnel Board, reclassification actions may be implemented at the discretion of the agency head.

Employees reclassified to higher levels within a series retain their current status, status date, and hire date in the new classification to which reclassified. The authorized salary for a reclassification shall be in accordance with the provisions for the Promotional Formula indicated in Policy Memorandum No. 2, Administration of the Variable Compensation Plan, for the current fiscal year. In no case shall an employee's salary be certified at a salary higher than the end salary of the new classification.

Before the reclassification can be approved, the incumbent must have a valid performance review rating. Following approval, SPAHRS will create a new 365-day performance review period beginning the effective date of the reclassification.

~~5.03.5 Reclassification of Positions~~

~~When requesting the reclassification of a filled or vacant position, the following shall be in effect:~~

~~A. Employees reclassified to higher levels within a series will retain their current status, status date and hire date in the new classification to which reclassified.~~

~~B. The authorized salary for a reclassification shall be in accordance with the provisions for the Promotional Formula indicated in Policy Memorandum No. 2, *Administration of the Variable Compensation Plan*, for the current fiscal year. In no case shall an employee's salary be certified at a salary higher than the end salary of the new classification.~~

~~C. A valid performance appraisal rating shall be required for a filled position prior to processing the transaction as requested from the agency. Trainees being reclassified to a proficiency level after six (6) months must have performance appraisal ratings to process the transactions. (Refer, Chapter 8, Section 8.40.B.)~~

~~D. SPAHRS will create a new 365-day appraisal period beginning the effective date of the personnel transaction. (Refer, Chapter 8, Section 8.40.B.)~~

~~E. Reclassification requests must contain the following documentation:~~

~~1. Organizational chart pages reflecting current and proposed (where applicable) placement of positions; and~~

~~2. Detailed justification must be entered into SPAHRS to indicate that the employee has met all of the criteria outlined in the class specification for the next level. Each request must specify the employee's date of entry into the current position, the date of receipt of license or certification necessary for advancement to the next level, and any other~~

~~supporting information, which aids in the determination that the employee meets the requirements for the next level.~~

5.04 APPOINTMENTS

Vacancies, which are not filled, by transfer, promotion, or demotion shall be filled by probationary appointment, reemployment, or emergency appointment. Salaries paid upon appointment shall be the minimum that will attract suitably qualified applicants for job openings consistent with the provisions set forth in Policy Memorandum No. 2, *Administration of the Variable Compensation Plan*, for the current fiscal year.

5.04.1 Original Appointment and Salary Determination

Original appointments are made competitively from a ~~c~~ ertificate of ~~e~~ ligibles, or are made non-competitively where exempt from the selection process. (~~Refer~~ See Chapter ~~4, Section 4.0~~.)

5.04.2 Standard New Hire Salary

At no time will an employee be paid below the federally mandated minimum wage. ~~Refer to~~ See Policy Memorandum No. 2, *Administration of the Variable Compensation Plan*, for the current fiscal year to determine the authorized salary for a new hire.

5.04.3 New Hire Flexibility

New Hire Flexibility, not to exceed ten (10) percent, may be awarded when the education, experience, or professional certification possessed by the applicant exceeds the minimum requirements for the job classification to which appointed. ~~Refer to~~ See Policy Memorandum No. 2, *Administration of the Variable Compensation Plan*, for the current fiscal year for provisions detailing the awarding of New Hire Flexibility.

~~5.04.3a~~ 5.04.4 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. ~~Refer to~~ See Policy Memorandum No. 2, *Administration of the Variable Compensation Plan* for the current fiscal year for provisions detailing the awarding of Agency Head Flexibility.

~~5.04.4~~ 5.04.5 Recruitment Flexibility

Recruitment Flexibility, in excess of the assigned start salary, may be awarded when an agency can document recruitment difficulties. A request for Recruitment Flexibility must be submitted for State Personnel Board approval prior to a job offer or appointment of an applicant in accordance with the provisions outlined in Policy Memorandum No. 2, *Administration of the Variable Compensation Plan*, for the current fiscal year.

~~5.04.5~~ 5.04.6 Open-Competitive New Hire

When hiring personnel to fill a vacancy, the following shall be in effect:

A. The hire date cannot be earlier than the date of issue of the Certificate of Eligibles.

B. The salary shall be set in accordance with provisions outlined in Policy Memorandum No. 2, *Administration of the Variable Compensation Plan*, for the current fiscal year.

C. All competitive new hires shall be probationary and the status code "20" will populate in the "service status" field on the Maintain Employee Agency Info screen in SPAHRS.

D. For open-competitive new hire of a probationary employee, the employee shall retain his/her status date and is required to complete the balance of the existing probationary period.

E. SPAHRS will create a new 365-day performance ~~appraisal~~ review period beginning the effective date of the personnel transaction. (~~Refer~~ See Chapter 8, ~~Section 8.40.B~~.)

F. The following documentation is to be submitted to the ~~State Personnel Board~~ Office of Human Capital Core Processes for a competitive new hire request:

   4. The Certificate of Eligibles must be actioned; and

   5. Detailed justification if New Hire Flexibility is requested. (Refer to Policy Memorandum No. 2, *Administration of the Variable Compensation Plan*, for the current fiscal year.) After the appointment process is complete, display the action and press F5 to add notes describing the extent to which the employee exceeds the minimum education and/or experience requirements for the occupation.

G. Please reference the SPAHRS User Training Workbook~~, Employment Segment,~~ at http://www.spahrs.ms.gov or your Human Capital Core Processes Consultants for more detailed information regarding the hiring of an employee.

5.04.7 Overlap New Hire (Competitive)/Overlap New Hire (Non-Competitive)/New Hire Flexibility

In rare circumstances, an agency may elect to hire a replacement up to ninety (90) days prior to the termination of an employee in order that the terminating employee may provide specialized training to the new employee.

The effective date of the Overlap New Hire cannot be greater than ninety (90) calendar days from the effective date of separation by the terminating employee.

The following documentation is to be submitted for competitive overlap new hire requests:

A. The actioned Certificate of Eligibles; and

B. Detailed justification if New Hire Flexibility is requested. (~~Refer to~~ See Policy Memorandum No. 2, *Administration of the Variable Compensation Plan*, for the current fiscal year.) After the appointment process is complete, display the action and press F5 to add notes describing the extent to which the employee exceeds the minimum education and/or experience requirements for the position.

The following documentation is to be submitted for non-competitive overlap new hire requests:

~~A. A copy of the "Appoint Employee w/o COE" screen generated from SPAHRS;~~

~~B.~~ A completed State of Mississippi Application; and

~~C.~~ Detailed justification if New Hire Flexibility is requested. (~~Refer to~~ See Policy Memorandum No. 2, *Administration of the Variable Compensation Plan*, for the current fiscal year.) After the appointment process is complete, display the action and press F5 to add notes describing the extent to which the employee exceeds the minimum education and/or experience requirements for the occupation.

5.04.8 New Hire (Non-Competitive) and New Hire Above Start Salary (Non-Competitive)

When non-competitively hiring to fill a vacant position, the following shall be in effect:

A. The hire date for an exempt appointment cannot be earlier than the date received by the Mississippi State Personnel Board; the individual must meet selection criteria.

B. The hire date for a non-competitive new hire will be the date the individual begins work. The request must be received by the Mississippi State Personnel Board before or within five (5) working days after the individual begins work.

C. The authorized salary for a non-competitive new hire shall be set in accordance with provisions outlined in Policy Memorandum No. 2, *Administration of the Variable Compensation Plan*, for the current fiscal year.

D. Appointments to state-service positions for exempt job classes shall be probationary, and the status code "20" will populate in the "service status" field on the Maintain Employee Agency Info screen.

E. SPAHRS will create a new 365-day performance ~~appraisal~~ review period beginning the effective date of the personnel transaction. (~~Refer,~~ See Chapter 8~~, Section 8.40.B~~.)

F. The following documentation is to be submitted for a non-competitive new hire request:

~~1. A copy of the "Appoint Employee w/o COE" screen generated from SPAHRS;~~

~~2.~~ A completed State of Mississippi Application; and

~~3.~~ Detailed justification if New Hire Flexibility is requested. (~~Refer to~~ See Policy Memorandum No. 2, *Administration of the Variable Compensation Plan*, for the current fiscal year.) After the appointment process is complete, display the action and press F5 to add notes describing the extent to which the employee exceeds the minimum education and/or experience requirements for the occupation.

5.04.9 New Hire (Part-Time) and New Hire (Time Limited/and Overlap New Hire (Time-Limited)

The appointment of an individual scheduled to work less than forty (40) hours a week and/or less than 12 months per year constitutes an hourly or part-time appointment. When hiring personnel to fill a part-time position, the following shall be in effect:

A. The hire date is the date the individual begins work. The request must be received by the Mississippi State Personnel Board before or within five (5) working days after the individual begins work.

B. The authorized salary for a part-time new hire shall be in accordance with the provisions outlined in Policy Memorandum No. 2, *Administration of the Variable Compensation Plan*, for the current fiscal year.

C. All part-time employees must meet selection criteria.

D. All part-time positions shall be non-state service in accordance with ~~Section~~ Mississippi Code Annotated § 25-9-107(c)(xi)~~, Mississippi Code of 1972, Annotated, as amended~~. The status code "11" will populate in the "service status" field on the Maintain Employee Agency Info screen in SPAHRS.

E. All time-limited positions shall be non-state service in accordance with ~~Section~~ Mississippi Code Annotated § 25-9-107(c)(xiv)~~, Mississippi Code of 1972, Annotated, as amended~~. The status code "14" will populate in the "service status" field on the Maintain Employee Agency Info screen in SPAHRS.

F. SPAHRS will create a new 365-day performance ~~appraisal~~ review period beginning the effective date of the personnel transaction. (~~Refer~~ See Chapter 8~~, Section 8.10.B~~.)

G. The following documentation is to be submitted for a part-time new hire request:

~~1. A copy of the "Appoint Employee w/o COE" screen generated from SPAHRS;~~

~~2.~~ A completed State of Mississippi Application, where required; and

~~3.~~ Detailed justification if New Hire Flexibility is requested. (~~Refer to~~ See Policy Memorandum No. 2, *Administration of the Variable Compensation Plan*, for the current fiscal year.) After the appointment process is complete, display the action and press F5

to add notes describing the extent to which the employee exceeds the minimum education and/or experience requirements for the occupation.

5.04.11 4.10 Emergency Appointment

An emergency appointment is defined as the employment of an individual for a specified period of time to perform tasks which directly or indirectly involve the continuing care and protection of life or property.

A. Emergency appointments shall be limited to classes and positions normally filled competitively from a Certificate of Eligibles. The ~~State Personnel Board~~ Office of Human Capital Core Processes shall evaluate each request for emergency appointment prior to certification based on the following criteria:

1. Justification provided by agency;
2. Patient and/or security support;
3. Number of vacancies in the class within the requesting agency; and
4. The period of time those vacancies have existed.

B. The effective date cannot be earlier than the date approved by the ~~State Personnel Board~~ Office of Human Capital Core Processes.

C. The authorized salary for an emergency hire shall be the start salary of the class to which appointed.

D. Individuals hired on an emergency basis shall be designated by a status code of "12" in the "service status" field on the Maintain Employee Agency Info screen.

E. An emergency appointment shall not exceed sixty (60) working days. The appointing authority shall be responsible for initiating appropriate action to preclude any emergency appointment extending beyond the limit of sixty (60) working days.

F. The following documentation must be submitted with an emergency appointment request:

1. Detailed justification outlining the emergency nature of the appointment; ~~and~~

~~2. A copy of the "Appoint Employee w/o COE" screen generated from SPAHRS; and~~

~~3.~~ Proof of valid licensure, registration, or certification when required under state or federal statute for the job class to which appointed.

5.04.12 4.11 Reappointment (Return from Authorized Leave of Absence)

An individual separated on an authorized leave of absence, e.g., military, extended illness, education, and leave of absence under provisions of ~~Sections~~ Mississippi Code Annotated §§ 25-3-93, 25-3-95, 25-9-125, and 33-1-21, ~~Mississippi Code of 1972, Annotated, as amended,~~ is eligible for reappointment.

When reappointing an employee RETURNING FROM AUTHORIZED LEAVE OF ABSENCE, the following shall be in effect:

A. For non-military leave of absence: ~~E~~ligibility for reappointment is valid for one (1) year ~~only~~ from the date of the beginning of leave. For reappointment eligibility for leave of absence due to military duty, the provisions of the federal Uniformed Services Employment and Reemployment Rights Act (USERRA) of 1994 apply.

B. Reappointment under these provisions shall be restricted to the same occupational class as occupied at the time of separation except as provided for by USERRA.

C. Upon reappointment, the employee's status shall be the same as it was at the time of separation and shall be reflected by the status code in the "service status" field and the status date. If the employee was permanent state service at separation, the status date shall not be altered. If the employee had not completed the twelve (12) month probationary period, a new status date shall be determined by adding the number of days out of state service to the status date at the time of separation to allow the individual to complete twelve (12) months of supervised probation.

D. The effective date shall be the date requested by the agency. The request must be received by the Mississippi State Personnel Board before or within five (5) working days after the individual begins work.

E. The authorized salary for a reappointment shall be no more than the current salary at the time of the separation unless general compensation adjustments were effected since the date of the separation. Such adjustments shall be added to the current salary where applicable.

F. SPAHRS will create a new 365-day performance ~~appraisal~~ review period beginning the effective date of the personnel transaction. (~~Refer,~~ See Chapter 8~~, Section 8.40.B~~.)

~~5.04.13~~ 4.12 Reemployment Into the State Service

An individual separated in good standing for reasons other than an authorized leave of absence may be reemployed into the same job class from which terminated.

A. Individuals reemployed into a different job class from which terminated shall be hired under the provisions for Appointments of this chapter. ~~(Refer, Chapter 5, Section 5.04.)~~

B. The appropriate selection criteria shall apply.

C. The effective date for the employees shall be:

1. RIF Reemployment List - cannot be earlier than the date the Certificate of Eligibles was issued;

2. Alternative Reemployment List - cannot be earlier than date the Certificate of Eligibles was issued;

3. Exempt Class - cannot be earlier than the date received by the Mississippi State Personnel Board, provided the individual meets selection criteria; and

4. Non-competitive New Hire - the date the individual begins work. The request must be received by the State Personnel Board before or within five (5) working days after the individual begins work.

D. The authorized salary for reemployment shall be no more than the current salary at the time of separation unless salary realignments were effected since the date of the separation. Such adjustments shall be added to the current salary where applicable.

E. Upon reemployment due to a Reduction-In-Force, the employee's status date and hire date shall be the same as it was at the time of separation. If the employee was permanent at separation, the status date and hire date shall not be altered. If the employee had not fully completed the probationary period, a new status date shall be determined by adding the number of days out of state service to the status date at the time of separation. Reemployment for reasons other than a Reduction-In-Force shall receive a new status date equal to the new hire date.

F. SPAHRS will create a new 365-day performance ~~appraisal~~ review period beginning the effective date of the personnel transaction. (~~Refer,~~ See Chapter 8, ~~Section 8.40.B~~.)

G. The following documentation must be submitted with a reemployment request:

~~1. A copy of the "Appoint Applicant" screen generated from SPAHRS;~~

~~2.~~ 1. An actioned Certificate of Eligibles, where applicable; and

~~3.~~ 2. A completed State of Mississippi Application, where applicable.

5.04.14~~4.1.1~~ Retiree Employment

When requesting the reemployment of a retired state employee, not necessarily returning to the same job class from which retired, and for (1) a period of time not to exceed one-half (½) of the normal working days for the position during which the employee will receive no more than one-half (½) of the salary for the position, or (2) for a period of time in any fiscal year sufficient in length to permit a retiree to earn not in excess of twenty-five per cent (25%) of retiree's average compensation. (Note: If a retiree is hired outside the guidelines noted above, the retirement benefit of such retiree must be terminated immediately and the employer must immediately begin reporting that individual to PERS as any other active member would be reported.) (~~Refer, Section~~ See Mississippi Code Annotated § 25-11-127, ~~Mississippi Code of 1972, Annotated, as amended, the following shall be in effect:~~)

A. The effective date shall reflect a minimum of 45 days from the date of Retirement. PERS Regulation 34 provides that if the retired member is reemployed by the same or another covered employer in any capacity, including that of an independent contractor as well as service without pay, within forty-five (45) days from the effective date of retirement, or is guaranteed such

reemployment, the member shall be considered to have continued in the status of an employee and not to have separated from state service.

B. The authorized salary shall be no more than the salary paid to the individual prior to the employee's retirement, except that the salary shall not exceed the end salary of the pay range of the job class to which appointed.

C. Upon reemployment of a retired employee, the status and hire date shall reflect the new date of hire and status.

D. The employer is required to notify PERS of the reemployment of a retiree under one of the above exceptions within five (5) days of reemployment on a Form 4B, Certification/Acknowledgment of Reemployment of Retiree.

E. SPAHRS will create a new 365-day performance ~~appraisal~~ period beginning the effective date of the personnel transaction. (~~Refer~~ Chapter 8, ~~Section 8.40.B~~.)

F. The following documentation must be submitted with reemployment of a retired employee request:

~~1. A copy of the "Appoint Applicant" screen generated from SPAHRS;~~

~~2.~~ An actioned Certificate of Eligibles, where applicable;

~~3.~~ A completed State of Mississippi Application, where applicable;

~~4.~~ Detailed justification, which describes the circumstances surrounding the reemployment of a retiree. After the appointment process is complete, display the action and press F5 to add notes.

5.04.15 Dual Employment and Salary Determination

An individual may be employed by more than one state agency or by a state agency and an institution of higher learning in two (2) part-time positions, or one (1) full-time and one (1) part-time position. Policies, rules, and procedures governing appointments shall apply.

Under Fair Labor Standards Act (FLSA) regulations, the State of Mississippi is considered to be one employer. Therefore, eligible (non-exempt) employees who work for two entirely different agencies in state government in the same workweek are considered joint employees, and must be paid overtime or must be provided compensatory time off for a combination of hours worked in excess of forty (40) hours. Overtime payment or provision of compensatory time should be computed according to current FLSA rules issued by the U. S. Department of Labor.

5.05 IN-SERVICE MOVEMENT

~~The State Personnel Board will provide rules for in-service movement of employees within state service employment [Refer, Section 25-9-119 (2) (c) (i) (ii), Mississippi Code of 1972, Annotated, as amended.]~~ All in-service movement is subject to the provisions of Policy Memorandum No. 2, *Administration of the Variable Compensation Plan*, for the current fiscal year. In addition, the following provisions apply:

5.05.1 Promotions

Promotions may be made in one (1) of three (3) ways subject to approval of the ~~State Personnel Director~~ Director of the Office of Human Capital Management (~~Refer,~~ See Chapter 4~~, Sections 4.21.6 – 4.21.8~~.)

A. Agency-only competitive;
B. Agency-only non-competitive; and
C. State service competitive.

5.05.11 5.2 Promotion (Intra-Agency)

When requesting the promotion (within agency/master agency) of a state service employee who has satisfactorily completed six (6) months of service, the following shall be in effect:

~~A. All promotions (intra-agency) shall be effective on the first day of the month. The request must be received before the twentieth (20th) day of the requested effective month. All requests received after the twentieth (20th) day of the month shall be processed effective the first day of the following month.~~

~~B. The authorized salary for promotions (intra-agency) shall be in accordance with the Promotional Formula outlined in Policy Memorandum No. 2, *Administration of the Variable Compensation Plan*, for the current fiscal year.~~

~~C.~~ A. A valid performance ~~appraisal~~ review rating shall be required prior to processing the transaction. (~~Refer,~~ See Chapter 8~~, Section 8.40.B~~.)

~~D.~~ B. Employees promoted retain status date and hire date in the new position to which promoted.

~~E.~~ C. SPAHRS will create a new 365-day performance ~~appraisal~~ review period beginning the effective date of the personnel transaction. (~~Refer,~~ See Chapter 8~~, Section 8.40.B~~.)

~~F.~~ D. The following documentation is to be submitted with an intra-agency promotion request:

~~1. A copy of the "Intra-Agency Employee Transfer" screen generated from SPAHRS; and~~

~~2.~~ 1. A completed State of Mississippi Application, if a non-competitive promotion.

5.05.12 5.3 Promotion (Inter-Agency)

When requesting the promotional transfer (inter-agency) of a state service employee, the following shall be in effect:

A. The requested effective date must coincide to reflect no break in service and may be as follows:

1. Competitive State Service - effective any time during the month provided it is no earlier than the date the Certificate of Eligibles was issued;

2. Exempt - cannot be earlier than the date the request was received by the State Personnel Board provided the individual meets selection criteria;

3. Non-Competitive New Hire - the date the individual begins work. The request must be received by the State Personnel Board before or within five (5) working days after the individual begins work.

~~B. The authorized salary for promotions (inter-agency) shall be in accordance with the Promotional Formula outlined in Policy Memorandum No. 2, *Administration of the Variable Compensation Plan*, for the current fiscal year.~~

C. Employees promoted retain status date and hire date in the new position to which promoted.

D. SPAHRS will create a new 365-day performance ~~appraisal~~ period beginning the effective date of the personnel transaction. (~~Refer~~ See Chapter 8~~, Section 8.40.B~~.)

E. The following documentation is to be submitted with a promotion request:

~~1. A copy of the "Appoint-Applicant" screen generated from SPAHRS;~~

~~2.~~ 1. A Certificate of Eligibles, if a competitive promotion; and

~~3.~~ 2. A completed State of Mississippi Application, if a non-competitive promotion.

F. ~~If the transferring agency does not submit a transaction indicating the separation of an employee, the State Personnel Board shall separate the incumbent from the transferring agency and shall provide the transferring agency with notification of the separation.~~ It is the transferring agency's responsibility to enter into SPAHRS the separation reflecting an employee's transfer on the correct date.

~~5.05.21~~ 5.4 Lateral Transfer (Intra-Agency)

When requesting the lateral transfer (within agency/master agency) of a state service employee to a position in state service, the following shall be in effect:

~~A. All lateral transfers (intra-agency) shall be effective on the first day of the month.~~

~~B. The authorized salary for lateral transfers (intra-agency) shall be in accordance with the policies and procedures outlined in Policy Memorandum No.2, *Administration of the Variable Compensation Plan*, for the current fiscal year.~~

~~C~~A. A valid performance ~~appraisal~~ review rating shall be required prior to processing the personnel transaction. (~~Refer~~ See Chapter 8~~, Section 8.40.B~~.)

~~D~~B. Employees laterally transferred retain their status date (except as otherwise stated in section ~~2.30.1~~ [illegible]) and hire date in the new position to which transferred.

~~E~~. SPAHRS will create a new 365-day performance ~~appraisal~~ review period beginning the effective date of the personnel transaction. (~~Refer~~ See Chapter 8~~, Section 8.40.B~~.)

~~F~~D. The following documentation is to be submitted with a lateral transfer (intra-agency) request if the transfer is to a different occupational class:

~~To the same occupational class:~~

~~1. A copy of the "Intra-Agency Employee Transfer" screen generated from SPAHRS.~~

~~To a different occupational class:~~

~~1. A copy of the "Intra-Agency Employee Transfer" screen generated from SPAHRS;~~

~~2~~1. The actioned Certificate of Eligibles, where applicable; and

~~3~~2. A completed State of Mississippi Application, where applicable.

~~**5.05.2 Lateral Transfers**~~

5.05.22~~5.5~~ Lateral Transfer (Inter-Agency)

When requesting the lateral transfer (inter-agency) for a state service employee to a competitive or non-competitive position in state service, the following shall be in effect:

A. The requested effective date may be as follows:

1. Competitive State Service - effective any time during the month, provided it is no earlier than the date the Certificate of Eligibles was issued;

2. Exempt - Cannot be earlier than the date received by the Mississippi State Personnel Board provided the individual meets selection criteria;

3. Non-Competitive New Hire - the date the individual begins work. The request must be received by the Mississippi State Personnel Board before or within five (5) working days after the individual begins work.

~~B. The authorized salary for lateral transfers shall be determined in accordance with the methodology outlined in Policy Memorandum No. 2, *Administration of the Variable Compensation Plan*, for the current fiscal year.~~

~~C.~~ Employees laterally transferred retain status date (except as otherwise stated in section 2.30.1) and hire date in the new position to which transferred.

~~D.~~ SPAHRS will create a new 365-day performance ~~appraisal~~ review period beginning the effective date of the personnel transaction. (~~Refer,~~ See Chapter 8, ~~Section 8.40.B.~~)

~~E.~~ The following documentation is to be submitted with the lateral transfer (inter-agency) request if the transfer is to a different occupational class:

~~To the same occupational class:~~

~~1. A copy of the "Appoint Applicant" screen generated from SPAHRS.~~

~~To a different occupational class:~~

~~1. A copy of the "Appoint Applicant" screen generated from SPAHRS;~~

2. The actioned Certificate of Eligibles, where applicable; and

3. A State of Mississippi Application, where applicable.

~~F. If the transferring agency does not submit a termination indicating an employee's transfer, the State Personnel Board shall separate the incumbent from the transferring agency and shall provide the transferring agency with notification of the separation.~~ It is the transferring agency's responsibility to enter into SPAHRS the separation indicating an employee's transfer on the effective date.

5.05.3~~5.6~~ Demotional Transfers

An employee may be demoted because of inadequate performance, disciplinary reasons, a reduction in force, or voluntarily. When the affected employee is a permanent-state service status employee, written notice of intent to effect any demotion and the reason for such action shall be given to the employee at least ten (10) working days prior to the effective date of the demotion. All actions adversely affecting compensation or employment status require that the permanent state service status employee be given an opportunity for a conference with the appointing authority or designated representative and to respond in writing prior to any such action.

5.05.31~~5.7~~ Demotional Transfer (Intra-Agency)

When requesting the demotional transfer (intra-agency) of an employee (voluntary or for cause), the following shall be in effect:

~~A. All demotions (intra-agency) shall be effective on the first day of the month.~~

~~B. Determination of salary for a demotional (intra-agency) transfer shall be in accordance with the policies and procedures outlined in Policy Memorandum No. 2, *Administration of the Variable Compensation Plan*, for the current fiscal year.~~

~~C.~~ A valid performance ~~appraisal~~ rating shall be required prior to processing the transaction as requested from the agency. (~~Refer~~ Chapter ~~8, Section 8.40.B~~.)

~~D.~~ Employees demoted retain status date and hire date in the new position to which demoted.

~~E.~~ SPAHRS will create a new 365 day performance ~~appraisal~~ period beginning the effective date of the personnel transaction. (~~Refer~~ Chapter ~~8, Section 8.40.B~~.)

~~F.~~ The following documentation is to be submitted with a demotional transfer (intra-agency) request:

~~1. A copy of the "Intra-Agency Employee Transfer" screen generated from SPAHRS;~~

~~2.~~ A State of Mississippi Application;

~~3.~~ A statement signed by the employee acknowledging the demotion (voluntary only); and

~~4.~~ Detailed justification if demotion with extraordinary circumstances is requested. After the demotion process is complete, display the action and press F5 to add notes describing the need to retain the employee's current salary.

5.05.32 Demotional Transfer (Inter-Agency)

When requesting a demotional transfer (inter-agency), the following shall be in effect:

A. The requested effective date shall be as follows:

1. Competitive State Service - effective any time during the month provided it is no earlier than the date the Certificate of Eligibles was issued;

2. Exempt - cannot be earlier than the date received by the State Personnel Board provided the individual meets selection criteria;

3. Non-Competitive Appointment - the date the individual begins work. The request must be received by the State Personnel Board before or within five (5) working days after the individual begins work.

B. Determination of salary for a demotional (inter-agency) transfer shall be in accordance with the policies and procedures outlined in Policy Memorandum No. 2, *Administration of the Variable Compensation Plan*, for the current fiscal year.

C. Employees transferred and demoted retain their status date and hire date in the new position to which transferred and demoted.

D. SPAHRS will create a new 365-day performance ~~appraisal~~ review period beginning the effective date of the personnel transaction. ~~Refer~~ See Chapter 8, ~~Section 8.40.B~~.)

E. The following documentation is to be submitted with a demotional transfer (inter-agency):

~~1. A copy of the "Appoint Applicant" screen generated from SPAHRS;~~

~~2.~~ 1. The actioned Certificate of Eligibles, where applicable; and

~~3.~~ 2. A completed State of Mississippi Application, where applicable.

F. ~~If the transferring agency does not submit a termination indicating an employee's transfer, the State Personnel Board shall separate the incumbent from the transferring agency and shall provide the transferring agency with notification of the separation.~~ It is the transferring agency's responsibility to enter into SPAHRS the separation indicating an employee's transfer on the correct date.

5.05.4~~5.3~~ Dual Transfer (Intra-Agency)

When transferring positions between two current employees, the applicable preceding policies, rules, and procedures governing promotions, lateral transfers, and/or demotions shall apply.

5.06 DETAIL TO SPECIAL DUTY

When the services of an employee are temporarily needed in a position within the employing agency other than the position to which regularly assigned, the employee may be required, at the discretion of the appointing authority, to perform the tasks of such a position for a period not to exceed 180 days without a change in position title or employee status.

A. A probationary employee in a state service position assigned to special duty shall not be required to serve an additional probationary period.

B. When an employee is assigned the duties of a position that is in an equal or higher pay range, a temporary salary award up to ten percent (10%) above the detailed employee's current salary may be awarded when justified and approved by the ~~State Personnel~~ Director of the Office of Human Capital Core Processes. The position to which the employee is being detailed must be vacant or filled by an incumbent who is not available for duty due to an authorized leave.

C. ~~Employees being detailed to vacant positions shall be limited to 180 days.~~ In unusual circumstances, a detail beyond 180 days may be authorized by the ~~State Personnel~~ Director ~~of the Office of Human Capital Core Processes~~ upon written request by the appointing authority.

If an employee is being detailed to a filled position, the incumbent of the filled position must have been absent for at least thirty (30) days prior to the request for detail. In extraordinary circumstances, the agency may request ~~State Personnel~~ Director ~~of the Office of Human Capital Core Processes~~ approval of actions, which do not meet this 30-day requirement. ~~Employees being detailed to filled positions shall be limited to 180 days. In unusual circumstances, a detail beyond 180 days may be authorized by the State Personnel Director upon written request by the appointing authority.~~

E. Any salary increase certified for special duty shall be withdrawn upon completion of special duty.

F. No more than one (1) employee may be awarded Detail to Special Duty Pay for assuming the responsibilities and functions of a single position.

G. The following documentation is to be submitted to the ~~State Personnel Board~~ ~~agency's Human Capital Core Processes Consultant~~ with a Request for Detail to Special Duty:

1. Detailed justification which indicates the position to which the employee is being detailed and the duties to be assigned while performing in the detail capacity;

2. A statement from the employee acknowledging the temporary salary increase and the subsequent salary withdrawal upon completion of special duty; and

3. Organizational chart pages, signed by the appointing authority, depicting both the employee's position and the position to which the employee will be detailed.

4. ~~If an employee is being detailed to a filled position, the date on which the absent employee is expected to return.~~

H. Please reference the SPAHRS User Training Workbook~~, Employment Segment,~~ ~~at http://www.mmrs.state.ms.us/ or your Human Capital Core Processes Consultant~~ for more detailed information regarding the submission of Detail to Special Duty Pay requests.

~~5.06.1 Compensation for Security Chief Assigned to the Office of the Governor~~ ~~Governor's Chief of Security and DEA Pilots~~

A. The Department of Public Safety position assigned as Chief of Security to the Governor's Office shall be paid a salary as set by the Commissioner of Public Safety equal to or lower than the highest paid incumbent currently holding the rank of Captain at the Department of Public Safety and approved by the ~~Mississippi~~ State Personnel Board. ~~However, in no case shall a salary increase awarded as a result of such an assignment be used as a benchmark for salary equity adjustments. The salary of an employee following the termination of assignment as Chief of Security to the Governor's Office shall be determined in accordance with the policies and~~

procedures outlined in policy Memorandum No. 2, *Administration of the Variable Compensation Plan*, for the current fiscal year.

~~B. In no case shall a salary increase awarded as a result of Section 5.06.1 be used as a bench for salary equity adjustments.~~

~~C. The salary of an employee following termination of assignment as Chief of the Governor's Security shall be determined in accordance with the policies and procedures outlined in the Policy Memorandum No. 2, *Administration of the Variable Compensation Plan*, for the current fiscal year.~~

D. The Executive Director of the Department of Finance and Administration has authority to set the salaries of all licensed jet pilots assigned to the Office of Air Transportation within the salary range set by the Mississippi State Personnel Board. Such pilots are not eligible for Pilot's Flat Additional Compensation. Further, all licensed jet pilots assigned to the Office of Air Transportation Services shall serve at the will and pleasure of the Executive Director of the Department of Finance and Administration.

5.07 ADMINISTRATION OF ADDITIONAL COMPENSATION SCHEDULES

The Mississippi State Personnel Board shall establish and administer additional compensation schedules to accommodate the full and efficient operation of an agency in the delivery of essential services within or outside of the standard work schedule or the standard work place.

5.07.1 Application of Additional Compensation

In accordance with Policy Memorandum No. 2, *Administration of the Variable Compensation Plan*, for the current fiscal year, the ~~State Personnel Director~~ Executive Director of the Mississippi State Personnel Board may recommend to the ~~State Personnel~~ Board those occupational classes certified for payment under provisions governing additional compensation. The ~~State Personnel Director~~ Executive Director of the Mississippi State Personnel Board, with the approval of the ~~State Personnel~~ Board, shall amend additional compensation schedules based upon evaluation of labor market conditions and the economic value of comparable services within relevant public sectors and the relevant private labor market, if any.

5.07.2 Agency Authorization for Additional Compensation

A. To request authorization of additional compensation, the appointing authority shall submit a letter to the ~~State Personnel Director~~ Executive Director of the Mississippi State Personnel Board fully explaining and justifying the request.

B. Determination as to agency authorization for additional compensation shall be subject to approval by the Mississippi State Personnel Board.

5.07.3 Certification of Employees for Additional Compensation

The appointing authority shall indicate in SPAHRS those positions to be certified payment of additional compensation and of the need to decertify employees no longer working under the conditions set forth in the provisions governing additional compensation.

5.07.4 Occupational Class Authorization or Rescindment of Additional Compensation

A. The appointing authority shall indicate in SPAHRS which occupational classes are necessary to accommodate the full and efficient operation of the agency in the delivery of essential services within or outside the confines of the standard work period and the standard work schedule as defined below:

- Standard work period: an eight (8) hour workday, a forty (40) hour workweek, a 173.929 hour work month, and a 2087.143 hour work year.
- Standard work schedule: the hours of work established by an appointing authority for individuals employed within the agency, which typically begin at 8:00 a.m. and end at 5:00 p.m. each day with a one (1) hour interval for a lunch period.

B. Any position change affecting the classification of a position certified for additional compensation will cause the certification to be automatically removed from the position.

C. Where certification is required as a prerequisite for authorization of additional compensation for an occupational class, the agency is responsible for verifying receipt of certification by the individual for which additional compensation is requested and indicating in the SPAHRS payroll segment the hours worked which qualify for additional compensation.

D. An individual shall not be certified to receive more than three (3) types of additional compensation during a single pay period.

~~**5.07.5 Forms of Additional Compensation**~~

~~Forms of Additional Compensation administered by the State Personnel Board may include the following:~~

~~Pilot's Pay • PILOT • $50.00 per month~~

~~Highway Patrol Pilot's Pay • PILTH • $100.00 [Refer Section 45-3-7 of Mississippi Code of 1972, Annotated, as amended]~~

~~Paid to individuals in a designated occupational class whose primary duties do not include piloting an aircraft, but who are requested by the appointing authority to pilot an aircraft as a part of assigned tasks.~~

~~Extensive Travel • EXTVL • $400.00 per month~~

~~Paid to individuals in a designated occupational class who are required by the appointing authority to travel at least eleven (11) work nights per month on a continuous basis.~~

~~Standby • STAND • 1/10 hourly rate for hours on call~~
~~Health on Call • HLTST • up to 1/10 hourly rate for hours on call~~

~~Paid to individuals in a designated occupational class who are required by the appointing authority to remain available after regularly assigned working hours to provide emergency services, which are restricted to the care, preservation, and protection of life and property.~~

~~Call Back • CALBK • Standard hourly rate for hours worked over standard work period.~~

~~Paid to individuals in a designated occupational class who are required by the appointing authority to return to work after regular hours to perform emergency services, which are restricted to the care, preservation, and protection of life and property.~~

~~DPS- Highway Patrol Call Back Overtime Pay • HWYSF • 1.6 times the hourly rate~~

~~Paid to individuals for hours worked outside the scheduled work period or for hours worked over 171 in a 28-day period.~~

~~Fire • FIREP • $25.00 per month~~

~~Paid to individuals in a designated occupational class within an institution, which provides a service twenty-four (24) hours a day, whose primary duties do not include fighting fires, but who are requested by the appointing authority to put out or prevent potential fires occurring on the institution grounds as a part of assigned tasks.~~

~~Constable • CONST • 5% of base salary~~

~~Paid to individuals in a designated occupational class within an institution, which provides a service twenty-four (24) hours a day, who are required by the appointing authority to carry a gun, and are granted police powers within the confines of the institution. Possession of certification from Law Enforcement Training Academy is required.~~

~~Shift Differential—Always Evening • CALEN • 10% of base salary~~
~~Paid to individuals in a designated occupational class, within a department, agency, or institution, which provides a service twenty-four (24) hours a day, who always work the evening shift usually from 4:00 p.m. to 12:00 a.m. on a continuing basis.~~

~~Shift Differential—Usually Evening • EVENG • 10% of base salary~~

~~Paid to individuals in a designated occupational class, within a department, agency, or institution, which provides a service twenty-four (24) hours a day, who typically (but not always) work the evening shift usually from 4:00 p.m. to 12:00 a.m.~~

Upon requests by appointing authorities, the Mississippi State Personnel Board may establish and maintain compensation plans to remunerate individuals enrolled in designated fields of study at institutions of higher learning, junior colleges, community colleges, or technical schools who alternate between intervals of state service or non-state service employment followed by unpaid intervals during training for the designated occupational class.

5.~~11~~10 EDUCATIONAL BENCHMARKS

The ~~State Personnel Director~~ Executive Director of the State Personnel Board is authorized to approve requests to award educational benchmark increases on a case-by-case basis, in accordance with policies and procedures outlined in Policy Memorandum No. 2, *Administration of the Variable Compensation Plan*, for the current fiscal year.

~~When requesting an educational benchmark award, the following shall be in effect:~~

~~A. All requests for educational benchmark awards received by the State Personnel Board will be processed during the month received, unless extenuating circumstances prevent such processing. Agencies should ensure that requests are submitted in a timely manner to allow sufficient time for processing.~~

~~B. The following documentation is to be submitted with an educational benchmark request:~~

~~1. A copy of the Degree, Certification, Licensure or Certificate; and~~

~~2. A screen print of the "Educational Benchmark" screen generated from SPAHRS.~~

~~C. Please reference the SPAHRS User Training Workbook, Employment Segment (Change Compensation) for more detailed information regarding requests for educational benchmarks.~~

5.~~12~~11 PAY RANGE REALIGNMENT

The Mississippi State Personnel Board shall recommend to the Legislature the realignment of pay ranges in recognition of economic changes in the prevailing pricing of manpower for a job category within the relevant labor market. The purpose of realignment is to determine a competitive salary range for each occupational class.

5.~~12.1~~11.1 Appropriated Realignment

The ~~State Personnel Director~~ Executive Director of the Mississippi State Personnel Board shall determine and recommend the appropriate realignment of pay ranges for an occupational class to the Mississippi State Personnel Board. The Mississippi State Personnel Board shall make recommendations to the Legislative Budget Office and the Department of Finance and Administration regarding pay range realignment [~~Refer, Section~~ See Mississippi Code Annotated § 25-9-133(1)~~, Mississippi Code of 1972, Annotated, as amended~~.] The Legislative Budget Office and the Department of Finance and

Administration forward the recommendations to the Legislature and the Governor as a part of the annual appropriations process.

Realignment of pay ranges must be appropriated within the legislative budget process. Realignment shall be awarded in accordance with the policies provided in the Promotional Formula outlined in Policy Memorandum No. 2, *Administration of the Variable Compensation Plan*, for the current fiscal year.

~~5.12.2~~ 11.2 Non-Appropriated Realignment

Each agency head shall have the opportunity to document the need for non-appropriated realignment by demonstrating that a bona fide staffing need exists, which cannot be adequately addressed through the normal budget procedures. The Mississippi State Personnel Board may authorize realignments necessary to fill the staffing need only upon certification by the agency director that adequate funds are available. 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. Where more than one agency utilizes a job class proposed for non-appropriated realignment, all affected agencies must certify their acceptance of the realignment. Implementation of salary increases authorized under this section is at the discretion of the appointing authority. Realignments shall be awarded in accordance with the policies provided in the Promotional Formula outlined in Policy Memorandum No. 2, *Administration of the Variable Compensation Plan*, for the current fiscal year.

~~**5.12.3 Award of Non-appropriated Realignment**~~

~~When requesting realignment, the following shall be in effect:~~

~~A. The effective date of the award of realignment shall be no earlier than the first day of the requested month.~~

~~B. The authorized salary awarded for realignment shall be in accordance with policies provided in the Promotional Formula outlined in Policy Memorandum No 2, *Administration of the Variable Compensation Plan*, for the current fiscal year.~~

~~C. Upon approval of realignment by the State Personnel Board, SPB staff will update the starting and ending salary for the occupational classification(s). Any changes to the salaries of individual employees shall be made by the requesting agency through the SPAHRS Employment Segment (Change Compensation).~~

~~5.13~~ 12 PRODUCTIVITY

Productivity increases are performance based salary increases awarded at the discretion of the agency director and management. Productivity allows an agency director to reward excellence among agency employees. Productivity awards must be thoroughly documented by current performance evaluations and are awarded in accordance with policies and procedures outlined in Policy Memorandum No. 2, *Administration of the Variable Compensation Plan*, for the current fiscal year, if the Legislature appropriates specified funds for this purpose.

Please reference the SPAHRS User Training Workbook, ~~Employment Segment (Change Compensation)~~ at http://www.spahrs.state.ms.us or your Human Capital Case Processor Consultant for more detailed information regarding requests for productivity increases.

5.44 13 LONGEVITY

Longevity awards are lump sum payments awarded to employees who have reached the maximum salary (end salary) for their respective job classes. Longevity payments are awarded in accordance with policies and procedures outlined in Policy Memorandum No. 2, *Administration of the Variable Compensation Plan*, for the current fiscal year, if the Legislature appropriates specified funds for this purpose.

5.45 14 EMPLOYER REQUIREMENTS UNDER THE FAIR LABOR STANDARDS ACT OF 1938, AS AMENDED (FLSA)

The Fair Labor Standards Act of 1938, as amended, 29 U.S.C. § 201 and following (FLSA), is a federal law, which is applicable to all state agency employers. The FLSA provides that all covered, or non-exempt, employees must be paid at least a minimum wage, and must be paid at the rate of 1-1/2 times, or time-and-a-half, their regular rate of pay for each hour over forty (40) worked during a single workweek. State agency employers may, in lieu of cash payment for overtime, pay their non-exempt employees in compensatory time at the rate of 1-1/2 hours for each hour over forty (40) worked during a single workweek. Police and firefighters, emergency response personnel, and employees engaged in seasonal activities may accrue up to 480 hours of compensatory time. Other non-exempt employees may only accrue up to 240 hours of compensatory time. After a non-exempt employee has accrued the maximum amount of compensatory time, the employer is required to pay the employee overtime for the additional overtime hours worked in cash.

A public employer may require a non-exempt employee requesting leave to exhaust an FLSA compensatory leave balance prior to use of annual leave, and a public employer may compel a non-exempt employee to use compensatory time and take time off work to reduce a compensatory time balance below the 480- or 240-hour thresholds.

The U. S. Department of Labor (DOL) is responsible for the enforcement of the FLSA, and may investigate and gather data concerning wages, hours, and other employment practices. For assistance in complying with the FLSA, state agency employers may contact the area office of the Wage and Hour Division of the DOL.

The federal regulations governing FLSA applicable to state agency employers in the area of compensatory time are contained in the Appendix. All other FLSA regulations may be found in the Code of Federal Regulations, 29 C.F.R. § 500.

When requesting authorization under FLSA for payment of overtime compensation to non-exempt employees, the following shall be in effect:

A. Each agency must petition the Mississippi State Personnel Board and be approved to receive overtime compensation.

B. Each occupational class to receive overtime compensation must receive prior approval by the Mississippi State Personnel Board.

C. ~~Each position authorized for FLSA overtime must be coded "N" in the Position Segment (Manage Position) of SPAHRS before overtime compensation can be paid.~~ Positions must be determined to be non-exempt from FLSA provisions, and so coded in SPAHRS before overtime compensation can be paid.

5.~~46~~15 EMPLOYEE DATA CHANGES

When requesting changes to employee data, the following shall be in effect:

A. Employee data changes include changes in social security number, last name, first name, middle name, date of birth, race, sex, years of education, agency hire date, pin entry date or status date.

B. Supporting documentation may be required in changing date of hire, PIN entry date, status date, social security number, and performance appraisal rating.

5.~~47~~16 SEPARATIONS

~~A. The State Personnel Board shall accept separation/termination as a result of one (1) of the nineteen (19) reasons indicated below:~~

~~1. Code DH (Death) - Separation of an employee due to death.~~

~~2. Code DS (Dismissed) - A probationary employee may be dismissed at any time during the probationary period. The dismissal of a permanent state service employee may be for cause as a result of disciplinary actions and/or group offenses, or may be due to inadequate job performance.~~

~~3. Code LE (Leave of Absence - Education Reasons) - Employee on authorized leave in order to complete degree requirements and/or obtain other higher-level certification.~~

~~4. Code LF (Leave of Absence - Family & Medical Leave Act) - Employee on authorized leave which is covered under the Family Medical Leave Act (FMLA).~~

~~5. Code LH (Leave of Absence - Health Reasons) - Employee on authorized leave (not under FMLA) due to health reasons.~~

~~6. Code LM (Leave of Absence - Military Reasons) - Employee on authorized leave to serve in the military for an unspecified period of time.~~

7. ~~Code LO (Leave of Absence – Other) – May indicate separation of an employee due to expiration of funds.~~

8. ~~Code NR (Did Not Report) – An employee who fails to report to the job site on the initial appointment is considered separated.~~

9. ~~Code OT (Other – Seasonal Employees) – May indicate separation of an employee due to seasonal employment (i.e., fire seasons, etc.).~~

10. ~~Code RA (RIF, Intra-Agency Transfer [Within Master AG]) – Indicates that an employee is being transferred to another position or agency under the same master agency due to a Reduction-in-Force.~~

11. ~~Code RE (RIF, Inter-Agency Transfer [Not in Master AG]) – Indicates that an employee is being transferred to another agency not within the same master agency due to a Reduction in Force.~~

12. ~~Code RF (RIF, Reduction in Force) – Indicates that the employee is being separated due to a Reduction-in-Force.~~

13. ~~Code RL (Resigned – Leaving State Government) – An employee who is resigning from service should submit a written resignation to the appointing authority at least ten (10) working days before the final working day.~~

14. ~~Code RT (Retired) – If a permanent state service employee is retired under the Public Employees' Retirement Law, the individual is considered as separated.~~

15. ~~Code TA (Transfer – Appropriation Bill Mandated) – Employee is transferred due to legislative mandate.~~

16. ~~Code TF (Transfer – DFA Approved Position Transfer) – Employee is transferred as approved by the Department of Finance and Administration.~~

17. ~~Code TI (Transfer – Intra-Agency Position Transfer [Swap]) – Employee is transferred to another agency within the same master agency.~~

18. ~~Code TP (Transfer – Inter-Agency [Not in Master Agency]) – Employee is transferred to another agency not within the same master agency.~~

19. ~~Code TR (Transfer – Intra-Agency [Within Master Agency]) – Employee transferred to a different employment position within the same or another state government agency either under or not under State Personnel Board authority.~~

B. The effective date of ~~the~~ separation shall be the last day the employee worked or utilized authorized leave. For a complete list of the Separation Reason Codes to enter into SPAHRS, reference the SPAHRS Code Training Workbook at http://www.[illegible] or contact your Human Capital Core Processes Consultants.

5.~~18~~17 DELEGATION OF REALLOCATION AND REORGANIZATION AUTHORITY

5.~~18.1~~17.1 Purpose and Authority

In accordance with ~~Sections~~ Mississippi Code Annotated §§ 25-9-101 *et seq.* ~~of the Mississippi Code of 1972, Annotated, as amended,~~ the Mississippi State Personnel Board, as the governing authority for the statewide personnel system authorizes the ~~State Personnel Director~~ Executive Director of the Mississippi State Personnel Board to enter into formal agreements with department executive directors and agency directors in which employment positions within their agencies may be reallocated and organization charts amended without prior Mississippi State Personnel Board approval; provided, however, that such agreements shall be revocable by the Mississippi State Personnel Board, and continuation shall be contingent upon the reallocations and reorganizations being conducted in accordance with rules and regulations promulgated by the Mississippi State Personnel Board. In the event the Mississippi State Personnel Board has delegated reallocation authority to an agency, this delegation does not remove the requirement that agencies submit personal services budget requests each fiscal year for the purpose of preparing personal services continuation budget projections. Such budget requests shall be prepared in accordance with the policies, rules, and regulations promulgated by the Department of Finance and Administration, the Legislative Budget Office and the Mississippi State Personnel Board. Prior to making any reallocation or reorganization effective, each appointing authority who has entered into an agreement as provided herein shall certify to the Mississippi State Personnel Board that the total annualized cost of any reallocation, or reorganization, shall be equal to or less than the cost savings generated through downward reallocation
or position abolishment of vacant positions.

The Mississippi State Personnel Board will maintain a record of every personnel transaction executed pursuant to any agreement as provided herein and will annually report the total cost of these transactions, by agency, to the Legislative Budget Office and the Department of Finance and Administration.

The ~~State Personnel Director~~ Executive Director of the Mississippi State Personnel Board shall perform, or cause to be performed, a compliance audit and evaluation of personnel transactions executed under the authority delegated pursuant to said agreement, and to publish a report of the audit listing exceptions taken by the ~~State Personnel~~ Executive Director not later than the first of October each year. In the event the Mississippi State Personnel Board determines that an agency has misclassified an employee or position as a result of this delegated authority, ~~the State Personnel Board~~ MSPB will correct such misclassification regardless of the state service status of the employee holding such position. Authority to correct such misclassifications of filled positions shall be limited to one (1) year from the date which the Mississippi State Personnel Board receives written notice of the reallocation.

5.~~18.2~~17.2 Overview

The authority to reallocate employment positions carries with it the demand that rigid professional standards be applied to maintain and administer an equitable statewide job classification plan. Reallocations are valid only when the duties and responsibilities of an employment position have sufficiently changed such that its current job classification is no longer accurate and another job classification more accurately depicts the duties and responsibilities of the position. Reallocations are not

substitutes for promotions or tools to secure salary increases for selected individuals. They are to be performed only when supported by objective job analysis.

The criteria for delegated reallocation agreements set forth below are designed to encourage consistent management of the reallocation delegation program while promoting an efficient, effective, and uniform statewide job classification system.

5.~~18.3~~ Formal Agreements

Upon authorization from the State Personnel Board, the ~~State Personnel Director~~ Executive Director of the Mississippi State Personnel Board may enter into formal reallocation and reorganization delegation agreements with state agency directors. These agreements shall be in writing and shall be signed by the ~~State Personnel~~ Executive Director and the agency director requesting the delegated authority. They shall contain such terms and conditions deemed appropriate by the ~~State Personnel~~ Executive Director.

The agreements may include authorization for the delegation of reallocation authority alone, or delegation of reallocation authority along with the authority to amend organizational charts. To ensure correct organizational placement of job classifications and to ensure the validity of Mississippi State Personnel Board budget recommendations made to the Legislature, delegation of the authority to amend organizational charts shall be approved only for those agencies in which reallocation authority has been delegated.

Authorization by the Mississippi State Personnel Board for its director to enter into delegated reallocation or delegated reorganization agreements shall also carry with it the authority for the ~~State Personnel Director~~ Executive Director of the Mississippi State Personnel Board to modify, suspend, or terminate reallocations or reorganization delegation agreements.

Delegation agreements may be revoked upon a finding that the delegate agency failed to uphold its responsibility in the formal agreement or failed to comply with Mississippi State Personnel Board policies, procedures, and guidelines. All salary setting provisions as outlined in Policy Memorandum No. 2, *Administration of the Variable Compensation Plan*, for the current fiscal year, shall remain in effect for delegate agencies.

5.~~18.4~~ Staff Requirements and Training

Agencies desiring delegated reallocation authority must designate among their ~~personnel~~ human capital staff one primary job analyst and one alternate job analyst. Prior to assuming delegated reallocation authority, these designated job analysts shall receive training by the Mississippi State Personnel Board in job analysis, job classification, and organizational development concepts as well as ~~State Personnel Board MSPB~~ policies and procedures.

All delegated reallocations must be recommended and endorsed by the primary job analyst based on a thorough and independent review of all relevant data.

A. The primary job analysts must be available to devote their full time and effort to their job analysis duties. They may be assigned other duties collateral to their primary job analysis responsibilities; however, whenever they are to be engaged in their job analysis duties they shall not be assigned other duties outside the scope of job analysis.

B. The primary and alternate designated job analysts must attend initial training and follow-up training conducted by the Mississippi State Personnel Board staff. If for any reason the primary analyst cannot attend follow-up training, the alternate must attend the scheduled training. In such case, the primary analyst must schedule a make-up training session with the Mississippi State Personnel Board Office of ~~Classification and Compensation~~ Human Capital Case Managers within thirty (30) days of the regularly scheduled training that was missed.

C. Failure to attend job analysis training or to make up missed training as specified above shall result in the suspension or cancellation of the delegation agreement. Failure to pass any written examinations may result in the disqualification of the designated job analyst and suspension of the delegation agreement.

D. The primary job analyst shall be a Personnel Officer I-V with at least two (2) years of ~~personnel or human resources~~ human capital experience. In agencies without Personnel Officers, the Mississippi State Personnel Board may permit other related job classes to perform job analysis work, but there shall be no substitution for the experience requirement.

E. The alternate job analyst may be in any ~~personnel~~ human capital job classification or professional administrative job class, subject to Mississippi State Personnel Board approval. However, if in the judgment of the ~~State Personnel Director~~ Executive Director of MSPB an agency has insufficient ~~personnel~~ human capital support staff and job classification expertise to conduct valid job analysis, the ~~State Personnel Director~~ Executive Director may refrain from entering into a delegation agreement.

F. In agency ~~personnel~~ human capital offices with a Human Resources Director and at least one Personnel Officer, the subordinate Personnel Officer may be designated as the primary job analyst. No supervisor of the Human Resources Director, or supervisors, shall be designated as a job analyst.

G. The agency Human Resources Director and management must agree not to influence the judgment of the designated job analyst and must provide assurance to the job analyst and the Mississippi State Personnel Board that absolutely no retaliation, direct or indirect, shall result if the job analyst's judgment in a reallocation action is contrary to management's preferences.

H. Upon transfer or termination of the primary job analyst, delegated reallocation authority shall be suspended until his/her replacement completes initial training.

I. If an agency has been delegated authority to amend organizational charts, the agency-designated job analyst(s) shall advise the Human Resources Director and agency management on Mississippi State Personnel Board rules, regulations, guidelines, and procedures concerning organizational issues.

5.18.5 Job Classifications Authorized for Delegated Reallocations

Delegate agencies shall be authorized to reallocate employment positions to those classes in the current State Personnel Board job inventory with the exception of classes, which are denoted in their title or the class specification as being unique to particular agencies. The may also require that reallocations be suspended in particular job classifications if those job classifications are undergoing revision .

5.18.6 Documentation and Record Keeping

A. Only those reallocations which are fully justified by an objective job analysis and fully documented according to these procedures shall be considered valid .

B. Delegate agencies shall establish a central PIN reallocation file for each PIN, which is reallocated pursuant to delegation authority. Refer to " Section for a description of the documentation required to be completed and retained by the agency in their PIN reallocation file.

C. All documentation associated with a delegated reallocation shall be filed and retained by the delegate agency for a period of five (5) years from the effective date of the reallocation. This requirement shall apply whether the reallocation is ultimately approved or not.

D. The reallocation request shall be submitted in conformance with established procedures for submission of all lateral, downward, or upward reallocations. In addition, the agency must provide detailed justification, which must contain the following information:

1. Detailed letter of justification, including the following

   a. Position Identification Number (PIN);

   b. Occupational title and occupational code from which reallocated;

   c. Occupational title and occupational code to which reallocated;

   d. Status of position (filled or vacant);

   e. Total annualized cost (12 calendar months) of the reallocation.

2. Copy of the agency's organizational chart(s) depicting the current placement of the PIN(s).

E. The State Personnel Board Job Content Questionnaire (JCQ) or Role Description Questionnaire (RDQ) shall be the primary instrument for recording the job analysis data in

support of a reallocation. The JCQ or RDQ must be complete and legible. No other form shall substitute for the ~~State Personnel Board~~ JCQ or RDQ.

~~F.~~ If a filled position is to be reallocated, an original State of Mississippi Application must be submitted to the ~~State Personnel Board~~ agency's Human Capital Core Processes Consultants for evaluation to ensure the incumbent meets the minimum qualifications of the job **prior to submitting the personnel transaction for processing.**

~~G.~~ For those agencies who have been granted authority to amend organizational charts, the delegate agency's most current, complete, and valid organizational chart shall be on file and readily available to designated agency job analysts and Mississippi State Personnel Board auditors.

~~5.18.7~~ 17.7 Audits

A. The Mississippi State Personnel Board staff shall perform audits of delegate agencies to ensure that only fully justified reallocations are performed. ~~The staff shall use "Required Documentation Retained by Agencies under Delegation Authority." (Refer to Section 5.18.11.) as their basic guide when conducting audits of reallocations.~~ The audit team may also conduct desk audits of reallocated positions, and shall be alert to any practice or action, which is contrary to sound public personnel management or job analysis practice.

B. Those agencies which have been delegated authority to amend their organizational chart shall have the most recent, complete, and valid organizational chart available for inspection by Mississippi State Personnel Board auditors. In addition, delegate agency employees shall be available for desk audits, and performance appraisal documentation shall be available to verify organizational placement.

~~C. Effective September 1, 2001, agencies are no longer required to submit a State of Mississippi Application for personnel transactions that are approved as part of the Schedule of Authorized Reclassifications. With that change, the State Personnel Board no longer reviews State of Mississippi Applications to determine eligibility. The authority to determine eligibility is delegated to the agencies. To ensure compliance with applicable State Personnel Board policies and procedures regarding the review of employees' eligibility for reclassifications, the State Personnel Board will conduct random audits of selected agencies. Agencies will maintain appropriate documentation, which supports employment decisions made by the appointing authority.~~

~~D.~~ Failure to comply with Mississippi State Personnel Board policies, procedures, and guidelines shall result in corrective action, including the reversal of erroneous reallocations, and may result in suspension, termination, or modification of the delegation agreement by the ~~State Personnel Director~~ MSPB Executive Director. Whenever possible, the ~~State Personnel Director~~ MSPB Executive Director shall take informal remedial steps with delegate agencies to resolve minor classification problems. However, all audit exceptions shall be reported to the Legislature by October 1 of each year.

E. Delegate agencies shall receive no less than twenty-four (24) hours notice prior to the audit. The delegate agency's primary job analyst and the agency Human Resources Director shall be available to answer questions from the Mississippi State Personnel Board auditors. Incumbents of positions reallocated and reclassified within twelve (12) months prior to the audit should be available for desk audits of their positions.

5.18.10 Notice to Employees in Reallocated Positions

Delegate agencies shall give written notice to an employee whose employment position is reallocated pursuant to delegation agreements that the job classification may be changed and the salary adjusted to reflect the correct job classification should the Mississippi State Personnel Board determine that the delegate agency misclassified the position. This written acknowledgment must be obtained prior to submitting the reallocation to the Mississippi State Personnel Board. Incumbents of these positions shall acknowledge in writing that for a period of one (1) year, the Mississippi State Personnel Board has statutory authority to review any delegated reallocation, to correct any erroneous delegated reallocation and, if warranted, to reduce their salary to the level it was prior to the erroneous reallocation. This shall apply to filled positions that are reallocated, as well as vacant positions that are reallocated and subsequently filled. Authority to correct such misclassifications shall be limited to one (1) year from the date the Mississippi State Personnel Board receives written notice of the reallocation. Agency heads shall document said acknowledgment in agency files and forward a copy to the Mississippi State Personnel Board Office of Human Capital Care Processes ~~Classification and Compensation of the State Personnel Board~~.

5.18.11 (7.9) Required Documentation Retained by Agencies under Agency Delegation Authority (Checklist and Analysis Tool for Agencies Delegated Reallocation Authority)

I. Inventory:

A. Justification of reallocation must include the following:

____ 1. Position Identification Number (PIN);
____ 2. Current occupational title;
____ 3. Proposed occupational title;
____ 4. Status of the position (filled or vacant);
____ 5. Reason(s) for reallocation;
____ 6. Justification must state whether federal or state case law, regulations, guidelines or statutes impact upon action;
____ 7. If reallocation requires change from state service to non-state service, justification must be provided. Alternatively, a change from non-state service to state service must be adequately justified. In both cases, signatory authority must be cited;
____ 8. Incumbents of downwardly reallocated positions shall in all cases be notified of their reduction in salary range and a copy of the employee's written acknowledgment of salary range reduction shall be attached;

B. Organizational Chart(s):

____ 1. All organizational charts must be for the current Fiscal Year (FY);
____ 2. Organizational chart page(s) for current placement of PIN(s);
____ 3. Organizational chart page(s) for proposed placement of PIN(s);
____ 4. All organizational chart pages related to the position must be attached;
____ 5. Current/proposed organizational charts must be signed by Agency Head for reorganizations and agency authorized signatory for reallocations;

C. Job Content Questionnaire (JCQ) and Role Description Questionnaire (RDQ). JCQ's or RDQ's and structured desk audits are the primary means by which job analyses are documented.

____ 1. JCQ or RDQ is current (e.g., must be less than twelve (12) months);
____ 2. All sections are complete;
____ 3. Duty and task statements contain sufficient information for analysis;
____ 4. The largest percentage or 40%, whichever is greater of the duties of the position as described in the JCQ, reflect the duties described in the proposed classification;
____ 5. Signed by incumbent (if filled);
____ 6. Signed by supervisor;

D. Reallocations requiring change from state service to non-state service status require a letter signed by incumbent acknowledging same and is to be attached. (Statutory limitations apply.)

II. Analysis of Reallocation:

A. Review history of PIN:

When was the last time the PIN was reallocated? If the position was reallocated within the last six (6) to twelve (12) months, denote reasons for change.

_____

_____

B. Review agency vacancies for positions in proposed class:

____ 1. No vacancies in required class;
____ 2. Vacancy in requested class PIN(s): _____;
____ 3. If there is a vacancy in proposed class, ~~denote~~ explain why such position(s) could not be utilized in lieu of a reallocation
Comments: _____

C. Ensure proposed salary range is less than supervisor's;

D. Ensure proposed salary range is greater than all subordinates;

E. Ensure proposed salary range does not exceed agency head's or Governor's (See statutes and current legislation.);

F. Review the following statutes and published material and denote impact on reallocation:

____ 1. Agency's Statutes (Check supplements also). At a minimum;
____ (a) Statutory qualifications of employees;
____ (b) Statutory organizational structure;
Comments: _____

____ 2. Mississippi State Personnel Board Statutes (Check supplement also).
Comments: _____

____ 3. Mississippi State Personnel Board Policies and Procedures.
Comments: _____

____ 4. Current FY Variable Compensation Plan (VCP).
Comments: _____

~~____ 5. Any legislative bills impacting the reallocation request and/or the requesting agency as a whole and/or the State Personnel Board (during the Legislative session).~~

~~Comments:~~ _____

____ ~~6.~~ Laws and appropriation bills not yet codified from a current Legislative Session
Comments: _____

____ ~~7.~~ Federal laws, regulations, or guidelines, which impact the subject classes or positions;
Comments: _____

~~G. Determine/denote the relevant section(s) of the State Personnel Board Variable Compensation Plan (VCP) for the current FY impacting the reallocation:~~

_____

_____

H. Send applications for filled positions to ~~State Personnel Board~~ the MSPB Office of Human Capital Case Processor to determine if incumbents are qualified for the proposed classification. If an incumbent is not qualified, the reallocation cannot be performed except as provided by law. Date sent to
SPB: _____ SPB Determination: _____

I. Determine if PIN is presently classified as state service or non-state service:

____ 1. State service;
____ 2. Non-state service;
____ 3. Check to see if there is a job classification;
____ 4. Check to see if incumbent was appointed from a certificate (Y/N);

J. Agency shall retain copies of all relevant documentation in PIN file;

Note: To determine the proper classification of a position, a desk audit is recommended when there are questions arising from the personnel officer's analysis of the JCQ. When a desk audit is performed, a copy of the audit form and any additional information should be retained in the position file.

III. Agency Personnel Office Recommendation

The Primary Job Analyst will make a recommendation as to the appropriateness of the reallocation to the Agency Head for final approval/disapproval.

A. Primary analyst's recommendation (initials):

____ a. Approval Effective date: _____;
____ b. Disapproval;

B. Agency Head's Action:

____ a. Concur with staff recommendation;
____ b. Do not concur with staff recommendation;

IV. Disposition of Reallocation

Reallocation approved

____ A. Forward position employee data to ~~SPB~~ Mississippi State Personnel Board date action is finalized in accordance with the Mississippi *State Personnel Board Policy and Procedures Manual*;

____ B. Agency shall retain a copy of the checklist.

_____
Human Resources Director's Signature/Date

~~5.19 POSITION-EMPLOYEE PROFILE~~

~~The Position-Employee Profile is updated in SPAHRS each time a transaction is completed on the position or the incumbent in the position. When the Position-Employee Profile is updated, agency staff are responsible for reviewing the profile to verify that all requested changes are made. If the requested changes have been made, no action is required. If requested changes have not been made, the agency should resubmit the request with the additional changes indicated.~~

~~5.19.1 Descriptive Information~~

~~A. POSITION DATA:~~

~~1. Filled or vacant status of position~~
~~2. System date: The date and time profile was generated~~
~~3. SSN: Incumbent's Social Security Number~~
~~4. Agency: Agency number~~
~~5. PIN: Position Identification Number (PIN)~~
~~6. Agency Name~~
~~7. OCCU: Occupational (Job) Code~~
~~8. Title: Occupational title~~
~~9. Start salary: The lowest salary of the occupation's salary range~~
~~10. End salary: The highest salary of the occupation's salary range~~
~~11. Sal Dt: Date of the most recent change to the start and end salary authorized for the OCCU~~
~~12. FLSA Status: FLSA Code E means position is exempt, and FLSA Code N means position is non-exempt~~
~~13. Pos Auth Dt: The date the position is authorized to be utilized~~
~~14. Pos End Dt: The date the escalated (Time-Limited) position will expire~~
~~15. Org cd: This 5- to 9-digit code denotes the exact location of each position within the agency organizational hierarchy.~~
~~16. Cty: Location of position indicated by county number and name. When changing the county location, the new county number shall be used as designated by the following codes:~~

~~01 Adams~~	~~22 Grenada~~	~~43 Lincoln~~	~~64 Simpson~~
~~02 Alcorn~~	~~23 Hancock~~	~~44 Lowndes~~	~~65 Smith~~
~~03 Amite~~	~~24 Harrison~~	~~45 Madison~~	~~66 Stone~~
~~04 Attala~~	~~25 Hinds~~	~~46 Marion~~	~~67 Sunflower~~
~~05 Benton~~	~~26 Holmes~~	~~47 Marshall~~	~~68 Tallahatchie~~
~~06 Bolivar~~	~~27 Humphreys~~	~~48 Monroe~~	~~69 Tate~~
~~07 Calhoun~~	~~28 Issaquena~~	~~49 Montgomery~~	~~70 Tippah~~
~~08 Carroll~~	~~29 Itawamba~~	~~50 Neshoba~~	~~71 Tishomingo~~
~~09 Chickasaw~~	~~30 Jackson~~	~~51 Newton~~	~~72 Tunica~~

~~10 Choctaw~~	~~31 Jasper~~	~~52 Noxubee~~	~~73 Union~~
~~11 Claiborne~~	~~32 Jefferson~~	~~53 Oktibbeha~~	~~74 Walthall~~
~~12 Clarke~~	~~33 Jefferson Davis~~	~~54 Panola~~	~~75 Warren~~
~~13 Clay~~	~~34 Jones~~	~~55 Pearl River~~	~~76 Washington~~
~~14 Coahoma~~	~~35 Kemper~~	~~56 Perry~~	~~77 Wayne~~
~~15 Copiah~~	~~36 Lafayette~~	~~57 Pike~~	~~78 Webster~~
~~16 Covington~~	~~37 Lamar~~	~~58 Pontotoc~~	~~79 Wilkinson~~
~~17 DeSoto~~	~~38 Lauderdale~~	~~59 Prentiss~~	~~80 Winston~~
~~18 Forrest~~	~~39 Lawrence~~	~~60 Quitman~~	~~81 Yalobusha~~
~~19 Franklin~~	~~40 Leake~~	~~61 Rankin~~	~~82 Yazoo~~
~~20 George~~	~~41 Lee~~	~~62 Scott~~	~~83 Statewide~~
~~21 Greene~~	~~42 Leflore~~	~~63 Sharkey~~	

~~17. Months Per Year: The number of months during the fiscal year that the position is authorized~~

~~18. Hrs Per Week: The number of hours per week an employee in this position is expected to work~~

~~19. Exempt From Sel Cd: Indicates whether the position is exempt from the State Personnel Board Selection Process. The valid exemption codes are:~~

- ~~M – Agency maintained List of Eligibles~~
- ~~P – Promotional~~
- ~~S – State Personnel Director Selection Option~~
- ~~Z – Non SPB Agency~~

~~20. Svc Type: Indicates whether the position is state service or non-state service. The valid service types are:~~

- ~~00 – State Service~~
- ~~01 – NS – Legislature/Staff/Employees~~
- ~~02 – NS – Governor and Staff~~
- ~~03 – NS – Justices~~
- ~~04 – NS – Lt. Governor/Staff~~
- ~~05 – NS – Elected Officials~~
- ~~06 – NS – Board/Committee Members~~
- ~~07 – NS – Academic Officials/Teaching Staff~~
- ~~08 – NS – Officers/Enlisted, National Guard~~
- ~~09 – NS – Prisoners/Inmates/Students/Patients~~
- ~~10 – NS – Contract Personnel~~
- ~~11 – NS – Part-Time Employees~~
- ~~12 – NS – Emergency Appointments~~
- ~~13 – NS – Physicians/Dentists/Attorneys/Veterinarians~~
- ~~14 – NS – Time-Limited Employees~~
- ~~15 – NS – Agency Directors/Heads~~

~~16 NS - Employees Reporting to Key Excluded Officials~~
~~17 NS - Employees l/o/w Goods Contract~~
~~18 NS - Employees l/o/w Prison Construction~~
~~19 NS - Designated Agriculture/Commerce Employees~~
~~20 NS - Probational State Service (Former Code 99)~~
~~21 NS - Agency Comply - Non-State~~
~~22 NS - Extended Probational State Service~~
~~23 NS - Agency/Employee is Non-SPB, Agency Complies~~
~~24 NS - Agency/Employee is Non-SPB, Agency Non-Comply~~

~~24. Service Date: Indicates the effective date of the current service type~~
~~25. Retirement Pgm: Indicates the retirement program in which this position participates. Valid retirement programs are:~~
~~RMHSP - Highway Patrol Retirement Program~~
~~RPERS - Regular Retirement~~
~~RSLEG - Legislative Retirement~~
~~26. Emolument Type: Indicates a non-cash, housing benefit. Some emoluments are subject to taxes and others only affect retirement. Valid values for emolument type are:~~
~~HOSTX - State Provided House, Not Condition of Employment~~
~~HOUSE - State Provided House, Condition of Employment~~
~~27. Emolument Amt: The approximate value of the emolument~~
~~28. Teacher Months: If the position were classified as a teacher, the number of months an employee in this position would work in a year~~
~~29. Pos Auth Bill Nbr:~~
~~30. Loc:~~
~~31. Abolish Date: The date the position was abolished~~
~~32. Abolish Reason: The reason the position was abolished. Valid abolishment reasons are:~~
~~AGE Agency Requested, Generate no Funds~~
~~BIL Appropriation Bill Mandated Position Transfer~~
~~CNV Abolished Prior to Conversion~~
~~DFA DFA Approved Position Transfer~~
~~EXP Expired Escalation (Time-Limited)~~
~~LEG Legislature~~
~~PRD Agency Requested, Generate PROD Funds~~
~~RIF Reduction in Force~~
~~RLG Agency Requested, Generate RLGN Funds~~
~~SEN Senate Bill 3120~~
~~TRA Transfer Between Sub-Agencies~~
~~UPW Agency Requested, Generate REAL Funds~~
~~XCV Abolished Prior to Conversion~~

~~POSITION PROGRAM BUDGET INFORMATION:~~

~~33. Fiscal Year: The current fiscal year~~
~~34. Program Name: The name of the program to which the position is assigned~~
~~35. PGM #: The number that corresponds to the program name~~
~~36. Percent: Percentage of funds paid from the corresponding program~~
~~37. GF%: Percentage of general funds~~

38. FF%: Percentage of federal funds
39. OF%: Percentage of other funds (37, 38, and 39 should always total 100)

EMPLOYEE DATA:

40. The employee's social security number
41. Last Name: The employee's last name
42. First: The employee's first name
43. Middle: The employee's middle name
44. Maiden: The employee's maiden name
45. Suff: The employee's suffix, such as Jr., Sr., III, or Dr.
46. DOB: The employee's date of birth
47. Sex: The sex of the employee in the position. The sex codes are:
    1—Male
    2—Female
    3—Unknown
48. State Hire Date: Represents continuous state service since being hired into state service
49. AG Hire Date: Date incumbent was first hired into a position within the current agency
50. Pos. Entry Date: Represents the effective date of the employee's appointment to the position
51. Employee Status: Indicates whether the employee is permanent state service
52. Status Date: The beginning date of the incumbent's status. On new hires, this date shall be the same as the hire date and the position entry date.
53. Annual Salary: The employee's annual salary amount
54. MTHLY Salary: The employee's monthly salary amount
55. Hourly Rate: The employee's hourly salary amount
56. Max Salary: The maximum salary resulting from application of the promotional formula
57. PROM Max Salary: The starting salary of the occupational class plus ten (10) percent
58. RLGN Max Salary: The maximum salary to be awarded as a result of realignment
59. In-service Max: The maximum salary resulting from a fiscal year in-service increase
60. Last Salary Date: The effective date of the last certified salary change
61. Set By Statute: Indicates whether the salary is set by statute
62. Longevity AMT: The dollar amount the employee is eligible to receive for longevity pay. Longevity pay will not be reflected on the Position-Employee Profile until the employee has been certified at the end salary of his/her current classification.
63. Ed. Bench. Long/Amount: Displays the one-time lump sum longevity awarded to an employee who receives an educational benchmark which exceeds the end salary of the position
64. PAR: The employee's Performance Appraisal Rating
65. PAR Rating Date: The effective date of the employee's performance appraisal rating
66. Years Ed: Indicates the employee's total years of education including elementary, high school and college
67. Race: The race code of the employee in the position. Valid race codes are:
    1. American Indian
    2. White
    3. Hispanic

~~4. Black~~
~~5. Asian~~
~~6. Other~~

~~68. POS Vacant Date: The effective date of the employee's separation~~

~~SEPARATION DATA:~~

~~69. Separation Reason: The code corresponding to the reason for the employee's separation~~
~~70. Separation Date: The effective date of separation by the agency~~
~~71. Requested Effective Date: The date the requesting agency desires the transaction to become effective~~
~~72. Authorized Signature: The agency authorized signature is required in this square on any profile forms submitted to the State Personnel Board.~~

5.20 Selective Service Registration

~~Section~~ Mississippi Code Annotated § 25-9-351 ~~of the Mississippi Code of 1972, Annotated, as amended,~~ provides that every male between the ages of eighteen (18) and twenty-six (26) who is required to register under the Federal Military Selective Service Act, 50, USCS App. 453, and seeking employment with the State of Mississippi, shall submit to the person, commission, board or agency to which his application is submitted, satisfactory documentation of his compliance with the draft registration requirements of the Military Selective Service Act prior to appointment.

In accordance with ~~Section~~ Mississippi Code Annotated § 25-9-127 ~~of the Mississippi Code of 1972, Annotated, as amended,~~ every male between the ages of eighteen (18) and twenty-six (26) who is required to register under the Federal Military Selective Service Act, 50 USCS App. 453, and who is an employee of the State, shall not be **promoted** to any higher position of employment with the state until he submits to the person, commission, board or agency by which he is employed, satisfactory documentation of his compliance with the draft registration requirements of the Military Selective Service Act prior to promotion.

To verify a registration or for information regarding who is and is not required to register, see the Selective Service System website at http://www.sss.gov.

~~The Military Selective Service Act requires each man to register with Selective Service within 30 days of his 18th birthday. Selective Service will accept late registration but not after a man reaches age 26.~~

~~A. The following persons are not required to be registered:~~

~~1. Aliens legally admitted to the United States as non-immigrants under section 101(a)(15) of the Immigration and Nationality Act, as amended (66 Stat. 153; 8 U.S.C. 1101) and who continue to maintain the nonimmigrant status; e.g., visitors for business or pleasure, foreign diplomatic representatives, technical attaches of foreign embassies and legations, consuls general, consuls, vice consuls, diplomatic agents, members of NATO or other international organizations who are not United States citizens and members of their~~

~~families, educational exchange students, and representatives of foreign information media.~~

~~2. Commissioned officers, warrant officers and enlisted men who are on active duty in the Army, the Navy, the Air Force, the Marine Corps and the Coast Guard, and commissioned officers of the National Oceanic and Atmospheric Administration and the regular Public Health Service.~~

~~3. Cadets at the United States Military Academy, the United States Air Force Academy and the United States Coast Guard Academy, and midshipmen at the United States Naval Academy.~~

~~4. Students enrolled in an officer procurement program at the following military colleges, the curriculum of which has been approved by the Secretary of Defense:~~

~~The Citadel (Charleston, SC)~~
~~North Georgia College (Dahlonega, GA)~~
~~Norwich University (Northfield, VT)~~
~~Virginia Military Institute (Lexington, VA)~~

~~5. Members of the reserve components of the Armed Forces, the Coast Guard, and the Public Health Service while on active duty. Active duty in the Public Health Service must be performed by officers of the reserve of the Public Health Service while assigned to staff any of the various offices and bureaus of the Public Health Service, including the National Institutes of Health, or while assigned to the Coast Guard, the Bureau of Prisons of the Department of Justice, the Environmental Protection Agency or the National Oceanic and Atmospheric Administration, or while assigned to assist Indian tribes, groups, bands or communities pursuant to PL 568, 83rd Congress, as amended.~~

~~6. A person who is hospitalized or incarcerated at the time specified for his registration shall be exempt from registration during the period of his confinement. Upon his release, he shall present himself for registration.~~

~~7. Persons who are not required to register shall not be registered. If there is doubt as to whether a person is required to register, the registration shall be accomplished followed by official review and determination.~~

~~B. A male applicant or current male employee who is required to register with the Selective Service System pursuant to Sections 25-9-351 and 25-9-127 of the Mississippi Code of 1972, Annotated, as amended, shall not be employed or promoted without prior submission to the employing state agency or appointing authority documentation to verify his registration with the Selective Service System. The employing state agency is required to maintain a signed affirmation from the applicant or employee that he has complied with the registration requirements of the Selective Service System. This documentation should be maintained in the employee personnel file. Applicants or employees who provide false information concerning their selective service registration, in accordance with Sections 25-9-351 and 25-9-127 of the Mississippi Code of 1972, Annotated, as amended, are subject to a penalty for perjury.~~

~~In the License, Certificate, Registration Section of the State Personnel Board State of Mississippi Application, male applicants who are between the ages of eighteen (18) and twenty-six (26) must enter their selective service number prior to appointment or promotion. Submission and verification of the selective service registration number provided under signature of the applicant in the State of Mississippi Application is sufficient documentation of compliance with state law for applicants. Current male state employees may submit a short signed statement wherein their selective service number is provided for verification.~~

~~Submission by the employing agency to the State Personnel Board of personnel actions affecting males required to register under the Selective Service System will confirm the agency has verified compliance with Sections 25-9-351 and 25-9-127 of the Mississippi Code of 1972, Annotated, as amended.~~

~~C. An individual may verify registration by clicking on the "Check a Registration" icon at the Selective Service web site "www.sss.gov." The information requested will include name, date of birth, and social security number.~~

SPB Form 411.C-88 Rev. 7/07	MISSISSIPPI STATE PERSONNEL BOARD AGENCY SALARY SURVEY DATA SHEET		
Agency Conducting Salary Survey		Date	
MSPB Occupational Class		Occu Code	
Certification of Appointing Authority: I certify that the salary survey information compiled below is true, accurate, and complete.		Date	

RELEVANT LABOR MARKET INFORMATION

The relevant labor market includes the 13 southeastern states (Alabama, Arkansas, Florida, Georgia, Kentucky, Louisiana, Missouri, North Carolina, Oklahoma, South Carolina, Tennessee, Virginia, and West Virginia) and the public and private sector in Mississippi. Data collected from sources outside these areas will be considered on a case- by- case basis, only when sufficient data is not otherwise available.

Title of Comparable Job Classification Surveyed (Attach Class Specification or Complete Minimum Requirements)	Minimum Hiring Rate for Classification	Average Annual Salary of all employees in classification	Number of full-time employees in Surveyed Job Classification	Name and Address of Employer Surveyed And Contact Person With Telephone #

JOB CONTENT QUESTIONNAIRE

Dear Employee and/or Supervisor:

You are about to complete a Job Content Questionnaire (JCQ), a type of position questionnaire designed to collect information which describes the duties and responsibilities of your position. It is NOT intended to measure how well you perform your job. Only your supervisor using a performance appraisal form can evaluate your work performance. Before you begin to complete this form, please read the following information regarding the purposes and uses of the JCQ.

WHO completes the form?
The JCQ should be completed jointly by the employee and the supervisor. Independently, the employee's supervisor lists the duties, tasks, and responsibilities from his/her perspective of the employee's position. The employee and the supervisor should then meet and discuss what each perceives to be the duties, tasks, and responsibilities of the position. Any incomplete entries, inaccuracies, or discrepancies are to be resolved before the employee completes the final draft of the JCQ. From this draft evolves one JCQ for the employee.

The JCQ should be updated no less than once a year either at the time of the employee's performance appraisal rating or *following the vacating of the position*. The most appropriate time for the supervisor to make changes to duties, tasks, and responsibilities, as well as any changes to the job title of the position is when the position is vacant.

WHAT is the Job Content Questionnaire?
A type of position questionnaire or job analysis designed to collect data regarding duties, tasks, and responsibilities for the position and the qualifications necessary to perform the work at a Meets Expectations level. It is also used to **identify the ESSENTIAL functions of the position.**

FOR WHOM am I completing the form?
There must be a well-defined JCQ that outlines the duties, tasks, and responsibilities for every position (PIN) under the salary setting authority of State Personnel Board. The Job Content Questionnaire is maintained by the employee's agency at all times. It is submitted to the State Personnel Board with requests to establish a new position or to reallocate an existing position.

WHY am I completing the form?
The Job Content Questionnaire is the principal document, which describes duties and responsibilities of the position. The data it contains can be used for the following:

- developing training programs;
- interviewing job applicants;
- determining duties for use in the performance appraisal process;
- determining position classifications, class specifications, and selection requirements; and,
- identifying essential functions.

HOW is the form completed?
Instructions are provided throughout the form. The most important point is to completely and accurately describe the job as it **presently** functions. If help is needed, contact your supervisor and/or agency personnel officer.

DIRECTIONS FOR COMPLETING THE JOB CONTENT QUESTIONNAIRE

This section is the most important of those within the form and is the one that will require the most thought. You are asked to describe your job in detail so this information can be used for such functions as training, appraising performance, interviewing, and classification.

Please do not exaggerate your work, but rather describe it in meaningful terms that accurately represent the duties and tasks performed. Avoid using ambiguous terms such as help, handle, assume, and process. Do use crisp, concise terms, such as compose, type, record, assign, and review. Your supervisor should be able to help you compile a list of your major duties. Your agency personnel officer will be able to assist in completing this section. Space has been provided for writing five (5) major duties and their accompanying task statements. You may add or delete pages as required.

Duty Statement
A duty is a distinct, major role or function, which may include any number of tasks. It is one of your principal responsibilities and occupies a significant portion of your time. List the most important first, then those done regularly, and then those done occasionally or by special assignment. Be sure the duty statement is significantly descriptive to incorporate all major components of that duty.

In describing your work, indicate what is true of your job today, not what was true on the day you were hired or what is expected to be true in the future. Should you be assigned duties that are performed only during certain times of the year, you may include these duties if they have been performed in the last calendar year. If the position is vacant, the immediate supervisor should complete this section, describing the job as though the position is filled by a fully trained and experienced individual.

Task
Each task statement should tell what action is performed, for whom or what you do this action, what is produced by this action, and which equipment, tools, materials, work aids, and processes you use when performing this action.

Percentage of Time
The percentage of time is the estimate of the total work time, which you spend in performing each duty. In estimating the percentage of time, it may be easiest for you to look at your job duties over an extended period, say within the last calendar year, to determine these figures. When all duties have been assigned percentages, the sum of these percentages should equal one hundred percent.

Rating Scale
The Rating Scale should be completed after you have written duty statements describing your job. Simply read the rating scale below, and then rank each duty statement by a single rating scale.

How often do you perform this task?
1 Regularly – on a daily/weekly basis
2 Periodically – on a monthly basis
3 Infrequently – on a yearly basis

What is the consequence of error?
1 Low – little effect beyond inconvenience
2 Limited – loss of time
3 Moderate – detrimental to reputation and services of the organization
4 High – loss of program effectiveness, embarrassment to the organization, impact on working relationships with other agencies
5 Serious – loss of life or limb

Knowledges, Skills, and Abilities
Describe the knowledges, skills, and abilities a person would need to perform each duty satisfactorily. Think in terms of requirements that any individual should meet to satisfactorily perform your job and not the qualifications, which you currently possess. You may want to refer to the definitions of the terms "knowledges," "skills," and "abilities" before completing this segment.

JOB CONTENT QUESTIONNAIRE						
1. Position Data						
a. Position Number (PIN)		Check one:		Filled		Vacant
b. Job Class						
c. Agency						
County						
d. Work Site(s) *[Check.]*		**Office**			**Field**	
		Other *[Specify.]*				
e. Job Summary *[Short statement of the job's basic purpose; why the job exists.]*						
2. What education, special training, experience, or licenses are required for satisfactory job performance?						
3. What machines or equipment are you responsible for operating?						
4. What are the working conditions? List such items as noise, heat, outside work, exposure to bad weather.						
5. Do you directly supervise other employees? If so, give the number supervised, their job titles, and the number they each supervise.						
6. Are there any special characteristics, physical requirements, etc., a person must possess to perform your duties satisfactorily?						
Certification of Incumbent: I certify that I have read the instructions and that the entries are my own and to the best of my knowledge are accurate and complete.						
Signature			**Date**			

Duty Statement #1			
Tasks			
% of Time Devoted to this Duty	How frequently is this duty performed? *[Check one.]*		Consequence of Error (1-5)
		Regularly	
		Periodically	
		Infrequently	
Were you required to be able to perform this duty upon entry into the position?			
Knowledges			
Skills			
Abilities			

Duty Statement #2			
Tasks			
% of Time Devoted to this Duty	How frequently is this duty performed? *(Check one)*		Consequence of Error (1-5)
		Regularly	
		Periodically	
		Infrequently	
Were you required to be able to perform this duty upon entry into the position?			
Knowledges			
Skills			
Abilities			
Duty Statement #3			

Duty Statement #2			
Tasks			
% of Time Devoted to this Duty	How frequently is this duty performed? *(Check one.)*		Consequence of Error (1-5)
		Regularly	
		Periodically	
		Infrequently	
Were you required to be able to perform this duty upon entry into the position?			
Knowledges			
Skills			
Abilities			
Duty Statement #4			

Duty Statement #2			
Tasks			
% of Time Devoted to this Duty	How frequently is this duty performed? *(Check one.)*		Consequence of Error (1-5)
		Regularly	
		Periodically	
		Infrequently	
Were you required to be able to perform this duty upon entry into the position?			
Knowledges			
Skills			
Abilities			
Duty Statement #5			

Duty Statement #2			
Tasks			
% of Time Devoted to this Duty	How frequently is this duty performed? *(Check one.)*		Consequence of Error (1–5)
		Regularly	
		Periodically	
		Infrequently	
Were you required to be able to perform this duty upon entry into the position?			
Knowledges			
Skills			
Abilities			

TO BE COMPLETED BY THE IMMEDIATE SUPERVISOR

This section should be completed by the employee's immediate supervisor after reviewing the entries made by the incumbent. Should you find incomplete entries or inaccuracies in the employee's description of his/her job, resolve these discrepancies before the employee completes the final draft of this form. The immediate supervisor's section has been designed as a recap and overview of the employee's description of the job. It should be completed in either your own handwriting or typed and it must be signed and dated.

1. Briefly describe the functions performed by the unit in which the employee works.

2. What do you consider the most important responsibilities of this position?

3. What types of formal education, specialized training, related work experience, certification, licensure, or registration, and other special requirements should be required at entry for this job?

4. How many months would it take a new employee in this position to perform at the level that a fully experienced individual performs?

5. Indicate the statement, which most nearly describes the difficulty and general complexity of the work, performed in this position.

	The work is routine or highly repetitive and simple in nature with little or no choice of action.
	The work is routine or repetitive and follows clearly prescribed standard practice involving straightforward application of readily understood rules and procedures. The employees may make minor decisions, usually of relatively little importance, which affect efficiency of the operation rather than accuracy, correctness, or quality of work.
	The work is generally routine or standardized but involves a choice of action within limits defined by standard practices and instructions. It also requires applying established rules and procedures, and making decisions that may affect quality, accuracy, or utility of results.
	The work is generally semi-routine or diversified and requires judgment in applying broader aspects of established practices and procedures to problems and situations not falling clearly within the limitations of accepted standards and precedents. The employee works toward assigned objectives, sometimes adopting or modifying methods and standards to meet changing conditions.
	The work is governed generally by broad instructions, objectives, and policies, usually involving frequently changing conditions and problems. It requires considerable judgment to apply factual background and fundamental principles in developing problem-solving approaches and techniques.

	The work requires analysis of broad problems, the planning of interrelated activities, and sometimes the coordination of efforts of more than one major department or division. The employee works out programs and approaches to major problems using recognized general principles.
	The work involves responsibility for consideration and analysis of major problems for the organization. It requires development of data and recommendations influencing decisions on long-term policies relating to major functions where no precedent has been established.
6. Class of your position	

Certification of Immediate Supervisor: I certify that I have reviewed the entries made by the employee on this form and agree that they are accurate and complete; I also certify that the entries in this section are my own and to the best of my knowledge are accurate and complete.

Signature	Date

The following area may be used by the agency as a place for documentation of the essential functions for this position. Factors to consider in determining if a function is essential include, but are not limited to: whether the position exists to perform that function; the number of employees available to perform that job function or among whom the performance of that function can be distributed; and the degree of expertise or skill required to perform the function.

	Duty Statements	Essential
1		
2		
3		
4		
5		
6		

Signature	Date

CHAPTER 6.0
STAFFING MANAGEMENT POLICIES

6.10 ~~AUTHORITY AND SCOPE~~ INTRODUCTION

The Staff Management Program is authorized by ~~Section~~ Mississippi Code Annotated § 25-9-101, *et seq.*, ~~Mississippi Code of 1972, Annotated, as amended,~~ and applies to all agencies and positions within agencies under the purview of the Mississippi State Personnel Board [~~Refer, Section~~ See Mississippi Code Annotated § 25-9-107(d), ~~Mississippi Code of 1972, Annotated, as amended~~].

6.~~10.1~~ 10.1 Purpose

The Staff Management Program authorizes the Mississippi State Personnel Board to monitor, control, and implement short and/or long-range organizational planning to achieve the most efficient and economical use of staffing positions within agencies. In support of the stated purposes, the Staff Management Program provides for the following:

A. The establishment, consolidation, or abolishment of agencies and employment positions;

B. The submission, approval, and determination of compliance of agency organizational and staffing plans, payroll, program budget data, and other essential personnel data; and

C. The provision of timely reports or recommendations on agency organizations and staffing cost projections to the Department of Finance and Administration and the Legislative Budget Office during the budget process regarding the status of employment positions within agencies.

6.11 ~~ROLE OF AGENCY~~ AGENCY'S ROLE IN THE STAFFING MANAGEMENT PROGRAM

Each agency director is responsible for the continual evaluation of the agency's mission and workload to ensure that staffing resources are consistent with legal authority, mission priority, and sound staffing management principles. Actions taken to ensure the maximum utilization of staffing positions include, but are not limited to, the following:

A. Conducting long-range agency organizational planning in which organizational changes, additions or deletions of positions, or similar actions affecting budgetary requirements are anticipated and/or recommended for future fiscal years;

B. Recommending elimination of non-essential agencies or positions;

C. Recommending consolidation of agencies, positions, and activities when duplication of functions is indicated; and

D. Establishing and maintaining a system of agency staffing management documentation and collection and retention of data (~~Refer, Section~~ See Mississippi Code Annotated § 25-9-133; ~~Mississippi Code of 1972, Annotated, as amended~~).

6.~~11.1~~1.1 Reporting Data

The director of each agency shall submit to the Mississippi State Personnel Board all information deemed necessary by the Mississippi State Personnel Board for the provision of required reports to the Governor, Legislature, Federal Government and general public [~~Refer, Section~~ See Mississippi Code Annotated § 25-9-135(2); ~~Mississippi Code of 1972, Annotated, as amended~~].

6.~~12~~2 ESTABLISHMENT AND ABOLISHMENT OF AGENCIES/~~MASTER AGENCIES~~

Legislative appropriation of funds, Executive Order, Department of Finance and Administrative budget escalation, the receipt of federal funds, or loss of funding or authorization shall require the submission of documentation to the Mississippi State Personnel Board for the establishment and/or abolishment of agencies and/or master agencies prior to requesting additions, deletions or changes in employment positions resulting there from. All agencies established or abolished in accordance with the provisions herein shall be based on legislative intent and authorization, appropriation or escalation of funds or loss thereof, and current fiscal policy.

6.~~12.1~~2.1 Establishment of a New Agency/~~Master Agency~~

When legislative appropriation or other authority provides for the creation of a new agency ~~and/or master agency~~, the agency director shall submit the following to the Mississippi State Personnel Board:

~~A. A letter of justification addressed to the State Personnel Director;~~

~~B.~~ A. A copy of the enabling legislation or other authority that created the new agency and/or master agency; and

~~C.~~ B. A copy of the appropriation bill or other authority that funds the new agency and/or master agency.

The ~~State Personnel Board~~ Office of Human Capital Core Processes employees will perform all functions in SPAHRS related to ~~a master agency, including creating, maintaining, inactivating, and reactivating~~ the creation, maintenance, inactivation and reactivation of an agency.

Once the ~~master agency and/or~~ agency records have been created in SPAHRS (to include the fiscal year records), the agency shall create a Program Budget record for each new agency to be reviewed and approved by the Office of ~~Classification and Compensation~~ Human Capital Core Processes.

Please reference the SPAHRS User Training Workbook at http://www.smpa.state.ms.us/ or your Human Capital Core Processes Consultant for more detailed information regarding the establishment of new agencies.

6.~~12.2~~ Consolidation of Existing Agencies ~~and/or Master Agencies~~

Agencies directed by appropriation acts or other legislative authority to consolidate existing agencies~~/master agencies~~ shall submit the following to the Mississippi State Personnel Board:

A. A letter of request to the ~~State Personnel Director~~ Executive Director of the Mississippi State Personnel Board, describing by name and agency code number, which agencies are expanding and which agencies are being abolished. The letter shall also address the disposition of former agency directors, bureau directors and division directors along with possible duplication of functions such as clerical support, print shops, computer centers, etc.;

B. A copy of the enabling legislation or other authority that directed the consolidation to be accomplished;

C. A copy of the appropriation bill or other authority that funded the consolidation of the agencies;

D. A revised organizational chart identifying the precise location, after consolidation, of all authorized positions prepared in accordance with established procedures;

E. Any updates to the expanded agency's Program Budget record should be submitted ~~online~~ in SPAHRS to the Office of ~~Classification and Compensation~~ Human Capital Core Processes for review and approval; and

F. Any other relevant supporting documentation.

NOTE: Once all positions have been transferred to the expanded agency, the relevant agencies ~~and/or master agencies~~ shall be inactivated by the Office of ~~Classification and Compensation~~ Human Capital Core Processes.

6.~~12.3~~ Inactivation of Agencies~~/Master Agencies~~

Agency~~/Master Agency~~ inactivation becomes necessary when the Legislature does not pass an appropriation act to continue or fund any positions within an agency. Petitions for inactivation of an agency shall be submitted a minimum of sixty (60) days prior to the proposed effective date. Note that all positions must be abolished before the agency~~/master agency~~ may be inactivated. ~~The agency director shall submit the following to the State Personnel Board:~~

~~A. A letter of justification addressed to the State Personnel Director outlining the lack of authority to continue the agency; and~~

~~B. Any other relevant supporting documentation.~~

6.~~12.4~~ Agency Program Budget Data

The agency program budget data is submitted to the ~~State Personnel Board~~ Office of Human Capital Core Processes ~~online~~ in SPAHRS for each agency ~~within the corresponding master agency~~. This information

must be submitted to the ~~State Personnel Board~~ Office of Human Capital Management at the following times:

A. During conversion from the current fiscal year to the newly appropriated fiscal year;

B. As part of the annual Personal Services Budget Request for the next fiscal year;

C. When adding an agency or program during the operating fiscal year; and/or

D. When changing the workers' compensation rate during the operating fiscal year.

General Instructions for submitting agency program budget data:

A. Fiscal Year

1. For FY Conversion - Use appropriated fiscal year;

2. For Budget Request - Use fiscal year for which Budget Request is made;

3. For Addition of Agency or Program and/or Change in Workers' Compensation Rate - Use Operating Fiscal Year.

~~B. Agency Number(s) - State Personnel Board assigned sub-agency number.~~

~~C.~~ B. Program Number and Description - Program Numbers and Names as assigned by the Legislative Budget Office and the Department of Finance and Administration. Change, deletion, or addition of a program during the operating fiscal year or for the budgeted fiscal year will require documentation of Legislative Budget Office and Department of Finance and Administration concurrence.

~~D.~~ C. General Fund, Federal Fund, Other Fund

1. For FY Conversion or Change in Workers' Compensation Rate - Indicate amount of total appropriated personal services dollars assigned to each fund within each program;

2. For Budget Request - Indicate amount of total personal services dollars necessary to fully fund existing positions and requested actions assigned to each fund within each program;

3. For Addition of Agency or Program - Indicate amount of total personal services dollars authorized by the Department of Finance and Administration assigned to each fund within each program.

~~E.~~ D. Current Workers' Compensation Rate - The numerical rate, expressed in a four (4) digit decimal form, used to compute the total amount needed to cover the operating or budgeted fiscal year's Workers' Compensation Insurance.

F. Requested to Cover Cost

1. For FY Conversion, Addition of Agency or Program, and/or Change in Workers' Compensation Rate - Use total amount needed to cover Workers' Compensation for operating fiscal year;

2. For Budget Request - Use total amount needed to cover Workers' Compensation for the fiscal year for which the budget request is made.

Please reference the SPAHRS User Training Workbook at http://www.mspa.state.ms.us or your Human Capital Core Processes Consultant for more detailed information regarding adding/modifying agency program budget information.

6.~~13~~3 ORGANIZATIONAL PLANNING AND POSITION MANAGEMENT

The Mississippi State Personnel Board shall recommend policies and procedures for the efficient and economical use of each employment position. The appointing authority of each agency shall be responsible for directing organizational planning and position management intended to manage the number and distribution of staffing resources through:

A. Efficient and effective organization and staffing plans to accomplish the agency mission and program requirements;

B. Effective utilization of all personnel resources, considering such factors as available staffing, positions, supervisory spans of control, lines of supervision, supervisor/employee ratios, functional responsibility and delegation of authority; and

C. Continuing review of organizational structure, staffing plans and position utilization.

[~~Refer, Section~~ See Mississippi Code Annotated § 25-9-101, *et seq.*, ~~Mississippi Code of 1972, Annotated, as amended.~~]

6.~~13.1~~3.1 The Staffing Planning Cycle

The staffing planning cycle is a continuous process reflecting the current, ongoing planning phase and the advanced planning phase required to be in concert with the personal services budget and appropriation cycles. The staffing planning cycle is divided into three units of time:

A. Current fiscal year encompasses the present appropriation acts under which agencies are operating;

B. Next fiscal year is the fiscal year immediately following the current fiscal year and for which the appropriation acts are approved by the current year's legislative session for implementation and use after the current fiscal year;

C. Future fiscal year means the fiscal year(s) immediately following the next fiscal year for which agencies prepare budget requests to effect advanced planning for position(s), organizational changes and future appropriations.

6.~~13.2~~ Budgeting for Staffing Positions

All agency requests and justification for additional staffing positions shall be submitted ~~online~~ in SPAHRS to the ~~State Personnel Board~~ Office of Human Capital Core Processes for recommendation to the Department of Finance and Administration and the Legislative Budget Office as part of the annual budget process. Budget requests for the future fiscal year must be submitted in accordance with the Department of Finance and Administration/Legislative Budget Office Budget Instructions and Mississippi State Personnel Board Staff Management Planning Instructions. These instructions are issued annually. Requests for additional positions shall not be recommended for authorization when there are existing long-term vacancies within the organization of the same, similar or related classes~~, or when current position utilization is ineffective or inefficient~~. The Mississippi State Personnel Board shall annually monitor each agency's budget request and appropriation bill through the legislative appropriations process [~~Refer, Section~~ See Mississippi Code Annotated § 25-9-133(1)~~, Mississippi Code of 1972, Annotated, as amended~~].

6.~~13.3~~ Organizational Planning

The Staffing Management Program of each agency shall incorporate existing and proposed agency and position data into organizational charts indicating each position authorized. All current or proposed organizational charts shall be reviewed by the agency for completeness and accuracy of data to ensure inclusion of actions approved for next fiscal year implementation and conformance to the agency's next fiscal year appropriation act. The following shall be in effect with respect to agency organizational charts:

A. Agencies shall submit an original and one (1) file copy of the organizational chart in the format indicated in the examples at the end of this chapter ~~on page 6.F.1-F~~ for approval by the ~~State Personnel Board~~ Office of Human Capital Core Processes prior to the start of each fiscal year. Upon approval by the ~~State Personnel Board~~ Office of Human Capital Core Processes, the organizational structure and codes shall become the official organizational structure of the agency for current and/or succeeding fiscal years and the basis for all requested position and organizational changes.

B. Constant internal review of any agency organizational structure is an agency responsibility. Agencies may make minor alterations or movement of individual positions, including county code changes, in their organizational charts for efficiency or to balance staffing workload (generally singular moves below the division level) during the fiscal year. When requesting organizational chart revisions, the Agency shall submit the request for organizational code or county code change online through SPAHRS on the Position Screen. The following information shall be forwarded to the Mississippi State Personnel Board in support of the organizational change:

1. Organizational chart pages signed by the appointing authority or his or her designee, depicting both current and proposed structures; and

2. Additional documentation as may be specified by the ~~State Personnel Director~~ Executive Director of the Mississippi State Personnel Board.

C. Agencies shall request the Mississippi State Personnel Board to review major changes or movement of positions within the organizational structure. Major alterations, movements, or changes within the agency organizational structure must be approved by the Mississippi State Personnel Board prior to implementation by the agency. Contact your ~~Classification/Compensation Analyst~~ Human Capital Core Processes Consultant to determine the format in which to submit your proposed reorganization for formal presentation before the Mississippi State Personnel Board.

6.~~13.3.a~~ 1.4 Organizational Coding

The organizational location code is usually a five (5) to ten (10) digit code used in conjunction with the PIN, occupational class title, FLSA Code, Service Status Code (if non-state service) and start salary of the occupational class to depict the exact location of every authorized position within the agency organizational hierarchy.

The agency head typically shall be designated by six zeros. However, because the size of the agency dictates the number of supervisory levels required, some agencies will need to utilize more than six or less than six zeros. Please contact your Mississippi State Personnel Board ~~Classification/Compensation Analyst~~ Human Capital Core Processes Consultant for assistance. All members of the agency head's immediate and personal staff shall begin with a zero digit on the left and appear as number 000001 through 099999.

Where larger agencies have a complicated organization and span of control, the Office level is the level beneath the agency head. Office Directors shall be numbered 100000, 200000, 300000, through 900000. The limit is nine offices. Each Office Director has an organizational code with the requisite number of zeros on the right to designate the number of levels supervised.

Where authorized, or required, the bureau level is the level beneath the office level. Bureaus are normally authorized in the larger agencies or in those agencies where applicable statutes stipulate the agency shall have bureaus. Bureau Directors shall be numbered 110000, 210000, 310000, etc., through 990000. The limit is nine bureaus per office. Each Bureau Director has an organizational code with the requisite number of zeros on the right to designate the number of levels supervised.

Where authorized, the division level is directly beneath the bureau level. Division Directors are number 111000, 211000, 311000, etc., through 911000. The limit is nine divisions per bureau. Each Division Director has an organizational code with the requisite number of zeros on the right to designate the number of levels supervised.

The Branch level is the level under the division level. Where agencies are not authorized bureaus or divisions, branches may be directly beneath the agency head. Branch Directors shall be number 111100,

211100, 311100, etc., through 911100. The limit is nine branches per division. The Branch Director has an organizational code with the requisite number of zeros on the right to designate the number of levels supervised.

The section level is under the branch. Section Chiefs are number 111110, 211110, 311110, etc., through 999990. The limit is nine sections per branch. The Section Chief has an organizational code with ~~with~~ the requisite number of zeros on the right to designate the number of levels supervised. Section Chiefs have no personal staff. Sections Chiefs exercise supervision over work units.

Unit is the worker level of the agency organization. These individuals have no supervisory responsibility and receive their supervision from the Section Chief. The last digit of the unit organizational code can be number one through nine. (~~Refer, Chapter 6 , page 20~~ See the charts at the end of this chapter.)

6.~~13.3.b~~ 1.5 Agency Organizational Chart

A. The overview page of an organizational chart is applicable to the larger agencies that require several pages of organizational charts to depict all authorized positions. Items to be included on the overview page include:

1. Agency Head;

2. Agency Head's immediate staff; and

3. Program functions depicted by separate squares using lines to indicate related functions by supervision.

B. Mandatory items that shall be included on the agency organizational chart:

1. All authorized positions;

2. Each square shall include the following data as depicted in the example ~~at the end of this chapter on page 6.F.2~~:

   a. The official occupational class title of the position at the top of the square;
   b. The functional title for the position at the bottom of the square (optional);
   c. The start salary (rounded to the nearest ~~one-tenth of one thousand dollars~~ ~~hundred dollars~~) of the occupational class in the lower left side of the position box (i.e., $37,856.48=37.9 and $37,829.74=37.8);
   d. The position identification number (PIN) in the lower right side of the position box (agency code numbers may also be indicated for agencies utilizing multiple agency codes.);
   e. The organizational code number;
   f. The FLSA classification in the bottom center of the position box. FLSA Codes are identified below:

Classification	Code
Exempt	E
Non-Exempt/Hospitals	H
Non-Exempt/Other	N
Non-Exempt/Public Safety	P

g. The page number where each PIN can be found when there are follow-up pages;
h. The service status code (if the position is non-state service, i.e. x-16).

C. In the example on page 19, the chart only goes down through bureau level, indicating precisely those individuals directly supervised by, or reporting directly to, the agency head. Agencies not authorized offices or bureaus shall use divisions directly under the agency head.

D. All organizational charts shall show the lines of supervision within the agency hierarchy. Lines of supervision reveal a supervisor's span of control and clarify the raters and reviewers in the agency's performance appraisal system.

~~All organizational charts shall show the lines of supervision within the agency's hierarchy.~~

~~1. Lines of supervision clarify the raters and reviewers in the agency's performance appraisal system.~~

~~2. Lines of supervision also reveal a supervisor's span of control. An effective span of control depends upon the function(s) being supervised. It can be as little as three (3) positions and as much as fifteen (15) positions, but is generally considered appropriate between five (5) and nine (9) positions.~~

E. The information in the upper right corner of the organizational chart example shall be placed on each page. However, the director need only sign the first page.

6.~~13.4~~ Staffing Guides/Plans/Standards

Each agency director, in conjunction with the Mississippi State Personnel Board, shall be responsible for development of staffing guides, plans and standards to justify and substantiate staffing position requirements. Agency staffing plans shall be utilized to formulate uniform staffing standards applicable to designated employment positions and classes within agencies. [~~Refer, Section~~ See Mississippi Code Annotated § 25-9-133(1)~~, Mississippi Code of 1972, Annotated, as amended~~]

6.~~13.5~~ Agency Reorganization

Agency requests for reorganization shall be accomplished:

A. In accordance with the provisions of Mississippi State Personnel Board rules, regulations and procedures;

B. According to authorization of positions in appropriation acts or budgetary escalations;

C. In accordance with current fiscal policy and legislative intent; and

D. Through submission of a detailed letter of compelling justification from the agency director to the ~~State Personnel Director~~ Executive Director of the Mississippi State Personnel Board. Attachments to this letter shall include:

1. Current and proposed organizational charts;

2. All required documentation for requested downward, lateral, and upward reallocations. (~~Refer, Chapter 6, Section 5.0.~~ See Section 5.1.2);

3. All required documentation for any requested class establishments. (~~Refer, Chapter 6, Section 5.0.~~ See Section 5.1.2); and/or

4. All required documentation for any requested realignments. (~~Refer to Section 5.0.~~ See Section 5.1.2)

6.~~13~~.6 1.8 Establishment of Positions

The establishment of positions occurs either at the start of the fiscal year at conversion for newly appropriated positions or during the operating fiscal year when mandated by special circumstances such as budget escalation authorized by the Department of Finance and Administration or deficit appropriation.

A. The following documentation shall be submitted in support of all requests to establish new positions:

1. A copy of the appropriation bill or Department of Finance and Administration escalation authority authorizing the position establishment;

2. An organizational chart depicting the precise location of all authorized positions, including ones to be established;

3. A Job Content Questionnaire (JCQ) or Role Description Questionnaire (RDQ) for each position requested. A representative JCQ may be submitted when all positions are to be allocated to the same job class and will be assigned substantially the same work;

4. ~~A letter of request addressed to the State Personnel Director and signed by the agency head;~~

~~5.~~ 4. Requests for new positions in a new job class shall also include documentation required for a class establishment. (~~Refer, Chapter 6, Section 5.0.~~ See Section 5.1.2)

B. Each new position's Position Identification Number (PIN) may be assigned by the requesting agency, or SPAHRS will assign the next available number.

Please reference the SPAHRS User Training Workbook~~, Position Segment,~~ at http://www.myms.ms.gov or your Human Capital Core Processes Consultant for more detailed information regarding position establishments.

6.~~13~~.7 ~~1.9~~ Abolishment of Positions

Each agency shall enter vacant position abolishments online in SPAHRS when the number of actual positions is in excess of the number of positions authorized by the agency's appropriation act for the next fiscal year. ~~(Refer, Chapter 6, Section 5.0.)~~ [~~Refer, Section~~ See Mississippi Code Annotated §§ 25-9-119(i) and 25-9-133(i), ~~Mississippi Code of 1972, Annotated, as amended~~.]

Routine position abolishments shall be submitted online in SPAHRS as soon as practical prior to the proposed effective date unless such abolishment would result in ~~an~~ agency reorganization. Agencies effecting reductions in positions resulting in reorganization shall submit required forms and revised organizational charts to the Mississippi State Personnel Board at least sixty (60) days prior to deleting the positions.

Petitions for position abolishment to effect a reduction in force shall be submitted to the Mississippi State Personnel Board ~~a minimum of sixty (60) days prior to the proposed effective date~~ for review. ~~(Refer to~~ See Section 7.60.) Reductions in agency staffing shall be proportionate among positions within the hierarchal structure so as not to adversely affect supervisory or non-supervisory classes of positions.

Agencies shall apply a study of the essential needs of the organization, including the need for supervisory positions, when planning a reduction in employment positions. Changes in agency program shall be constantly analyzed with the intent of effecting maximum efficiency with minimum staffing. Agencies should note the possibility of changes in the Job Content Questionnaires for other continued positions impacted by reductions. Agencies effecting reductions in employment positions shall submit required documents on Mississippi State Personnel Board approved forms in accordance with the instructions and examples contained herein. ~~(A current list of agency vacancies is available by use of the browse screens within the Position Segment of SPAHRS.)~~

NOTE: Individuals cannot receive payment for accrued annual leave unless SPAHRS reflects termination from the requesting agency.

Please reference the SPAHRS User Training Workbook~~, Position Segment,~~ at http://www.myms.ms.gov or your Human Capital Core Processes Consultant for more detailed information regarding Position Abolishments.

6.~~13~~.8 ~~1.10~~ Swap or Transfer of Positions within Legislative Authority

A Position Transfer is the movement of an authorized position from one agency to another agency. A full-time/part-time swap is the change in the part-time/full-time status of two (2) positions accomplished within legislative authority. The swapping or transferring of positions may occur either at the start of the fiscal year as a part of conversion or during the operating fiscal year as follows:

A. Agencies may be mandated by legislative action to transfer positions from one master agency to another master agency, or from one agency to another agency within the same master agency at the start of the fiscal year, or as a part of conversion. Position transfers from one agency to another agency within the same master agency should be requested through SPAHRS using the Intra-Agency Position Transfer screen. At the same time position transfers are requested for approval, the following documents must be submitted in support of all such requests:

1. A copy of the bill authorizing position transfers; and

2. Pages of the appropriate organizational chart depicting the proposed placement of the position(s) to be transferred.

B. Certain agencies are given authority each fiscal year in their appropriation bill to transfer positions between authorized agencies. Authority to transfer positions between agencies is granted by the legislature to specified agencies in the annual appropriation to the agency. Position transfers from one agency to another agency within the same master agency should be requested through SPAHRS using the Intra-Agency Position Transfer screen. Approval to implement transfers during the current fiscal year must be requested and received from the Department of Finance and Administration prior to submitting online in SPAHRS submission to the Mississippi State Personnel Board. The following attachments must be included with all such requests:

1. A copy of the letter of authorization from the Department of Finance and Administration; and

2. Appropriate organizational chart pages depicting the placement of the positions before and after the swap.

C. Any agency authorized both part-time and full-time positions may ~~effect the~~ change ~~of~~ the status of a position from part-time to full-time at any time during the operating fiscal year. In such instances, the agency must provide a companion action changing the status of a full-time position to part-time to maintain its appropriated position count. A Full-time/Part-time swap should be requested using the Full-Time/Part-Time Swap screen within the Position Segment of SPAHRS.

Please reference the SPAHRS User Training Workbook~~, Position Segment,~~ at http://www.mmrs.state.ms.us/ or your Human Capital Data Processing Consultant for more detailed information regarding Intra-Agency Position Transfers or Full-time/Part-time Position Swaps.

~~6.13.9~~ 6.11 Annual Registration of Authorized Positions

A. Registration of authorized positions shall apply to the following agencies and employment positions:

1. State service agencies and positions; and

2. Non-state service agencies and positions excluded from the state service by ~~Section~~ Mississippi Code Annotated § 25-9-107 (c), ~~Mississippi Code of 1972, Annotated, as amended~~

   a. agencies voluntarily operating under limited provisions of the Mississippi State Personnel Board; and/or

   b. time-limited positions. [~~Refer, Section~~ See Mississippi Code Annotated § 25-9-107(c)(xiv), ~~Mississippi Code of 1972, Annotated, as amended.~~]

Registration shall be completed by the close of business on the last day of the fiscal year. All inconsistencies between next fiscal year authorization and current Mississippi State Personnel Board agency, position and employee data shall be resolved by this date, including the completion of any plan to adjust positions (adjustments; reauthorizations; establishments; abolishments; transfers; consolidations; changes of status from part-time to full-time or full-time to part-time; or changes of status from permanent to time-limited or time-limited to permanent), execute a reduction in force or implement a legislatively mandated reorganization. There shall be no exceptions to this policy. [Refer, ~~Section~~ § 25-9-103 (g) and ~~Section~~ 25-9-135 (1), Mississippi Code of 1972, Annotated, as amended.]

B. All agencies and employment positions authorized in each agency's appropriation act shall be updated to reflect actual next fiscal year program budget data by program and fund source by the date specified in Policy Memorandum No. 1, Administrative Policies and Procedures for the Registration of Authorized Agencies, Positions, and Program Budget Data. This policy memorandum is updated at the beginning of each fiscal year.

C. Organizational charts shall be revised to reflect position adjustments required to conform to the next fiscal year authorization and submitted to the Mississippi State Personnel Board by June 1 of each fiscal year. A legislatively mandated reorganization shall be monitored by the Mississippi State Personnel Board to ensure compliance with legislative intent. A Reorganization initiated by the agency or necessitated to conform to the agency's next fiscal year position authorization, or an adjustment to an existing staffing plan, shall require prior Mississippi State Personnel Board approval. ~~Such conformance reorganization proposals must be submitted to the State Personnel Board sixty (60) days prior to implementation.~~

6.13.10 6.12 Continuation of Position(s)

A. Documentation will not be required to continue established permanent positions within the agency where no change has occurred.

B. Time-limited positions should be marked for continuation in the next fiscal year using the FY Time-Limited Position Re-Authorization screen within the Position Segment of SPAHRS.

Please reference the SPAHRS User Training Workbook, ~~Position Segment,~~ ~~[illegible]~~ of your Human Capital Core Processes Guidelines for more detailed information regarding the reauthorization of time-limited positions.

6.13.11 Change in Position Status

Authority to change the status of an established position from part-time to full-time (or full-time to part-time) will require an online revision of the months and/or hours fields as well as updating the actual type of the position on the Maintain Position Information screen within SPAHRS.

Please reference the SPAHRS User Training Workbook, Position Segment, at http://www.mspb.state.ms.us or your Human Capital Core Processes Consultant for more detailed information regarding position status changes.

6.13.12 Position Program Budget Data Change

Changes to the program budget data of positions during the operating fiscal year shall be submitted online using the Position Program Budget Information screen within SPAHRS.

Please reference the SPAHRS User Training Workbook, Position Segment, at http://www.mspb.state.ms.us or your Human Capital Core Processes Consultant for more detailed information regarding changes to position program budget.

6.14 POSITION COST PROJECTION AND POSITION VALIDATION

Agencies cannot view or print position cost projections using the Maintain Budget Projection Parameters screen within SPAHRS. Information found in any projection provided by the Office of Classification and Compensation Human Capital Core Processes should be reviewed by the agency for accuracy and be looked upon as the basis for any future position additions, changes, or abolishments.

NOTE: The authorized appropriated position data in the Mississippi State Personnel Board database must be kept up-to-date at all times.

6.15 STAFFING AUDITS

On-site staffing audits shall be utilized to determine the necessity for various positions within the agency's organizational structure. Agencies shall supply all information as requested by the audit team. The audit team shall work closely with the agency's personnel office. Questions regarding positions shall be resolved at the organizational level in which the audit is being conducted. Justification of the necessity of a particular position or organizational structure shall be the responsibility of the agency. Audit team members shall conduct a closing interview with the head of the agency being audited to discuss the team's general recommendations and to discuss the dissent procedure. An audit report of recommendations shall be in accordance with standard format and be forwarded to the audited agency following its approval for release and implementation by the State Personnel Board. [Refer, Section 25-9-133 (1), Mississippi Code of 1972, Annotated, as amended.]

A. Agencies scheduled for staffing audits shall be required to complete such forms as required to justify each position prior to on-site audits by State Personnel Board staff. Staffing Audit Questionnaires shall be supplied to the agency for completion and returned to the State Personnel Board within a specified time frame. During on-site audits, audit team members shall utilize the

~~completed Staffing Audit Questionnaires, as well as other appropriate forms to gather data and information to be used in the audit report.~~

~~B. The staffing audit shall be used to determine the need for positions and organizational structure within audited agencies.~~

~~6.15.1 Frequency of Staffing Audits~~

~~The State Personnel Board shall audit each agency by a personal visit on a cyclical basis and/or continual review of agency data in the State Personnel Board files.~~

~~6.15.2 Notification of Staffing Audits~~

~~Each agency, which is scheduled for audit, shall be notified in writing prior to the survey. The notification shall contain the date the survey is scheduled to begin and requirements for completing audit forms and compiling relevant data.~~

6.20 CONTRACTS FOR PERSONAL SERVICES

6.20.1 Policy Statements

A. No person shall be employed by any agency for any period for any purpose except in an employment position authorized by legislative appropriation or by the body authorized by law to escalate budgets and approve employment positions under the guidelines established by the Legislature except those authorized to be employed under the provisions of ~~Section~~ See Mississippi Code Annotated § 25-9-107(c)(x), ~~Mississippi Code of 1972, Annotated, as amended,~~ as contract personnel for personal and professional services. [~~Refer, Section~~ See Mississippi Code Annotated § 25-9-133(2), ~~Mississippi Code of 1972, Annotated, as amended.~~]

B. Any agency which employs state employees may enter into contracts for personal and professional services only if such contracts are approved in compliance with the rules and regulations promulgated by the Personal Service Contract Review Board under ~~Section~~ See Mississippi Code Annotated § 25-9-120(3) ~~Mississippi Code of 1972, Annotated, as amended.~~ [~~Refer, Section~~ See Mississippi Code Annotated § 25-9-107(c)(x), ~~Mississippi Code of 1972, Annotated, as amended.~~]

C. Prior to paying any warrant for contractual services in excess of one hundred thousand dollars ($100,000.00), the auditor of public accounts shall determine whether the contract involved was for personal or professional services, and, if so, shall determine whether it was approved by the State Personal Service Contract Review Board; provided, however, that any personal service contracts entered into for computer or information technology-related services governed by the Mississippi Department of Information Technology Services, any personal service contracts entered into by the Mississippi Department of Transportation, and any contract for attorney, accountant, auditor, physician, dentist, architect, engineer, veterinarian, and utility rate expert services are exempt. [~~Refer, Section~~ See Mississippi Code Annotated § 25-9-107(c)(x), ~~Mississippi Code of 1972, Annotated, as amended.~~]

Note: ~~Section~~ Mississippi Code Annotated § 27-104-105~~, Mississippi Code of 1972, Annotated, as amended,~~ states that the Department of Finance and Administration shall not process any warrant requested by any state agency for payment for legal services without first determining that the services and contract were approved by the Attorney General and the Mississippi State Personnel Board; contracts for legal services performed for the State Highway Department in eminent domain cases shall not require approval by the Mississippi State Personnel Board.

~~6.20.2~~ 6.2 Coverage and Scope of the Policies

A. These policies shall govern personal and professional contract services which cannot reasonably be expected to be performed by current or future employees in authorized employment positions within state service agencies. Non-state service agencies are not required to comply with these policies unless they are contracting with a state service agency.

B. Except as provided for in ~~Section~~ Mississippi Code Annotated § 27-104-105~~, Mississippi Code of 1972, Annotated, as amended,~~ any personal service contracts entered into for computer or information technology-related services governed by the Mississippi Department of Information Technology Services, any personal service contracts entered into by the Mississippi Department of Transportation, and any contract for attorney, accountant, auditor, physician, dentist, architect, engineer, veterinarian, and utility rate expert services shall be excluded from the provisions of this policy.

C. Contracts between agencies under the Mississippi State Personnel Board system are excluded.

D. ~~Section~~ Mississippi Code Annotated § 25-4-105(3)(a), ~~Mississippi Code of 1972, Annotated, as amended, cited below~~ prohibits an employee from rendering personal and professional services on a contractual basis to the agency by which he or she is employed:

"No public servant shall: (a) be a contractor, subcontractor, or vendor with the governmental entity of which he is a member, officer, employee, or agent other than in his contract of employment, or have a material financial interest in any business which is a contractor, subcontractor or vendor with the governmental entity of which he is a member, officer, employee, or agent."

E. ~~State Personnel Director~~ The Executive Director of the Mississippi State Personnel Board and the State Personal Service Contract Review Board authority under ~~Section~~ Mississippi Code Annotated §§ 25-9-133 and 25-9-107(c)(x)~~, Mississippi Code of 1972, Annotated, as amended,~~ does not negate the bid, purchase, review or approval of policies and procedures established by statutory authority of any other regulatory agency.

For detailed information about administrative procedures regarding personal services contracts, please refer to the Personal Service Contract Procurement Regulations and Policy and Procedures Memorandum.

6.30~~6~~ LEGAL SERVICES CONTRACTS

This section sets forth uniform policy guidelines on legal services contracts entered into by State agencies. These guidelines incorporate a single set of procedures, which are designed to assist State agencies to comply with requirements of State law prescribing the process for payment of legal services performed by attorneys and their assistants.

For the timely, effective, and efficient implementation of the State Personnel System, the Mississippi State Personnel Board hereby delegates to the ~~State Personnel Director~~ Executive Director of the Mississippi State Personnel Board the authority to review and approve or disapprove legal services contracts in an amount not to exceed $100,000 per contract, including modifications thereto within the fiscal year. Legal services contracts in an amount exceeding $100,000 per contract, including modifications thereto within the fiscal year, must be presented to the Mississippi State Personnel Board for approval or disapproval.

6.30.1~~6.1~~ State Statutes

~~A. **Senate Bill 2512**, enacted into law by the 1991 Legislative Session states, in part:~~

> ~~SECTION 1. The Department of Finance and Administration shall not process any warrant requested by any state agency for payment of legal services without first determining that the services and contract were approved by the Attorney General and the Mississippi State Personnel Board. The State Auditor shall test for compliance with this section.~~
>
> ~~SECTION 2. The State Auditor shall, when conducting agency audits, test to determine whether the state institutions of higher learning and any state agency, which does not draw warrants on the Treasury, have received approval of the Attorney General for any contract for legal services.~~
>
> ~~SECTION 3. This act shall take effect and be in force from and after its passage. Approved March 29, 1991 [1991 Miss. Laws: Chap. No. 473]~~

~~B.~~

~~Section~~ Mississippi Code Annotated § 27-104-105, ~~Mississippi Code of 1972, Annotated, as amended, codifies Senate Bill 2512 and states as follows~~ provides:

> The Department of Finance and Administration shall not process any warrant requested by any state agency for payment for legal services without first determining that the services and contract were approved by the Attorney General and the Mississippi State Personnel Board. The State Auditor shall test for compliance with this section.

6.30.2~~6.2~~ Scope and Application of Policies

A. These policies will be applied by the Mississippi State Personnel Board in the enforcement of ~~Section~~ Mississippi Code Annotated § 27-104-105 ~~(Mississippi Code of 1972, Annotated, as amended.)~~ The policies are intended to be consistent with existing law.

B. These policies apply to personal and professional agreements made between State agencies and persons for legal services. The term "agreements" means written or oral contracts which involve process of payment for legal services by the Department of Finance and Administration. The term "persons" means attorneys, law firms, and other individuals who would perform legal services such as paralegal professionals.

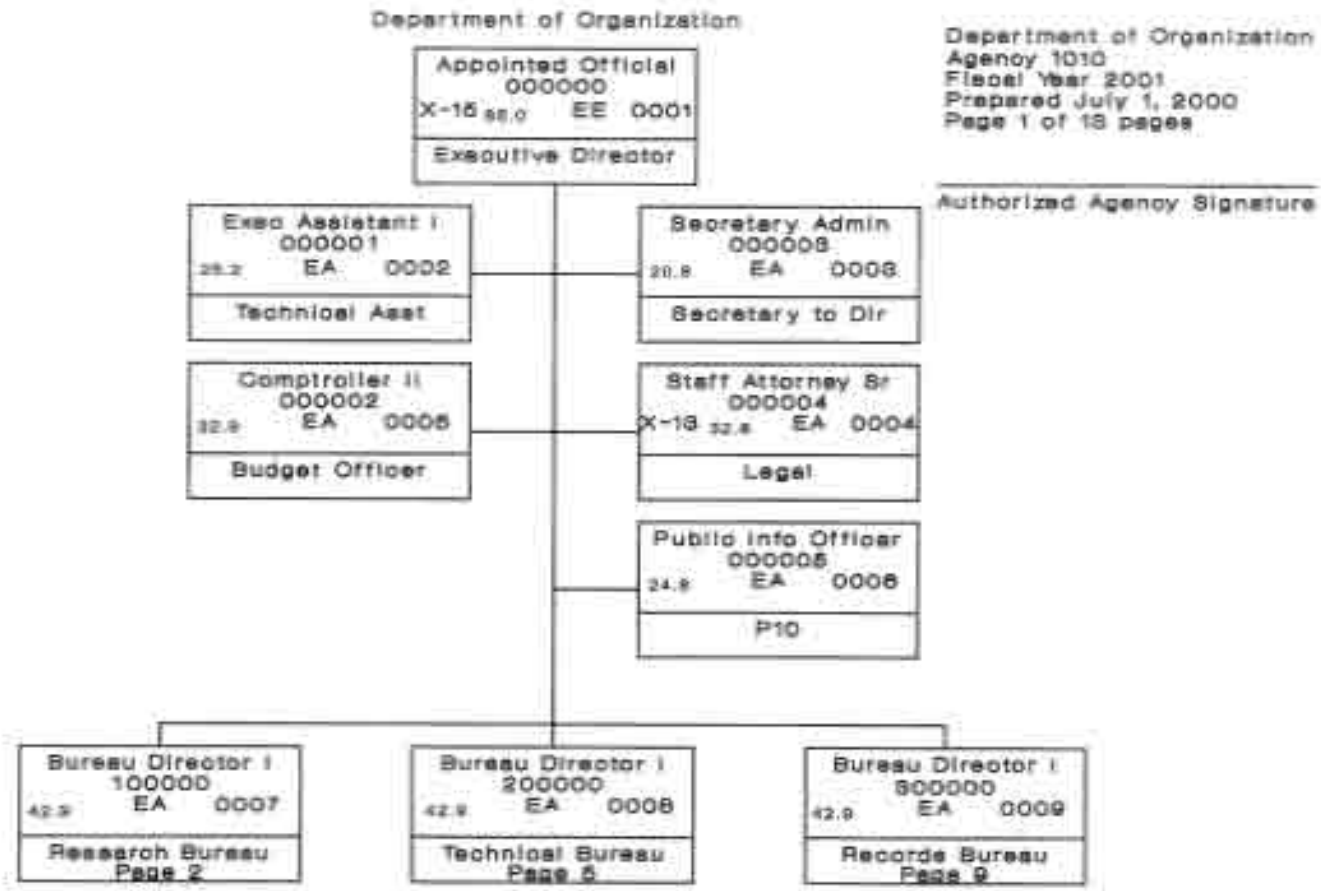
C. Legal services contracts entered into by the Mississippi State Department of Transportation and approved by the State Attorney General involving eminent domain activities are not affected by these policies.

D. Legal services contracts entered into by the Office of the Attorney General and state agencies for special assistant attorneys general are not affected by these policies.

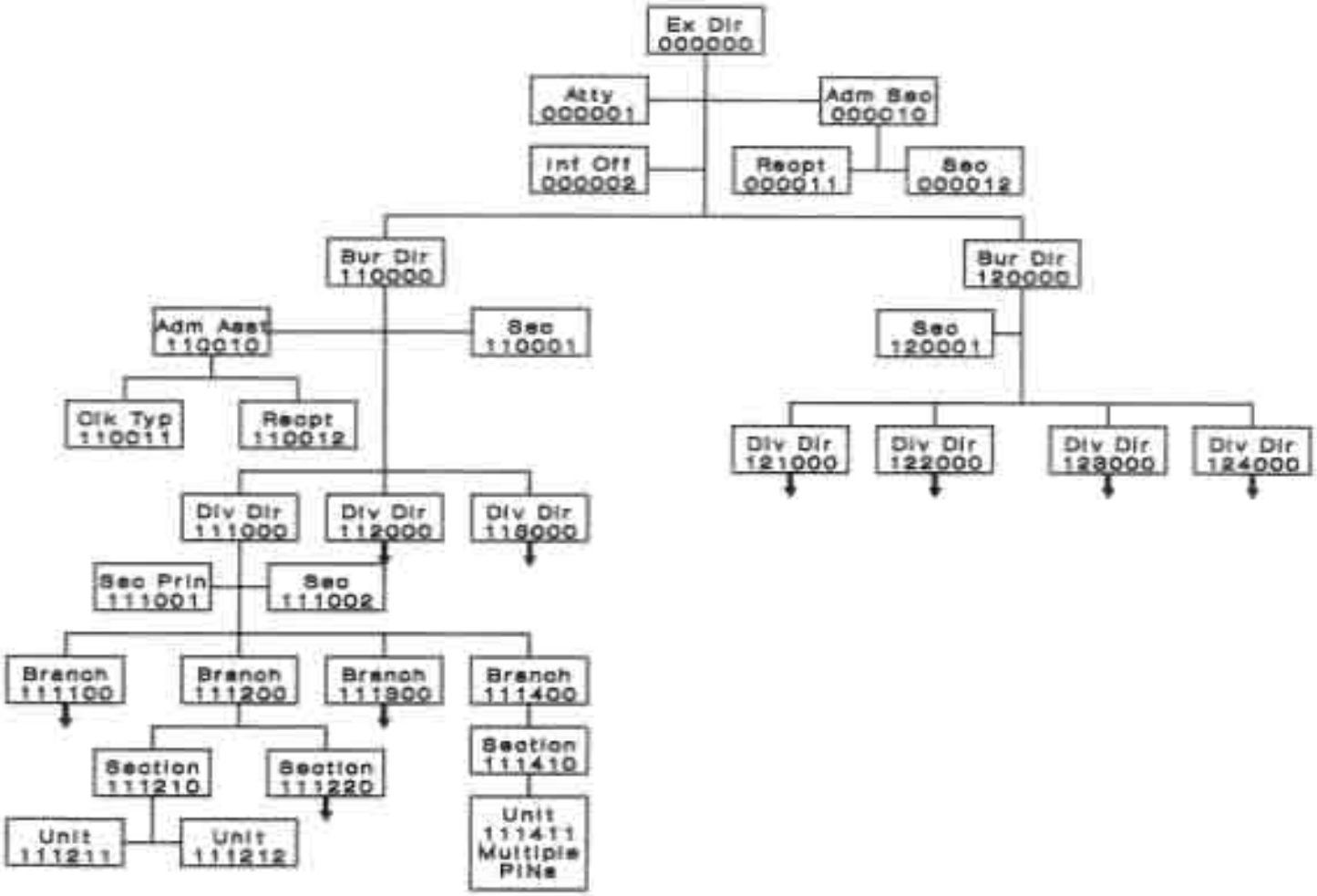
6.~~30.3~~6.1 Administrative Procedures

Requests to enter into contracts for legal services for each Fiscal Year shall be submitted to the State Attorney General prior to submission to the Mississippi State Personnel Board in accordance with policies and procedures outlined in Policy Memorandum No. 3, *Personnel and Legal Services Contract Policies and Administrative Procedures* for the current fiscal year.

SAMPLE ORGANIZATION CHART



EXAMPLE OF ORGANIZATIONAL CODING



7.0 EMPLOYEE RELATIONS

7.10 ~~TRAINING~~ WORKFORCE PLANNING

The Mississippi State Personnel Board assists appointing authorities ~~by promoting, formulating, conducting, and coordinating training and development programs to improve the productivity, effectiveness, and efficiency of employees. Training and development is a management tool and as such, is utilized in the discretion of the appointing authority. Nothing in the policies, rules, and procedures should be construed to mean that specific application of this process is a right of the employee~~ in planning for the agency's future workforce needs by offering guidance in the areas of organizational design, talent management, and career development.

The primary emphasis of ~~training and development~~ workforce planning is to improve state government services~~; however, it should not be seen as incompatible or inconsistent with the growth of individual employees.~~ Under ~~Section~~ § 25-9-103 (c), Mississippi Code of 1972, Annotated, as amended, the Mississippi State Personnel Board shall administer a state personnel system to train employees, as needed, to ensure high quality performance. The appointing authority may contact the Office of ~~Training~~ Workforce Planning of the Mississippi State Personnel Board to request ~~training~~ career development activities for his/her employees. Such ~~training~~ activities may be conducted either in the Mississippi State Personnel Board training facility, on-site, or in other designated facilities.

7.10.1 Training Needs

The ~~State Personnel Director~~ Executive Director of the Mississippi State Personnel Board shall assess the ~~training~~ workforce planning needs of the state service and take necessary steps to meet those needs consistent with funding and resources. ~~The~~ An appointing authority shall respond to the ~~training~~ workforce planning needs assessments sent by the Mississippi State Personnel Board ~~Training~~ Workforce Planning Staff to the agencies.

7.10.2 Development and Coordination

The ~~State Personnel Director~~ Executive Director of the Mississippi State Personnel Board shall provide or coordinate ~~training on~~ career development programs integral to the administration of the statewide personnel system and ~~training~~ career development needs generic to all state agencies, such as supervisory/management skills, interpersonal skills, clerical skills, and professional development skills.

~~The appointing authority should respond to the State Personnel Board's memorandum concerning training on the VCP by indicating those employees who will be in the training seminars.~~ Registration for ~~training~~ career development courses is done through the State's Mississippi Enterprise Learning Management System (MELMS), which is located at ~~www.spb.state.ms.us~~ www.spb.ms.gov Employees and agencies may also register for ~~training~~ career development courses by completing a ~~training~~ registration form, which is also located at ~~www.spb.state.ms.us~~ www.spb.ms.gov under the Office of ~~Training~~ Workforce Planning.

~~**7.10.3 Employee Performance Enhancement Training**~~

~~The State Personnel Director shall, at a level consistent with staffing level and funding, coordinate and implement training designed to improve the efficiency, productivity, and professionalism of state service employees. All training paid for in whole or in part by the State of Mississippi or which takes place during an employee's standard work schedule shall be job related. Refer to Section 25-9-103 (c), Mississippi Code of 1972, Annotated, as amended.~~

~~**7.10.4 Implementation of Training Courses**~~

~~The State Personnel Director shall consider two factors when implementing State Personnel Board-sponsored training courses:~~

~~A. The need to provide training in areas which will lead to improved efficiency and productivity in the work place and keep employees away from their jobs for as short a time as possible;~~

~~B. The need to provide training on-site to agencies to meet specific needs.~~

7.10.5 Interagency ~~Cooperation~~ Partnerships

The ~~State Personnel Director~~ Executive Director of the Mississippi State Personnel Board shall encourage and, when feasible, coordinate inter-agency ~~cooperation~~ partnerships in sharing employee ~~training~~ workforce planning and career development activities, resources, materials, and programs.

7.10.6 ~~Training~~ Career Development Costs

The ~~State Personnel Director~~ Executive Director of the Mississippi State Personnel Board may assess Mississippi State Personnel Board-sponsored ~~training~~ career development course costs to agencies on a per-course basis or a pro-rata share of the cost of ~~training~~ career development course basis depending on the number of an agency's employees who participate or are scheduled by the agency to participate.

7.10.7 Guidelines for Development of Agency ~~Training~~ Career Development Programs

The appointing authority should:

A. Assess the ~~training~~ workforce needs of the agency workforce;

B. Develop an agency-wide ~~training~~ workforce planning policy ~~and plan~~ using available internal resources, capabilities, facilities, and staff to meet assessed ~~training~~ career development needs when appropriate; and

C. Provide specialized ~~training~~ career development activities to agency personnel as required to ensure high quality performance and to meet agency objectives.

7.21 Work Attendance

~~Section~~ § 25-1-98, Mississippi Code of 1972, Annotated, as amended, defines "workday" and authorizes the appointing authority to establish work schedules, which ensure that each full-time employee works a full workday.

7.21.1 Holidays

~~Holidays shall be observed according to Section 3-3-7, Mississippi Code of 1972, Annotated, as amended.~~

State employees receive regular pay for ten (10) legal holidays and for any other day proclaimed as a holiday by the Governor or the President of the United States. Employees who are not in an active pay status on a legal holiday will not be compensated for the holiday. Active pay status is defined as either physically working or on paid leave the day of a legal holiday, the day immediately preceding a legal holiday, or the day immediately following a legal holiday. Compensation for legal holidays for part-time employees will be computed on a pro-rata basis according to hours regularly scheduled to work.

January 1	New Year's Day
The Third Monday of January	Robert E. Lee's Birthday and Dr. Martin Luther King, Jr.'s Birthday
The Third Monday of February	Washington's Birthday
The Last Monday of April	Confederate Memorial Day
The Last Monday of May	Jefferson Davis' Birthday and National Memorial Day
July 4	Independence Day
The First Monday of September	Labor Day
November 11	Armistice or Veterans' Day
A day fixed by proclamation of the Governor of Mississippi as a day of Thanksgiving, which shall be fixed to correspond to the date proclaimed by the President of the United States	Thanksgiving Day
December 25	Christmas Day

~~Provided, h~~ However, ~~that~~ in the event any of these holidays ~~herein-before declared legal shall~~ fall on Saturday or Sunday, then the legal holiday will be observed the following Monday ~~shall be a legal holiday~~.

~~Employees who are not in an active pay status on a legal holiday shall not be compensated for the holiday. Active pay status is defined as either physically working or on paid leave the day of a legal holiday, the day immediately preceding a legal holiday, or the day immediately following a legal holiday.~~

~~Compensation for legal holidays for part-time employees shall be computed on a pro rata basis according to hours worked.~~

~~Except as may be provided in specific agency appropriation bills, when, in the opinion of the appointing authority, it is essential that a state employee work during an official state holiday, the employee shall receive credit for the day. [Refer, Section 25-3-92 (1), Mississippi Code of 1972, Annotated, as amended.] Such credit shall be computed on an hour-per-hour basis and shall be made available to the employee in the form of time off later.~~

~~In accordance with specific provisions of an agency's appropriation bill, an appointing authority may require employees in specific job classes to work on an official state holiday and be paid call-back pay in lieu of receiving compensatory time credit.~~

Except as may be provided in specific agency appropriation bills, when, in the opinion of the agency, it is essential that a State employee work during an official State holiday, the employee shall receive credit for the number of hours actually worked. In addition and in accordance with specific provisions of an agency's appropriation bill, an agency may require employees in specific job classes to work on an official State holiday and be paid call-back pay in lieu of receiving compensatory time credit.

7.21.2 Employee Work Schedules

~~Section 25-1-98, Mississippi Code of 1972, Annotated, as amended, requires all state offices to be open and staffed for the normal conduct of business from 8:00am until 5:00pm, Monday through Friday.~~

~~The State Personnel Board defines a normal work schedule as eight (8) hours per day, forty (40) hours per week, 173.929 hours per month, and 2087.148 hours per year.~~
~~Each part-time employee shall be provided a schedule of his/her working hours.~~

~~The appointing authority may develop modified work schedules providing for flextime or compressed work schedules. "Flextime" is a schedule that offers employees a choice, within limits, to vary their arrival and departure times from work. A "compressed work schedule" allows an employee to complete the forty (40) hour workweek requirements in less than the usual five (5) workdays a week.~~

EMPLOYEE WORK SCHEDULES

A. State law requires that all State offices be available to the public for Services from 8:00 a.m. until 5:00 p.m., Monday through Friday.

B. The MSPB defines a normal work schedule as eight hours per day, forty hours per week, 173.929 hours per month and 2,087 hours per year.

C. Each part-time employee will be provided a schedule of working hours.

D. To provide for maximum flexibility in scheduling employees, the appointing authority may develop modified work schedules providing for flextime or compressed work schedules. "Flextime" is a schedule which offers agency management a choice in each employee arrival and departure times from work. A "compressed work schedule" allows agency management to schedule the general forty hour workweek requirement in less than the usual five workdays per week.

7.22 LEAVE

~~Employees, including part-time employees, shall be granted leave as provided in Sections 25-3-91, et. seq., 25-9-125, 33-1-19, and 33-1-21, Mississippi Code of 1972, Annotated, as amended. No other kind of leave may be granted.~~

Each month State employees earn two types of leave, personal leave and major medical (sick) leave. Employees, including part-time employees, will be granted leaves of absence for Jury Duty, State Service and for military leave as provided by statute.

Employees begin to earn and accumulate personal and major medical leave on the first working day of each month the employee works or receives paid leave. The personal leave is available for the employee's use the first day of the month after the leave is earned. The appointing authority cannot increase the amount of personal leave to an employee's credit, and it is unlawful for an appointing authority to grant personal and major medical leave in an amount greater than was earned and accumulated by the employee. Part-time employees are granted leave with during periods when they are scheduled to work.

7.22.1 Transfer of Leave between State Agencies

A. ~~All accrued leave, both major medical and personal leave, shall be transferable between state agencies. Each appointing authority shall be furnished a statement of accrued leave at the time of transfer by an employee. [Refer, Section 25-3-97 (5), Mississippi Code of 1972, Annotated, as amended.]~~

B. ~~Upon transfer, leave accrual rate at the receiving agency will reflect total continuous service. An employee transferring with a voluntary break in service must begin accruing leave at the rate established for new employees. Lump sum payment for personal leave and/or the lapse of one~~

~~eight-hour workday between termination date at an old agency and effective date into a new agency denote a break in service.~~

Both major medical and personal leave earned by employees is transferable between any and all State agencies, junior colleges and senior colleges. However, compensatory leave is not transferable. Each appointing authority will be furnished a Statement of accrued leave when an employee transfers between agencies.

Upon transfer, leave accrual rates at the receiving agency will reflect total continuous Service. An employee transferring with a break in Service must begin accruing at the rate established for the new employee. Long term permanent for accrued personal leave and/or the lapse of one eight-hour workday between the termination date with the original agency and the effective date with the new agency denote a break in Service.

7.22.2 Personal Leave

~~Personal leave shall be administered as provided in Sections 25-3-93 and 25-3-97, Mississippi Code of 1972, Annotated, as amended. Employees earn personal leave from date of hire and accumulate personal leave upon completion of one month of continuous service. Each full-time and part-time employee and appointed officer of the State of Mississippi shall earn personal leave as follows:~~

All full-time employees and appointed officers of the State of Mississippi earn personal leave as follows:

Continuous Service	Accrual Rate (Monthly)	Accrual Rate (Annually)
1 month to 3 years	**12 hours**	**18 days**
37 months to 8 years	**14 hours**	**21 days**
97 months to 15 years	**16 hours**	**24 days**
Over 15 years	**18 hours**	**27 days**

~~Temporary employees who work less than a full workweek and part-time employees shall be allowed credit for personal leave computed on a pro rata basis. Faculty members employed by the eight (8) public universities on a nine-month contract and recipients of full-time educational leave, while on such leave, shall not be eligible for personal leave.~~

~~Full-time employees and appointed officers who are hired after the first of a month, who terminate before the end of a month, or who are placed on leave without pay for a portion of the month shall be credited with personal leave for that month on a pro rata basis.~~

~~In computing credit for personal leave, each appointed officer or employee shall receive credit for no more than five (5) days each week. Leaves of absence granted by the appointing authority for one (1) year or less shall be permitted without forfeiting previously accumulated continuous service. The provisions of this section shall not apply to military leaves of absence. The time for taking personal leave, except when such leave is taken due to an illness, shall be determined by the appointing authority of the agency in which such employees are employed.~~

~~For the purpose of Sections 25-3-91 through 25-3-99, Mississippi Code of 1972, Annotated, as amended, the earned personal leave of each employee shall be credited monthly after the completion of each calendar month of service, and the appointing authority shall not increase the amount of personal leave to an employee's credit. It shall be unlawful for an appointing authority to grant personal leave in an amount greater than was earned and accumulated by the officer or employee.~~

~~Employees are encouraged to use earned personal leave. Personal leave may be used for vacations and personal business as authorized by the appointing authority and shall be used for illnesses of the employee requiring absences of one (1) day or less. Accrued personal or compensatory leave shall be used for the first day of an employee's illness requiring his/her absence of more than one (1) day. Accrued personal or compensatory leave may also be used for an illness in the employee's immediate family as defined in Section 25-3-95, Mississippi Code of 1972, Annotated, as amended. There shall be no limit to the accumulation of personal leave. Upon termination of employment, each employee shall be paid for not more than thirty (30) days of accumulated personal leave. Unused personal leave in excess of thirty (30) days shall be counted as creditable service toward the retirement system as provided in Sections 25-11-103 and 25-13-5, Mississippi Code of 1972, Annotated, as amended. (Refer to Section 5.15.)~~

~~The beneficiary of an employee who dies with unused personal leave, shall receive payment of all personal leave accumulated but not used by the employee. [Refer, Section 25-3-97, Mississippi Code of 1972, Annotated, as amended.]~~

Employees begin to earn and accumulate personal leave on the first working day of each month the employee works or receives paid leave. Personal leave is available for the employee's use on the first day of the month after the leave is earned. Part-time and temporary employees accrue personal leave on a pro rata basis.

Employees are encouraged to use earned personal leave for vacations and personal business. Generally, all requests for personal leave, except when taken due to an illness, are approved at the agency's discretion. Personal or compensatory leave must be used for illnesses of the employee requiring absences of one day or less. In addition, accrued personal or compensatory leave must be used for the first day of an employee's illness requiring his or her absence of more than one day. A workday is defined as eight (8) working hours. Accrued personal, major medical, or compensatory leave may also be used for an illness in the employee's immediate family, including only a spouse, parent, step-parent, sibling, child, step-child, grandchild, grandparent, son-in-law, daughter-in-law, brother-in-law, sister-in-law, father-in-law, mother-in-law.

There is no limit to the accumulation of personal leave. Upon termination of employment, each employee may be paid for not more than thirty (30) days of accumulated personal leave. Unused personal leave in excess of thirty (30) days and all unused major medical leave will be counted as creditable Service for the purposes of the retirement system.

For the purpose of computing credit for personal leave, each appointed officer or employee is not considered to work more than five (5) days each week. For purposes of calculating the leave accrual rate for employees, leaves of absence granted by the appointing authority for one (1) year or less are permitted without forfeiting previously accumulated continuous Service. The provisions of this section do not apply to military leaves of absence.

The beneficiary of an employee who dies with unused personal leave will receive payment for all personal leave accumulated but not used by the employee. The beneficiary designated with PEBA will receive these benefits unless another beneficiary has been designated.

7.22.3 Major Medical Leave

~~Major medical leave shall be administered as provided in Sections 25-3-95 and 25-3-97, Mississippi Code of 1972, Annotated, as amended. All full-time employees and appointed officers of the State of Mississippi, except recipients of full-time educational leave, while on such leave, shall accrue major medical leave as follows:~~

All full-time employees and appointed officers in the State of Mississippi accrue major medical leave as follows:

Continuous Service	Accrual Rate (Monthly)	Accrual Rate (Annually)
1 month to 3 years	**8 hours**	**12 days**
37 months to 8 years	**7 hours**	**10.5 days**
97 months to 15 years	**6 hours**	**9 days**
Over 15 years	**5 hours**	**7.5 days**

~~Part-time employees shall accrue major medical leave on a pro-rata basis. There shall be no maximum limit to major medical leave accumulation. Full-time employees and appointed officers who are hired after the first of a month, who terminate before the end of a month, or who are placed on leave without pay for a portion of the month shall be credited with major medical leave for that month on a pro-rata basis.~~

~~For the purpose of Sections 25-3-91 through 25-3-99, Mississippi Code of 1972, Annotated, as amended, the earned major medical leave of each employee shall be credited monthly after the completion of each calendar month, and the appointing authority shall not increase the amount of major medical leave to an employee's credit. It shall be unlawful for an appointing authority to grant major medical leave in an amount greater than was earned and accumulated by the officer or employee.~~

~~Major medical leave may be used for the illness or injury of an employee or member of the employee's immediate family as defined in Section 25-3-95, Mississippi Code of 1972, Annotated, as amended, only after the employee has used one (1) day of accrued personal or compensatory leave for each absence due to illness or leave without pay if the employee has no accrued personal or compensatory leave. However, faculty members employed by the eight (8) public universities on a nine-month basis may use major medical leave for the first day of absence due to illness. Provided, however, major medical leave may be used, without prior use of personal leave, to cover regularly scheduled visits to a doctor's office or a hospital for the continuing treatment of a chronic disease, as certified in advance by a physician. "Physician" means a doctor of medicine, osteopathy, dental medicine, podiatry, or chiropractic. For each absence due to illness of thirty-two (32) consecutive working hours (combined personal leave and major medical leave) major medical leave shall be authorized only when certified by their attending physician.~~

~~An employee may use up to three (3) days of earned major medical leave for each occurrence of death in the immediate family requiring the employee's absence from work. No qualifying time or use of personal leave will be required prior to use of major medical leave for this purpose. The immediate family is defined as spouse, parent, stepparent, sibling, child, stepchild, grandchild, grandparent, son-in-law, daughter-in-law, mother-in-law, father-in-law, brother-in-law, or sister-in-law. Child means a biological, adopted, or foster child, or a child for whom the individual stands/stood in loco parentis.~~

~~A. Exhaustion of Major Medical Leave~~

~~An employee is entitled to use all accrued major medical leave for recuperation from illness. In cases of illness or disability exhausting available major medical leave, the employee may be allowed to charge the excess days against accumulated personal leave or compensatory time earned by the employee. If all major medical and personal leave have been exhausted and the employee is eligible to receive and has received donated leave, the donated leave may be used. If all accumulated major medical leave, personal leave, and compensatory time have been used, employees are subject to a pro-rata deduction from their salaries for the length of time or number of days in excess of accumulated leave.~~

~~B. Major Medical Leave, Termination, and Death~~

~~Unused major medical leave shall be counted as creditable service toward the retirement system, as provided for in Sections 25-11-103 and 25-13-5, Mississippi Code of 1972, Annotated, as amended, when an employee terminates from state service. Should an employee die having accumulated major medical leave, such leave is counted as creditable service. There~~

~~is no statutory authority to pay an employee's beneficiary for unused major medical leave in the event of an employee's death.~~

Employees begin to earn and accumulate major medical leave on the first working day of each month the employee works or receives paid leave. The leave is available for the employee's use the first day of the month after the leave is earned. The appointing authority cannot increase the amount of major medical leave to an employee's credit, and it is unlawful for an appointing authority to grant major medical leave in an amount greater than was earned and accumulated by the officer or employee. Part-time and temporary employees accrue major medical leave on a pro rata basis. There is no maximum limit to major medical leave accumulation. All unused major medical leave will be counted as creditable service for the purposes of the retirement system.

Major medical leave may be used for the illness or injury of an employee or member of the employee's immediate family, including only a spouse, parent, step-parent, sibling, child, step-child, grandchild, grandparent, son-in-law, daughter-in-law, mother-in-law, father-in-law, brother-in-law or sister-in-law. The employee should remember that major medical leave can be used in this manner only after the employee has used one day of accrued personal or compensatory leave. In the event that an employee has no accrued personal or compensatory leave, the first day of leave must be taken as leave without pay. This is a requirement for each absence due to illness.

Major medical leave may be used, without prior use of personal or compensatory leave, to cover regularly scheduled visits to a doctor's office or a hospital for the continuing treatment of a chronic disease, as certified in advance by a physician. "Physician" means a doctor of medicine, osteopathy, dental medicine, podiatry or chiropractic. Employees must remember that the initial eight (8) hours one day of leave relating to the condition must be personal leave, compensatory leave or leave without pay.

For each absence due to illness that requires the employee be absent from work for thirty and a consecutive working hours (combined personal, major medical, and compensatory leave), major medical leave can be authorized only when certified in writing by the attending physician.

An employee may use up to three days of earned major medical leave for each occurrence of death in the immediate family requiring the employee's absence from work. No qualifying leave or use of personal or compensatory leave will be required prior to use of major medical leave for this purpose. The immediate family is defined as a spouse, parent, step-parent, sibling, child, step-child, grandchild, grandparent, son-in-law, daughter-in-law, mother-in-law, father-in-law, brother-in-law, or sister-in-law. Child means a biological, adopted or foster child, or a child for whom the individual stands or stood in loco parentis.

With appropriate documentation, an employee is entitled to use all accrued major medical leave for recuperation from illness. In cases of illness or disability exhausting available major medical

leave, the employee may be allowed to charge the excess days against accumulated personal leave or compensation time earned by the employee. If all accumulated major medical, personal leave and compensation time have been used, employees are subject to a pro rata deduction from their salaries for the length of time or number of days in excess of accumulated leave. Family Medical Leave is also available for qualifying State employees and is described in detail on the following pages.

Should an employee die having accumulated major medical leave, such leave will be counted as creditable Service. Employers have the authority to pay the employee's beneficiary for unused major medical leave in the event of an employee's death.

7.22.4 Donated Leave for Catastrophic Injury or Illness

~~Donated leave for catastrophic injury or illness shall be administered as provided in Sections 25-3-91, 25-3-93 and 25-3-95, Mississippi Code of 1972, Annotated, as amended. Those employees who received donated leave and continued to be eligible to use it as of July 1, 2000, shall be allowed to use that leave, which was donated to them before July 1, 2000.~~

~~"Catastrophic Injury or Illness" means a life-threatening injury or illness of an employee or a member of an employee's immediate family, which totally incapacitates the employee from work, as verified by a licensed physician, and forces the employee to exhaust all leave time earned by that employee, resulting in the loss of compensation from the state for the employee. Conditions that are short term in nature, including, but not limited to, common illnesses such as influenza and the measles, and common injuries are not catastrophic. Chronic illnesses or injuries, such as cancer or major surgery, which result in intermittent absences from work, which are long-term in nature, and which require long recuperation periods, may be considered catastrophic.~~

~~Any employee may donate a portion of his/her earned personal leave or major medical leave to another employee who is suffering from a catastrophic injury or illness, or to another employee whose immediate family member is suffering from a catastrophic injury or illness, as follows:~~

~~A. The employee donating the leave (the "donor employee") shall designate the employee who is to receive the leave (the "recipient employee") and the amount of earned personal leave and major medical leave that is to be donated. The donor employee shall notify his/her appointing authority or supervisor of his/her intent to donate. The donor employee's appointing authority or supervisor shall notify the recipient employee's appointing authority or supervisor of the amount of leave that has been donated by the donor employee to the recipient employee.~~

~~B. The maximum amount of earned personal leave an employee may donate to another employee may not exceed a number of days that would leave the donor employee with fewer than seven (7) days of personal leave. The maximum amount of earned major medical leave an employee may donate to another employee may not exceed fifty percent (50%) of the earned major~~

~~medical leave of the donor employee. All donated leave shall be in increments of not less than twenty-four (24) hours.~~

~~C. An employee must have exhausted all of his/her earned personal leave and major medical leave before he/she would be eligible to receive any leave donated by another employee.~~

~~D. Before an employee may receive donated leave, he or she must provide his/her appointing authority or supervisor with a physician's statement that indicates the beginning date of the catastrophic injury or illness, a description of the injury or illness, a prognosis for recovery, and the anticipated date that the recipient employee will be able to return to work.~~

~~E. If an employee is aggrieved by the decision of his/her appointing authority that the employee is not eligible to receive donated leave because the injury or illness of the employee or member of the employee's immediate family is not, in the appointing authority's determination, a catastrophic injury or illness, the employee may appeal the decision to the Employee Appeals Board.~~

~~F. Beginning March 25, 2003, the maximum period that an employee may use donated leave without resuming work at his/her place of employment is ninety (90) days, which commences on the first day that the recipient employee uses donated leave. Donated leave that is not used because a recipient employee has used the maximum amount of donated leave authorized under this paragraph shall be returned to the donor employees in the manner provided under paragraph (G) of this subsection.~~

~~G. If the total amount of leave donated to any employee is not used by the recipient employee, the remaining donated leave shall be returned to the donor employees on a pro rata basis. The amount of leave return shall be based on the ratio of the number of days of leave donated by each donor employee to the total number of days of leave donated by all donor employees. In no case will any donor employee receive more leave in return than the employee donated.~~

~~H. The failure of any appointing authority or supervisor of any employee to properly deduct an employee's donation of leave to another employee from the donor employee's earned personal leave or major medical leave shall constitute just cause for the dismissal of the appointing authority or supervisor.~~

~~I. No person by coercion, threats, or intimidation shall require or attempt to require any employee to donate his/her leave to another employee. Any person who alleges a violation of this paragraph shall report the violation to the executive head of the agency in which he/she is employed. If the alleged violator is the executive head of the agency, the employee shall report the violation to the State Personnel Board. Any person found to have violated this paragraph shall be subject to removal from office or termination of employment.~~

~~J. No employee can donate leave after tendering notice of separation for any reason or after termination.~~

~~K. Recipient employees of agencies with more than five hundred (500) employees as of March 25, 2003, may receive donated leave only from donor employees within the same agency. A recipient employee in an agency with five hundred (500) or fewer employees as of March 25, 2003, may receive donated leave from any donor employee.~~

~~L. For an employee to be eligible to receive donated leave, the employee must:~~

~~1. Have been employed for a total of at least twelve (12) months by the employer on the date the leave is donated; and~~

~~2. Have been employed for at least one thousand, two hundred fifty (1,250) hours of service with such employer during the previous twelve (12) month period from the date the leave is donated.~~

~~3. Donated leave shall not be used in lieu of disability retirement.~~

~~4. For the purposes of this subsection, "immediate family" means spouse, parent, stepparent, sibling, child, or stepchild.~~

"Catastrophic injury or illness" means a life-threatening injury or illness of an employee or a member of an employee's immediate family, including only a spouse, parent, stepparent, sibling, child or stepchild, which totally incapacitates the employee from work, as certified by a licensed physician, and forces the employee to exhaust all leave time earned by that employee, resulting in the loss of compensation for the employee. Conditions that are short-term in nature, including, but not limited to, common illnesses such as influenza and the measles, and common injuries are not catastrophic. Chronic illnesses or injuries, such as cancer or major surgery, which result in intermittent absences from work and which are long-term in nature and require long recuperation periods, may be considered catastrophic.

Any employee may donate a portion of his or her earned personal leave or major medical leave to another employee who is either suffering from a catastrophic injury or illness or who has a member of his or her immediate family that is suffering from a catastrophic injury or illness, as follows:

A. The employee donating the leave (the "donor employee") must designate the employee who is to receive the leave (the "recipient employee") and the amount of earned personal leave and major medical leave there is to be donated and must notify the donor employee's supervisor of his or her designation. The donor employee's supervisor will then notify the recipient employee's supervisor of the amount of leave that has been donated by the donor employee to the recipient employee.

H. The maximum amount of earned personal leave that an employee may donate to any other employee shall not exceed the number of days that would leave the donor employee with fewer than seven days of personal leave, and the maximum amount of earned major medical leave that an employee may donate to any other employee shall not exceed fifty percent of the earned major medical leave of the donor employee. All donated leave shall be in increments of at least twenty-four hours.

I. An employee must have exhausted all of his or her earned personal leave and major medical leave before he or she will be eligible to receive any leave donated by another employee.

J. Before an employee may receive donated leave, he or she must provide his or her supervisor with a physician's statement that states the beginning date of the catastrophic injury or illness, a description of the injury or illness, a prognosis for recovery, and the anticipated date that the recipient employee will be able to return to work.

K. If an employee is aggrieved by the decision of his or her appointing authority that the employee is not eligible to receive donated leave because the injury or illness of the employee or member of the employee's immediate family is not, in the appointing authority's determination, a catastrophic injury or illness, the employee may appeal the decision to the Employee Appeals Board.

L. The maximum period of time that an employee may use donated leave without resuming work at his or her place of employment is twenty days, beginning on the first day that the recipient employee used donated leave. Donated leave that is not used because a recipient employee has used the maximum amount of donated leave authorized under this paragraph must be returned to the donor employees in the manner provided under paragraph (L) of this subsection.

M. If the total amount of leave that is donated to an employee is not used by the recipient employee, the donated leave must be returned to the donor employees on a pro rata basis, based on the ratio of the number of days of leave donated by each donor employee to the total number of days of leave donated by all donor employees. In no case will any donor employee receive more leave in return than the employee donated.

N. The failure of an appointing authority or supervisor of any employee to properly deduct an employee's donation of leave to another employee from the donor employee's earned personal leave or major medical leave shall constitute just cause for the dismissal of the appointing authority or supervisor.

O. No person, through the use of coercion, threats or intimidation, shall require or attempt to require any employee to donate his or her leave to another employee. Any person who alleges a violation of this paragraph must report the violation to the executive director of

the agency in which he or she is employed or if the alleged violator is the executive director of the agency, then the employee must report the violation to the MSPB. Any person found to have violated this paragraph will be subject to removal from office or termination of employment.

I. No employee can donate leave after tendering notice of separation for any reason or after termination of his or her employment.

K. Recipient employees of agencies with more than five hundred (500) employees as of March 25, 2002 may receive donated leave only from donor employees within the same agency. A recipient employee in an agency with five hundred (500) or fewer employees as of March 25, 2002 may receive donated leave from any donor employee.

L. In order for an employee to be eligible to receive donated leave, the employee must have been employed for a total of at least twelve months by the employer on the date on which the leave is donated and have been employed for at least 1,250 hours of service with such employer during the previous twelve-month period from the date on which the leave is donated.

M. Donated leave may not be used in lieu of disability retirement.

N. Those employees who received donated leave and continued to be eligible to use it as of July 1, 2000 will be allowed to use that leave which was donated to them before July 1, 2000.

7.22.5 Compensatory Leave

~~Compensatory leave shall be administered according to Section 25-3-92 (1), Mississippi Code of 1972, Annotated, as amended, and in accordance with the Fair Labor Standards Act (FLSA).~~

~~A. When, in the opinion of the appointing authority, it is essential that a state employee work after normal working hours, the employee may receive credit for compensatory leave.~~

~~B. An employee classified as non-exempt shall receive overtime credit in compensatory time off or overtime monetary payment in accordance with the FLSA. All other employees may receive credit for compensatory time off on an hour per hour basis.~~

~~C. When, in the opinion of the appointing authority, it is essential that a state employee work during an official state holiday, the employee shall receive credit for compensatory leave. (Refer to Section 7.21.1 regarding Holidays.)~~

Compensatory leave is administered in accordance with State law and in compliance with the Fair Labor Standards Act and the regulations promulgated by the U. S. Department of Labor (hereinafter referred to as "DOL").

State law provides that when, in the opinion of the appointing authority, it is essential that a State employee work after normal working hours, the employee may receive credit for compensatory leave. Further, except as otherwise provided by statute, when, in the opinion of the appointing authority, it is essential that a State employee work during an official State holiday, the employee shall receive credit for compensatory leave. Compensatory time earned under State law is credited in a rate of an hour for an hour for all employees.

State employees in positions which have been classified "non-exempt," as defined in the federal regulations promulgated by DOL pursuant to the Fair Labor Standards Act (hereinafter referred to as "FLSA"), may receive compensatory time at a rate of not less than one and one-half hours for each hour worked over forty hours in a workweek as defined in DOL regulations, instead of cash overtime pay. State employees in positions that have been classified as "exempt" under DOL regulations may receive compensatory time earned under FLSA only when they perform duties of a "non-exempt" position on an emergency and temporary basis. There are limits on the extent to which the appointing authority may continue to accrue compensatory time instead of paying overtime. The limit of earned compensatory time under the FLSA for most employees is 240 hours. Law enforcement, fire fighters, emergency response personnel, and employees engaged in seasonal activities may accrue up to 480 hours of compensatory time under the FLSA. State employees should consult their agency human resources office to confirm the status of their position under the FLSA, when their DOL workweek begins and ends, and to determine the limit of compensatory time which may be earned for their position under the FLSA.

The appointing authority may require a State employee to use compensatory time earned pursuant to the FLSA prior to the use of accrued personal or compensatory time. Further, the appointing authority may require an employee to take FLSA compensatory time off when the employee's compensatory time earned under the FLSA has reached the limit allowed under the regulations.

Upon termination of employment, an employee may not be paid for accumulated compensatory leave. Should an employee die having accumulated compensatory leave, such leave may not be counted as creditable Service for retirement purposes. Employees also have no authority to pay an employee's beneficiary for unused compensatory leave in the event of an employee's death.

7.22.6 Administrative Leave

~~In accordance with Section 25-3-92 (2), Mississippi Code of 1972, Annotated, as amended, state employees may be granted administrative leave with pay. For the purposes of this section, "administrative leave" means discretionary leave with pay, other than personal leave or major medical leave.~~

~~A. The appointing authority may grant administrative leave to any employee serving as a witness, juror, or party litigant, as verified by the clerk of the court, in addition to any fees paid for such services. Such services or necessary appearance in any court shall not be counted as personal leave.~~

~~B. The Governor or the appointing authority may grant administrative leave with pay to state employees on a local or statewide basis in the event of extreme weather conditions or in the event of a manmade, technological, or natural disaster or emergency.~~

~~D. The appointing authority may grant administrative leave with pay to any employee who is a certified disaster service volunteer of the American Red Cross who participates in specialized disaster relief services for the American Red Cross in this state and in states contiguous to this state when the American Red Cross requests the employee's participation. Administrative leave granted under this paragraph shall not exceed twenty (20) days in any twelve (12) month period. An employee on leave under this paragraph shall not be deemed an employee of the state for the purposes of workers' compensation or for purposes of claims against the state allowed under Section 25-3-92, Mississippi Code of 1972, Annotated, as amended. As used in this paragraph, the term "disaster" includes disasters designated at Level II and above in the American Red Cross national regulations and procedures.~~

State employees may be granted administrative leave with pay. For the purposes of this section "administrative leave" means discretionary leave with pay, other than personal leave or regular medical leave.

A. The appointing authority may grant administrative leave to any employee serving as a witness or juror or party litigant, as verified by the clerk of the court, in addition to any fees paid for such services, and such services or necessary appearance in any court shall not be counted as personal leave.

B. The Governor or the appointing authority may grant administrative leave with pay to State employees on a local or statewide basis in the event of extreme weather conditions or in the event of a manmade, technological or natural disaster or emergency.

C. The appointing authority may grant administrative leave with pay to any employee who is a certified disaster Service volunteer of the American Red Cross (hereinafter referred to as "ARC") and who participates in specialized disaster relief services for the ARC in this State and in States contiguous to this State when the ARC requests the employee's participation. Administrative leave granted under this paragraph cannot exceed twenty days in any twelve-month period. An employee on leave under this paragraph is not considered to be an employee of the State for the purposes of workers' compensation or for purposes

of claims against the State. As used in this paragraph, the term "Disaster" includes disasters designated as level II and above in the ARC national regulations and procedures.

7.22.7 Leave of Absence

A. Section 25-3-93 (2), Mississippi Code of 1972, Annotated, as amended, provides that an employee may, upon written application to and in the discretion of the appointing authority, obtain a leave of absence without pay not to exceed twelve (12) months, without forfeiting previously accumulated continuous service. (Refer, Chapter 5, Section 5.04.12.)

B. A state service employee, with the consent of the head of the department, agency, or institution and the concurrence of the State Personnel Director, may be placed on a leave of absence for purposes of accepting an assignment in the non-state service for a period not to exceed one (1) year. (Refer to Section 25-9-125, Mississippi Code of 1972, Annotated, as amended.)

An employee can, upon written application to and in the discretion of the appointing authority be granted a leave of absence without pay but not to exceed twelve months, without forfeiting previously accumulated continuous Service.

A State Service employee, with the consent of the head of the department, agency or institution and the concurrence of the MSPB Executive Director, may be placed on a leave of absence for purposes of accepting an assignment in the non-State Service for a period not to exceed one year.

Leave of absence should not be confused with leave without pay. A leave of absence is for the purpose of accepting another position in non-State Service. Leave without pay is leave granted to the employee, at the discretion of the appointing authority, in the absence of paid leave.

7.22.8 Use of Leave during Pregnancy

Federal law requires that women affected by pregnancy, child-birth or related medical conditions shall be treated the same for all employment related purposes, including receipt of benefits under fringe benefit programs, as other persons not so affected but similar in their ability or inability to work. (See 42 U.S. Code Section 2000e (k)).

A. All types of leave shall be granted to pregnant women on the same terms as leave is granted to other disabled employees in accordance with these rules.

B. The appointing authority shall not terminate the employment of any employee in the state service because of pregnancy or require that such employee take a mandatory leave.

C. When certified in advance by a medical doctor, pregnant women shall be allowed to use major medical leave for regularly scheduled prenatal care by a medical doctor without the

~~requirement that personal leave be used for the first eight (8) hours of each absence for such care.~~

Women affected by pregnancy, childbirth or related medical conditions shall be treated the same for all employment-related purposes, including receipt of benefits under fringe benefit programs, as other persons not so affected but similar in their ability or inability to work.

i. All types of leave shall be granted to pregnant women on the same terms as leave is granted to other employees.

ii. When certified as advisable by a medical doctor, pregnant women may use more medical leave for regularly scheduled prenatal care by a medical doctor without the requirement that personal leave be used for the first eight hours of each absence for subsequent visits. Just as with major medical leave, the first day to the first eight hours of leave taken for pregnancy must be personal or compensatory leave or leave without pay if the employee has no accrued personal or compensatory leave.

7.22.9 Military Leave

~~**Employees requesting leave when ordered to military duty in excess of the fifteen (15) days military leave allowed by law, shall for such periods in excess of fifteen (15) days, be entitled to leave of absences from their respective duties without loss of time, annual leave, or efficiency rating until relieved from duty. If approved by the appointing authority, military leave can be charged against personal leave.**~~

~~**The agency personnel officer can provide specific information regarding the administration of military leave benefits as prescribed in Sections 33-1-19 and 33-1-21, Mississippi Code of 1972, Annotated, as amended.**~~

Employees who are members of the military reserves or former members of the military are entitled to fifteen days of paid leave of absence when ordered to duty to participate in training or military exercises. Such employees are further entitled to unpaid leaves of absence from their respective duties in excess of the previously outlined fifteen days without loss of time, annual leave or efficiency rating until relieved from duty when ordered to duty as above.

The Uniformed Services Employment and Reemployment Act of 1994, a federal law, requires employers to allow up to five years of unpaid leave to a soldier who leaves employment to perform military duty, performs that duty satisfactorily, and requests his or her job back within the statutory time limits. The soldier must be reemployed without regard to whether the military duty was voluntary or involuntary.

7.22.10 Leave Accumulation and Retirement

~~No maximum accumulation limits exist for personal or major medical leave. Unused leave for which an employee is not compensated upon termination or retirement shall be counted as creditable service toward the retirement system. In computing unused leave for creditable service, twenty-one (21) days of unused leave shall constitute one (1) month of creditable service, and in no case shall credit be allowed for any period of unused leave of less than fifteen (15) days. To receive creditable service for the months of unused leave, the Public Employees' Retirement System (PERS) must receive certification of such leave balances from the appointing authority of the employee's agency.~~

~~The number of months of unused leave shall determine the number of quarters of years of creditable service in accordance with Section 25-11-109, Mississippi Code of 1972, Annotated, as amended. Contact the agency Human Resources Director and PERS for answers to specific questions regarding the crediting of unused leave.~~

Unused personal and major medical leave for which an employee is not compensated upon termination or retirement will be transferred by the employee's agency to the Public Employees' Retirement System (hereinafter referred to as "PERS") and be counted by PERS as creditable service for the purpose of the retirement system. In computing unused leave for creditable service, in no case shall credit be allowed for any period of unused leave of less than fifteen days. In order to receive creditable Service for unused leave, PERS must receive certification of such leave balances from the employee's agency.

The amount of unused leave will determine the number of quarter-years of creditable service in accordance with Mississippi Code Annotated § 25-11-109 (2009).

Conversion of Accumulated Unused Uncompensated Leave			
Combined Personal and Sick Leave	**Credit Equivalent**	**Combined Personal and Sick Leave**	***Credit Equivalent***
15 to 77 days (120 to 623 hours)	0.25 year	393 to 455 days (3144 to 3640 hours)	1.75 years
78 to 140 days (624 to 1127 hours)	0.50 year	456 to 518 days (3641 to 4655 hours)	2.00 years
141 to 203 days (1128 to 1631 hours)	0.75 year	519 to 581 days (4152 to 4655 hours)	2.25 years
204 to 266 days (1632 to 2135 hours)	1.00 year	582 to 644 days (4656 to 5159 hours)	2.50 years
267 to 329 days (2136 to 2639 hours)	1.25 years	645 to 707 days (5160 to 5663 hours)	2.75 years
330 to 392 days (2640 to 3143 hours)	1.50 years	708 to 770 days (5664 to 6167 hours)	3.00 years

~~For members of the system who are elected officers and who retire on or after July 1, 1987, the following shall govern:~~

~~A. For service prior to July 1, 1984, the members shall receive credit for leave (combined personal and major medical) for service as an elected official prior to that date at the rate of thirty (30) days per year.~~

~~B. For service on and after July 1, 1984, the member shall receive credit for personal and major medical leave beginning July 1, 1984, at the rates authorized in Sections 25-3-93 and 25-3-95, computed as a full-time employee.~~

Contact the agency human resources office, payroll officer and/or PEER (www.peer.state.ms.us) for answers to specific questions regarding the crediting of unused leave.

7.22.10a Resignation

An employee who desires to terminate Service with the State should submit a written resignation to the appointing authority at least ten working days before the final working day.

7.22.11 Record Keeping

~~The appointing authority shall keep records of each employee's accrual and use of all leave and shall inform employees on a regular basis of the amount of leave that has been accrued and used.~~

All State agencies whose payroll is processed through SPAHIS offer the same leave record reporting method. The balances of both personal and major medical leave are reported on each pay stub. Employees should verify leave balances on a monthly basis for accuracy.

7.22.12 Accrual and Use of Leave by Part-time Employees

~~Section~~ § 25-9-107 (xi), Mississippi Code of 1972, Annotated, as amended, provides that part-time employees shall only be hired into authorized employment positions classified by the Mississippi State Personnel Board, shall meet minimum qualifications as set by the Mississippi State Personnel Board, and shall be paid in accordance with the Variable Compensation Plan as certified by the Mississippi State Personnel Board. Part-time employees shall only be granted leave during periods when they were otherwise scheduled to work.

7.22.13 Mississippi Living Organ Donor Leave

~~The Mississippi Living Organ Donor Leave policy was promulgated by the Department of Finance and Administration, as authorized in Section 25-3-103, Mississippi Code of 1972, Annotated. It is provided here for informational purposes only.~~

~~All permanent full-time or part-time employees who have been employed by any agency of state government for a period of six (6) months or more and who donate an organ, bone marrow, blood, or blood platelets shall be eligible for organ donor leave. Those individuals employed by units of local government or school districts are not eligible for leave under this policy.~~

~~A. Employees may use organ donor leave only upon receipt of prior approval from the donor employee's agency.~~

~~B. Employees are not required to use accumulated major medical leave or personal leave before using organ donor leave.~~

~~C. Certification by the employee's attending physician for an employee participating as a bone marrow or organ donor will be required prior to using organ donor leave.~~

~~D. Employees requesting to be placed on organ donor leave to donate blood or blood platelets must provide verification from the blood service organization of the donation of blood and/or blood platelets to their supervisor upon returning to work to be approved for organ donor leave.~~

~~E. An employee may use the following amounts of leave:~~

~~1. Up to thirty (30) days (240 hours) of organ donor leave in any twelve month period to serve as a bone marrow donor;~~

~~2. Up to thirty (30) days (240 hours) of organ donor leave in any twelve month period to serve as an organ donor;~~

~~3. Up to one (1) hour to donate blood every fifty-six (56) days; and~~

~~4. Up to two (2) hours to donate blood platelets no more than twenty-four (24) times in a twelve (12) month period in accordance with appropriate medical standards established by the American Red Cross or other nationally recognized standards.~~

All permanent full-time or part-time employees who have been employed by any agency of state government for a period of six months or more and who donate an organ, bone marrow, blood or blood platelets are eligible for organ donor leave. Those individuals employed by units of local government or school districts are not eligible for leave under this policy.

Employees may use organ donor leave only upon receipt of prior approval from the donor employee's agency but are not required to use accumulated major medical leave or personal leave before using organ donor leave. Certification by the employee's attending physician for an employee participating as a bone marrow or organ donor will be required prior to using organ donor leave.

Employees requesting placement on organ donor leave for the purpose of donating blood or blood platelets must provide verification from the blood service organization of the donation of blood and/or blood platelets to their supervisor upon returning to work in be approved for organ donor leave.

An employee may use:

A. Up to thirty days (240 hours) of organ donor leave in any twelve-month period to serve as a bone marrow donor;
B. Up to thirty days (240 hours) of organ donor leave in any twelve-month period to serve as an organ donor;
C. Up to one hour to donate blood every fifty-six days; and
D. Up to two hours to donate blood platelets no more than twenty-four times in a twelve-month period in accordance with appropriate medical standards established by the ARC or other nationally recognized standards.

7.30 EQUAL EMPLOYMENT OPPORTUNITY

~~The State Personnel Board ensures equal employment opportunity for all individuals regardless of race, color, creed, sex, religion, national origin, age, physical handicap, disability, or political affiliation. To ensure non-discriminatory personnel administration, the State Personnel Board promotes non-discriminatory practices and procedures in all phases of state service personnel administration. State Personnel Board equal employment opportunity policy, therefore, prohibits any form of unlawful discrimination based on the foregoing and on other considerations made unlawful by federal or state laws.~~

~~It is the view of the State Personnel Board that equal employment opportunity can only be attained through state agency commitment to compliance with all applicable laws affording equal employment opportunities to individuals including, among others, persons with disabilities. Accordingly, it is imperative that state agency employees make all personnel decisions in accordance with State Personnel Board policies, practices, and procedures. The selection process and criteria must ensure fair and equitable treatment of all applicants and employees and not disqualify them if they have disabilities, which prohibit or limit their ability to perform nonessential or marginal job functions. The Americans with Disabilities Act of 1990 requires state agencies to make reasonable accommodations for the known physical and mental limitations of otherwise qualified individuals with disabilities who are applicants or employees, provided such accommodations do not cause undue hardships to state agency operations. Qualified individuals with disabilities are persons with disabilities who meet the job-related requirements of an employment position and who can perform the essential functions of the position with or without reasonable accommodations. A person with a disability is considered an individual with a physical or mental impairment that substantially limits one or more major life activities, has a record of such impairment, or is regarded as having such impairment.~~

~~It is the policy of the State Personnel Board that applicants and employees with disabilities are provided equal employment opportunity in the application process, as well as in employment practices, and enjoy the same privileges and benefits of employment as employees without disabilities.~~

The State of Mississippi is an equal opportunity employer and assures equal employment opportunities to all persons regardless of race, color, creed, sex, religion, national origin, age, physical handicap, disability, or political affiliation. In order to implement the State's equal employment policy and to ensure non-discriminatory personnel administration, the Mississippi State Personnel Board promotes non-discriminatory practices and procedures in all phases of State Service personnel administration and prohibits any form or unlawful discrimination. Equal employment opportunity can only be assured through State agency commitment to comply with all applicable laws affording equal employment opportunities to individuals. Accordingly, it is imperative that State agencies make all personnel decisions in accordance with Mississippi State Personnel Board policies, practices, and procedures.

Equal employment opportunity does not guarantee or confirm any rights not otherwise provided by law.

7.40 STANDARDS OF EMPLOYEE CONDUCT

~~All state service employees shall conduct themselves in accordance with the rules prescribed herein. All state service employees shall treat the public impartially.~~

The maintenance of high standards of honesty, integrity, impartiality and conduct by employees of the State of Mississippi is essential to earning and retaining the confidence of the citizens of Mississippi. The avoidance of misconduct and conflicts of interests on the part of employees through informed judgment is indispensable to quality of performance as well as to the maintenance of these high standards.

7.40.1 Attendance

~~All employees shall report to and leave work at the times designated by the appointing authority. Planned lost time shall be arranged with the supervisor in advance and unexpected lost time shall be reported as promptly as possible to the supervisor at the beginning of the employee's scheduled work period.~~

All employees must report to and leave work at the time designated by their employer. Appropriate absence from work is to be arranged with the employee's supervisor in advance, and unexpected absences are to be reported promptly to the employee's supervisor prior to the beginning of the employee's work period.

7.40.2 Diligence during Work Period

~~All employees shall apply themselves to their assigned duties during the full schedule for which they are being compensated, except for reasonable time provided to take care of personal needs.~~

All employees must apply themselves to their assigned duties during the full schedule for which compensation is being received, except for reasonable time provided to take care of personal needs.

7.40.3 Work Performance

~~All employees shall meet established performance standards. Any conditions or circumstances in the work environment, which prevent employees from performing effectively, shall be reported to their supervisor.~~

All employees must meet established performance standards. Any conditions or circumstances in the work environment which prevent an employee from performing effectively are to be reported to the supervisor.

Many departments and agencies maintain more specific rules for employees. The employee's supervisor or the agency human resources office may provide additional information.

7.40.4 Sexual Workplace Harassment

~~Each appointing authority shall provide a work place free from sexual harassment. Sexual harassment may include, but is not limited to, requests for sexual favors, unwelcome sexual advances, threats, bodily contact, or other deliberate verbal or physical conduct of a sexual nature. Also included are remarks, gestures, physical contact, or display or circulation of written or electronic materials, pictures or objects derogatory to any employee. Such behavior is strictly forbidden and will not be tolerated at any organizational level. All acts of retaliation against persons who utilize the grievance procedure are expressly prohibited.~~

~~No employee or applicant should endure sexual harassment. Any person believing he/she has been sexually harassed should immediately report the incident to management. The appointing authority shall take appropriate corrective action. This rule applies equally to same sex harassment.~~

~~Sexual harassment is strictly prohibited at any organizational level. This includes co-workers, same-level employees, or employees and supervisors. Sexual harassment is expressly detrimental when the offending employee is in a position to affect the compensation or employment status of the person being harassed.~~

~~Sexual harassment is behavior of a sexual nature, which is uninvited and unwelcome verbal or physical conduct directed at an employee because of his/her sex. Sexual harassment does not refer to occasional compliments of a socially appropriate nature.~~

~~Specifically, sexual harassment may include, but is not limited to:~~

~~repeated offensive sexual flirtations~~
~~repeated requests for dates~~
~~advances or propositions~~
~~verbal abuse of a sexual nature~~
~~graphic or degrading comments about appearance~~
~~display of sexually suggestive objects, appearance, pictures or images~~
~~offensive or degrading cartoons or jokes~~
~~offensive or degrading e-mail or electronic images~~

~~No employee should imply, suggest, or threaten that an applicant's or employee's cooperation of a sexual nature (or refusal thereof) will have any effect on the individual's employment status, including but not limited to assignment, compensation, advancement or other condition of employment.~~

~~Any permanent state service employee, probationary state service employee, non-state service employee in, or applicant for, an authorized employment position in an agency, which employs state service employees, may file a grievance in accordance with the sexual harassment grievance procedure contained in Section 10.20.1.~~

~~Any applicant or employee alleging sexual harassment may:~~

~~A. File a grievance with his/her supervisor in accordance with the standard Grievance Procedural Steps (Refer to Section 10.10 and SPB Form 1010-81); **OR**~~

~~B. If the source of the harassment is the employee's supervisor, the employee may skip a level of management by proceeding to Step IIA (Refer to Section 10.10 and SPB Form 1010-81) and file the grievance directly with the harassing supervisor's supervisor; **OR**~~

~~C. File the grievance with the agency Human Resources Director, Deputy Director, or Executive Director.~~

~~Regardless of outcome, all grievances alleging sexual harassment shall be forwarded to the appointing authority.~~

~~Acts or statements of a retaliatory nature against employees who file grievances based upon sexual harassment and who utilize the grievance procedure outlined and referenced above are strictly prohibited.~~

~~In addition to the agency Human Resources Director, a designee of the State Personnel Director shall be available to advise employees on the sexual harassment grievance procedure. In such cases:~~

~~D. Agency Human Resources Director or staff designee of the State Personnel Director may be advised to assist in the filing and resolution of a grievance; or~~

~~E. In cases of widespread harassment, the employee may be advised to file an appeal directly with the Employee Appeals Board without exhausting agency level remedies.~~

Each appointing authority must provide a workplace free from harassment with regard to race, color, age, religion, creed, sex, national origin, disability or political affiliation or activity. This prohibition includes, but is not limited to, remarks, gestures, physical contact, display or circulation of written or electronic materials, pictures or objects derogatory to any person based on the characteristics listed above. Such behavior is strictly forbidden and will not be tolerated at any organizational level.

Following is a non-exhaustive list of actions that may be inappropriate: epithets, derogatory or suggestive comments, slurs or gestures, assaultous or offensive physical touching, and offensive posters, e-mail, cartoons, pictures or drawings aimed at a protected classification. No employee may imply, suggest or threaten that an applicant's or employee's compliance with any form of harassment or refusal to be complicit will have any effect on the individual's employment status, including but not limited to assignment, compensation, advancement or any other condition of employment.

Harassment by someone not within the same protected class as well as harassment or discrimination by someone of another protected class is prohibited. For example, harassing conduct by a male toward a female because of her sex as well as harassing conduct by a male toward another male because of his sex is prohibited. Likewise, racially harassing conduct by someone of a particular race toward a member of another race or a member of the same race, if the conduct is based on race, is prohibited.

No employee or applicant should endure workplace harassment. Any person believing he or she has been illegally harassed should immediately report the incident to management. The appointing authority shall take timely and appropriate corrective action.

7.40.5 Workplace Violence

Each appointing authority shall provide a workplace environment for employees that is free from violence. No employee shall be allowed to harass any other employee or a member of the general public by exhibiting behavior including, but not limited to the following: harassment, intimidation, threats, physical attacks, domestic related violence, stalking or property damage.

Harassment is engaging in actions that include, but are not limited to, abusive, vulgar, verbal abuse and/or behavior intended to frighten, coerce, or induce duress. Intimidation is behavior or communication designed or intended to unreasonably induce or frighten another person. A threat is the expression of an intent to cause physical or mental harm. An expression constitutes a threat without regard to whether the party communicating the threat has the present ability to carry it out and without regard to whether the expression is contingent, conditional, future or verbal. A physical attack is hostile physical contact or attempted physical contact such as

hitting, fighting, pushing, shoving or throwing objects. Domestic related violence is the use of abusive or violent behavior, including threats and intimidation, between people who have an ongoing or prior intimate relationship. This would include people who are married, live together or date or who have been married, lived together or dated. Stalking is conduct that places a person in fear for his or her safety and includes any unwanted contact or action which directly or indirectly communicates a threat or places the individual in fear for his or her safety. Property damage is intentional damage to property and includes property owned by the State, employees, visitors or vendors. The workplace environment consists of the building(s), grounds, lighting, and other considerations. It also includes the attitude the employees have about their belief that they will be safe at work.

7.40.5~~0~~ Political Activity

~~It is the policy of the State Personnel Board that personnel administration be conducted in an atmosphere free from political influence or coercion.~~

~~A. POLITICAL CONTRIBUTIONS AND SERVICES – No state service employee shall be obliged, by reason of his/her employment, to contribute to a political fund or to render political service, and he or she may not be removed or otherwise prejudiced for refusal to do so.~~

~~B. USE OF OFFICIAL AUTHORITY OR INFLUENCE TO COERCE POLITICAL ACTION – No state service employee shall use his/her official authority or influence to coerce the political action of a person or body. [Refer, Section 25-9-145, Mississippi Code of 1972, Annotated, as amended.]~~

~~C. FAIR TREATMENT OF APPLICANTS AND EMPLOYEES – Each appointing authority shall ensure fair treatment of applicants and employees in all aspects of personnel administration without regard to political affiliation.~~

~~D. FREEDOM FROM POLITICAL COERCION – Each appointing authority shall ensure that employees are free from coercion for partisan or political purposes.~~

~~E. INFORMING EMPLOYEES OF POLITICAL ACTIVITIES LAWS – Each appointing authority shall inform all employees of which political activities are permitted or prohibited by law.~~

~~F. VIOLATION OF PROVISIONS – Any employee in the state service who violates any of the provisions of this section may be subject to appropriate disciplinary action.~~

~~G. GRIEVANCE AND APPEALS – Any applicant or employee who believes he/she has been discriminated against based on political affiliation or unlawful political activity affecting state service employment may grieve and appeal. (Refer to Section 10 and SPB Forms 1010-81 and 1020-86.)~~

~~H. POLITICAL ACTIVITY PROHIBITED – Agencies receiving federal loans or grants~~

~~1. The Hatch Act - The federal "Hatch Act," 5 U.S.C. § 1501 and following, covers individuals employed by state or local agencies whose principal employment is in connection with an activity, which is financed in whole or in part, by loans or grants made by the United States or a federal agency, but does not include (a) an individual who exercises no function in connection with that activity; or (b) an individual employed by an educational or research institution, establishment, agency, or system, which is supported in whole or in part, by a state or political subdivision thereof or by a recognized religious, philanthropic, or cultural organization.~~

~~The Hatch Act regulations applicable to state and local employees are contained in the Appendix and may be found in the Code of Federal Regulations at 5 C.F.R. § 151.101 and following. In cases where the Hatch Act is applicable, stricter state prohibitions against political activity of state employees will supersede the Hatch Act. See the Appendix for a booklet entitled "Political Activity and the State and Local Employee," which explains the provisions of the Hatch Act.~~

~~2. Mississippi Code sections applicable to specific agencies~~

~~Several state agencies have specific Mississippi Code sections, which relate to political activity of its employees. Those agencies shall inform all employees, which political activities are permitted or prohibited pursuant to those Code sections.~~

~~3. Mississippi Election Code~~

~~Section 23-15-871, Mississippi Code of 1972, Annotated, as amended, states:~~

~~It shall be unlawful for any corporation or any officer or employee thereof, or any member of a firm, or trustee or any member of any association, or any other employer, to direct or coerce, directly or indirectly, any employee to vote or not to vote for any particular person or group of persons in any election, or to discharge or to threaten to discharge any such employee, or to increase or decrease the salary or wages of an employee, or otherwise promote or demote him, because of his vote or failure to vote for any particular candidate or group of candidates; and likewise it shall be unlawful for any employer, or employee having the authority to employ or discharge other employees, to make any statement public or private, or to give out or circulate any report or statement, calculated to intimidate or coerce or otherwise influence any employee as to his vote, and when any such statement has obtained circulation, it shall be the duty of such employer to publicly repudiate it, in the absence of, which repudiation the employer shall be deemed by way of ratification to have made it himself.~~

~~Nor shall any employee be requested, directed or permitted to canvass for or against any candidate or render any other services for or against any candidate or group of candidates, during any of the hours within, which the salary of said employee as an employee is being paid or agreed to be paid; nor shall any such employee be allowed~~

~~any vacation or leave of absence at the expense of the employer to render any service or services for or against any candidate or group of candidates, or to take any active part in any election campaign whatsoever; nor shall any employee at the expense, in whole or in part, of any employer take any part whatsoever in any election campaign, except the necessary time to cast his vote.~~

~~The prohibitions of this section shall apply to all state, state district, county, and county district officers, and to any board or commission and the members thereof by whatever name designated and whether elective or appointive, and to each and every one of those employed by them or any of them.~~

~~And no state, state district, county, or county district officer, or any employee of any of them who directly or indirectly has the control, or in any way the power of control, or who asserts or pretends that he has such power, over the expenditure of any public funds in this state, whatever the purpose or object of said expenditure may be, shall state, suggest, or intimate, publicly or privately, or in any manner or form, that any such expenditure shall in any way depend upon or be influenced by the vote of any person, group of persons, or community or group of communities, whether for or against any candidate or group of candidates at any election.~~

~~This section and every part of it shall apply also to all federal officers, agents, employees, board and commissions by whatever name known and to each and every one of those employed by them or any of them, as to any interference by them or any of them, contrary to the provisions of this chapter, in the elections of this state.~~

~~Section 23-15-873, Mississippi Code of 1972, Annotated, as amended, provides:~~

~~No person, whether an officer or not, shall, to promote his own candidacy, or that of any other person, to be a candidate for public office in this state, directly or indirectly, himself or through another person, promise to appoint, or promise to secure or assist in securing the appointment, nomination or election of another person to any public position or employment, or to secure or assist in securing any public contract or the employment of any person under any public contractor, or to secure or assist in securing the expenditure of any public funds in the personal behalf of any particular person or group of persons, except that the candidate may publicly announce what is his choice or purpose in relation to an election in, which he may be called on to take part if elected. It shall be unlawful for any person to directly or indirectly solicit or receive any promise by this section prohibited. But this does not apply to a sheriff, chancery clerk, circuit clerk, or any other person, of the state or county when it comes to their office force.~~

Personnel administration must be conducted in an atmosphere free from political influence or coercion.

Political Contributions and Services

No State Service employee may be obliged by reason of his or her employment to contribute to a political fund or to render political service, and he or she may not be retaliated or otherwise prejudiced for refusal to do so.

Use of Official Authority Or Influence To Coerce Political Action

No State Service employee may use his or her official authority or influence to coerce the political action of a person or body.

Fair Treatment of Applicants and Employees

Each appointing authority will assure fair treatment of applicants and employees in all aspects of personnel administration without regard to political affiliation.

Freedom From Political Coercion

Each appointing authority will assure that employees are free from coercion for partisan or political purposes.

Informing Employees of Political Activities Laws

Each appointing authority will inform all employees of which political activities are permitted or prohibited by law.

Violation of Provisions

Any employee in the State Service who violates any of the provisions of this section may be subject to appropriate disciplinary action.

Grievance and Appeals

Any applicant or employee who believes he or she has been discriminated against on the basis of political affiliation or unlawful political activity affecting State employment may grieve and appeal.

Prohibited Political Activity

Mississippi law prohibits any agency or appointing authority from attempting to direct or coerce any state employee to vote or refrain from voting and from either discharging or threatening to discharge, changing the salary or, or promoting or demoting any State employee because of the employee's

vote or failure to vote for any particular candidate or group of candidates. State law further prohibits any agency or employee of any agency with the authority to employ or discharge other employees from giving out or circulating any statement or report that is calculated to intimidate, coerce or otherwise influence any employee in to the employee's vote. If any such statement or report is circulated, the agency must publicly repudiate it or will be deemed to have circulated the statement. Agencies are also prohibited from requiring, directing or allowing any employee to canvass for or otherwise render any services for or against any candidate or group of candidates during working hours or while the employee is on vacation or other leave of absence at the expense of the agency. The State employee, at the expense, in whole or part, of his or her employer, may take any part whatsoever in any election campaign except the time necessary to cast his or her vote.

No one who has any control over, directly or indirectly, the expenditure of any public funds of the State of Mississippi may suggest or intimate either publicly or privately that any such expenditure will in any way depend on or be influenced by the vote of any person or group of persons.

No person may, in order to promote his or her own candidacy or that of any other person for public office in Mississippi, directly or indirectly promise to appoint or secure or assist in securing the appointment, nomination or election of another person to any public position or employment or the employment of any person under any public contract or the expenditure of any public funds of the personal behalf of any particular person or group. However, a candidate for election may publicly announce his position on relevant to an election of which he may be called on to take part if elected. This prohibition is further inapplicable to a sheriff, chancery clerk, circuit clerk or any other person of the State or county which it comes to his or her office force.

The Hatch Act

The federal "Hatch Act," 5 U.S.C. § 1501 and following, covers individuals employed by State or local agencies receiving federal loans or grants whose principal employment is in connection with an activity which is financed in whole or in part by loans or grants made by the United States or a federal agency, but does not include (a) an individual who exercises no function in connection with that activity, or (b) an individual employed by an educational or research institution, establishment, agency, or system which is supported in whole or in part by a State or political subdivision thereof, or by a recognized religious, philanthropic, or cultural organization.

The Hatch Act regulations which are applicable to State and local employees are contained in the Appendix of the Mississippi State Personnel Board Policy and Procedures Manual and may be found in the Code of Federal Regulations at 5 C.F.R. § 151.101 and following. In cases where the Hatch Act is applicable, the State of Mississippi may additionally place more strict prohibitions on the political activity of its employees. Also in the Appendix of the policy and procedures manual is a booklet entitled "Political Activity and the State and Local Employee."

which explains the provisions of the Hatch Act. An employee may obtain more information regarding the Hatch Act in Iowa that are

Agency Specific Ordinances

Several State agencies have specific laws which relate to the political activity of its employees. These agencies are responsible for informing all employees of which political activities are permitted or prohibited pursuant to the law applicable to that agency's employees.

7.40.6 Drug-Free Workplace Act of 1988

The Drug-Free Workplace Act of 1988, found at Title 5, Subtitle D, Anti-Drug Abuse Act of 1988, Public Law No. 100-690 (DFWA) requires grantees of federal agencies to certify that they will provide a drug-free workplace. Making the required certification is a precondition of receiving a federal grant beginning March 18, 1989.

The certification statement, which grantees are required to make under the DFWA, includes several provisions that grantees must comply with to provide a drug-free workplace, including:

A. Publishing a statement notifying employees that the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance is prohibited in the grantee's workplace and specifying the actions that will be taken against employees for violation of such prohibition; and

B. Establishing a drug-free awareness program to inform employees about the dangers of drug abuse in the workplace; the grantee's policy of maintaining a drug-free workplace; any available drug counseling, rehabilitation, and employee assistance programs; and the penalties that may be imposed upon employees for drug abuse violations occurring in the workplace.

The DFWA also provides that sanctions may be imposed against grantees for non-compliance with the law. To comply with the DFWA, state agencies that are federal grantees should refer to the federal regulations governing this law. A copy of the regulations is contained in the Appendix and may be found in the Federal Register, Vol. 54, No. 19, Tuesday, January 31, 1989.

State law governing drug and alcohol testing of employees and job applicants is set forth at Section 71-7-1, et. seq., Mississippi Code of 1972, Annotated, as amended. This statute provides procedures and guidelines for appointing authorities who wish to formulate a drug and alcohol testing policy. Except as provided by federal law, agencies are not required to administer drug or alcohol tests. This statute must be complied with if such tests are given. However, the statute does not apply to agencies subject to any federal law or regulations, which govern the administering of drug and alcohol tests. Agencies are also required to be cognizant of the proscriptions of the Americans with Disabilities Act regarding pre-employment medical tests.

7.40.8 Agency Record Keeping Requirements

Agencies are required to maintain certain information in each employee's personnel file. A complete list of these requirements can be found at:
http://records.mdah.state.ms.us/genschedules1.php?recordtype=Personnel+Records&sortby=schedule&o

7.40.9 Conflict of Interest

State employees should be especially careful to avoid using, or appearing to use, an official position for personal gain, giving impermissible preferences, or losing sight of the need for efficient and impartial decision making in the State's method of operation. No act should be committed which could result in questioning the integrity of State government.

Employees are not to engage in any activity in either a private or official capacity where a conflict of interest may exist. A State employee's first loyalty should be to the public interest. Associations, dealings or interests that could affect an employee's objectivity in performing the employee's job or in making the decisions required of the employee's position should be avoided. However, employees are encouraged to participate in professional and civic organizations if such participation does not adversely affect the employee's role as a public employee.

7.40.10 Employee Use of State Property

State employees have no ownership rights in or control of State property, which is defined to include all office space, space adjacent to the workplace controlled by the State or State agency, furniture, fixtures, equipment, and supplies including without limitation, all computer software, databases, services, computer hardware, disks, and information of any kind contained in or recorded on physical or electronic data sources of any kind. Employees are prohibited from using State property for personal use.

Wireless Communication Devices and Electronic Communications

State employees may not directly or indirectly use or allow the use of agency property of any kind, including property leased to an agency, for other than officially approved activities. In addition, employees shall protect and conserve agency property, including wireless communications equipment. Wireless communications equipment includes cellular phones, personal digital assistant devices, and standard and two-way pagers, as well as any similar devices that perform some or all of these functions. Employees are hereby notified that the agency will enforce this policy through a variety of methods and may monitor use of wireless communications equipment to ensure compliance.

- Wireless communication devices shall be used for legitimate State business only. Use of an agency-provided cellular phone for personal calls may result in appropriate disciplinary action and/or the loss of the use of the phone.

- The agency may not reimburse employees for any charges on personal wireless communication devices.

- Employees should be aware that cellular phone conversations are not secure transmissions. Confidential information regarding official business should be transmitted from a secure environment.

Storage of Information

All information, in any form, including written materials that pertain to work at a State agency should be stored on the computer or in an employee's desk in accordance with defined procedures so that other employees or an employee's supervisor has access to it. Agency Information Technology employees and agency supervisors may have passwords or other information necessary to access an employee's voice mail and email, and duplicate keys to any or all desks and file cabinets. Employees are prohibited from locking desks or cabinets unless permitted by management or altering equipment or programs to prohibit access.

Expectation of Privacy

State employees have no expectation of privacy in their work premises. All State property, including an employee's workstation, all physical storage areas and all electronic storage areas, including all software and data on all computers, voicemail and email, are subject to access and inspection at any time by management, other employees or third parties designated by management.

Because agency management may access or inspect an employee's work area at any time to find materials or obtain information, employees should not store any personal documents or materials on or in State property where they can be seen or read by others.

Right to Search

The State reserves the right to conduct reasonable searches on or in all State property and on State premises including, at any time, locked and unlocked areas, for any reason related to the operation of State business. Consent by the employee is implied and lack of cooperation or refusal to permit a search can result in immediate disciplinary, including termination.

The State or an agency may conduct inspections or searches for illegal drugs, weapons, explosives, contraband or other prohibited materials on, around or in State property, at any time without notice, whenever there is a reasonable basis to believe that an employee may be in the possession of such materials in violation of policy.

Inspections or searches for prohibited materials may be conducted by any member of management, an independent person appointed by management, law enforcement, representatives of the State or an agency with its own personnel.

The right to conduct random searches of agency premises is in addition to the right of an agency to access all State property without requiring consent of the employee.

Personal Property

Employment or continued employment with the State constitutes acknowledgement by employees that random searches of State property might result in the discovery of an employee's personal possessions or personal information. Because the State or third parties will have access to all areas of State property, employees are encouraged not to store or bring to the workplace any personal property or to transport or obtain the transmission of personal information or messages using State-owned equipment.

7.49.15 Discouraged Relationships

The State of Mississippi requires that all employees behave in all times in a professional manner that avoids any unlawful discrimination, including harassment, conflict of interest, or lack of a Code of Ethics for the State of Mississippi. These requirements include maintenance of a work environment in which the State discourages romantic, dating or sexual relationships between:

- employees working in a common sphere of influence, meaning a relationship between a subordinate and subordinate, or any relationship in which one employee supervises or manages, directly or indirectly, another employee or makes decisions concerning another employee's terms, conditions or privileges of employment, and/or
- an employee and a contractor, subcontractor, principal employee or vendor when the employee has the capacity to influence, directly or indirectly, the business relationship or potential employment.

Such relationships can cause conflict and adversely affect morale, operations and productivity because of the perception of impropriety or unfairness and the possibility of accusations that one's position is being used to obtain or grant social favors, and of improperly influence on others. Exceptions may be under treatment. Additional problems can occur in the workplace should the relationships cease.

7.50 Outside Employment

All employees must be available for and devote their full attention to their assigned direct and responsibilities during scheduled working hours. Further, employees having emergency response responsibilities must be reasonably available during non-scheduled hours. Each employee must ensure that his or her off-the-job activities do not adversely affect job performance and are not contrary to the interests of the State. For this reason, the following guidelines and rules are established for all employees:

- Employment with the State will be the employee's primary job responsibility and obligation; any other employment will be deemed secondary.

- An employee should not seek or accept outside or secondary employment that may negatively impact or affect the employee's personal and competent attendance, ability to satisfactorily and efficiently perform his or her duties or that results in a conflict of interest.

- The demands or requirements of outside or secondary employment may not be considered as reasonable reasons for absences, tardiness, poor performance or other areas of concern from a personnel perspective.

- Prior to seeking or accepting outside employment, full-time regular employees may discuss a secondary job with management to determine whether or not the job is considered a "conflict of interest" as previously defined in this handbook.

Outside employment refers to a job or task performed for which any form of compensation is received. This includes the receipt of a benefit as opposed to monetary compensation. For example, performing a Service and receiving goods for the task performed instead of receiving a salary or wage. Outside employment does not refer to being a member of a board of directors or the military.

Employees engaging in any outside employment must submit a request for approval to the individual or individuals designated by the agency prior to employment. This request must be completed if an outside activity exists at the time the employee is hired by the State, when an outside employment activity previously approved is being discontinued or the nature or scope of the activity is being changed, or when the employee plans to enter into any outside employment. If the outside employment constitutes a conflict of interest, detracts from the employee's responsibilities, or has an appearance of a conflict of interest, the request will be denied.

7.60 REDUCTION IN FORCE

Except as otherwise provided in these rules, the tenure of an employee with permanent state service status shall be continued during good behavior and the satisfactory (Meets Expectations) performance

of assigned duties. ~~Section~~ § 25-9-127, Mississippi Code of 1972, Annotated, as amended, provides for a Reduction-in-Force.

A. Reduction-in-Force - An appointing authority may reduce the number of employees in a state service agency whenever deemed necessary for the following reasons:

1. Shortage of funds or work;

2. Material change in duties or organization; or

3. Merger of agencies.

Prior to implementing the reduction-in-force, the agency must provide a written explanation or justification to the Mississippi State Personnel Board citing one or more of the above reasons for the reduction-in-force. In addition, the agency **must submit a proposed organization chart and a proposed staffing plan** to the Mississippi State Personnel Board for approval sixty (60) calendar days before the ~~reduction-in-force can be put into effect~~ Mississippi State Personnel Board will not approve a reduction in force request. Further, a reduction in force shall be effective no earlier than sixty (60) calendar days from the Board approval date.

Upon emergency request by an agency, the Mississippi State Personnel Board may waive the sixty (60) day calendar requirement. In considering whether to grant the waiver, it shall consider the emergency nature of the request and whether there has been sufficient time to review the agency's written justification, proposed organization chart, and proposed staffing plan.

B. Method of Reduction in Force

1. A reduction-in-force because of shortage of funds or work or because of material change in duties or organization may be administered by the following method(s):

a. By functional area (e.g., Office, Bureau, Division, Branch, Section, Unit);

b. By location (e.g., counties, districts, state office, agency-wide);

c. By job class; or

d. By a combination of the preceding factors.

An agency may exempt a program area or a certain number of positions in a program area from a reduction in force when such an exemption is required by federal law or grant requirements.

Once the method of reduction in force is determined and prior to implementation, each agency shall submit to the Mississippi State Personnel Board a written statement of the method of the reduction in force to be administered and the proposed effective date. Such statement is required to establish a record. Then Sections C and D herein are applied. The result of applying the order for reduction in force formula (Section C) and the retention point formula (Section D) must be submitted to the Mississippi State Personnel Board for purpose of establishing a record. Afterward, Section E herein is applied.

2. The method of reduction-in-force because of the merger of agencies shall be administered as follows:

   a. First - by functional area and/or funding source

   b. Second - by location, (e.g., counties, districts, state office, agency-wide)

   c. Third - by job class or job class series

   Prior to implementing a reduction in force by merger of agencies, each agency shall submit to the Mississippi State Personnel Board a written statement of the functional area(s) and/or funding source(s), locations(s) and job class(es), which are targeted for reduction in force and the proposed effective date. Such statement is required for the purpose of establishing a record. Then Sections C and D herein are applied. The result of applying the order for reduction in force formula (Section C) and the retention point formula (Section D) must be submitted to the Mississippi State Personnel Board for purpose of establishing a record. Afterward, Section E herein is applied.

C. Order for Reduction in Force - The reduction in force formula shall be in the order that follows:

   1. Those with emergency appointments;

   2. Those with probationary or indefinite probationary appointments;

   3. Permanent State service employees.

D. Retention Point Formula for Reduction in Force - Permanent state service status employees shall be the last group of employees to be separated in a reduction-in-force. When permanent state service employees must be separated, employees with the lowest number of retention points based on seniority, performance appraisal ratings, and veterans' preference shall be dismissed first. The retention point formula shall be as follows:

   1. Seniority - An employee shall be credited with one (1) point for each year or portion thereof of continuous state service as a state service employee. In calculating retention points for a partial month of service, one-twelfth (1/12) of a point is credited to

employees with service equal to fifteen (15) days in the month. No credit is given for service of less than fifteen (15) days of the month.

2. Performance Appraisal - Each agency shall use the three (3) most recent performance appraisal ratings in the last three (3) years, as recorded in ~~SPAHRS and/or~~ agency files, and assign retention points to calculate the average Adjusted Appraisal Score (AAS), as of the date the agency submits the organizational chart and staffing plan.

   a. ~~Each employee's three (3) most recent performance appraisal ratings in the last three (3) years shall be assigned retention points by using the following scale:~~

~~RATING~~	~~RETENTION POINTS~~
~~Under 2.00~~	~~Zero (0) points~~
~~2.0 - 2.19~~	~~Three (3) points~~
~~2.2 - 2.39~~	~~Six (6) points~~
~~2.4 - 2.59~~	~~Nine (9) points~~
~~2.6 - 2.79~~	~~Twelve (12) points~~
~~2.8 - 3.00~~	~~Fifteen (15) points~~

   b. The retention points for each of the three (3) performance ratings shall be added together and divided by three (3) to obtain an average Adjusted Appraisal Score (AAS). If the division results in a fraction of .5 or greater, the result is rounded to the next higher whole number. If the division results in a fraction of less than .5, the result is rounded to the next lower whole number.

   c. If an employee has received less than three (3) performance evaluations, then the employee receives a presumptive "M eets E xpectations ~~(2.0)~~", for each missing evaluation. An appraisal rating rendered more than three (3) years before the date the agency submits the organizational chart and staffing plan for reduction-in-force will not be used to calculate an employee's average Adjusted Appraisal Score.

   d. ~~The Performance Appraisal Review (PAR) functions of SPAHRS provide a mechanism to record and track employee ratings and appraisal periods/dates. Consequently, appraisal ratings and dates must be recorded in SPAHRS within fourteen (14) days after the end of the appraisal period recorded in SPAHRS.~~ Employee ratings are very critical whenever an agency has to implement a reduction-in-force. Ratings not completed and recorded pursuant to policy and procedures will not be used in the computation of the average Adjusted Appraisal Score and a presumptive rating of "M eets E xpectations (2.0)" will be used.

3. Veterans' Preference - Veterans shall be awarded one (1) point, and disabled veterans shall be awarded two (2) points.

EXAMPLE FOR COMPUTATION OF TOTAL RETENTION POINTS: Employee A profile:

(1) Continuous state service of 5 years - Employee A would receive five (5) retention points based on seniority. (Refer to D.1. above.)

(2) The last three performance appraisal ratings are 2.3, 2.4, and 2.7 - Employee A would receive retention points of six (6), nine (9), and twelve (12), respectively, based on performance appraisal. The *average* Adjusted Appraisal Score would be nine (9) since 6 + 9 + 12 = 27 and 27 ÷ 3 = 9. (Refer to D.2.a., above)

(3) Non-veteran – Employee A would receive no retention points for veteran's service. (Refer to D.3.)

Employee A's total retention points equal fourteen (14):
[Seniority (5) + AAS (9) + Veteran's Preference (0).]

E. Employees who will be terminated by a reduction-in-force shall be notified in writing of the effective date of the reduction-in-force termination at least ten (10) working days prior to the effective date of the layoff. The written notification shall cite the reasons for the layoff. The appointing authority and the Mississippi State Personnel Board shall attempt to place affected employees in other positions for which they are qualified. (Refer, Chapter 4, Section 4.~~21~~ [illegible].5.)

F. When requesting a separation in SPAHRS of an employee due to a Reduction-in-Force, the following shall be in effect:

1. The effective date of the separation shall be the last day the employee worked.

2. An individual cannot receive payment for accrued personal leave unless records reflect termination date has been entered in SPAHRS by the requesting agency.

3. Online submission of the separation of the employee using the appropriate separation and Reduction-in-Force reason is required.

4. Positions affected by a Reduction-in-Force cannot be filled, reallocated, or abolished and reestablished for a period of one (1) year following the reduction-in-force.

7.60.1 Furlough

A furlough, or an involuntary leave without pay, may be implemented when such action is necessary to temporarily reduce expenditures to avoid a deficit of funds.

A. Provisions for Implementation of Furlough (Involuntary Leave without Pay)

The Mississippi State Personnel Board furlough policy shall apply uniformly to all executive and subordinate employees within an agency, regardless of job class. The Mississippi State Personnel Board shall review furlough plans only upon written certification of a general funds shortage from the Department of Finance and Administration or written certification of a special funds shortage from the agency. The Mississippi State Personnel Board shall ensure that any furlough plan complies with all applicable policies, rules, and regulations of the Mississippi State Personnel Board.

Such furlough leave for the purpose of reducing expenditures shall be based on the agency head's determination that:

1. Funds on hand or funds to be received during the current fiscal period will be inadequate to effectively discharge the agency's responsibilities without recourse to reductions-in-force; or

2. It is necessary to accrue funds by reducing current payroll expenses so that reductions-in-force or more extensive furloughs may be minimized or avoided.

B. When instituting a furlough, the agency head shall abide by the following rules and regulations:

1. Before instituting furlough leave, an agency head shall develop an equitable and systematic plan for implementation of an agency-wide furlough stating the reasons that require this action. Such plan and subsequent furlough action must be submitted to the Mississippi State Personnel Board for review and approval prior to implementing such leave.

2. Such a plan shall apply uniformly to all employees in the agency, regardless of status or funding source unless prohibited by law, loss of federal funds, or inability to continue a federally mandated program; however, agency heads may request the Mississippi State Personnel Board for an exemption from the loss of federal funds provision. All employees, including those on paid leave, shall be placed on an equivalent number of hours of leave without pay. A proportionate number of hours shall be applied to part-time employees. However, an agency head may, with the approval of the ~~State Personnel Director~~ Executive Director of the Mississippi State Personnel Board, make such leave subject to early cancellation or periodic call-back on a case-by-case basis to protect public health, safety, or property or to ensure operations of critical agency functions. The plan and the employees' notice of leave shall describe the reasons for and conditions of the provision. Agency heads who are elected and whose salary is set in ~~Section~~ § 25-3-31 of the Mississippi Code of 1972, Annotated, as amended, are not subject to an agency furlough.

3. Employees placed on furlough leave shall be given prior written notice, advising the employee of the particulars regarding the action, including the dates and times furlough leave is to begin and end.

4. While on furlough leave, an employee shall not accrue personal and major medical leave for that portion of the employee's salary funded by the restricted funds. Additionally, personal, major medical, and compensatory leave shall not be taken in lieu of furlough leave.

5. During furlough leave, group health and life insurance benefits funded by the State will continue for employees who remain qualified in accordance with the eligibility criteria as set forth in the group health and life insurance plan approved by the Health Insurance Management Board. An employee will continue to pay for dependent insurance coverage as well as other insurance premiums paid by the employee.

6. During furlough leave, employees classified as Exempt employees, in accordance with U.S. Department of Labor regulations promulgated pursuant to the Fair Labor Standards Act of 1938, as amended, lose their exemption for the workweek in which the furlough occurs. See Section 541.5d (3)(b), Title 29, Part 541 of the Code of Federal Regulations.

7. Once the funds have been restored, the agency head shall implement, on an equitable and systematic basis, the recall of furloughed employees. Failure on the part of an employee to return from furlough leave to his/her previous work status as directed in writing shall be cause for discharge.

8. Involuntary leave without pay conducted under this policy shall not be grievable.

9. For provisions regarding implementation of furlough of federally funded employees due to the restricting or limiting of federal funds, see Section B. below.

C. Provisions for Implementation of Furlough of Federally Funded Employees (Involuntary Leave Without Pay)

~~Section~~ § 25-9-126, Mississippi Code of 1972, Annotated, as amended, authorizes furloughs of federally funded employees as follows:

> In the event that federal funds for the funding of programs of any state agency shall be restricted or limited, the administrative board of such agency or agency administrative head shall have the authority to furlough rather than dismiss employees in accordance with rules and regulations established by the Mississippi State Personnel Board.

When instituting such a furlough, the administrative board or agency administrative head shall abide by the following rules and regulations:

1. The restriction or limiting of federal funds must be certified in writing by an agency of the federal government, or be an indisputable fact (as in the failure of the United States Congress to pass funding legislation for the federal fiscal year.)

2. The administrative board or agency administrative head shall develop an equitable and systematic plan of furlough and shall administer it uniformly to all executive and subordinate employees, without regard to status, whose positions are funded by the federal funds being restricted or limited. Employees whose positions are funded only in part by federal funds may be placed on part-time duty to exclude the obligation and expenditure of federal funds.

3. Within forty-eight (48) hours of implementation of the furlough plan, the administrative board or agency administrative head shall notify the ~~State Personnel Director~~ Executive Director of the Mississippi State Personnel Board in writing of the furlough, and shall include the reasons and the plan for implementation.

4. Employees placed on such furlough leave shall be given prior written notice, advising the employee of the particulars regarding the action, including the dates and time furlough leave is to begin and end.

5. While on furlough leave, an employee shall not accrue personal and major medical leave for that portion of the employee's salary funded by federal funds. Additionally, personal, major medical, and compensatory leave shall not be taken in lieu of furlough leave.

6. During furlough leave, group health and life insurance benefits funded by the State will continue for employees who remain qualified in accordance with the eligibility criteria as set forth in the group health and life insurance plan approved by the Health Insurance Management Board. An employee will continue to pay for dependent insurance coverage as well as other insurance premiums paid by the employee.

7. Once the restrictions have been lifted and/or the funds restored, the administrative board or agency administrative head shall implement, on an equitable and systematic basis, the recall of furloughed employees. Failure on the part of an employee to return from such leave to his/her previous work status as directed in writing shall be cause for discharge.

8. The administrative board or agency administrative head may make such furlough leave subject to early cancellation or periodic call-back on a case-by-case basis to protect public health, safety, or property, or to ensure operations of critical agency functions only upon approval by the federal agency of the obligation and expenditure of federal funds.

9. Involuntary leave without pay conducted under this policy shall not be grievable.

~~7.70 INCENTIVE BONUS AWARD FUNDS~~

~~A. Purpose~~

~~Disbursement of federally funded incentive bonus awards shall be governed by the procedures outlined below. The development of the following procedures is based upon implementation of legislative intent as promulgated by Section 25-9-134, (5) Mississippi Code of 1972, Annotated, as amended.~~

~~As part of the program of excellence in government, the State Personnel Board shall authorize and establish guidelines for state agencies to accept and present cash awards and bonuses as part of any federally funded employee awards incentive. The guidelines shall authorize state employees to compete for federal incentives and authorize state agencies to accept federal funds earmarked for incentives. All federal awards and bonuses received by state agencies shall not be designated as part of the agency's yearly budget for the purpose of receiving state appropriations.~~

~~B. Coverage of Policies~~

~~These policies shall govern incentive bonus awards for eligible state service employees and eligible non-state service employees who have been excluded from the state service under Section 25-9-107 (c) (xiii), (xiv), (xv), and (xvi), Mississippi Code of 1972, Annotated, as amended. Coverage is limited to personnel employed by agencies that receive federal funds earmarked for employee incentive bonus awards.~~

~~C. Scope of State Personnel Director's Authority~~

~~All requests for State Personnel Board action under these policies and procedures shall be submitted on the required documentation needed to implement the request. Each request for incentive bonus awards shall include Request for Federally Funded Incentive Bonus Award Approval form (SPB Form 770.1 88) and accompanying Employee Incentive Award Listing (SPB Form 770.2 88). Incentive bonus awards shall be made only after all required documentation has been submitted to the State Personnel Director and the requesting agency receives approval on the request from the State Personnel Director.~~

~~D. Provisions for Incentive Bonus Award Determination~~

~~1. Employees eligible to receive incentive bonus awards are employees who have been employed by the agency for a period of twelve (12) months or more immediately prior to the date of the award and who have a valid performance appraisal rating of 3.00 or greater in SPAHRS.~~

2. ~~All employees eligible to receive incentive bonus awards shall receive said bonus awards. The appointing authority may award each eligible employee an equal amount not to exceed $1,000 per year depending upon the availability of federal funds designated for incentive bonus awards and all applicable state and federal statues, regulations, guidelines, policies and procedures.~~

3. ~~Agencies who have received federal incentive bonus award funds as a result of the exclusive performance of certain agency programs, departments, sub agencies, bureaus, divisions, or other subdivisions shall restrict the disbursement of bonus awards to eligible employees of those designated subdivisions.~~

E. ~~General Procedures Governing Incentive Bonus Awards~~

1. ~~The salary of an employee who receives an incentive bonus award will remain at the salary prior to the award.~~

2. ~~An incentive bonus shall be awarded in a one time lump sum payment. The appointing authority shall ensure that all awardees are aware that incentive awards are not an entitlement, that receipt of such award is predicated upon federal funding earmarked for incentive bonus awards, and that the employee's receipt of such award in one year does not imply the award of such bonuses at a future date.~~

3. ~~The funds for the incentive bonus awards will be received and awarded outside the regular appropriation process.~~

4. ~~The awarding state agency shall disburse bonus awards only from funds it has received from the federal government, which are specifically designated for incentive bonus awards.~~

5. ~~The appointing authority shall combine each year's request for federally funded incentive bonus award approval into a single submission of each federal program and shall include specific (highlighted) documentation that funds were earmarked for employee incentive bonus awards.~~

F. ~~Administrative Procedures~~

1. ~~A Request for Federally Funded Incentive Bonus Award Approval (SPB Form 770.1-88) and attached Employee Incentive Award Listing (SPB Form 770.2-88) shall be submitted to the State Personnel Director ten (10) working days prior to the proposed date of the award.~~

2. ~~All requests for incentive bonus awards must include a statement from the appointing authority certifying the availability of federal funds earmarked for incentive bonus awards.~~

3. The appointing authority of the awarding agency shall confirm in writing to the State Personnel Director the disbursement of incentive bonus awards indicated on each submitted SPB Form 770.2-88 within (10) ten days of the actual disbursement of incentive bonus awards to the employees.

7.80 STENNIS AWARD FOR EXCELLENCE IN GOVERNMENT

A. Purpose

The recognizing of excellence and innovation in the management of administrative procedures, which increase the quality of public service at the state, district, and local governmental levels shall be governed by the procedures outlined below.

The development of the following procedures is based upon implementation of legislative intent as promulgated by Section 25-9-134 (2), Mississippi Code of 1972, Annotated, as amended:

> The State Personnel Board is hereby authorized and directed to establish a program to encourage and recognize excellence, innovation, and diversity on the part of state, district, and local governmental entities in the design, execution, and management of their own administrative procedures. The State Personnel Board shall establish by rule and regulation procedures for evaluating said examples of improvement in public administration, and shall provide for an annual awards program to recognize excellence in government. The Board may establish categories of governmental service in order to recognize these achievements.

B. Coverage of Policies

These policies shall govern the John C. Stennis Awards for Excellence in Government for all eligible state service employees and all eligible non-state service employees.

C. Scope of the State Personnel Director's Authority

1. In the event the State Personnel Director determines that any nomination is misclassified, the Director may reclassify the nomination to the appropriate category without prejudice to the nominee.

2. Individual nominations made in previous years may be reactivated by the State Personnel Director for nomination in a subsequent year's competition. However, nominating parties are reminded this provision is not automatic, and they are urged to re-nominate deserving personnel who have not won in a previous year's nominations. Subsequent re-nominations should be updated to include the nominee's latest achievements.

~~3. Should an insufficient number of valid nominations for the Stennis Award for Excellence in Local or District Government and/or the Stennis Award for Excellence in State Government be received, the State Personnel Director may recommend these awards not be presented in any given year.~~

~~D. Provisions for John C. Stennis for Excellence in Government Award Determination~~

~~1. A maximum of two individuals will be publicly recognized each year. In addition, Certificates of Special Achievement and Certificates of Nomination may be awarded.~~

~~2. The Stennis Award for Excellence in State Government shall recognize the state service or non-state service employee whose contributions within the last five (5) years are of excellence and perseverance.~~

~~3. The Stennis Award for Excellence in Local and District Government will be the local or district level employee who represents the same qualities as the "state government" category.~~

~~E. General Procedures for Award Determination~~

~~1. Eligibility Criteria~~

~~a. Nominee must be, at the time of the nomination, a full-time state employee of a state agency in a classified position with a minimum of three (3) years of service.~~

~~b. Persons holding elected offices will be evaluated based on their career in public service, excluding time served as an elected official.~~

~~2. Nomination Requirements~~

~~a. The appointing authority or the governing boards or commissions of agencies, which receive appropriation by the Legislature for personal services and have authorized employment positions, shall submit nominations to the State Personnel Director for personnel in the agency under their purview by the deadline imposed each year.~~

~~b. Each nomination must be accompanied by a cover letter signed by the appointing authority of the governmental agency employing the nominee. (An appointing authority may only be nominated by the governing board or commission of the agency employing the appointing authority nominee.) The cover letter should be one page that includes the following general information:~~

~~(1) Name, address, day phone, title, and agency of nominee~~
~~(2) Name, address, day phone, title, and agency of nominator~~

~~e. The information on Nominee, not to exceed five (5) pages (8 ½ x 11 inches, one side), should include the following:~~

~~(1) Brief biography of nominee, summarizing positions held, educational background, civic and professional involvement, and other personal data.~~

~~(2) Statement of achievement~~

~~(a) Highlight what was creative and innovative about the nominee's work. What did the nominee think needed to be done? What did the nominee accomplish? How were the people and resources mobilized?~~

~~(b) What has changed as a result of the nominee's work? What has been the impact on efficiency, effectiveness, etc.?~~

~~(c) Comment on the nominee's commitment to state government and how his/her service exemplifies it.~~

~~3. Submission Guidelines~~

~~a. Nominations must be received by the State Personnel Director postmarked no later than the close of business on the deadline date. The State Personnel Director will announce such deadline each year.~~

~~b. Please send six (6) copies to:~~

~~Mississippi State Personnel Director~~
~~301 N. Lamar Street, Suite 203~~
~~Jackson, MS 39201~~

~~4. Information submitted in support of nominations is subject to verification by the Mississippi Personnel Advisory Council. The State Personnel Director or the Governor may request a nominating party or nominee to furnish amplifying information in addition to that contained in the initial supporting documents.~~

~~F. Selection Criteria~~

~~1. The nominee must have primary and direct responsibility for administrative action and implementation of personnel-related improvements in productivity, efficiency, economy, or effectiveness.~~

2. ~~Measurability and tangibility of results of actions will be considered. Examples would include, but not be limited to, increased revenues, reduced expenditures while maintaining same quality quantity standards, or improved quality/quantity standards at equal or decreased cost.~~

3. ~~Adaptability of actions and/or transferability of approach to other state, district, and/or local jurisdictions will be considered.~~
4. ~~Innovation of action or approach will be considered.~~

5. ~~Selection shall be based on clear and practicable actions for the improvement of particular aspects of technical or administrative procedure, which include, but are not limited to, the following:~~

   a. ~~Strengthening one or more major areas of public administration such as personnel recruitment, training, development and/or payroll administration.~~

   b. ~~Increasing intergovernmental cooperation with respect to such matters as personnel interchange, personnel recruiting, manpower utilization and interchange, and fringe benefits.~~

   c. ~~Establishment of personnel systems of general or specific functional coverage to meet the needs of governmental jurisdictions.~~

   d. ~~All nominations will be screened by the State Personnel Director to ensure compliance with the eligibility, nomination, and selection requirements. Nominations meeting the requirements above will be submitted to the State Personnel Advisory Council. The Council shall consider each valid nomination and forward its recommendation to the State Personnel Board for review and comment. Following review and comment by the Board, the State Personnel Director shall submit all nominations to the Governor for review, comments, and recommendation at least sixty (60) days prior to final evaluation by the State Personnel Board. An explanation in writing shall be sent to the Governor in the event the State Personnel Board does not concur with recommendations of the Governor in approving or disapproving said nominations.~~

G. ~~Announcement of Awards~~

1. ~~The announcement of the award shall be made publicly at an award ceremony.~~

2. ~~Media coverage of all awards functions will be solicited to the greatest extent possible.~~

3. ~~Recipients will receive recognition and publicity on a statewide basis. In addition, each recipient shall receive an award.~~

4. ~~Nominees deserving special recognition may be awarded by the State Personnel Director a Certificate of Special Achievement suitable for framing. All other nominees will receive a certificate to publicly recognize them as a nominee for the John C. Stennis Award for Excellence in Government.~~

H. ~~General Policies Governing the Awarding of the John C. Stennis Award for Excellence in Local and District Level Government~~

1. ~~Eligibility Criteria~~

a. ~~Nominees must be practicing Mississippi public administrators of a district or local institution or agency; for example, boards of supervisors, municipalities, county offices, or boards of education.~~

b. ~~Persons holding elected offices will be evaluated based on their career in public service, excluding time served as an elected official.~~

2. ~~Nomination Requirements~~

a. ~~Nominations shall be made to the State Personnel Director by the governing authority of the board of the government entity employing the particular individual (or group of individuals) to be recognized by the deadline imposed each year.~~

b. ~~Each nomination must be accompanied by a cover letter signed by the chairperson of the board or governing authority of the governmental entity employing the nominees.~~

c. ~~Each nomination must be accompanied by supporting documentation in a format suggested by the State Personnel Director. The documentation may not exceed five pages (8 ½ x 11 inches, one side). In addition, the State Personnel Board may request that other supporting information be provided.~~

d. ~~Each nomination must be received by the State Personnel Director at the designated address no later than the close of business on the date of the deadline, which will be announced by the State Personnel Director each year. The State Personnel Director or the Governor may request a nominating party or nominee to furnish information in addition to that contained in the initial supporting documents.~~

3. ~~Selection Criteria~~

~~Selection criteria are the same as for the John C. Stennis Award for Excellence in State Government.~~

4. Announcement of Awards

a. The announcement of the award shall be made publicly at an awards ceremony.

b. Media coverage of all awards functions will be solicited to the greatest extent possible.

c. Recipients will receive recognition and publicity on a statewide basis. In addition, each recipient shall receive an award.

Nominees deserving special recognition may be awarded by the State Personnel Director a Certificate of Special Achievement suitable for framing. All other nominees will receive a certificate to publicly recognize them as a nominee for the John C. Stennis Award for Excellence in Government.

7.90 EDUCATIONAL LEAVE

7.90.1 General Professional Development

Section 37-101-293, Mississippi Code of 1972, Annotated, as amended, authorizes state agencies to grant paid educational leave on a part-time or full-time basis and reimburse employees for educational leave expenses for employees to develop job-related skills and to develop employees for higher level professional and management positions; to prescribe eligibility for such educational leave and expense reimbursement; and for related purposes.

This statute stipulates that the State Personnel Board approve the form of the contract prepared by the Attorney General of this state and establish a maximum salary amount at which any employee may be paid full compensation while on educational leave and establish a deduction ratio or reduced percentage rate of compensation to be paid to all employees compensated at a salary level above such maximum salary amount. The law also stipulates that each agency granting paid educational leave or reimbursing expenses or both shall file an annual report with the Legislature detailing for each recipient's position the cost of educational assistance, the degree program, and the school attended. This report, covering the previous fiscal year, shall also be filed with the State Personnel Board on or before January 1 of each year.

A. Procedures Outline

Agencies should:

1. Develop internal policies and procedures governing educational leave;

2. Identify the job classifications in which they are experiencing demonstrated critical shortages;

3. Have educational leave recipients sign a contract, the form of which has been approved by the Attorney General and the State Personnel Board;

4. Forward to the State Personnel Board and to the Legislature prior to January 1 of each year a copy of the annual report on the Educational Leave program as required by the statute.

B. Eligibility

1. Candidates for Educational Leave shall be working at a state agency for three (3) years at the time of application or be working at a state agency at the time of application for part-time graduate level education in a particular profession deemed by the administrative head of the state agency to meet a critical need within the state agency.

2. Candidates must agree to enter into a contract with the requesting state agency, which shall contain the statutory provisions and regulatory terms and conditions upon which the paid Educational Leave shall be granted to the candidate.

3. Candidates must attend a college or university in the State of Mississippi and approved by the head of the agency unless such course of study is not available at a Mississippi college or school.

C. Salaries of Employees on Educational Leave

1. Educational Leave Contract Salary

a. The Educational Leave contract shall specify the salary by, which Educational Leave recipients shall be compensated.

b. The State Personnel Board prescribes the maximum salary levels permitted employees on Educational Leave.

2. Determination of Maximum Educational Leave Salary

a. Employees whose salaries at the time of application are $24,941.40 or less may have their salaries established at the discretion of the appointing authority at any salary up to the current salary at the time of application. The salary established shall be the maximum salary permitted while on Educational Leave.

b. Employees whose salaries at the time of application are greater than $24,941.40 may have their salaries established by the appointing authority at any salary up to $24,941.40. Appointing authorities may additionally grant 50% of the difference between $24,941.40 and the current salary. This formula shall

~~establish the maximum salary permitted while on Educational Leave. See the following example:~~

~~Current Salary: $35,711.04~~
~~Educational Leave Salary: $24,941.40~~
~~Difference: $10,769.64~~

~~$10,769.64 x 50% = $5,384.82~~
~~$ 5,384.82 + $24,941.40 = $30,326.22 (max salary on Educational Leave)~~

~~c. If any part of a month is spent on Educational Leave, the employee shall be compensated at the Educational Leave salary for that entire month.~~

~~d. Employees shall be informed of their Educational Leave salary prior to signing the Educational Leave Contract.~~

~~3. Legislative and Variable Compensation Plan Salary Increases~~

~~Employees shall be ineligible for salary increases for the time they are on Educational Leave. However, upon the completion of Educational Leave, recipients of Educational Leave shall have their salaries restored by appointing authorities to the level the salary would have been after the addition of any salary increases guaranteed by the Legislature during the period of Educational Leave. No back pay or back award of pay shall be authorized for the time spent on Educational Leave.~~

~~D. Educational Programs, which Qualify for Educational Leave~~

~~Educational Leave shall be granted only to pursue undergraduate and graduate level education. Undergraduate and graduate level education shall be defined as an educational program:~~

~~1. Conducted by a college, university, or school; and~~

~~2. That awards academic credit upon successful completion of each course.~~

~~E. Educational Opportunities, which Do Not Qualify for Educational Leave~~

~~Educational Leave does not apply to educational programs other than those identified above. Educational Leave shall not apply to training conducted, sponsored, or co-sponsored by the requesting agency, the State Personnel Board, or other state or federal agencies, which offer job-related training of short duration.~~

~~F. Equal Educational Opportunity~~

~~Appointing authorities shall ensure that Educational Leave and training opportunities are accorded all qualified agency employees without unlawful discrimination as to race, color, religion, sex, national origin, age, handicap, or disability. Refer to Sections 25-9-103 and 25-9-149, Mississippi Code of 1972, Annotated, as amended.~~

~~G. Duration of Educational Leave~~

~~Unless otherwise terminated, the duration of Educational Leave may be the length of the semester, quarter, or term in which the employee is actually enrolled pursuing his/her designated professional course work; or at the option of the appointing authority, the duration may extend across successive semesters, quarters, or terms, as long as the employee is enrolled and pursuing his/her designated professional course work in each intervening semester, quarter, or term. Agencies shall maintain contemporaneous leave records, which detail those periods an employee uses Educational Leave.~~

~~H. Conditions Requiring Termination of Educational Leave~~

~~Educational Leave may be terminated by the administrative head of the agency based on a variety of reasons, including, but not limited to:~~

~~1. Any condition listed in the Educational Leave contract,~~

~~2. Agency funds constraints,~~

~~3. Agency reorganization or change in agency mission,~~

~~4. Agency program changes,~~

~~5. Agency workload increases or staffing crises,~~

~~6. Reductions-in-force,~~

~~7. Disciplinary action, or~~

~~8. Failure to make adequate academic progress.~~

~~Unless otherwise specified in the Educational Leave contract, adequate academic progress shall be defined as maintaining a "B" or better cumulative average. Failure to make adequate academic progress in one term may result in the employee being ineligible for further Educational Leave.~~

~~I. Administrative Provisions~~

1. If an Educational Leave candidate will be having his/her salary decreased as a result of Educational Leave, the requesting agency shall submit the action into SPAHRS. Please reference the SPAHRS User Training Workbook located at www.mmrs.state.ms.us Employment Segment, for more detailed information regarding educational leave. The employee's current salary plus any legislative guarantees will continue on the PIN to ensure proper salary projections.

2. Refer to the Educational Leave statute for other requirements. These include specific employment obligations in exchange for Educational Leave benefits, repayment obligations and liquidated damages with interest for failure to fulfill the terms of the contract, other legal rights and remedies, and the requirement for annual agency reports to the Legislature on Educational Leave.

3. The administrative head of the employing agency shall be responsible for stipulating any other needed contractual provisions, including but not limited to repayment obligations should the employee be separated for cause, failure to make adequate academic progress, disciplinary action, retirement, or other conditions, which may result in the failure to meet Educational Leave contractual obligations. If the administrative head of the agency wishes to require the applicant to be employed at the conclusion of their Educational Leave in a specific geographic location, office, or location, then such terms should be addressed in the contract.

4. In accordance with the Educational Leave law, Educational Leave recipients shall attend colleges or schools located in Mississippi. However, if the administrative head of the employing agency determines that the course of study is not available at a Mississippi college or school, the applicant may attend an out-of-state college or school.

Section 37-101-293, Mississippi Code of 1972, Annotated, as amended

1. Within the limits of the funds available to any state agency for such purpose, the administrative head of such state agency may grant paid educational leave on a part-time or full-time basis and reimburse employees for educational expenses such as tuition, books and related fees to pursue undergraduate or graduate level education to those applicants deemed qualified.

It is the intent of the Legislature that such educational leave program shall be used as an incentive for employees to develop job related skills and to develop employees for higher level professional and management positions.

2. To be eligible for paid educational leave, reimbursement for educational expenses or both, an applicant must:

a. Be working at a state agency for at least three (3) years at the time of application or be working at a state agency at the time of application for part-

~~time graduate level education in a particular profession deemed by the administrative head of the state agency to meet a critical need within the state agency;~~

~~b. Attend any college or school located in the State of Mississippi and approved by the administrative head of such agency, unless such course of study is not available at a Mississippi college or school, in, which case the applicant may attend an out of state college or school;~~

~~c. Agree to work as an employee in the same state agency for at least three (3) full years after completion of the course of study or, in the case of employees on educational leave on a part time basis or receiving reimbursement for educational expenses only, to work for a time prorated based upon the total amount of expenses, including leave, paid for by the agency.~~

~~3. a. Before being granted paid educational leave, or being approved for reimbursement of educational expense or both, each applicant shall enter into a contract with the state agency, which shall be deemed a contract with the State of Mississippi, agreeing to the terms and conditions upon, which the paid educational leave will be granted to him. The contract shall include such terms and provisions necessary to implement the purpose and intent of this section. The form of such contract shall be prepared by the Attorney General of this state and approved by the State Personnel Board, and shall be signed by the administrative head of the state agency and signed by the recipient. If the recipient is a minor, his minority disabilities shall be removed by a chancery court of competent jurisdiction before the contract is signed.~~

~~b. Educational expenses for tuition, books, and associated fees shall be reimbursed to the employee only after the employee has submitted documentation that the approved course has been successfully completed.~~

~~c. If the recipient does not work as an employee in that state agency for the period of employment specified in the contract, the recipient shall be liable for repayment on demand of the remaining portion of the compensation that he or she was paid while on paid educational leave and educational expenses paid, with interest accruing at ten percent (10%) per annum from the recipient's date of graduation, or the date the recipient last worked at that state agency, whichever is the later date. In addition, there shall be included in any contract for paid educational leave a provision for liquidated damages equal to Two Thousand Dollars ($2,000.00) per year for each year remaining to be served under such contract.~~

~~d. If any recipient fails or withdraws from school at any time before completing his/her education, the recipient shall be liable for repayment on demand of the~~

~~amount of the total compensation that he or she was paid while on paid educational leave, with interest accruing at ten percent (10%) per annum from the date the recipient failed or withdrew from school. However, if the recipient remains or returns to work in the same position he or she held in the same state agency prior to accepting educational leave, he or she shall not be liable for payment of any interest on the amount owed.~~

~~e. The state agency shall have the authority to cancel any contract made between it and any recipient for paid educational leave or educational expenses or both upon such cause being deemed sufficient by the administrative head of the agency.~~

~~f. The state agency is vested with full and complete authority and power to sue in its own name any recipient for any balance due to the state on any such uncompleted contract, which suit shall be conducted and handled by the Attorney General of the state.~~

~~g. Persons who default on contracts entered into under this section shall have the default determined and lose their professional health care license under the procedures provided in Section 37-101-291.~~

~~4. At the discretion of the administrative head of the state agency, any recipient who is granted paid educational leave by the state agency, including nurses, shall be compensated by such agency as prescribed by the State Personnel Board during the time he or she is in school. For employees who are on educational leave on a full-time basis, the State Personnel Board shall establish a maximum salary amount at which any employee may be paid full compensation while on educational leave and shall establish a deduction ratio or reduced percentage rate of compensation to be paid to all employees compensated at a salary level above such maximum salary amount. No recipient of full-time educational leave shall accrue personal or major medical leave while he or she is on paid educational leave.~~

~~5. Each state agency granting paid educational leave to employees or reimbursing educational expense or both shall file an annual report with the Legislature, which shall detail for each recipient of paid educational leave the position of the employee, the cost of the educational assistance and the degree program and school attended.~~

~~6. Within the limits of funds available to the Mississippi Department of Mental Health, the Executive Director of the Department of Mental Health may grant educational leave to medical residents of the University of Mississippi and pay a stipend in an amount not to exceed the salary of a medical resident. To be eligible for paid educational leave under this subsection, the applicant must be approved by the Department of Mental Health Educational Leave Committee and meet all obligations established under agreements between the Department of Mental Health and the University of Mississippi and~~

~~regulations promulgated by the Board of Mental Health. The recipient shall fulfill his/her obligation under this program on an annual pro rata basis for each year on paid education leave.~~

~~7.00.2 Professional Development Programs~~

~~Certain paid educational leave and paid internship programs have been authorized to develop professional skills and to prepare employees for higher level professional and management positions. Those employees deemed qualified for paid educational leave or paid internship shall receive funds that may be used to pay for tuition, books, and related fees to pursue their degrees. (Reference Sections 37-101-291 and 37-101-292, Mississippi Code of 1972, Annotated, as amended; and House Bills 1016 and 1617, passed during the 2008 Regular Session.)~~

State agencies are authorized to grant paid educational leave on a part-time or full-time basis and to reimburse employees for educational leave expenses in order for employees to develop job-related skills and to develop employees for higher-level professional and management positions; to prescribe eligibility for such educational leave and expense reimbursement; and for related purposes. **Employees should note that not all State agencies offer educational leave.**

Eligibility

1. Candidates for Educational Leave must have worked at a State agency for three years at the time of application or be working at a State agency at the time of application for performing graduate level education in a particular profession deemed by the administrative head of the State agency to meet a critical need within the State agency.
2. Candidates must agree to enter into a contract with the requesting State agency, which must contain the summary provisions and regulatory terms and conditions upon which the paid Educational Leave will be granted to the candidate.
3. Candidates must attend a college or university located in the State of Mississippi and approved by the head of the agency unless such course of study is not available at a Mississippi college or school.

Employees may contact their agency human resources office for more information on the availability of educational leave benefits and agency specific policies pertaining to educational leave.

7.31 Leave Without Pay

Leave without pay (hereinafter referred to as "LWOP") is employee leave taken in the absence of paid leave. LWOP must be authorized by the appointing authority. When a State governmental employee is on LWOP, it is the employee's responsibility to pay the employer and employee portion, if any, of all

insurance premium the employee elects to continue. In order to continue insurance coverage while not on LWOP, the employee should contact his or her human resources director.

7.91 EMPLOYER REQUIREMENTS UNDER THE FAMILY AND MEDICAL LEAVE ACT OF 1993

All information provided below can be found at www.dol.gov/WHD/fmla/.

~~7.91.1 General Provisions~~

~~The Family and Medical Leave Act (FMLA) was enacted into law on February 5, 1993 and took effect August 5, 1993. All agencies of the State of Mississippi are considered covered employers under the Act.~~

~~The FMLA entitles eligible employees to take up to twelve (12) weeks of unpaid, job-protected leave in a twelve (12) month period for specified family and medical reasons and makes it unlawful for any state agency to discharge or discriminate against any person for opposing any practice made unlawful by the Act or for involvement in any proceeding under or relating to the Act. Further, the appointing authority shall not interfere with, restrain, or deny the exercise of or the attempt to exercise any right provided under the Act.~~

~~The FMLA does not affect any other federal or state law that prohibits discrimination and does not supersede any state or local law, which provides greater and more generous leave rights.~~

~~7.91.2 Agency Posting Requirements~~

~~Each appointing authority shall post and keep posted, in conspicuous places where notices to employees and applicants are customarily posted, a notice summarizing the entitlement to family leave and providing information concerning the procedures for filing complaints of violations of the Act.~~

~~7.91.3 Definitions for Purposes of FMLA~~

~~A. **Healthcare Provider**~~

~~1. A doctor of medicine or osteopathy who is authorized to practice medicine or surgery (as appropriate) by the state in which the doctor practices; or~~

~~2. Any other person determined by the Secretary to be capable of providing health care services, including only:~~

~~a. Podiatrists, dentists, clinical psychologists, optometrists, and chiropractors (limited to treatment consisting of manual manipulation of the spine to correct a subluxation as demonstrated by X-ray to exist) authorized to practice in the state and performing within the scope of their practice as defined under state law;~~

~~b. Nurse practitioners, nurse midwives and clinical social workers who are authorized to practice under state law and who are performing within the scope of their practice as defined under state law;~~

~~c. Christian Science practitioners listed with the First Church of Christ Scientist in Boston, Mass. Where an employee or family member is receiving treatment from a Christian Science practitioner, an employee may not object to any requirement from an employer that the employee or family member submit to examination (though not treatment) to obtain a second or third certification from a health care provider other than a Christian Science practitioner, except as otherwise provided under applicable state or local law;~~

~~d. Any health care provider from whom an agency or the agency's group health plan's benefit manager will accept certification of the existence of a serious health condition to substantiate a claim for benefits; and~~

~~e. A health care provider listed above who practices in a country other than the United States, who is authorized to practice in accordance with the law of that country, and who is performing within the scope of his/her practice as defined under such law.~~

~~B. **Authorized to Practice in the State**: Means that the provider must be authorized to diagnose and treat physical or mental health conditions without supervision by a doctor or other health care provider.~~

~~C. **Incapacity**: Inability to work, attend school, or perform other regular daily activities due to 1) a serious health condition, 2) treatment for a serious health condition, or 3) recovery from a serious health condition.~~

~~D. **Parent**: The biological parent of an employee or an individual who stands/stood in loco parentis to an employee when such employee was a son or daughter. This term does not include parents in law.~~

~~E. **Son or Daughter**: A biological, adopted, or foster child, a stepchild, a legal ward, or a child of a person standing in loco parentis, who is either under 18 years of age; or who is 18 years of age or older and incapable of self care because of a mental or physical disability.~~

~~F. **Incapable of Self-care**: Means that the individual requires active assistance or supervision to provide daily self-care in three or more of the activities of daily living including grooming and hygiene, bathing, dressing and eating or instrumental activities of daily living including cooking, cleaning, shopping, taking public transportation, paying bills, maintaining a residence, using telephones and directories, using a post office, etc.~~

G. **Physical or Mental Disability:** A physical or mental impairment that substantially limits one or more of the major life activities of an individual.

H. **In Loco Parentis:** Persons having daily responsibilities to care for and financially support a child or, in the case of an employee, who had such responsibility for the employee when the employee was a child. A biological or legal relationship is not necessary.

I. **Reduced Leave Schedule:** A leave schedule that reduces an employee's usual number of working hours per workweek or hours per workday. A reduced leave schedule is a change in the employee's schedule for a period of time, normally from full-time to part-time.

J. **Serious Health Condition** – An illness, injury, impairment, or physical or mental condition that involves:

1. Inpatient care (an overnight stay) in a hospital, hospice, or residential medical care facility, including any period of incapacity, or any subsequent treatment in connection with such inpatient care; or

2. Continuing treatment by a health care provider to include:

a. A period of incapacity of more than three consecutive calendar days and any other subsequent treatment or period of incapacity relating to the same condition that also involves:

(1) Treatment two or more times by a health care provider, by a nurse or physician's assistant under direct supervision of a health care provider, or by a provider of health care services (e.g., physical therapist) under orders of, or on referral by, a health care provider; OR

(2) Treatment by a health care provider on at least one occasion, which results in a regimen of continuing treatment under the supervision of the health care provider.

b. Any period of incapacity due to pregnancy or for prenatal care.

c. Any period of incapacity or treatment for such incapacity due to a chronic serious health condition.

d. A period of incapacity, which is permanent or long-term due to a condition for which treatment may not be effective. The employee or family member must be under the continuing supervision of a health care provider, but need not be receiving active treatment by a health care provider. Examples include Alzheimer's, a severe stroke, or the terminal stages of a disease.

e. Any period of absence to receive multiple treatments (including any period of recovery there from) by a health care provider or by a provider of health care services under orders of, or on referral by, a health care provider, either for restorative surgery after an accident or other injury, or for a condition that would likely result in a period of incapacity of more than three (3) consecutive calendar days in the absence of medical intervention or treatment, such as cancer (chemotherapy, radiation, etc.), severe arthritis (physical therapy), or kidney disease (dialysis).

K. **Chronic Serious Health Condition:** A condition that (a) requires periodic visits for treatment by a health care provider or by a nurse or physician's assistant under direct supervision of a health care provider; (b) continues over an extended period of time (including recurring episodes of a single, underlying condition); and (c) may cause episodic rather than a continuing period of incapacity (asthma, diabetes, epilepsy, etc.)

L. **Equivalent Position:** A position that is virtually identical to the employee's former position in terms of pay, benefits, and working conditions, including privileges, pre-requisites, and status. It must involve the same or substantially similar duties and responsibilities, which must entail substantially equivalent skill, effort, responsibility, and authority.

M. **Intermittent Leave:** FMLA leave taken in separate blocks of time due to a single qualifying reason.

N. **Unable to Work:** Where the health care provider has found that the employee is either unable to work at all, or is unable to perform any one of the essential functions of the job.

O. **Spouse:** A husband or wife, as defined or recognized under state law for purposes of marriage.

P. **Immediate Family Member:** An employee's spouse, son, daughter, or parent.

7.91.4 Eligibility

An eligible employee is one who has been employed by the state for at least a total of twelve (12) months, and has worked for at least 1,250 hours over the prior twelve (12) months.

7.91.5 Entitlement

FMLA entitles eligible State employees to take up to twelve (12) weeks of **unpaid, job-protected leave** during any twelve (12) month period for any one or more of the following family and medical reasons:

A. For the birth of the employee's son or daughter, and to care for the newborn child;

B. The placement with the employee of a son or daughter for adoption or foster care, and to care for the newly placed child;

C. To care for an immediate family member with a serious health condition;

D. Because of a serious health condition that makes the employee unable to perform one or more of the essential functions of his/her job.

Entitlement to leave under (A) and (B) above shall expire at the end of the twelve (12) month period beginning on the date of such birth or placement. The twelve (12) month period under (C) and (D) above will begin on the date of the employee's first FMLA leave.

Spouses employed by the same employer are jointly entitled to a combined total of twelve (12) workweeks of family leave for the birth or placement of a child for adoption or foster care, and to care for a sick parent (but not a parent in law) who has a serious health condition. However, if the leave is to care for a sick child or the serious health conditions of each other or for the employee's own serious illness, this limitation does not apply.

7.91.6 Substitution of Paid Leave

Generally, FMLA leave is unpaid. However, eligible employees may choose to substitute certain accrued paid leave for FMLA leave as follows:

A. Major medical leave may be substituted for FMLA leave if such leave is to care for a seriously ill family member, or for the employee's own serious health care conditions.

B. Personal leave may be substituted for any FMLA qualifying purpose.

If an employee does not choose to substitute accrued paid leave, *the agency may require them to do so.*

A serious health condition may result from injury to the employee "on or off" the job. Either the employee or the agency may choose to have the employee's FMLA twelve (12) week leave entitlement run concurrently with a workers' compensation absence when the injury is one that meets the criteria for a serious health condition. Since the workers' compensation absence is not unpaid leave, the provision for substitution of the employee's accrued paid leave is not applicable. However, if the health care provider treating the employee for the workers' compensation injury certifies that the employee is able to return to a "light duty job," but is unable to return to the same or equivalent job, the employee may decline the agency's offer of a "light duty job." As a result, the employee may lose workers' compensation payments, but is entitled to remain on unpaid FMLA leave until the twelve (12) week entitlement is exhausted. As of the date workers' compensation benefits cease, the substitution provision becomes applicable, and the employee may either elect, or the agency may require, the use of accrued paid leave.

Compensatory time off is not a form of accrued paid leave that an agency may require the employee to substitute for unpaid FMLA leave. The employee may request to use his/her compensatory time for an

~~FMLA reason; however, if the agency allows the compensatory time to be used, it may not be counted against the employee's FMLA leave entitlement.~~

~~An employee who elects to use paid leave should make a written request of his/her intent to use accrued paid leave. The employee should explain the reasons for the request to substitute major medical and/or personal leave and provide sufficient information for the agency to determine that the leave qualifies under the Act and to designate the paid leave as substitution for all or some portion of the employee's FMLA leave entitlement.~~

~~7.01.7 Notice to Agency~~

~~The agency may require that the employee provide written notice setting forth the reasons for the requested leave, the anticipated duration of the leave, and the anticipated start of the leave in accordance with the agency's established policy. Failure to follow established agency policy may result in disciplinary action, but will not permit the agency to disallow or delay an employee's taking of FMLA leave, if the employee gives timely verbal or other notice.~~

~~Any time the necessity for leave is foreseeable based on an expected birth or placement, the employee shall provide the agency with no less than thirty (30) days notice, before the date the leave is to begin, of the employee's intention to take such leave. If the date of the birth or placement requires leave to begin in less than thirty (30) days, the employee shall provide such notice as is practicable.~~

~~Any time the necessity for leave is foreseeable based on planned medical treatment, the employee:~~

~~A. Shall make a reasonable effort to schedule the treatment so as not to unduly disrupt the operations of the agency, subject to the approval of the health care provider of the employee or the health care provider of the son, daughter, spouse, or parent of the employee, as appropriate; and~~

~~B. Shall provide the agency with no less than 30 days' notice, before the date the leave is to begin, of the employee's intention to take leave, under FMLA, except if the treatment is to begin in less than 30 days, the employee is to provide such notice as is practicable.~~

~~If the employee has actual notice of the FMLA leave requirements and he/she fails to give thirty (30) days notice for foreseeable leave with no reasonable excuse for the delay, the agency may deny taking FMLA leave until at least thirty (30) days after the date the employee provides notice to the agency of the need for FMLA leave.~~

~~An agency may require periodic reports from an employee on FMLA leave regarding the employee's status and intent to return to work. If the employee provides a statement of intent to return to work, even if the statement is qualified, entitlement to leave and maintenance of health benefits continue. However, if the employee gives an unequivocal notice of intent not to return to work, the agency's obligations to provide health benefits (except pursuant to COBRA requirements) and to restore the employee end.~~

~~Should the employee discover after beginning leave that the circumstances have changed and the amount of leave needed is shorter than originally anticipated, the employee may not be required to take more FMLA leave than necessary. If the employee desires to return to work earlier than anticipated, the agency may require the employee to provide notice of at least two (2) business days.~~

~~7.91.8 Designation of Leave as FMLA Leave and Notification to Employee~~

~~The agency is responsible for designating leave that is FMLA qualifying and for giving notice of the designation to the employee.~~

~~A. If the agency knows the reason for leave is an FMLA reason at the time leave begins, the leave must be designated by the agency in writing at that time. If the agency knows the leave is for an FMLA reason at the time leave begins and *fails* to designate, the leave may not be counted against the employee's FMLA entitlement, and the employee continues to be subject to FMLA protection. Once the agency designates, the leave may be counted against the FMLA entitlement only from that time forward, and not retroactively.~~

~~B. When the agency learns that leave is for an FMLA purpose after leave has begun, but before the employee returns to work, the entire or some part of the leave period may be retroactively counted as FMLA leave.~~

~~C. Leave may be designated as FMLA after the employee has returned to work in only two (2) circumstances:~~

~~1. The leave is short-term and the agency is awaiting medical certification, or~~

~~2. The agency does not know the reason for the leave, but learns upon the employee's return to work. The designation must be made within two (2) business days of the employee's return to work. If the agency has not made a designation, but the employee wants the absence to be treated as FMLA leave, the employee must notify the agency within two (2) business days of his/her return to work. If such notification is not made, the employee may not subsequently assert FMLA protection.~~

~~D. If an employee takes paid or unpaid leave and the agency does not designate the leave as FMLA leave, it may not be counted against the employee's FMLA entitlement.~~

~~E. The agency must provide written notice detailing the specific expectations and obligations of the employee and explaining any consequence of failure to meet these obligations. Such specific notice must be provided to the employee within a reasonable time after notice of the need for leave is given, and must include, as appropriate:~~

~~1. That the leave will be counted against the employee's annual FMLA leave entitlement;~~

2. ~~Any requirements for the employee to furnish medical certification of a serious health condition and the consequences of failing to do so;~~

3. ~~The employee's right to substitute paid leave and whether the agency will require the substitution of paid leave and the conditions related to any substitution;~~

4. ~~Any requirement for the employee to make any premium payments to maintain health benefits, the arrangements for making such payments, and the consequences of failure to make such payments on a timely basis;~~

5. ~~Any requirement for the employee to present a fitness for duty certificate to be restored to employment;~~

6. ~~The employee's status as a "key employee," the potential consequence that restoration may be denied following FMLA leave, and the conditions required for such denial;~~

7. ~~The employee's right to restoration to the same or an equivalent job upon return from leave; and~~

8. ~~The employee's potential liability for payment of health insurance premiums paid by the agency during the employee's unpaid FMLA leave if the employee fails to return to work after taking FMLA leave.~~

~~7.91.9 Intermittent Leave or Leave on a Reduced Leave Schedule~~

~~FMLA leave may be taken intermittently or on a reduced leave schedule under certain circumstances. When leave is taken after the birth or placement of a child for adoption or foster care, an employee may take leave intermittently or on a reduced leave schedule only if the agency approves. The agency's approval is not required, however, for leave during which the mother has a serious health condition in connection with the birth of her child or if the newborn child has a serious health condition.~~

~~Leave may be taken intermittently or on a reduced leave schedule when medically necessary for planned and/or unanticipated medical treatment of a related serious health condition by or under the supervision of a health care provider, or for recovery from treatment or recovery from a serious health condition. It may also be taken to provide care or psychological comfort to an immediate family member with a serious health condition.~~

~~Only the time actually taken as FMLA leave may be charged against the employee's leave entitlement when leave is taken intermittently or on a reduced schedule. For part time employees and those who work variable hours, the FMLA leave entitlement is pro rated by comparing the new schedule with the employee's normal schedule. For example, if an employee who normally works 30 hours per week works only 20 hours a week under a reduced leave schedule, the employee's 10 hours of leave would constitute 1/3 of a week of FMLA Leave for each week the employee works the reduced schedule.~~

~~7.91.10 Medical Certification~~

~~The agency may require that an employee's leave to care for his/her seriously ill immediate family member, or due to the employee's own serious health condition that makes the employee unable to perform one or more of the essential functions of his/her position, be supported by a certification issued by the health care provider of the employee or the employee's ill family member.~~

~~When the leave is foreseeable and at least thirty (30) days notice has been provided, the employee should provide the medical certification before the leave begins. When this is not possible, the employee must provide the requested verification to the agency within the timeframe requested (which must allow at least fifteen (15) calendar days after the agency's request) unless it is not practicable under the particular circumstances despite the employee's diligent, good faith efforts.~~

~~The Department of Labor has developed an optional form (Form WH-380, as revised found at http://www.dol.gov/WHD/fmla/ or http://www.dol.gov/whd/forms/WH-380-F.pdf) for employees or their family members to use in obtaining medical certification from health care providers that meet FMLA's certification requirements. This form or another form containing the same basic information may be used by the agency; however, no additional information may be required. The form contains required entries for:~~

~~A. A certification as to, which part of the definition of serious health condition, if any, applies to the patient's condition and the medical facts, which support the certification, including a brief statement as to how the medical facts meet the criteria or definition.~~

~~B. The approximate date the serious health condition commenced, and its probable duration.~~

~~C. Whether it will be necessary for the employee to take leave intermittently or to work on a reduced leave schedule basis.~~

~~D. If the condition is pregnancy or a chronic condition, whether the employee is presently incapacitated, and the likely duration and frequency of episodes of incapacity.~~

~~E. If additional treatments will be required for the condition, an estimate of the probable number of such treatments.~~

~~F. If the patient's incapacity will be intermittent, or will require a reduced leave schedule, an estimate of the probable number and interval between such treatments, actual or estimated dates of treatment if known, and the period required for recovery.~~

~~G. If medical leave is required for the employee's absence from work because of the employee's own condition, whether the employee:~~

1. is unable to perform work of any kind;

2. is unable to perform any one or more of the essential functions of the employee's position, including a statement of the essential functions that the employee is unable to perform based on either information provided on a statement from the agency of the essential functions of the position, or if not provided, discussion with the employee about the employee's job functions; or

3. Must be absent from work for treatment.

H. If leave is required to care for a family member of the employee with a serious health condition, whether the patient requires assistance for basic medical or personal needs or safety or for transportation; or if not, whether the employee's presence to provide psychological comfort would be beneficial to the patient or assist in the patient's recovery.

If an employee submits a complete certification signed by the health care provider, the agency may not request additional information from the employee's health care provider.

If the agency has reason to doubt the validity of the certification, it may require, at agency expense that the employee obtain the opinion of a second health care provider designated or approved by the agency. Any such health care provider designated or approved shall not be employed on a regular basis by the state.

If the second opinion differs from the original certification, the agency may require, at its own expense, that the employee obtain the opinion of a third health care provider designated or approved jointly by the agency and the employee concerning the information previously certified. The opinion of the third health care provider concerning the information previously certified shall be considered final and shall be binding on the agency and the employee.

The agency may require, at the employee's expense, that the employee obtain subsequent recertification on a reasonable basis. No second or third opinion on recertification may be required.

7.91.11 Restoration

A. Employees, with the exception of certain highly paid "key employees," are entitled to be restored to their positions after returning to work.

1. The employee will be entitled to be re-stored by the agency to the position held by the employee when the leave commenced, *OR* the employee will be entitled to be restored to an equivalent position with equivalent benefits, pay status, and other terms and conditions of employment;

2. ~~The employee will not lose any employment benefit accrued prior to the date on, which leave commenced;~~

3. ~~The employee will not accrue any employment benefits during any period of unpaid leave; and~~

4. ~~The employee will not be entitled to any right, benefit, or position of employment other than any right, benefit, or position to, which the employee would have been entitled to had the employee not taken the leave.~~

5. ~~The employee has no greater right to reinstatement or to other benefits and conditions of employment than if the employee had been continuously employed during the FMLA leave period. The agency must be able to show that the employee would not otherwise have been employed at the time reinstatement is requested to deny restoration to employment.~~

B. ~~An employee who qualifies as a "key employee" may be denied restoration to employment. A key employee is one who is salaried and is "among the highest paid 10 percent" of the employees. The agency may deny restoration to a "key" employee only as necessary to prevent substantive and grievous economic injury to agency operations. The agency may refuse to reinstate certain highly paid "key" employees after using FMLA leave during, which health benefits are maintained. However, to do so, the agency must:~~

1. ~~Notify the employee of his/her status as a "key" employee in response to the employee's notice of intent to take FMLA leave;~~

2. ~~Notify the employee as soon as the agency decides it will deny job restoration and explain the reasons for this decision;~~

3. ~~Offer the employee a reasonable opportunity to return to work from FMLA leave after giving this notice; and,~~

4. ~~Make a final determination as to whether reinstatement will be denied at the end of the leave period if the employee then requests restoration.~~

C. ~~An agency that will not deny restoration is not required to determine, which employees are "key" employees or to notify them of that status when leave is requested.~~

~~7.91.13 Maintenance of Benefits~~

A. ~~Generally~~

~~At the end of an employee's FMLA leave, benefits must be resumed in the same manner and at the same levels as provided when the leave began, and subject to any changes in benefit levels~~

~~that may have taken place during the period of FMLA leave affecting the entire agency, unless otherwise elected by the employee. Upon return from FMLA leave, an employee cannot be required to re-qualify for any benefits the employee enjoyed before FMLA leave began.~~

~~8. Health Insurance~~

~~An agency is required to maintain group health insurance coverage for an employee on FMLA leave whenever such insurance was provided before the leave was taken, and on the same terms as if the employee had continued work.~~

~~For purposes of FMLA, the term Group Health Plan does not include an insurance program providing health coverage under, which employees purchase individual policies directly from insurers provided that: (1) no contributions are made by the agency; (2) participation in the program is completely voluntary for employees; (3) the sole functions of the agency with respect to the program are, without endorsing the program to permit the insurer to publicize the program to employees, to collect premiums through payroll deductions and to remit them to the insurer; (4) the agency receives no consideration in the form of cash or otherwise in connection with the program, other than reasonable compensation, excluding any profit for administrative services actually rendered in connection with payroll deduction; and (5) the premium charged with respect to such coverage does not increase in the event the employment relationship terminates.~~

~~An agency may recover premiums it paid for maintaining group health plan coverage during any period of unpaid FMLA leave if the employee fails to return to work after the employee's FMLA leave entitlement has expired, unless the reason the employee does not return to work is due to:~~

~~1. The continuation, recurrence, or onset of a serious health condition that would entitle the employee to FMLA leave (either affecting the employee or an immediate family member), or~~

~~2. Other circumstances beyond the control of the employee.~~

~~If an employee fails to return to work at the end of the leave period because of a serious health condition, the agency may request that the employee furnish a medical certification from the health care provider of the employee, or the employee's family member to support the employee's claim. If the employee fails to furnish the requested certification within 30 days of the agency's request, the agency may recover the health insurance premiums it paid during the period of unpaid leave.~~

~~The agency and the employee are encouraged to work out arrangements, which accommodate both administrative convenience for the agency and the financial situation of the employee who would not be receiving a paycheck during the leave period. There is a 30 day grace period after the agreed upon date for payment within, which the employee may make payment of the~~

~~premium without affecting health benefit coverage. If the employee does not make the payment within the 30 day grace period, the agency may cease to maintain health coverage on the date the grace period ends, or the agency may continue health coverage by making both the agency's and employee's premium payments.~~

~~To drop the coverage for an employee whose premium payment is late, the agency must provide written notice to the employee that the payment has not been received. Such notice must be mailed to the employee at least fifteen (15) days before coverage is to cease, advising that coverage will be dropped on a specified date at least fifteen (15) days after the date of the letter unless the payment has been received by that date.~~

~~If an employee fails to pay his/her share of health benefit premiums and the agency elects to continue health coverage for the employee (to be able to restore the employee on return to work) by paying the employee's share, and the employee fails to return to work at the end of the FMLA leave period in circumstances where recovery is allowed, the agency may recover all of the health benefit premiums it paid (both the agency's and the employee's share) during the period of unpaid FMLA leave. An employee who does not return to work for at least 30 calendar days is considered to have failed to "return" to work for this purpose. If the agency chooses to continue coverage in this manner, the agency is entitled to recover the additional payments made on behalf of the employee while on leave after the employee returns to work.~~

~~C. Seniority, Major Medical and Personal Leave~~

~~An employee is not entitled to accrue any additional benefits or seniority during unpaid FMLA leave. Benefits accrued at the time leave began, however, (e.g., paid major medical or personal leave to the extent not substituted for FMLA leave) must be available to an employee upon return from leave.~~

~~D. Life insurance~~

~~If an employee desires to continue life insurance, disability insurance, or other types of benefits for, which he or she typically pays during unpaid FMLA leave, the agency is required to follow established policies or practices for continuing such benefits for other instances of leave without pay. If the agency has no established policy, the employee and the agency are encouraged to agree upon arrangements before FMLA leave begins.~~

~~E. Retirement~~

~~With respect to pension and other retirement plans, any period of FMLA leave will be treated as continued service (i.e., no break in service) for purposes of vesting and eligibility to participate.~~

~~7.91.13 Return to Duty from Family Leave~~

~~As a condition to return to duty, the employee may be required to provide certification from the employee's health care provider that the employee is able to resume work. An agency requiring any fitness for duty certifications must have a uniform applied policy that is based on the nature of the illness or duration of the absence. The agency may seek fitness for duty certification only with regard to the particular health condition that caused the employee's need for FMLA leave. Agency requirements must be job related and consistent with business necessity.~~

~~7.91.14 Enforcement~~

~~The U. S. Department of Labor (DOL) is responsible for the enforcement of the FMLA and may investigate and resolve complaints and violations under the Act in the same manner as under the Fair Labor Standards Act (FLSA). For assistance in complying with the FMLA, state agency employers may contact the area office of the Wage and Hour Division of the DOL at http://www.dol.gov/WHD/ or call (601) 965-4347 or 1-866-4-USWAGE. Additionally, federal regulations governing FMLA will be added to the Appendix of the Mississippi State Personnel Board Policy and Procedures Manual.~~

In keeping with the requirements of the Family Medical Leave Act of 1993 (hereinafter referred to as "FMLA") and the State of Mississippi's policies, an employee must have worked for the State for a total of twelve months and the employee must have worked for the State for 1250 hours in the twelve month period immediately preceding the commencement of the leave to be eligible for FMLA leave. An employee meeting these requirements is referred to as an "eligible employee for purposes of this policy.

Availability of Family Medical Leave

An eligible employee may take up to the equivalent of twelve workweeks of unpaid family and/or medical leave (FMLA leave) during any twelve month period for one or more of the following purposes:

- For incapacity due to pregnancy, prenatal medical care, or childbirth;
- To care for a newborn son or daughter, a recently adopted child, or a recently placed foster child through formal placement by a State agency;
- To care for a legal spouse, parent (not including in-laws) or son or daughter (under the age of eighteen or over the age of eighteen and incapable of self-care because of a physical or mental disability), who has a serious health condition; or
- Because of a serious health condition that makes the employee unable to perform the functions of his or her job.

Leave to care for a new child must be taken within the first twelve months of birth or placement by adoption or foster care, and leave may be taken by the father and/or the mother of the child.

Federal regulations allow an employer to choose from several different methods of determining the twelve month period in which the twelve weeks of leave entitlement occurs.

Military Family Leave

Eligible employees are entitled to two different kinds of leave as a result of either being in the military or having family members in the military.

- Eligible employees are entitled to up to twelve weeks of FMLA leave because of any qualifying exigency arising out of the fact that the spouse, son, daughter, or parent of the employee is a member of any Armed Forces and is a reserve component of the Armed Forces on active duty, or has been notified of an impending call to active duty status. Qualifying exigencies may include any one or more of the following: 1) attending to issues arising from a short notice (seven days or less) of deployment, with FMLA leave continuing lasting up to seven days from the notice; 2) attending certain military events; 3) attending certain childcare and school activities related to the military duty; 4) addressing certain financial and legal arrangements; 5) attending certain counseling sessions; 6) taking up to five days to spend with a covered Service member who is on short-term, temporary, rest and recuperation leave; 7) attending post-deployment reintegration briefings; or 8) other activities agreed to by the agency and the employee. Eligible employees must provide notice of the need for such leave as soon as reasonable and practicable. This kind of leave may be taken intermittently, or on a reduced schedule.
- Eligible employees may take up to twenty-six weeks of leave during a single twelve month period to care for a "covered Service member" who is the employee's spouse, son, daughter, parent or next of kin (nearest blood relative or designated as such). A covered Service member is a member of the Armed Forces (including a member of the National Guard or Reserves) who is undergoing medical treatment, recuperation, or therapy, is otherwise in outpatient status, or is otherwise on the temporary disability retired list, for a serious injury or illness; or a veteran who is undergoing medical treatment, recuperation, or therapy, for a serious injury or illness and who was a member of the Armed Forces (including a member of the National Guard or Reserves) at any time during the period of five years preceding the date on which the veteran undergoes that medical treatment, recuperation, or therapy. Eligible employees may take this kind of leave intermittently, or on a reduced schedule, where medically necessary. This family sick leave entitlement will include all other permissible FMLA leave.

Serious Health Condition

A "serious health condition" is defined as an illness, injury, or physical or mental condition that involves:

- Inpatient care in a hospital, hospice, or residential care facility, including a period of incapacity or treatment related to the inpatient care;
- A period of incapacity of more than three consecutive calendar days, with service

- [illegible] (i.e., visit to a health care provider) occurring within seven days of the onset of incapacity, and the second within thirty days of the onset (unless extenuating circumstances exist).
- A period of incapacity of more than three consecutive calendar days with one or more visits to a health care provider, the first occurring within seven days of the onset of the incapacity, and which results in a regimen of continuing treatment under the supervision of the health care provider (example: pain, antibiotics, anti-fungals, and prescription medication).
- Any period of incapacity due to chronic, or permanent conditions (examples: diabetes or epilepsy), which requires periodic visits (at least twice per year) for treatment by a health care provider.
- Incapacity which is permanent or long-term for which treatment may be ineffective, and the individual is under the continuing supervision of a healthcare provider (example: Alzheimer's Disease); or
- Any absence to receive multiple treatments by a health care provider either for restorative surgery after an injury, or for a condition that would likely result in a period of incapacity of more than three consecutive calendar days in the absence of treatment (example: chemotherapy treatments for cancer).

The serious health condition must prevent the employee from performing the functions of his or her job, or prevent the qualified family member from participating in school or other daily functions.

A "serious injury or illness" in the case of a member of the Armed Forces (including a member of the National Guard or Reserves) means an injury or illness that was incurred by the covered Service member in the line of duty on covered active duty in the Armed Forces (or existed before the beginning of the member's covered active duty and was aggravated by Service in the line of duty on covered active duty in the Armed Forces) and that may render the member medically unfit to perform the duties of the member's office, grade, rank, or rating, and in the case of a veteran who was a member of the Armed Forces (including a member of the National Guard or Reserves) at any time during a period of covered active duty, means a qualifying injury incurred by the Veteran in line of duty or illness that was incurred by the covered Service member in the line of duty on covered active duty in the Armed Forces (or existed before the beginning of the member's covered active duty and was aggravated by Service in the line of duty on covered active duty in the Armed Forces) and that manifested itself before or after the member became a veteran.

Intermittent or Reduced Schedule Leave

An eligible employee generally does not need to use FMLA leave entitlement in one block. Eligible employees who, because of a serious health condition of their own or a qualifying relative, need to take FMLA leave on an intermittent basis or on a reduced leave schedule are

working a reduced schedule must provide certification of the medical necessity for such leave. Eligible employees must make reasonable efforts to schedule planned medical treatment so as not to unduly disrupt the agency's operations. When eligible employees request intermittent or reduced schedule leave because of a birth or placement of a child with them for adoption or foster care, the agency director and/or management will consider such things as how the request for intermittent leave or reduced hours will affect the work output of the employee's position and the request will be granted only at the agency's discretion. Under certain circumstances, the agency may require an employee on intermittent leave or reduced schedule leave to transfer temporarily to an alternative job for which he or she is qualified and that better accommodates the leave.

Eligibility

The twelve week maximum per eligible employee per year applies to married couples rather than individual employees. If both members of the couple work for the same agency and the leave is for the purpose of caring for a new child by birth, adoption or foster care placement or to care for the employee's parent. Leave requested because of an eligible employee's own serious health condition is not subject to this limitation, nor is leave to care for the eligible employee's sick spouse or child. Husbands and wives who are both employed by the agency are limited to a combined twenty-six workweeks of leave during the twelve month period to care for a covered Service member.

Notice Requirements

FAMILY/MEDICAL Employees must provide sufficient information to the agency's human resources department to determine if the leave qualifies for FMLA protection and they must also provide the anticipated timing and duration of the leave. Sufficient information may include that the employee is unable to perform job functions, the family member is unable to perform daily activities, the need for hospitalization or continuing treatment by a health care provider, or circumstances supporting the need for military family leave. Employees also must inform the employer if the requested leave is for a reason for which FMLA leave was previously taken or certified.

When leave is foreseable, employees are required to give thirty days advance notice of their expected need for FMLA leave. If they fail to provide such notice, the agency may delay the leave until a thirty day notice period has expired. When thirty days notice is not possible, employees are required to give as much notice as is practicable, and they generally must comply with the agency's call-in procedures. Medical certification for most FMLA leave is required and must be submitted within no more than fifteen days of an employee's initial request for leave. It is the employee's obligation to return this form as required. If the certification indicates that the employee does not qualify for FMLA leave, or if the employee fails to return the form in a timely manner, the employee will be subject to the agency's normal attendance and disciplinary policies. Medical certifications must be submitted on the appropriate form which may be

obtained in the agency's human resources department.

Employees on leave must call the agency periodically (but at least every three days) to report on their status and intent to return to work.

(MS – H.R.S.1) The agency will inform employees if they are eligible under FMLA, if their requested leave will be designated as FMLA-protected, and the amount of leave counted against the employee's leave entitlement. The notice will also specify any additional information required, as well as the eligible employees' rights and responsibilities. If the agency determines that the leave is not FMLA protected, the agency will notify the employee and inform the reason for the ineligibility.

Use of Accrued Leave

Employees may choose or employers may require use of accrued paid leave while taking FMLA leave. If they otherwise satisfy all of the procedural requirements for the use of that accrued leave.

Leave for a workers's compensation injury that involves a serious health condition as defined by this policy, will not concurrently with FMLA leave up through the permissible twelve weeks of FMLA leave.

Health Insurance During Leave

Health insurance benefits will be continued during FMLA leave, and the State of Mississippi will continue to cover the applicable premium amount for the employee. No employee may continue dependent coverage during leave, but he or she will be responsible for paying for the coverage on a timely basis. If the employee ceases paying the premium, the State may cancel the dependent coverage. However, the State may also continue the dependent coverage at its own expense and recoup payments from the employee upon the employee's return to active employment. Vacation, sick and personal leave benefits will not accrue during FMLA leave.

An employee who fails to return to work at the end of the FMLA leave and who cannot excuse the failure, due to reasons beyond his or her control, or because of the continuance, recurrence or onset of a serious health condition, is potentially liable for reimbursing the State for the payment of any or all of the health insurance premiums or other insurance premiums it paid during the employee's FMLA leave, except for premiums paid by the State while the employee was concurrently on paid leave. The amounts paid can be deducted from any moneys owed by the State to the employee, including unpaid wages or accrued leave, to the extent permitted by law. Employees are considered to have "returned to work" if they come back to work for at least thirty days after the conclusion of the FMLA leave.

Return from Leave

Employees returning from FMLA leave will be restored to their prior jobs and pay, when again practicable. Such employees will receive all benefits accrued prior to the beginning of leave and they will be provided continuation of, or reinstatement to, health insurance benefits. If the employee's prior job is not available, the employee will be restored to an equivalent position with equivalent pay and terms and conditions of employment.

Employees must report on their intention to return to work as requested by the agency. So that their work may be properly scheduled, employees must provide reasonable notice (within two business days) of any foreseable changed circumstances requiring either longer or shorter FMLA leave periods than originally requested.

Violations

The FMLA makes it unlawful for any employer to:

- Interfere with, restrain, or deny the exercise of any right provided under the FMLA; or
- Discharge or discriminate against any person for opposing any practice made unlawful by the FMLA or for involvement in any proceeding under or relating to the FMLA.

Please notify the agency's executive director immediately if any of these persons occur. Employees may also file a complaint with the United States Department of Labor or bring a private lawsuit against the agency.

EDUCATIONAL ASSISTANCE AGREEMENT

Pursuant to the authority provided in ~~Section~~ § 37-101-293, Mississippi Code of 1972, Annotated, as amended, this agreement is entered into by and between the _____ (hereinafter referred to as "Agency"), an agency of the State of Mississippi and _____, (hereinafter referred to as "Recipient") who is currently employed and has been employed with a state agency for a period of at least three (3) years immediately prior to the date of application, or is working at a state agency at the time of application for part-time graduate level education in a particular profession deemed by the administrative head of the state agency to meet a critical need within the state agency.

In consideration of the mutual promises contained herein, the parties agree to the following terms and conditions:

1. Recipient agrees to attend_____ for the period beginning and ending_____, to pursue a course of study in _____, and has been accepted for such course of study.

2. Agency agrees to reimburse tuition and fees of approximately_____ and book fees of approximately _____ and/or to authorize educational leave of approximately_____. These provisions apply only in the case of successfully completed courses as defined in paragraph nine (9).

3. Recipient agrees to work as an employee within the Agency for a period of _____ year(s) beginning _____and ending _____, after completion of the course of study.

4. The time periods and dollar figures set forth in paragraphs one (1) through three (3) are subject to change depending on actual course work completed, length of time needed to complete course work, whether the student is full or part-time, and the like. Consequently, Recipient's progress will be evaluated at least yearly, and the figures in paragraphs one (1) through three (3) adjusted accordingly, if needed.

5. If Recipient does not work as an employee of the Agency for the period of time specified herein, Recipient shall be liable for repayment on demand of the remaining portion of the compensation that he or she was paid while on paid educational leave and educational expenses paid, with interest accruing at ten percent (10%) per annum from the Recipient's date of completion of the approved course of study, or the date the Recipient last worked at the Agency, whichever is the later date. In addition, Recipient agrees to pay liquidated damages equal to Two Thousand Dollars ($2,000.00) per year for each year remaining to be served under this agreement.

6. If Recipient fails to successfully complete the approved course work or withdraws from school at any time before completing the course of study, Recipient agrees to repay on demand the amount of the total compensation paid while on paid educational leave, with interest accruing at ten percent (10%) per annum from the date Recipient failed or withdrew from school. However, if Recipient fails to successfully complete the approved course work

or withdraws from school prior to completing the course of study and remains or returns to work in the same position Recipient held in the Agency prior to accepting educational assistance and remains employed in such position for a period equal to the period of time that Recipient received such leave, Recipient shall not be liable for payment of any interest on the amount owed, but shall remain liable for the total compensation paid while on educational leave.

7. The administrative head of the Agency may cancel and terminate this contract upon such cause as he or she deems sufficient. Notification will be given Recipient by forwarding first class mail, postage prepaid to the following address_____.

8. If educational leave is granted, the Agency agrees to compensate Recipient at a salary of _____per month during the period of leave specified herein.

9. The Agency will reimburse Recipient for approved educational expenses only after Recipient submits documentation that the approved course(s) have been successfully completed. Successful completion is defined as: _____.

10. The award and administration of educational assistance shall be in accordance with the policies and procedures of the Mississippi State Personnel Board and the Agency, which are incorporated herein and are made a part of this agreement.

11. Additional terms and conditions, if any, are contained in Exhibit "A" attached hereto.

12. Any modification or amendment to this agreement shall only be made in writing and approved by the parties hereto.

Agreed to this the _____day of _____, 20___.

_____
Employee Recipient

Subscribed and sworn to before me this the _____ day of _____, 20___.

_____
Notary Public

This agreement is acknowledged and accepted by me this the _____ day of _____, 20___.

_____
Administrative Head

ATTEST:

_____
Name and Title

MSPB Form 770.1-88 Rev. ~~3/93~~ 11/09	Mississippi STATE PERSONNEL BOARD REQUEST FOR FEDERALLY FUNDED INCENTIVE BONUS AWARD APPROVAL
TO	
FROM	
DATE	

I hereby request approval to disburse federally funded incentive bonus awards to the individuals listed on the attached Employee Incentive Award Listing Form.

I also certify by my signature below that _____
Agency Name

is in receipt of federal funds, which are specifically designated for incentive bonus awards, and that all bonus award disbursements shall be made entirely from those federal funds specifically designated for incentive bonus awards.

I further certify that disbursement of these incentive bonus awards shall be made in strict compliance with federal, state, and Mississippi State Personnel Board guidelines, policies, and procedures governing the award of federally funded incentive bonus awards.

Total dollar amount of incentive bonus awards under this request is:	
Anticipated date of awards to employees is:	
Signature of Appointing Authority:	

cc: **Department of Finance and Administration**
State Treasurer
State Auditor

MSPB Form 770.2-88 Rev. ~~3/93~~ 12/09	MISSISSIPPI STATE PERSONNEL BOARD EMPLOYEE INCENTIVE AWARD LISTING (alphabetical)		
DATE			
Employee Name	Social Security #	PAR Rating	Lump Sum Dollar Award

EDUCATIONAL LEAVE REPORT

Agency		Fiscal Year	
Individual Responsible for this Report		Phone Number	

Name	Position	Degree/ Course Work	School	Cost to Agency					
				Leave	Tuition	Fees	Books	Travel	Total

This report or any variation of this report, which contains the same information, is to be submitted on or before January 1 of each year to the Legislature and to the Mississippi State Personnel Board. The reporting period covers the previous fiscal year. Additional sheets may be attached if needed.

Mississippi State Personnel Board
Training Registration Form

Please complete a separate form for each participant

Participant's Name:	Social Security Number:
Title:	Participant's Telephone Number:
Name of Agency & Address:	Special Services Needed:
Participant's Supervisor's Signature	Supervisor' Telephone Number:
Agency Director's Signature (or)	Agency Training Coordinator

Workshop Titles(s)	Date Requested	Cost

Billing Information

Payment Attached for $_____ made payable to Mississippi State Personnel Board #3610

OR

Bill Agency:_____

Attention of:_____

Address:_____

All registrations should be made as far in advance of the course start date as possible, as each course is filled on a first-come, first-serve basis. Agencies will be billed for registrants unless cancellation is received ten (10) days prior to the course start date. Substitutions are allowed up to the start of the course (*advance notice requested*). Written confirmation will be sent to all students seven (7) to ten (10) days prior to course date. If you do not receive a confirmation/cancellation notice, please call 601-359-2758.

Mail all registrations and/or requests for information to:

Mississippi State Personnel Board Office of ~~Training~~ Workforce Planning
301 North Lamar Street, Suite 203
Jackson, Mississippi 39201

~~8.0 PERFORMANCE APPRAISAL REVIEW~~

~~8.10 AUTHORITY AND SCOPE~~

~~Section 25-9-119(2)(c)(ii)(B) Mississippi Code of 1972, Annotated, as amended, requires the State Personnel Board and Director to provide a system of rules and regulations for "salary increases for outstanding performance based upon documented employee productivity and exceptional performance in assigned duties". The Performance Appraisal Review (PAR) is hereby established. All agencies under the purview of the State Personnel Board were mandated by the legislature in 1985 to participate in the State Personnel Board's Performance Appraisal Review (PAR) system.~~

~~8.20 PURPOSE~~

~~In addition to providing a basis for awarding productivity funds, a performance appraisal system serves a number of distinct purposes/functions: improves quality/quantity of services; develops employee skills; motivates better performance; and increases communication between the supervisor and the employee concerning performance, overall objectives of the work unit and specific work products.~~

~~Evaluating employees is a continuous process. The annual appraisals provide agency management a factual basis to identify employees for productivity increases, promotion, retention on the basis of performance, correction of inadequate performance, separation when inadequate performance cannot be corrected, used in the retention point formula for Reduction in Force (see Section 7.60, Reduction in Force, Mississippi State Personnel Board Policy and Procedures Manual), job development and training or other job related personnel management actions.~~

~~8.30 APPRAISAL COVERAGE~~

~~Every employee whose position is under the salary setting authority of the State Personnel Board shall be appraised for job performance at least once annually. Evaluations shall be based only on the performance of the duties of the employee's position compared against the performance standards for those duties. Only work outcome shall be evaluated. No factors handled by established disciplinary procedures (tardiness, physical violence, etc.) should be allowed as part of the evaluation process. Performance appraisals shall be administered in a fair manner without unlawful discrimination as to age, race, sex, religion, political affiliation, national origin, or disability.~~

~~8.40 GENERAL RULES FOR THE PERFORMANCE APPRAISAL REVIEW SYSTEM~~

~~A. *For probationary employees/new hires*, the first narrative performance appraisal and rating shall be made within the fourteen (14) days prior to the end of the sixth month from date of hire. In cases where completion of required job training results in reclassification, the first performance appraisal may be conducted earlier than six (6) months from date of hire.~~

~~*For probationary employees/new hires*, the second narrative performance appraisal and rating shall be completed within the fourteen (14) days prior to the end of the twelfth month from date of hire.~~

~~B. After an employee has been employed for twelve (12) continuous months and has attained *state service status*, a narrative appraisal and rating shall be required annually for each employee by the immediate supervisor.~~

~~A valid appraisal rating is a rating completed as a result of an employee's job performance within the last 365 days.~~

~~For positions under the salary setting authority of the State Personnel Board, all personnel transactions entered online in SPAHRS will result in the performance appraisal period resetting to begin with the date the employee enters the position, or the effective date of a reclassification/reallocation and end one year from that date (except for employees in the probationary period of twelve (12) months).~~

~~For SPAHRS to process a personnel transaction (promotion, transfer, reclassification, reallocation, and demotion), the last appraisal rating is reviewed. If the last appraisal rating is less than ninety (90) days prior to the effective date of the personnel transaction, the process to transmit the record for approval will not be interrupted.~~

~~However, If the last appraisal rating is more than 90 days prior to the effective date of the personnel transaction, the Record Performance Appraisal screen will be invoked, preventing the personnel transaction from processing until an appraisal rating is completed for the employee (current position), recorded, and approved in SPAHRS. Then, the pending personnel transaction request will be completed. When the request is approved, the next appraisal period, beginning with the effective date of the personnel transaction and ending at 365 days , will automatically populate in SPAHRS. (For more information, reference the SPAHRS User Training Notebook, Performance Appraisal segment.)~~

~~Employee performance appraisal periods should not be confused with "anniversary dates." Thus, "anniversary dates" are not a viable method of administering the performance appraisal review system.~~

~~C. For *non state service* employees under the salary setting authority of the State Personnel Board, appraisals shall be administered within the same time frames as outlined for employees in state service positions in A and B above.~~

~~D. An employee who is detailed or temporarily assigned to a different position for a period expected to be at least 180 calendar days shall be provided with the duties/performance standards of the detailed or temporarily assigned position. Development and communication of these duties/performance standards shall follow the guidelines established by these regulations. Upon completion of the detail or temporary assignment, the employee shall receive a written~~

~~narrative appraisal and rating by the rating supervisor in charge of the employee while on detail or temporary assignment.~~

~~E. An employee shall have been in a position for a period of ninety (90) days before being eligible to receive an appraisal rating. If the employee is in the position less than ninety (90) days, it is assumed that the employee has performed at the M[illegible]eets E[illegible]xpectations level, 2.0.~~

~~F. The rating supervisor shall be the last person to have supervised the employee for a period greater than ninety (90) days at the time the appraisal is due.~~

~~G. A rating supervisor who leaves the supervisory position is responsible for submitting to the first-level reviewer a narrative appraisal and rating for each supervised employee. At the discretion of the first-level reviewer, the appraisal rating can be transferred to the employee's new rating supervisor for combining with additional rating(s) for the annual performance appraisal rating or can be submitted to the agency personnel office and a new annual appraisal period started.~~

~~H. If an employee is on detail or temporary assignment for a period less than ninety (90) days at the time of the appraisal due date, the rating supervisor, at the employee's regularly assigned position, is the last person to have supervised the employee prior to the detail or temporary assignment, providing such official meets the requirements in E and F above.~~

~~I. Where an employee remains in the same position during an appraisal period (365 days), but has not been supervised by any one rating supervisor for at least ninety (90) days during the appraisal period, the employee will receive an appraisal rating from the person who is identified as the first-level reviewer. This person shall first consult with those who served as temporary supervisors during said period. In such cases, the narrative appraisal and rating shall be reviewed and approved by the second-level reviewer.~~

~~J. In the event an employee received more than one written performance appraisal rating during the appraisal period, the results of all such appraisals shall be combined. The last rating supervisor, at the end of the 365-day appraisal period, shall be responsible for combining all such appraisal ratings to compute the annual narrative appraisal and rating for subject period.~~

~~K. Within the fourteen (14) days prior to the end of the appraisal period, the documented narrative appraisal and rating will be completed by the rating supervisor or the supervisor who has direct line authority over the employee. Then the rating supervisor shall schedule and conduct an appraisal interview with the employee to discuss the employee's level of performance as documented in writing and evaluated by the rating supervisor.~~

~~L. The planning session for the next appraisal period shall be completed no later than fourteen (14) days after the new appraisal period begins; however, failure to comply with these time limits does not invalidate an appraisal rating that complies in other respects to these rules and regulations.~~

M. Because performance appraisal is maintained on a continuous basis, performance appraisal ratings shall cover all the time an individual is employed in state government in covered positions.

8.50 RESPONSIBILITIES OF AGENCY STAFF

8.50.1 Responsibilities of Agency Head

The Agency Head shall:

A. Ensure that the performance appraisal review is implemented and administered in his/her agency consistent with the Mississippi State Personnel Board's policy requirements;

B. Appoint members of the Agency Review Committee, if this option is elected;

C. Ensure that employees are in a position and notified of duties/performance standards at least ninety (90) days before an evaluation and rating are completed; and

D. Review documents that identify employee differences with rating supervisor on the duties/performance standards. (Although the Agency Head may choose not to intervene, the Agency Head is required to have knowledge of the differences.) (See Section 8.60.6, Resolving Differences on Duties/Performance Standards, Mississippi State Personnel Board Policy and Procedures Manual.)

8.50.2 Responsibilities of the Agency Personnel Director/Officer

The Agency Personnel Director/Officer of each state agency is responsible for the overall staff direction of the performance appraisal review, and shall:

A. Provide orientation for employees regarding the objectives and provisions for the performance appraisal review;

B. Develop, or have developed, common/generic duties/performance standards for similar or identical agency positions. The common/generic duties/performance standards will be updated and maintained in the agency personnel office and made available to supervisors upon request;

C. Provide rating supervisors, on a periodic basis, a "List of Performance Appraisals Due" from SPAHRS. This is very important since any time a personnel transaction is entered online in SPAHRS, the system will check the date of the last appraisal rating. If the last appraisal rating is more than ninety (90) days, the system will prevent the personnel transaction from processing until an appraisal rating is completed (current position), recorded, and approved; and

D. Provide necessary training to managers and rating supervisors so that these individuals can effectively carry out the responsibilities for communicating with employees, appraising employees, and relating performance appraisal to other personnel actions.

The training is to include a thorough explanation that a part of the rating supervisor's job performance will be evaluated based on the documented performance data in each employee's Supplemental Employee Performance Folder (SEPF). For example, the rating supervisor has evaluated and rated the employee at the **Meets Expectations** level (2.0). Since a "**Meets Expectations**" rating means the employee has performed all necessary pro rata duties/performance standards necessary to achieve the agency's mission and work plans, if the agency does not achieve its mission/work plans, then the rating supervisor's evaluation of the employee is (1) too high; or (2) the employee may be a "**Meets Expectations**" employee, but the department suffers from deficient supervision and leadership. In either case, the rating supervisor's narrative appraisal and rating are to reflect this when the rating supervisor's performance is evaluated.

8.50.3 Responsibilities of the Rating Supervisor

The Rating Supervisor is responsible for the following procedures pertaining to the completion of Performance Appraisal Review Forms and shall:

A. Require Job Content Questionnaires be updated annually to accurately reflect the duties and responsibilities assigned to all employees supervised;

B. Within fourteen (14) days from the beginning of the appraisal period, develop and document in writing, with assistance from rated employee, the duties/performance standards for each employee supervised. Complete Sections 1, 2 and 3, sign and date SPB Form 800-1 and -3, Performance Appraisal Review Report. After the discussion and all signatures are obtained, provide the employee with a copy of SPB Form 800-1 and -3. (See Section 8.60.6, Resolving Differences on Duties/Performance Standards, Mississippi State Personnel Board and Procedures Manual.);

C. Establish and maintain a Supplemental Employee Performance Folder (SEPF) for each employee supervised. (See Section 8.60.8, Supplemental Employee Performance Folder (SEPF), Mississippi State Personnel Board Policy and Procedures Manual.);

D. Update duties/performance standards and Job Content Questionnaire, as needed during the appraisal period, to reflect changes in position duties and responsibilities;

E. Advise and update the employee relating to his/her performance throughout the appraisal period. At a minimum, one formal review and feedback session, during the sixth month of the appraisal period must be conducted. With assistance from the employee, complete, sign and date SPB Form 801, Record of Review and Feedback Session and Section 4, SPB Form 800-1, Performance Appraisal Review Report. Provide the employee with a copy of the completed SPB Form 801;

F. Within fourteen (14) days prior to the end of the appraisal period, review, evaluate and complete Section 5, SPB Form 800-3 and Section 6, SPB Form 800-1, Performance Appraisal Review Report (the evaluation form). Meet and discuss the narrative appraisal, rating, and documentation with the first level reviewer for his/her approval, signature, and date. Next, meet and discuss the documentation, narrative appraisal and rating with employee for his/her information and comments. Ask the employee to sign and date. (Refer, Chapter 8, Section 8.60.11C, Appraisal Interview, Mississippi State Personnel Board Policy and Procedures Manual.) For on-line SPAHRS purposes, initial the reason for completing the narrative appraisal and rating. Provide a copy of the completed SPB Form 800-1 and -3 (appraisal) to the employee, retain a copy and send the original to the agency personnel office. (Reference the SPAHRS User Training Notebook, Performance Appraisal segment for more detailed information regarding procedure for submission of Performance Appraisal ratings in SPAHRS.) If the employee receives two or more appraisal ratings during the appraisal period, the rating supervisor combines all such appraisals to form a narrative appraisal and rating for the appraisal period;

G. During an appraisal period, complete the evaluation process (narrative appraisal and rating) whenever circumstances warrant, i.e., prior to a promotion, transfer, reclassification, reallocation or demotion. (For additional information, Refer, Chapter 8, Section 8.60.11 At The End of the Appraisal Period, Section 8.60.11A, Narrative Appraisal, 8.60.11B, Appraisal Rating; and Section 8.60.11C, Appraisal Interview, Mississippi State Personnel Board Policy and Procedures Manual.); and

H. Initiate corrective action when performance falls below Meets Expectations, level 2.0, and assist employee in improving "Fails to Meet Expectations" (unsatisfactory) performance to the "Meets Expectations" level 2.0. Complete the Performance Improvement Plan, SPB Form 802-1 and -3, with the employee at the beginning of the Performance Improvement Period, retain the original, provide the employee a copy and send a copy to the agency personnel office. (Reference the SPAHRS User Training Notebook, Performance Appraisal segment for more detailed information regarding procedure for submission of Performance Appraisal ratings in SPAHRS.)

8.50.4 Responsibilities of the First-level Reviewer

The First-level Reviewer is responsible for the following procedures pertaining to the completion of the Performance Appraisal Review Forms and shall:

A. Review the duties/performance standards on SPB Form 800-1 and -3, and discuss the contents with the rating supervisor. Resolve any differences between the rating supervisor and employee on duties/ performance standards written on SPB Form 800-3. Then, indicate approval by signing and dating Section 3, SPB Form 800-1. The SPB Form 800-1 and -3 should be completed within fourteen (14) days of the beginning of the appraisal period;

B. Monitor duties/performance standards to provide consistency in the same or similar jobs and among all subordinate rating supervisors;

C. Review and discuss with the rating supervisor the documentation that supports the narrative appraisal and the rating, SPB Form 800-3, within fourteen (14) days prior to the end of the appraisal period. This will take place prior to the employee and rating supervisor meeting to discuss the narrative appraisal and rating. Section 6, SPB Form 800-1 should be completed at this time; and

D. Ensure against bias or discrepancies in ratings by the rating supervisor.

8.50.5 Responsibilities of the Second Level Reviewer

Second Level Reviewer (typically the immediate supervisor of the First-level Reviewer) is responsible for the following and shall:

A. Resolve differences that the first-level reviewer was unable to resolve;

B. If unable to resolve the differences that exist between any of the parties (e.g., the employee, the rating supervisor, and/or first level reviewer), convene the Review Committee (if the agency elects this option) for an advisory opinion; and

C. Issue management's decision on the disputed duties/performance standards. (This decision is final with the exception of being overruled only by the Agency Head.) (See Section 8.60.6, Resolving Differences on Duties/Performance Standards, Mississippi State Personnel Board Policy and Procedures Manual.)

8.50.6 Responsibilities of the Employee

The Employee is responsible for the following and shall:

A. Cooperate with the rating supervisor in the selection and development of duties/performance standards. Sign and date Section 3, SPB Form 800-1 and -3, a copy, of which will be given to the employee;

B. Notify the rating supervisor of any facts or circumstances which should be considered when selecting or developing duties/performance standards or when appraising performance;

C. Discuss with the rating supervisor current performance, ways to improve performance, and successfully perform the duties of the position at the M eets E xpectations level, 2.0 or above;

D. During the sixth month of the appraisal period after discussing with the rating supervisor, sign and date SPB Form 801, Record of Review and Feedback Session and initial Section 4, SPB Form 800-1, Performance Appraisal Review Report [illegible] with the rating supervisor and discuss current performance;

E. Inform the rating supervisor at any time during the appraisal period of circumstances that may impact or deter the employee from the successful performance of duties or the meeting of assigned deadlines; and

F. Within fourteen (14) days prior to the end of the appraisal period, meet with rating supervisor to discuss the documentation, written narrative, and rating. Initial concurrence or non-concurrence of the appraisal rating or acknowledge that the appraisal rating was discussed. Refusal to sign does not affect/negate the rating. Refusal to sign SPB Form 800-1 acknowledging that the appraisal rating has been discussed shall be, following a warning, considered an act of insubordination.

8.50.7 Responsibilities of the Review Committee

The Review Committee (if the Agency accepts this option) is responsible (when convened by the Second Level Reviewer) for and shall:

A. Review unresolved differences between the employee and the rating supervisor and/or the first-level reviewer regarding duties/performance standards and provide a recommendation to the second level reviewer as to the disposition of the matter;

B. Ensure that the duties/performance standards and weights are defined so that equity is maintained within the agency; and

C. Maintain the consistency of duties/performance standards with the goals of the work unit and the mission of the agency.

8.60 APPRAISAL SYSTEM PROCESS

8.60.1 The Beginning of the Appraisal Period

Performance Appraisal Review is designed to be a "no surprises" system. The rating supervisor and employee are to decide the important accomplishments of the job and come to an understanding of what is *M eets E xpectations* performance. Job duties and performance standards are determined and communicated at the beginning of the appraisal period. Therefore, the employee has a target to aim for and is not expected to guess what performance is expected.

For the Performance Appraisal Review system to be effective, everyone involved must understand what is expected of him/her. This is true for the employee, rating supervisor, first-level reviewer, and upper management. Rating supervisors should explain the "what, how, why, and when" of the Performance Appraisal Review process and answer all employee questions.

With assistance from the employee, the rating supervisor shall develop the duties/performance standards for the position. This is done through one or more planning sessions which shall be

~~completed within the first fourteen (14) days of the beginning of the appraisal period, i.e., employee hire date, promotion, transfer, reclassification, reallocation, demotion, last reported performance appraisal rating or an agency established appraisal start date. (Reference the SPAHRS User Training Notebook, Performance Appraisal segment for more detailed information regarding procedures for requirements of PAR rating prior to processing personnel action in SPAHRS.)~~

~~8.60.1A Defining Duties~~

~~The duties/performance standards shall be established and documented in Section 3, SPB Form 800-3, and discussed with the employee. The signatures of the rating supervisor, employee, and first-level reviewer are required as documentation that the planning session was conducted and that the rating supervisor discussed the requirements for achieving an appraisal rating at the Meets Expectations, level 2.0. Then a copy of the signed and dated SPB Form 800-1 and -3 should be provided to the employee and the original maintained by the rating supervisor in the employee's Supplemental Employee Performance Folder. (See Section 8.60.6, Resolving Differences on Duties/Performance Standards, Mississippi State Personnel Board Policy and Procedures Manual.)~~

~~A duty is a distinct, major role or function, which may include any number of tasks. It is one of an employee's principal responsibilities and occupies a significant portion of work time. In developing duty statements, knowledge or abilities possessed by the employee should be avoided. Describe what the employee actually does, not what he/she knows or is able to do. The duty statement should be significantly descriptive to include all major components to that duty.~~

~~There are several techniques and sources of information that will be helpful in defining the job and in setting duties/performance standards. All the techniques are a form of job analysis. The rating supervisor, along with the employee, has the primary responsibility of determining the duties/performance standards that are most applicable to the employee's position.~~

~~A. Class specification/description is a good place to start; however, being a general description of the duties, very few employees do everything listed and most have duties other than those listed. For these reasons, it *usually* will not be appropriate to utilize only the list of duties identified on the class specification/description.~~

~~B. Job Content Questionnaire is an important resource to help develop duty statements. The JCQ is a type of position questionnaire, which describes duties, and responsibilities of the position. On the JCQ, each job incumbent is asked to provide data about himself/herself and his/her job in his/her own words. The employee lists the duties, tasks and responsibilities of his/her position. Independently, the employee's supervisor lists the duties, tasks, and responsibilities of the employee's position. Then the employee and the supervisor discuss what they perceive to be the duties, tasks, and responsibilities of the position. From this evolves one job content questionnaire for the employee. The performance appraisal process depends on well-defined duties, listed on the JCQ, which accurately describe the job.~~

C. Checklist – a list of common/generic duties/performance standards assigned to certain job categories may be developed. Rating supervisors and employees may choose the duties/performance standards from that list, which apply to a particular position. The amount of freedom used by rating supervisors and employees in adding and choosing duties/performance standards from the list depends on how similar agency management wants certain occupations and types of positions.

In writing the duty statements, the language should be as specific as possible and describe an activity for which it is relatively simple to obtain performance data. The task analysis method used to fill out the Job Content Questionnaire is recommended. The JCQ is the job analysis. Therefore, the JCQ must be written accurately to reflect the job responsibilities accurately. If the duty statements are not written in such a way as to accurately reflect the job, then the job will not be defined properly and causes problems in the evaluation of the job performance. It is recommended that well defined duties be transferred from the employee's JCQ to the employee's SPB Form 800-3 and then measurable standards determined.

D. After completing the duty statements, consider the following questions and if the answer is "no" to any, consider eliminating the duty. Is it:

1. Purposeful/goal oriented? Does it contribute to work unit objectives?

2. Required to do the job? Does it reflect the duties and responsibilities of the job and the work assigned to the employee?

3. Observable (and/or measurable)? Does it identify job related behaviors and work outcomes and not traits, knowledge, skills, or abilities?

4. A significant component of the job? Is it important enough and done often enough to make it worth evaluating?

5. Distinguishable from other performance duties? Does it stand on its own? Is it clearly different from other duties?

6. Within the employee's control?

8.60.18 Defining Measurable Standards

Performance standards are used to measure the employee's actual accomplishment of the duties. In measurable terms, they indicate what is required of an employee and should tie requirements of the job to agency goals, mission, and policy. Standards should always measure work output and should not measure attitudes or personality traits, such as intuition, sense of humor, etc. (except as those traits are reflected in actual performance).

~~Performance standards provide a factual basis for accountability in place of reliance on guesses, opinions, and feelings. Performance standards provide a means for the individual employee to measure his/her own performance. Performance standards measure the level of performance required on a specific job and must always conform to organizational goals and policy.~~

~~Performance standards can be prepared for all positions. Standards may be easier to write for routine, repetitive operations; however, performance standards can be developed for high level non-routine positions. To say that written requirements or standards cannot be prepared for a position is the same as saying that the supervisor does not know what he/she expects of the employee and the employee's work cannot be evaluated.~~

~~Performance standards are written to define what constitutes Meets Expectations (2.0) – the level of performance, which can be expected of any employee designated to perform the same assignments under the same conditions. A Meets Expectations (2.0) rating means that the employee, in accomplishing his/her duties/performance standards, is doing all things necessary in his/her job to meet all applicable agency goals and annual work plans. Standards for employees who are learning a new job may be lower than those for more experienced employees.~~

~~Performance standards are to be written for each specific position. Although performance standards can be written for a class of identical positions, this does not negate the obligation of the rating supervisor to make changes as necessary according to the particular job responsibilities. (See Section 8.60.5, Required Review of Duties/Performance Standards, Mississippi State Personnel Board Policy and Procedures Manual.)~~

~~Finalizing duties/performance standards, at the Meets Expectations level (2.0), should be a joint effort of the rating supervisor and the employee. Discussion of the duties/performance standards helps make them more understandable. In the event of differences between the rating supervisor and employee concerning duties/performance standards, agency management has the final authority as to the duties/performance standards to be measured. (See Section 8.60.6, Resolving Differences on Duties/Performance Standards, Mississippi State Personnel Board Policy and Procedures Manual.)~~

~~Commonly used units of measure for standards are: Quality – how well a performance duty is done; Quantity – how much is done; Timeliness – how fast it is done; Manner – the way or style in which it is done; Method – procedural and technical considerations, policy issues; and Cost – dollar and manpower factors.~~

~~The duties/performance standards recorded on SPB Form 800-3 should be the ones that an employee actually does as indicated on the employee's JCQ and should be limited to ten (10) or less.~~

~~8.60.1C Weight Scale~~

~~Weights help determine the importance of satisfactory accomplishment of the job. Weights must be determined and added on the SPB Form 800-3 by the rating supervisor for the employee's position at the beginning of the appraisal period. The weight scale is defined as follows:~~

A. *Important* to the position and goal attainment. Any duty/performance standard assigned a weight of one (1) is viewed as important to the employee's position.

B. *Very important* to the position and goal attainment. Any duty/performance standard assigned a weight of two (2) is viewed as very important to the employee's position. The essential functions (defined by the rating superviser on the JCQ) of the employee's position should be assigned a weight of two (2) on the employee's SPB Form 800-3.

8.60.1D Performance Rating Scale

The performance rating scale (a three-point scale) is used to evaluate each duty/ performance standard of an employee's work output. The performance standards developed and written on SPB Form 800-3 are at the Meets Expectations (2.0) level. A Meets Expectations rating means that the employee, in accomplishing his/her duties/performance standards, is doing all things necessary in his/her job to meet all applicable agency goals and annual work plans. The benchmarks on the scale are as follows:

3.0 Exceeds Expectations
2.0 Meets Expectations
1.0 Fails to Meet Expectations

3.0 EXCEEDS EXPECTATIONS This rating indicates that performance exceeds requirements or expectations for the position as defined in Meets Expectations. Any level of performance that exceeds 2.0, Meets Expectations, would be Exceeds Expectations (3.0).

2.0 MEETS EXPECTATIONS The level of performance expected of any employee designated to perform the same assignments under the same conditions. A Meets Expectations level (2.0) rating means that the employee, in accomplishing his/her duties/performance standards, is doing all things necessary in his/her job to meet all applicable agency goals and annual work plans. The Meets Expectations level (2.0) is described as the level that must be reached by each employee in order for the agency to accomplish agency goals and annual work plans.

1.0 FAILS TO MEET EXPECTATIONS This rating recognizes an employee's overall performance is below that required of the position in order to meet agency goals and expectations. If performance, when compared to planned goals, drops below a 2.0, Meets Expectations, into the 1.0, Fails to Meet Expectations, improvement must take place through the help of a Performance Improvement Plan. The employee must be told that performance is to be improved to the Meets Expectations level (2.0) by the end of the performance observation period (90 days). Failure by the employee to improve job performance, after the ninety (90) day performance improvement period, shall constitute cause for dismissal, demotion, or transfer.

Ratings for individual job duties are evaluated only on the benchmarks of 1.00, 2.00, or 3.00. A rating between benchmarks is not valid for an individual job duty. However, an overall appraisal rating within

~~the ranges of 1.00 to 1.99, or 2.00 to 2.99 will be possible after the total performance points are divided by the total of the weights.~~

~~8.60.5 Required Review of Duties/Performance Standards~~

~~Each agency will develop common/generic duties/performance standards for similar or identical agency positions. Common/generic duties/performance standards may be identified, developed, and issued for certain occupations and types of positions in each agency. The rating supervisor and the employee will review together agency established duties/performance standards and add ones that specifically address the unique duties of the employee that are necessary to goal accomplishment of the work unit.~~

~~The rating supervisor has the authority to interpret and adapt these common/generic duties/performance standards and/or to develop additional job related duties/performance standards in order to identify specific expectations for individual positions/employees.~~

~~Each agency will provide for at least one higher level, automatic review of the duties/performance standards identified for each position/employee. If there is disagreement after the first level of review, a second level of review is required. The supervisor of the first level reviewer should conduct the second level review. If differences cannot be resolved, the second level reviewer is required to convene a review committee (if this option is elected by the Agency Head) for its recommendations prior to the second level reviewer's decision.~~

~~The purpose of review will be:~~

~~A. To ensure consistency, where appropriate, in the duties/performance standards for similar positions in the agency;~~

~~B. To review the distribution and priority of work as implied by the duties/performance standards;~~

~~C. To ensure consistency between the duties/performance standards and organization function statements as well as class specifications; and~~

~~D. To ensure compliance with the provisions of these regulations.~~

~~Where the second level reviewer convenes a review committee for the above purposes, the authority of the committee will be limited to making recommendations for the second level reviewer's decision.~~

~~8.60.6 Resolving Differences on Duties/Performance Standards~~

~~Recognizing that an organization cannot function effectively where there are differences among its employees regarding work assignments, priorities, quality of work, or where there are concerns about equity and fairness, the agency will try to resolve differences, which arise between the rating supervisor and the employee regarding duties/performance standards.~~

~~In the event of differences between the rating supervisor and the employee concerning duties/performance standards, the rating supervisor shall ask the employee to provide written comments within four (4) working days from the date of their meeting as to why he/she does not concur with the duties/performance standards. After receipt of the employee's written comments, the rating supervisor shall schedule a meeting with the employee and first level reviewer and attempt to resolve the differences. If the differences cannot be resolved at this level, the differences shall be referred to the second level reviewer for resolution. **The second level reviewer issues management's decision on the disputed duties/performance standards.** (This decision is final with the exception of being overruled ONLY by the Agency Head.)~~

~~Where differences as to duties/performance standards are not resolved, the Agency Head will be informed as to those differences. The Agency Head's intervention is discretionary, but the Agency Head must have knowledge of the differences. If the Agency Head chooses not to intervene, then the final decision rests with the second level reviewer.~~

~~Duties/performance standards established as criteria for performance appraisal are management decisions that are NOT grievable; therefore, [illegible] State Personnel Board grievance policy and procedures DO NOT apply to the resolution of differences regarding duties/performance standards.~~

~~After the resolution process has been completed, the employee will complete the "Employee Response" portion of Section 3 of SPB Form 800-1. If the employee continues to object to the duties/performance standards, the employee should initial the "does not concur" option. However, the employee should be advised that the PAR document reflects the expectations of his/her job, that the duties/performance standards are valid even without his/her concurrence, and that he/she will be evaluated accordingly.~~

~~8.60.7 Changes to Duties/Performance Standards~~

~~Changes in the identified duties/performance standards and weights may be required during the appraisal period if duties, resources, and/or priorities change.~~

~~Changes to duties/performance standards and weights made in a Review and Feedback session or after at least a ninety (90) day performance observation period must be signed and dated by the rating supervisor, employee, and first level reviewer documenting that a meeting was held and the changes discussed. Review procedures apply to these changes.~~

~~8.60.8 Supplemental Employee Performance Folder (SEPF)~~

~~A Supplemental Employee Performance Folder must be maintained by the rating supervisor on each employee for the current appraisal period. The folder should contain (1) the rating supervisor's copies of the employee's P erformance A ppraisal R eview R eport, SPB Form 800-1 and 3; (2) a current (less than twelve (12) months), legible representative Job Content Questionnaire signed by the employee and the rating supervisor; (3) any narrative statements about the performance; (4) examples of work when appropriate; (5) results of each review and feedback session, SPB Form 801; (6) Performance Improvement Plan, SPB Form 802-1 and 3, if pertinent; and, (7) any information the~~

~~employee may want to contribute. Rating supervisors are encouraged to use the SEPF for written descriptions of specific employee performance, both positive and negative, observed by the rating supervisor and related to the employee's duties/performance standards.~~

~~Any performance data collected on an employee in the SEPF must be maintained in a secure file by the rating supervisor and not be shared with anyone except the employee who is the subject of the data and the first level reviewer. All material in the SEPF is available upon request to the employee for review. The rating supervisor will use the contents of the SEPF for the review and feedback session as well as for preparing the narrative performance appraisal statements for each duty/performance standard and in arriving at an appraisal rating.~~

~~The type of information to be collected depends upon what is being measured by the performance standard. For example, if the standard is "X" number of cases processed per week, the number of cases must be counted and appropriate notation made in the employee's record; if the standard specifies meeting a deadline, the date the work was given to the rating supervisor should be compared to the deadline date and appropriate notation made to the employee's record; if the standard is written to indicate that the written product was completed according to standard operating procedures, then appropriate notation should be made as to whether this was the case or not and, if not, in what way was the product incomplete, etc.~~

~~If an employee has failed to meet a performance standard for reasons beyond his/her control, then this fact and the reasons should be noted in the employee's SEPF record.~~

~~Data can be collected by sampling work products, by observing behavior or work products at certain times, self-reporting by the employee, or any other relevant documentation.~~

~~8.60.9 Review and Feedback Sessions~~

~~The purposes of the review and feedback sessions during the appraisal period are:~~

~~A. To provide feedback to the employee concerning the overall assessment of performance during the rating period.~~

~~B. To review and update duties/performance standards in light of changing requirements of the employee's position.~~

~~C. To identify areas of performance requiring improvement and to identify methods/training needed to facilitate that improvement.~~

~~The rating supervisor shall conduct a review and feedback session with the employee, every three (3) months is recommended, but a minimum of one formal review during the sixth month of the appraisal period is required.~~

~~For the rating supervisor to be prepared for the employee review and feedback session, proper documentation of employee performance is very necessary. The rating supervisor must review the contents of the Supplemental Employee Performance Folder (SEPF) against the duties/performance standards in order to note accomplishments and results that have been achieved as well as areas where improvement is needed. Other helpful information or documentation would be the class specification for the employee's position, the Job Content Questionnaire, a list of standard operating procedures, agency regulations, or position or agency goals. Be prepared for any potential questions or reactions from the employee.~~

~~After reviewing the employee's SEPF and prior to the review and feedback session, the rating supervisor should review the employee's performance with his/her supervisor (first level reviewer). This is to gain any additional insight he/she may have regarding the employee's performance, the employee's growth potential, the possibility of promotional opportunity, or organizational changes, which could affect the employee. This session will be of value to the rating supervisor and the employee in that it gives the rating supervisor and first level reviewer the opportunity to share information regarding the employee's performance.~~

~~The rating supervisor must give advance notice to the employee of the date and time for the review and feedback session.~~

~~The employee's role in preparing for the review and feedback session is to review his/her major duties/performance standards; to review his/her last appraisal rating, noting any accomplishments or improvements since that time; to objectively review the quality and quantity of the work performed and/or resources used to get the work done; and to identify any current or potential changes in the duties which might affect the position as it is currently performed. Through the review and feedback session, the employee is given the opportunity to ask questions, make comments and apprise the rating supervisor of additional pertinent facts regarding his/her performance during the current appraisal period.~~

~~At the completion of the review and feedback session, SPB Form 801 must be signed and dated by the rating supervisor and employee. In addition, the rating supervisor must date and initial and the employee initial Section 4 of SPB Form 800-1.~~

~~8.60.10 Performance Improvement Plan (PIP)~~

~~A. Informal Efforts~~

~~When the rating supervisor notices that any area of an employee's performance is below Meets Expectations, level 2.0, then the rating supervisor must discuss with the employee specific action/steps to be taken by both rating supervisor and employee to improve performance. The rating supervisor should initiate the following informal actions: (1) counseling on a systematic, job-related basis; (2) regular and careful review of work, and (3) on/off-site training.~~

~~B. Formal Performance Improvement Plan~~

~~Where informal performance improvement efforts do not result in improved performance, or when the rating supervisor, in conjunction with or following a review or feedback session or an appraisal rating concludes that the overall job performance of an employee is less than level 2.0, Meets Expectations, the rating supervisor must follow the procedures outlined in the section 8.60.11, and complete the Performance Appraisal Review Report, SPB Form 800-1 and -3 beginning with Step 6 of the Instructions For Completing Performance Appraisal Review Report and arrive at an overall appraisal rating less than 2.0 (Step 7). For online SPAHRS purposes, the rating supervisor must initial the reason for completing the narrative appraisal and rating and submit the original SPB Form 800-1 and -3 (Step 8) to the agency personnel office. (Reference the SPAHRS User Training Notebook, Performance Appraisals Segment for more detailed information regarding submission of Performance Appraisal ratings and the Performance Improvement Plan procedure in SPAHRS.)~~

~~A Performance Improvement Plan will be developed with the participation of the affected employee, put in writing by completing SPB Form 802-1 and -3, and subject to the approval of agency management.~~

~~The Performance Improvement Plan includes the following:~~

1. ~~An explanation of only the duties/performance standards in which the employee's performance is less than level 2.0. (This may indicate a lack of knowledge, skills or abilities needed by the employee to carry out specified job expectations; therefore, it is essential that employee and rating supervisor identify, define, agree to, and record these expectations so that the employee can improve and reach the **Meets Expectations** level of performance.);~~

2. ~~Specify on the **Form 802-1 and -3** the duties/performance standards which require improvement;~~

3. ~~Define specific steps or recommendations for the employee to achieve in order to improve performance to the Meets Expectations level; and~~

4. ~~Specify dates for periodic counseling and reassessment by the rating supervisor during the ninety (90) day period.~~

~~At the completion of the meeting to establish the Performance Improvement Plan, Section 3, SPB Form 802-3, must be signed and dated by the rating supervisor, employee, and First-level Reviewer. In addition, the rating supervisor must complete the dates of the Performance Improvement Plan period and the PIP. The improvement plan begins the date the employee signs the document and concludes at the end of the ninety (90) days.~~

~~In addition to completing the Performance Improvement Plan, the rating supervisor and employee will complete a new SPB Form 800-1 and -3, Performance Appraisal Review Report, with all duties/performance standards including those on the Performance Improvement Plan. Add an asterisk by the number of the duty(ies)/performance standards to be listed on the Performance Improvement Plan with a notation such as "see more complete information on the Performance Improvement Plan, SPB Form 802-1 and -3". The employee must improve his/her total performance to an overall appraisal rating of M eets E xpectations. This SPB Form 800-1 and -3 will run concurrently with the ninety (90) day Performance Improvement Plan. The rating supervisor must provide the employee a signed and dated copy of the Performance Improvement Plan, SPB Form 802-1 and -3 at the beginning of the performance improvement period, as well as completed copies of the Performance Appraisal Review Report, SPB Form 800-1 and -3, and retain the original in the employee's Supplemental Employee Performance Folder. A copy of SPB Form 800-1 and -3 and SPB Form 802-1 and -3, initiating the ninety (90) day Performance Improvement Plan, must be submitted to the agency personnel office.~~

~~The employee is to be told that overall performance must be improved to the level 2.0 M eets E xpectations by the end of the performance observation period in order to justify retention and must be provided a period of ninety (90) days to demonstrate improved performance.~~

~~Records must be maintained to clearly identify the employee's weakness(es) and the corrective action(s) to be taken by the rating supervisor as well as the employee. As part of the record keeping process, a review and feedback session should be held with the employee around the 45th day of the 90 day PIP period and the SPB Form 801, Record of Review and Feedback, should be completed.~~

~~Failure by the employee to improve job performance by the conclusion of the 90 day PIP period shall constitute cause for dismissal, demotion, or transfer. (See Section 5.05.3, Demotional Transfers, of the Mississippi State Personnel Board Policy and Procedures Manual.)~~

~~C. Improvement in Performance~~

~~At the conclusion of the ninety (90) day **Performance Improvement Plan**, if the employee's performance has improved to the **M eets E xpectations** level **2.0** or above, the rating supervisor will:~~

~~1. Follow the policy and procedures outlined in Sections 8.60.11, 8.60.11A, B and C. Complete and sign SPB Form 800-1 and -3, Section 5, (Step 6) and Section 6, (Step 7) d ocumenting performance while on Performance I mprovement P lan;~~

~~2. Discuss the narrative appraisal, rating, and documentation with the first level reviewer for his/her approval, signature, and date;~~

3. Schedule and hold an appraisal interview with the employee and obtain any comments, signature and date on SPB Form 800-1, Section 6;

4. For online SPAHRS purposes, initial the reason for completing the narrative appraisal and rating. Keep a copy of the completed SPB Form 800-1 and -3, provide a copy to the employee, and send the original to the agency personnel office. (Reference the SPAHRS User Training Notebook, Performance Appraisal segment, for more detailed information regarding submission of Performance Appraisal ratings in SPAHRS.);

5. Begin a new performance appraisal period by completing SPB Form 800-1 and -3 according to policy and procedures.

D. Continued Performance Below Meets Expectations

At the conclusion of the ninety (90) day Performance Improvement Plan, if the employee's performance has **not** improved to the M eets E xpectations level of 2.0 or above, the rating supervisor will:

1. Follow the policy and procedures outlined in Sections 8.60.11, 8.60.11A, B and C. Complete and sign SPB Form 800-1 and -3, Section 5, (Step 6) and Section 6, (Step 7) d ocumenting performance while on the Performance I mprovement P lan;

2. Discuss the narrative appraisal, rating, and documentation with the first level reviewer for his/her approval, signature, and date;

3. Schedule and hold an appraisal interview with the employee and obtain any comments, signature and date on SPB Form 800-1, Section 6;

4. Submit through appropriate lines of administration, the recommended action to be taken as a result of the employee's failure to improve performance (demotion, transfer, termination). Supporting documentation shall be submitted along with the recommendation. If the employee has not demonstrated improvement, the rating supervisor, in conjunction with the first and second level reviewers, agency head/designee may take appropriate personnel action or the PIP may be extended for another ninety (90) day period. If the extension is approved, a new ninety (90) day Performance Improvement Plan begins by completing SPB Form 802-1 and -3 and SPB Form 800-1 and -3 according to instructions; and

5. For online SPAHRS purposes, initial the reason for completing the narrative appraisal and rating. After SPB F orm 800-1 and -3 are completed and all signatures and dates affixed, retain a copy, provide a copy to the employee and send the original to the agency personnel office. (Reference the SPAHRS User Training Notebook, Performance Appraisal segment, for more detailed information regarding submission of Performance Appraisal ratings in SPAHRS.)

~~8.60.11 At the End of the Appraisal Period~~

~~A. Narrative Appraisal~~

~~Within fourteen (14) days prior to the end of the appraisal period, the rating supervisor begins reviewing and evaluating the narrative statements about the performance, the documented examples of work products, the results of each review and feedback session, and any information the employee contributes as well as any other material in the Supplemental Employee Performance Folder (SEPF). (See 8.60.8, Supplemental Employee Performance Folder (SEPF), Mississippi State Personnel Board Policy and Procedures Manual.)~~

~~By comparing actual performance against each performance standard, results actually achieved, quality level actually attained, the rating supervisor completes Section 5, SPB Form 800-3 (Accomplishments/Areas to Improve) by briefly commenting on why the employee was above or below Meets Expectations, (2.0) on each duty/performance standard and rates only on the benchmarks of 1.0, 2.0 or 3.0. Specific work examples should be sited.~~

~~The evaluation will not take into consideration areas of work where performance was less than Meets Expectations, level 2.0, but were not covered by duties/performance standards during the appraisal period. Only performance against previously established duties/performance standards can be appraised. Negative comments about performance, which were **not** addressed by specific performance standards, are precluded.~~

~~Significant (positive) work accomplishments not anticipated and not covered by duties/performance standards may be documented in the narrative appraisal and may be taken into consideration when arriving at an appraisal rating. The intent is that if performance was negative and was not covered by a performance standard, this data can and should be used as input for the establishment of duties/performance standards for the next appraisal period.~~

~~The rating supervisor must take into consideration the cumulative performance of the employee throughout the period covered by the appraisal, rather than concentrating on only one or a few occurrences or periods of performance.~~

~~The evaluation must not be based in any way on disciplinary factors, for example, tardiness, physical violence, etc. These factors are handled by already established disciplinary procedures. Performance Appraisal is based on **work outcome only**.~~

~~B. Appraisal Rating~~

~~Once the narrative has been written for each duty/performance standard and other significant accomplishments (if any) have been noted, an overall appraisal rating is determined [illegible] instructions in the performance appraisal document. Ratings for individual job duties are evaluated only on the benchmarks of 3.00, 2.00, or 1.00. Arrive at an appraisal rating by~~

~~multiplying the weight of each duty/performance standard x the rating received by the employee. The sum of all the points is divided by the sum of the weights and equals the overall appraisal rating. An overall appraisal rating within the range of 1.00 to 1.99, or 2.00 to 2.99 will be possible after the total performance points are divided by the total of the weights.~~

~~The rating supervisor transfers the overall appraisal rating from the bottom of **Section 5, SPB Form 800-3**, to **Section 6, SPB Form 800-1**, and then discusses the narrative appraisal, rating and documentation with the first level reviewer for his/her approval, signature and date.~~

~~C. Appraisal Interview~~

~~The rating supervisor schedules an appraisal interview by selecting a time and a convenient, completely private and comfortable place, and notifies the employee of the scheduled interview. The main purpose of the appraisal interview with the employee is to discuss the documentation, the narrative appraisal, and rating and come to an understanding, if not agreement, on the general level of performance and appraisal rating. Encourage the employee to talk and be a good listener. This provides the rating supervisor an opportunity to observe areas of agreement and to spot important differences. It also gives the employee an opportunity to think through the process, ask questions, and make any comments. When an understanding has been reached, then the employee should sign and date in Section 6, SPB Form 800-1. *Refusal by the employee to sign does not affect/negate the rating. His/her refusal to sign SPB Form 800-1 acknowledging that the appraisal rating has been discussed with him/her shall be, following a warning, considered an act of insubordination.*~~

~~For online SPAHRS purposes, initial the reason for completing the narrative appraisal and rating. After the SPB Forms 800-1 and -3 are completed and all signatures and dates affixed within the fourteen (14) days prior to the end of the appraisal period, the rating supervisor retains a copy as well as any supporting documents used in the evaluation process and provides a copy to the employee and sends the original to the agency personnel office. (Reference the SPAHRS User Training Notebook, Performance Appraisal segment, for more detailed information regarding procedure for submission of Performance Appraisal ratings in SPAHRS.)~~

~~8.60.12 Grievance/Appeals Process~~

~~State service employees who disagree with the level of a rating (excluding the contents of duties/performance standards) may seek review by appeal to the Employee Appeals Board of the State Personnel Board, after having exhausted the agency grievance procedure. If the employee disagrees and mutual agreement is not possible, then the employee has the right to grieve this end product and the right to be represented by legal counsel if he/she so chooses. Remember that the decision made by management on duties/performance standards is a final decision not subject to the grievance procedure. The final product of the appraisal process is grievable and there is almost a~~

~~guarantee that an arbitrator will expect fairness and reasonableness in any duties/performance standards, which were not agreed upon by the employee.~~

~~8.70 RECORDS MAINTENANCE~~

~~Official performance appraisal records will be maintained by each Agency Personnel Director/Officer and will be made available for review by the employee concerned. These records will include, in addition to the narrative appraisal and rating, supplementary or related personnel management documents.~~

~~Personnel staff in each agency will retain records that may be evaluated annually by the State Personnel Board or its agent. The results of these reviews will be used to revise the system.~~

~~The provisions of the appraisal system will be modified to conform to changes in federal and state laws or in appropriate State Personnel Board rules and regulations. This system will also be modified based upon approved changes resulting from reviews described above.~~

~~8.80 TRAINING~~

~~The Human Resources Director/Officer in each agency will be responsible for ensuring that each rating supervisor receives training on the provisions of these regulations, specifically including the development of duties/performance standards, appraising performance, counseling and performance improvement, and use of the performance appraisal as a management tool for planning, controlling work, and its relationship to the making of personnel management determinations at a minimum of once a year.~~

~~The training is to include a thorough explanation that a part of the rating supervisor's job performance will be evaluated on the basis of the documented performance data in each employee's Supplemental Employee Performance Folder (SEPF). For example, the rating supervisor has evaluated and rated the employee at the **Meets Expectations** level (2.0). Since a "**Meets Expectations**" rating means the employee has performed all necessary pro rata duties/performance standards necessary to achieve the agency's mission and work plans, if the agency does not achieve its mission/work plans, then the rating supervisor's evaluation of the employee is (1) too high; or (2) the employee may be a "**Meets Expectations**" employee, but the department suffers from deficient supervision and leadership. In either case, the rating supervisor's narrative appraisal and rating are to reflect this when the rating supervisor's performance is evaluated.~~

~~Training and technical assistance are available through the State Personnel Board.~~

SPB Form 800-1
Revised: July 1, 1996

MS STATE PERSONNEL BOARD
PERFORMANCE APPRAISAL REVIEW REPORT

Section 1: GENERAL INFORMATION

Appraisal Period From: _____ to _____

Employee's Name (Last, First, Middle Initial) Social Security Number

Position (PIN): _____ Agency Name: _____

Agency #: _____ Agency Dept: _____

Section 2: DUTIES/PERFORMANCE STANDARDS (To complete, see reverse to instructions.)

Section 3: ACKNOWLEDGEMENT OF DUTIES/PERFORMANCE STANDARDS

Date: _____ Supervisor Signature: _____

Date: _____ First Level Reviewer: _____

Employee Response: *(Initial one blank **ONLY**.)*

The supervisor has reviewed with me the duties/performance standards. I do ____ do not ____ concur

Date: _____ Employee Signature: _____

Section 4: REVIEW AND FEEDBACK

Review Date: _____ **Supervisor Initials:** _____ **Employee Initials:** _____

Section 5: ACCOMPLISHMENTS/AREAS TO IMPROVE (To complete, see reverse for instructions.)

Section 6: NARRATIVE APPRAISAL/RATING

Appraisal Rating: _____ **For online SPAHRS purpose, rating supervisor must initial the reason for rating:**

Annual ____ **Intra-Agy Transfer** ____ **Inter-Agy Transfer** ____ **Reclass** ____

Reallocation ____ **Leave of Absence** ____ **Separation** ____ **Other** ____

Date: _____ **Supervisor Signature:** _____

Date: _____ **First Level Reviewer:** _____

Employee Response: *(Initial one line **ONLY**.)*

My supervisor has discussed this narrative appraisal/rating with me and I do ____ **do not** ____ **concur.**

I acknowledge that the appraisal rating was discussed with me. _____

Date: _____ **Employee Signature:** _____

SPB Form 800-2
Revised: July 1, 1999

MS STATE PERSONNEL BOARD
INSTRUCTIONS FOR COMPLETING PERFORMANCE APPRAISAL REVIEW REPORT

To use the Performance Appraisal Review Report, rating supervisors should attend a training program offered by their agency or State Personnel Board. A narrative appraisal and rating are required annually for each covered employee employed for twelve (12) continuous months. Probationary employees will receive a narrative appraisal and rating just prior to the end of six months in probationary status and just prior to the end of the first year. The rating supervisor must explain the Performance Appraisal Review to all employees. The "steps" listed below must be completed to use this system. The word "section" refers to a specific section of this form.

BEGINNING AN APPRAISAL PERIOD: Sections 1, 2 and 3, SPB Form 800-1 and -3, are to be completed for each covered employee within fourteen (14) days from the beginning of an appraisal period.

STEP 1: SECTION 1: GENERAL INFORMATION: Complete the information requested as to the employee, agency, and appraisal period.

STEP 2: SECTION 2: DUTIES/PERFORMANCE STANDARDS: Performance Appraisal is designed to be a "no surprises" system. Duties/performance standards are determined and communicated within fourteen (14) days of the beginning of the appraisal period. The rating supervisor and employee, through two-way communication, will decide the important accomplishments of the job and come to an understanding of what is expected as quality performance using the Job Content Questionnaire. The duties/performance standards should be the ones that an employee actually does as indicated on the employee's JCQ and should be limited to ten (10) or less. The performance standards are written at a **Meets Expectations level (2.0)**. A **Meets Expectations** rating means that the employee, in accomplishing his/her duties/performance standards, is doing all things necessary in his/her job to meet all applicable agency goals and annual work plans.

The rating supervisor completes **Section 2, SPB Form 800-2**, using the common/generic agency established duties/performance standards and adding ones that specifically address the unique duties of the employee that are necessary to the goal accomplishments of the work unit. It is important to remember that not all performance requirements of the employee will necessarily be recorded on the form. In the event of disagreement between the rating supervisor and employee concerning duties/performance standards, management has the final authority as to the duties/performance standards to be measured.

STEP 3: SECTION 3: WEIGHT SCALE: Weights must be determined and added in **Section 2, SPB Form 800-3**, by the rating supervisor for the employee's position at the beginning of the appraisal period. The weight scale is defined as follows:

1. *Important* to the position and goal attainment. Any duty/performance standard assigned a weight of one (1) is viewed as important to the employee's position.
2. *Very important* to the position and goal attainment. Any duty/performance standard assigned a weight of two (2) is viewed as very important to the employee's position. The **essential functions** (defined by the rating supervisor on the JCQ) of the employee's position should be assigned a weight of two (2) on the employee's SPB Form 800-3.

STEP 4: SECTION 3: The rating supervisor, employee, and first-level reviewer must sign and date in the spaces provided in **Section 3, SPB Form 800-1**. In addition, the employee must sign and date in the appropriate blank of SPB Form 800-3. For a complete explanation regarding resolving differences between the rating supervisor and the employee concerning duties/performance standards, refer to Section 8.60.6, MS State Personnel Board Policy & Procedures Manual. The rating supervisor must provide a copy to the employee and the appraisal period begins.

STEP 5: SECTION 4: REVIEW AND FEEDBACK: Performance evaluation is an ongoing process. There should be no end of year surprises for the employee. The rating supervisor conducts a review and feedback session with the employee, every three months is recommended; however, a minimum of one formal review during the sixth month of the appraisal period is required and documented on the **Review and Feedback, SPB Form 801**. All written reports or documents prepared and discussed become a part of the Supplemental Employee Performance Folder (SEPF). The rating supervisor records the review date, initials and has the employee to initial **Section 4, SPB Form 800-1**. **AT THE END OF THE APPRAISAL PERIOD:** Within the fourteen (14) days prior to the end of the appraisal period (See Appraisal Period in Section 1, SPB Form 800-1), the rating supervisor reviews the documents contained in the employee's supplemental employee performance folder against the duties/performance standards and evaluates the employee's performance on each applicable performance standard using the rating scale described below and rates only on the benchmarks of 1.0, 2.0 or 3.0.

STEP 6: SECTION 5: ACCOMPLISHMENTS/AREAS TO IMPROVE: The rating supervisor completes **Section 5, SPB Form 800-3**, by briefly commenting on *why* the employee was above or below **MEETS EXPECTATION (2.0)** on each duty/performance standard rating only on the benchmarks of 1.0, 2.0 or 3.0. Arrive at an overall appraisal rating by multiplying the weight of each performance standard x the rating earned by the employee. The sum of all the points is divided by the sum of the weights to equal the overall appraisal rating.

STEP 7: SECTION 6: NARRATIVE APPRAISAL/RATING: The rating supervisor transfers the overall appraisal rating from the bottom of **Section 5, SPB Form 800-3** to **Section 6, SPB Form 800-1** and then discusses the narrative appraisal, rating and documentation with the first-level reviewer for his/her approval, signature and date. Next, the rating supervisor schedules and conducts an appraisal interview and discusses the narrative appraisal, rating and documentation with the employee and obtains any comments, a signature and date on the **SPB Form 800-1.** *Refusal by the employee to sign does not affect/negate the rating. His/her refusal to sign SPB Form 800-1 acknowledging that the overall appraisal rating has been discussed with him/her shall be, following a warning, considered an act of insubordination.*

State service employees who disagree with the level of a rating (excluding the contents of duties/performance standards) may seek review by appeal to the Employee Appeals Board of the State Personnel Board, after having exhausted the agency grievance procedure.

STEP 8: After **SPB Forms 800-1 and -3** are completed, all signatures and dates affixed, within the time frame described above, the rating supervisor (for online SPAHRS purpose, the rating supervisor initials the reason for completing the narrative appraisal and rating) keeps a copy, provides a copy to the employee and sends the original to the agency personnel office.

STEP 9: **BEGINNING A NEW APPRAISAL PERIOD:** The appraisal interview may be used as the planning session for the next appraisal period by returning to **Step 1, SPB Form 800-1** and beginning the process again.

DEFINITION: A *valid appraisal rating* is a rating completed as a result of an employee's job performance within the last 365 days. For more information, refer to Section 8.40.B., MS State Personnel Board Policy and Procedures Manual.

3 POINT RATING SCALE

3.0 **EXCEEDS EXPECTATIONS** - This rating indicates that performance exceeds requirements or expectations for the position as defined in **MEETS EXPECTATIONS**. Any level of performance that exceeds **2.0, Meets Expectations**, would be **Exceeds Expectations** (3.0).

2.0 **MEETS EXPECTATIONS** - The level of performance expected of any employee designated to perform the same assignments under the same conditions. A **Meets Expectations** (2.0) rating means that the employee, in accomplishing his/her duties/performance standards, is doing all things necessary in his/her job to meet all applicable agency goals and annual work plans. The **Meets Expectations level** (2.0) must be reached by each employee in order for the agency to accomplish agency goals and annual work plans.

1.0 **FAILS TO MEET EXPECTATIONS** - This rating recognizes an employee's overall performance is below that required of the position in order to meet agency goals and expectations. If performance, when compared to planned goals, drops below a **2.0, Meets Expectations**, into the **1.0, Fails to Meet Expectations**, improvement must take place through the help of the Performance Improvement Plan. The employee must be told that performance is to be improved to the **Meets Expectations level** (2.0) by the end of the performance observation period (90 days). Failure by the employee to improve job performance, after the 90 day performance improvement period, shall constitute cause for dismissal, demotion or transfer.

SPB Form 800-3
Revised: July 1, 1999

MS STATE PERSONNEL BOARD
PERFORMANCE APPRAISAL REVIEW REPORT

Page ____ of ____

Employee's Signature: _____ Date: _____

Section 2.	Duties / Performance Standards	WT	Section 5.	Accomplishments / Areas To Improve	Weight x Rating = Points (1 or 2) (1.0, 2.0 or 3.0)
					___ x ___ =
					___ x ___ =
					___ x ___ =
					___ x ___ =
					___ x ___ =
					___ x ___ =
					___ x ___ =

TOTAL WEIGHT _____ TOTAL POINTS _____

TOTAL POINTS ÷ TOTAL WEIGHT = OVERALL APPRAISAL RATING

_____ ÷ _____ = _____

SPB Form 801-1
Revised: July 1, 1999

MS STATE PERSONNEL BOARD
RECORD OF REVIEW AND FEEDBACK SESSION

Section 1: GENERAL INFORMATION

Appraisal Period From: _____ to _____

Date of Review and Feedback: _____

_____ _____

Employee's Name (Last, First, Middle Initial) Title

Position (PIN): _____ Agency Name: _____

Section 2: DUTIES/PERFORMANCE STANDARDS

Duty/Performance Standard No.	Supervisor's Comments	Employee's Comments

Section 3: ACKNOWLEDGEMENT OF REVIEW AND FEEDBACK SESSION

Date: _____ Supervisor Signature: _____

Date: _____ Employee Signature: _____

~~SPB Form 801-2~~
~~Revised: July 1, 1999~~

~~**INSTRUCTIONS FOR COMPLETING RECORD OF REVIEW AND FEEDBACK SESSION**~~

~~The purposes of a review and feedback session during the appraisal period are:~~

1. ~~To provide feedback to the employee concerning the overall assessment of performance during the rating period;~~

2. ~~To review and update duties/performance standards in light of changing requirements or responsibilities of the employee's position; and~~

3. ~~To identify areas of performance requiring improvement and to identify methods/training needed to facilitate improvement.~~

~~The rating supervisor shall conduct a review and feedback session with the employee, every three months is recommended, but a minimum of one formal review during the sixth month of the appraisal period is required and documented on **SPB Form 801** by completing **Sections 1, 2, and 3** and then completing **Section 4, of SPB Form 800-1, Performance Appraisal Review Report.**~~

~~**STEP 1: GENERAL INFORMATION:** Complete the information requested as to the employee, agency, appraisal period (same appraisal period on the **SPB Form 800-1**) and date the review and feedback was held.~~

~~**STEP 2: DUTIES/PERFORMANCE STANDARDS:** The completion of this section serves as a record of what transpired in each review and feedback session. The rating supervisor must review the contents of the Supplemental Employee Performance Folder (SEPF) against the duties/performance standards in order to note accomplishments and results that have been achieved. Statements should reflect progress of employee toward meeting duties/performance standards, any pertinent changes in the duties/performance standards, any necessary changes in the appraisal period, problem areas noted, and if a Performance Improvement Plan was initiated.~~

~~**STEP 3: ACKNOWLEDGEMENT OF REVIEW AND FEEDBACK SESSION:** At the completion of **Review and Feedback Session, Section 3, SPB Form 801** must be signed, and dated by the supervisor and employee. Also, the supervisor must date and initial, and the employee initial **Section 4 of SPB Form 800-1.**~~

~~**STEP 4:** Provide the employee with a copy of the completed **Record of Review and Feedback Session, SPB Form 801** and retain the original in the employee's supplemental employee performance folder maintained by the rating supervisor during the appraisal period.~~

~~SPB Form 802-1~~
~~Revised: July 1, 1999~~

~~MS STATE PERSONNEL BOARD~~
~~PERFORMANCE IMPROVEMENT PLAN~~

~~Section 1: GENERAL INFORMATION~~	
~~Performance Improvement Plan Period:~~ _____ ~~to~~ _____ ~~(period will be 90 days)~~	
~~Employee's Name (Last, First, Middle Initial)~~	~~Title~~
~~Position (PIN):~~ _____ ~~Agency Name:~~ _____	

~~Section 2: DUTIES/PERFORMANCE STANDARDS~~	
~~An explanation of Duties/Performance standards in which performance is below "Meets Expectations" (2.0)~~	~~Identify specific steps or action plans to correct demonstrated weaknesses with follow up dates for periodic counseling and reassessment. Solicit employee's ideas for improvement, development, problem solving, and alternatives.~~

~~Section 3: ACKNOWLEDGEMENT OF REVIEW AND FEEDBACK SESSION~~	
~~Date:~~ _____	~~First Level Reviewer:~~ _____
~~Date:~~ _____	~~Supervisor Signature:~~ _____
~~Date:~~ _____	~~Employee Signature:~~ _____

~~*SPB Form 802-2* **INSTRUCTIONS FOR COMPLETING**~~
~~*Revised: July 1, 1999* **PERFORMANCE IMPROVEMENT PLAN**~~

~~When the rating supervisor notices that any area of an employee's performance is below **Meets Expectations**, then the rating supervisor must discuss with the employee specific action/steps to be taken by both rating supervisor and employee to improve performance. The rating supervisor should initiate the following informal actions: (1) counseling on a systematic, job-related basis; (2) regular and careful review of work, (3) on/off-site training. When informal performance improvement efforts do not result in improved performance, or when the rating supervisor, in conjunction with or following a review or feedback session or overall appraisal rating concludes that the job performance of an employee is below **Meets Expectations, level 2.0**, the rating supervisor must complete the **Performance Appraisal Review Report, SPB Form 800-1 and -3** beginning with Step 6 and arrive at an appraisal rating below level 2.0 (Step 7) and submit the original (Step 8) to your agency personnel office. A **Performance Improvement Plan,** using **SPB Form 802-1 and -3,** will be developed with the participation of the employee, and subject to approval by agency management.~~

~~**STEP 1: GENERAL INFORMATION:** Complete the information requested as to the ninety (90) day PIP appraisal period, employee's name, title, position identification number, and agency name.~~

~~**STEP 2: DUTIES/PERFORMANCE STANDARDS:** In implementing a Performance Improvement Plan, the rating supervisor will discuss with the employee and complete **Section 2, SPB Form 802-1 and -3** as follows:~~

~~1. An explanation of **only** the duties/performance standards in which the employee's performance is below level 2.0;~~
~~2. Specify on the **Form 802-1 and -3** the duties/performance standards which require improvement;~~
~~3. Define specific steps or recommendations for the employee to achieve in order to improve performance to the **Meets Expectations,** level 2.0; and~~
~~4. Specify dates for periodic counseling and reassessment by the rating supervisor during the ninety (90) day period.~~

~~**STEP 3: ACKNOWLEDGEMENT OF PERFORMANCE IMPROVEMENT PLAN:** At the completion of the meeting to implement the **Performance Improvement Plan, Section 3, SPB Form 802-3** is to be signed and dated by the rating supervisor, employee, and First-level Reviewer. Also, the rating supervisor must complete the dates of the Performance Improvement Plan period. The **PIP** begins the date the employee signs the document and concludes at the end of ninety (90) days.~~

~~The employee is to be told that overall performance is to be improved to **Meets Expectations, level 2.0** by the end of the performance observation period in order to justify retention and must be provided a period of ninety (90) days to demonstrate improved performance.~~

~~In addition to completing the Performance Improvement Plan, the rating supervisor and employee will complete a new **SPB Form 800-1 and -3, Performance Appraisal Review Report**, with **all** duties/performance standards including those on Performance Improvement Plan. Add an asterisk by the number of the duty(ies)/performance standards to be listed on the Performance Improvement Plan with a notation such as "see more complete information on the Performance Improvement Plan, SPB Form 802 and -3". The employee must improve his/her total performance to an overall appraisal rating of **Meets Expectations**. This SPB Form 800-1 and -3 will run concurrently with the ninety (90) day Performance Improvement Plan.~~

~~Records must be maintained to clearly identify the employee's weakness(es) and the corrective action(s) to be taken by the rating supervisor as well as the employee. As part of the record keeping process, a review and feedback session should be held with the employee around the 45th day of the ninety (90) day performance observation period and the **SPB Form 801, Record of Review and Feedback** should be completed. Failure by the employee to improve job performance shall, at the conclusion of the ninety (90) day PIP period, constitute cause for dismissal, demotion, or transfer.~~

~~**STEP 4:** Provide the employee a copy of the **Performance Improvement Plan, SPB Form 802-1 and -3** at the beginning of the Performance Improvement Plan Period, as well as completed copies of the Performance Appraisal Review Report, **SPB Form 800-1 and -3**, and retain the originals in the employee's supplemental employee performance folder maintained by the rating supervisor. A copy of **SPB Form 800-1 and -3** with an overall appraisal rating and a copy of **SPB Form 802-1 and -3**, initiating the 90 day Performance Improvement plan must be submitted to the agency personnel office.~~

~~**STEP 5: IMPROVEMENT IN PERFORMANCE:** At the conclusion of the ninety (90) day Performance Improvement plan, if the employee's performance has improved to the **Meets Expectations,** level **2.0** or above, the rating supervisor will:~~

1. ~~Follow the policy and procedures outlined in Section 8.60.11, 8.60.11A, B and C.~~
   ~~Complete and sign **SPB Form 800-1 and 3, Section 5, (Step 6) and Section 6, (Step 7)** documenting performance while on **Performance Improvement Plan;**~~
2. ~~Discuss the narrative appraisal, rating, and documentation with the first level reviewer for his/her approval, signature, and date;~~
3. ~~Schedule and hold an appraisal interview with the employee and obtain any comments, signature and date on **SPB Form 800-1, Section 6**;~~
4. ~~Keep a copy of the **SPB Form 800-1 and -3**, provide a copy to the employee and send the original to the agency personnel office; and~~
5. ~~Begin a new performance appraisal period by completing **SPB Form 800-1 and -3** according to policy and procedures.~~

~~**STEP 6: CONTINUED PERFORMANCE BELOW MEETS EXPECTATIONS:** At the conclusion of the 90 day **Performance Improvement Plan**, if the employee's performance has **not** improved to the **Meets Expectations,** level **2.0** or above, the rating supervisor will:~~

1. ~~Follow the policy and procedures outlined in Section 8.60.11, 8.60.11A, B and C. Complete and sign **SPB Form 800-1 and -3, Section 5, (Step 6) and Section 6, (Step 7)** documenting performance while on the **Performance Improvement** Plan;~~
2. ~~Discuss the narrative appraisal, rating, and documentation with the first-level reviewer for his/her approval, signature, and date;~~
3. ~~Schedule and hold an appraisal interview with the employee and obtain any comments, signature and date on **SPB Form 800-1, Section 6**;~~
4. ~~Submit through appropriate lines of administration, the recommended action to be taken as a result of the employee's failure to improve performance (demotion, transfer, termination). Supporting documentation shall be submitted along with the recommendation. If the employee has not demonstrated improvement, the rating supervisor, in conjunction with the first and second level reviewers, agency head/designee may take appropriate personnel action or the PIP may be extended for another ninety (90) day period. If the extension is approved, a new ninety (90) day Performance Improvement Plan begins by completing **SPB Form 802-1 and -3** and **SPB Form 800-1 and -3** according to policy and procedures; and~~
5. ~~Retain a copy of the completed **SPB Form 800-1 and -3**, provide a copy to the employee and send the original to the agency personnel office.~~

CHAPTER 8
PERFORMANCE APPRAISAL REVIEW

8.0 INTRODUCTION

Mississippi State law requires the MSPB and Executive Director to provide a system of rules and regulations for the measurement of employee performance. All agencies under the purview of the MSPB were mandated by the legislature in 1983 to participate in the MSPB's system.

In addition to providing a basis for awarding performance bonuses, a performance review should serve a number of distinct purposes including: identify, develop, and leverage the potential of each employee, allows managers to make effective decisions regarding workforce needs, and improve the quality and quantity of services. The performance of each employee related position is under the sole, sitting authority of the MSPB and be reviewed in your annually.

Performance review will be administered in a fair manner without unlawful discrimination as to age, race, sex, religious creed, political affiliation, national origin or disability. For more information regarding the design and implementation of the MSPB's performance review system, contact the MSPB.

~~9.0 DISCIPLINE AND CORRECTIVE ACTION~~

~~The State Personnel Board requires that all forms of discipline comport with due process. Disciplinary action shall be applied in steps of increasing severity whenever practical in order to stimulate a change in the behavior that activated the disciplinary process. The appointing authority or designated representative shall exercise corrective action when a state service employee violates established rules of conduct or performs below minimal standards as prescribed herein. Each appointing authority shall:~~

~~A. Establish and adhere to fair and objective procedures for correcting or treating unacceptable conduct and performance in accordance with the guidelines herein;~~

~~B. Distinguish between less serious and more serious actions of misconduct and provide disciplinary action accordingly; and~~

~~C. Limit disciplinary action to employee conduct occurring only when employees are at work or when otherwise representing the state in an official or work-related capacity, unless otherwise provided for in this section.~~

~~9.10 SCHEDULE OF OFFENSES AND AUTHORIZED DISCIPLINARY ACTION~~

~~The appointing authority or designated representative shall administer discipline in an equitable and consistent manner. The schedule of offenses and disciplinary actions below shall be adhered to in administering discipline to all employees subject to these policies, rules, and regulations. The appointing authority may add to this schedule of offenses and disciplinary action to reflect the particular mission and work environment of the agency. Offenses and disciplinary actions added by the agency in addition to those listed by the SPB shall apply only to that agency and shall be submitted to the State Personnel Board~~ **~~for approval prior to implementation~~**~~. The approved schedule of offenses and disciplinary actions shall be published and a copy provided to each employee on or before the effective date of the schedule.~~

~~A. Group One Offenses~~

~~Generally, these offenses are less severe and may be disciplined by written reprimand. The accumulation of three (3) Group One written reprimands within a three (3) month period may result in suspension without pay not to exceed three (3) working days. Four (4) Group One written reprimands within a six (6) month period may result in demotion or dismissal.~~

~~Group One includes the following offenses:~~

~~1. Unexcused tardiness;~~

~~2. Abuse of state time such as unauthorized time away from work area or failure to notify supervisor promptly upon completion of assigned work;~~

3. Obscene or abusive language;

4. Conviction of a moving traffic violation while operating a state vehicle.

B. Group Two Offenses

Acts and behavior in this group are generally more severe than Group One offenses. Each Group Two offense may be disciplined by written reprimand and/or suspension without pay not to exceed five (5) working days. Two (2) Group Two reprimands within a one (1) year period may result in demotion or dismissal. Accumulation of one (1) written reprimand for a Group Two offense and three (3) written reprimands for Group One offenses within a one (1) year period may result in demotion or dismissal.

Group Two includes the following offenses:

1. Insubordination, including, but not limited to, resisting management directives through actions and/or verbal exchange, and/or failure or refusal to follow supervisor's instruction, perform assigned work, or otherwise comply with applicable established written policy;

2. Violation of safety rules in the absence of a threat to life;

3. Leave usage without justifiable and reasonable excuse for such absence;

4. Failure to report to work without giving proper notice to supervisor;

5. Leaving the work site without permission during working hours in the absence of a threat to life;

6. Unauthorized use or misuse of state property or records.

C. Group Three Offenses

Acts and behavior in this group are of the most serious nature. Commission of one (1) Group Three offense may be disciplined by a written reprimand and/or may result in suspension without pay up to thirty (30) working days, demotion, or dismissal.

Group Three includes the following offenses:

1. Unauthorized absence or leave in excess of three (3) consecutive working days without proper notification and satisfactory explanation;

2. Use of alcohol or the unlawful manufacture, distribution, dispensing, possession or use of controlled substances while on the job or on the employer's premises;

3. ~~Reporting to work under the influence of, or when ability is impaired by, alcohol or the unlawful use of controlled substances;~~

4. ~~Falsification of records, such as, but not limited to, vouchers, reports, time records, leave records, employment applications, or other official state documents;~~

5. ~~Willful or negligent defacement of or damage to the records or property of the State, another employee or business invitee of a state agency or office;~~

6. ~~Acts of physical violence or fighting;~~

7. ~~Violation of safety rules where there exists a threat to life or human safety;~~

8. ~~Unauthorized possession or use of firearms, dangerous weapons or explosives;~~

9. ~~Threatening or coercing employees, supervisors, or business invitees of a state agency or office, including stalking;~~

10. ~~Criminal conviction for a felony or misdemeanor while employed. A plea or verdict of guilty, or a conviction following a plea of nolo contendere, to a charge of a felony or a misdemeanor is deemed to be a conviction within the meaning of this offense;~~

11. ~~An act or acts of conduct occurring on or off the job which are plainly related to job performance and are of such nature that to continue the employee in the assigned position could constitute negligence in regard to the agency's duties to the public or to other state employees;~~

12. ~~Engaging in prohibited political activity;~~

13. ~~Leaving the work site without permission where there exists a threat to life or human safety;~~

14. ~~Theft on the job;~~

15. ~~A breach of Agency security or confidentiality;~~

16. ~~Willful violation of State Personnel Board policies, rules and regulations;~~

17. ~~Operation of a state owned motor vehicle without a valid Mississippi driver's license or a valid driver's license from a contiguous state (Tennessee, Alabama, Louisiana or Arkansas);~~

~~18. The failure of any appointing authority or supervisor of any employee to properly deduct an employee's donation of leave to another employee for a catastrophic injury or illness, from the donor employee's earned personal leave or major medical leave.~~

~~9.20 FORMS OF DISCIPLINE~~

~~The appointing authority or designated representative shall take action to formally discipline an employee who is guilty of an offense. All forms of discipline are grievable and/or appealable. Written notice of intent to affect any action adversely affecting compensation or employment status and the reasons for such action shall be given to the employee at least ten (10) working days prior to the effective date of the intended action.~~

~~The employee shall be given an opportunity for a conference with the appointing authority or designated representative and to respond in writing prior to any such action. When a conference has been held prior to an action adversely affecting compensation or employment status, the affected employee may appeal directly to the Employee Appeals Board without exhausting the grievance procedure. (Reference Section 10.40.)~~

~~In extraordinary circumstances, the employee may be placed on immediate suspension with or without pay pending a hearing on the matter pursuant to Sections 9.20.3 and 9.20.6.~~

~~9.20.1 Forms of Discipline~~

~~The appointing authority or a designated representative may attempt to correct unacceptable behavior with a verbal warning and/or counseling and/or other appropriate informal means, whenever practical, prior to taking formal action against an employee.~~

~~9.20.2 Documentation of Corrective and Disciplinary Actions~~

~~A. When the appointing authority or designated representative has taken corrective action preliminary to a formal disciplinary action, e.g. oral counseling, a written account of such action may be placed in the employee's personnel file. Formal disciplinary actions include written reprimand, suspension, demotion, and dismissal.~~

~~B. When an employee has been reprimanded, a copy of the written reprimand shall be placed in the personnel file of the employee. All reprimands must be in writing.~~

~~C. Documentation of corrective actions, disciplinary measures, and written reprimands may be kept indefinitely in the employee's personnel file for the purpose of showing a pattern of employee conduct.~~

~~D. Before any reprimand or other adverse comment is placed in the personnel file of an employee, the employee shall be given:~~

1. A copy of the material to be placed in his/her file; and

2. Written notice that the material will be placed in his/her personnel file.

The appointing authority shall keep a copy of the notice, which shall contain either a written acknowledgment the employee has received the material and the notice, or a statement signed by the person who delivered the material and the notice that the employee refused to sign such an acknowledgment.

E. The appointing authority shall determine what job-related information will be included in each employee's personnel file. However, the inclusion of any information, which may adversely affect a permanent state service employee's compensation or employment, shall be a grievable and appealable issue.

9.20.3 Suspension

The appointing authority may suspend an employee without pay or other compensation pursuant to Sections 9.10 and 9.20.6 as punishment for disciplinary cause. Such suspension shall not exceed thirty (30) working days during any twelve (12) month period. The twelve (12) month period shall begin with the first day of the suspension.

In extraordinary circumstances, the appointing authority may immediately suspend an employee with pay. Such employee must be given an opportunity for a hearing with the appointing authority or designated representative within twenty (20) working days of the suspension, at which time the appointing authority may make a final decision. (Refer to Section 9.20.6, C and D). Further, where the employee has been charged with a felony, the appointing authority may suspend an employee without pay pending a post suspension hearing to be held within twenty (20) working days from the first day of suspension.

9.20.4 Disciplinary Demotion

Pursuant to Sections 9.10 and 9.20.6, a permanent state service status employee may be demoted from a position in one (1) class to a position in a lower class having a lower salary range and having less discretion or responsibility only for cause. The salary will be certified in accordance with policies and rules regarding demotion.

9.20.5 Dismissal

A state employee may be dismissed or their employment terminated voluntarily or involuntarily. Voluntary severance of employment occurs when a state employee submits his/her resignation of employment. An involuntary severance of state employment can occur based upon a Reduction in Force (RIF), disciplinary action, failure of the employee to continue to meet the eligibility criteria for the position held or an inability to perform the essential functions of the job.

~~The appointing authority may dismiss a permanent state service status employee only for good cause pursuant to Sections 9.10 and 9.20.6. A probationary employee may be dismissed any time during the probationary period.~~

~~9.20.6 Due Process~~

~~A. At least ten (10) working days prior to any suspension without pay, demotion, or dismissal of a permanent state service employee, the employee shall be given written notice of the reason(s) for such action and shall be given an opportunity for a conference with the appointing authority or designated representative and to respond in writing.~~

~~B. The written notice presented to an employee prior to a conference shall list all of the reason(s) for the appointing authority's consideration of the adverse action, and the written notice of the appointing authority's final decision to take adverse action shall restate all of the reason(s) for the action. The reason(s) listed in these notices shall be specific by setting forth the particular group offense(s) violated and the charge(s) or ground(s) upon which the disciplinary action is predicated. The reason(s) listed in these notices shall be the only reason(s) to be addressed throughout the appeals process.~~

~~C. In extraordinary circumstances, an employee may be suspended immediately with pay. Such employee must be given an opportunity for a hearing with the appointing authority or designated representative within twenty (20) working days of the suspension, at which time the appointing authority may make a final decision. (Refer to Section 9.20.3.) Further, where the employee has been charged with a felony, the appointing authority may suspend an employee without pay pending a post suspension hearing to be held within twenty (20) working days from the first day of suspension.~~

~~Extraordinary circumstances means a situation in which, based on the judgement of the appointing authority, retention of an employee would result in damage to state property, would be detrimental to the interests of the state or would result in injury to the employee, to a fellow employee, or to the general public, including inmates, patients, and residents of institutions.~~

~~D. If the employee waives hearing, the appointing authority may make a final decision after the waivers. The waiver of the hearing shall be determined by an employee's written statement of waiver or by the employee's failure to respond in writing or appear at the conference with the appointing authority or designated representative by a pre-established date and time.~~

CHAPTER 9
DISCIPLINE AND CORRECTIVE ACTION

9.0 INTRODUCTION

State law provides that no employee of any department, agency or institution under the Mississippi Personnel System who is subject to the rules and regulations promulgated by the State personnel system may be dismissed or have adverse action affecting their compensation or employment status except for inefficiency or other good cause and after written notice and opportunity to be heard within the department, agency or institution as provided in rules and regulations promulgated by the MSPB. This provision does not apply to persons exempted from employment, due to a reduction-in-force based on a reduction in staff approved by the MSPB, during the initial twelve (twelve) month probationary period in State Service or to an executive officer of any State agency who serves at the will and pleasure of the Governor, Board, Commission or other appointing authority.

Adverse actions against an employee or separation of employment may occur because the conduct of the employee is an offense as provided in the schedule of offenses found below, or because there is a legal non-conduct basis which meets the statutory requirement of good cause.

In accord with State law, the MSPB requires that all State employees who are subject to the rules and regulations of the board and who have attained a property interest in their job as provided in State law may not be reduced or separated of employment or other forms of discipline without due process of law.

Disciplinary action shall be applied in steps of increasing severity whenever practical in order to stimulate a change in the behavior that activated the disciplinary process. The appointing authority or designated representative shall exercise corrective action when a State Service employee violates established rules or conducts or performs below minimum expected standards as prescribed herein. Corrective action shall also be exercised when a State employee fails to comply with agency policy, procedure and/or management directives. Each appointing authority shall:

a. establish and adhere to fair and consistent procedures for assessing or rating employee conduct and performance in accordance with the guidelines herein; and

b. distinguish between less serious and more serious actions of misconduct and provide disciplinary action accordingly and consistently.

9.1 SCHEDULE OF OFFENSES AND AUTHORIZED DISCIPLINARY ACTION

The appointing authority or designated representative shall administer discipline in an equitable and consistent manner. The schedule of offenses and disciplinary actions below shall be adhered to in administering discipline to all employees subject to these policies, rules and regulations. The appointing authority, and/or his/her schedule of offenses and disciplinary actions reflect the principle reasons and

work environment of the agency. Any schedule of offenses and disciplinary actions added by the agency shall apply only to that agency and shall be submitted to the MSPB for approval prior to implementation. The approved schedule of offenses and disciplinary actions shall be published and a copy provided to each employee upon implementation.

A. Group One Offenses:

Generally these offenses are first offense and may be disciplined by written reprimand. The accumulation of three Group One written reprimands within a three month period may result in suspension without pay not to exceed three working days. Accumulation of two Group One written reprimands within a six month period may result in demotion or dismissal. Multiple reprimands may not be issued for the same occurrence or event. Some employees facing disciplinary action for accumulating written reprimands are entitled to due process prior to being suspended, demoted or dismissed.

Group One includes the following offenses:

1. unexcused tardiness

2. abuse of State time such as unauthorized time away from work area or failure to notify supervisor promptly upon completion of assigned work

3. misuse of abusive language

4. commission of a moving traffic violation, excluding driving under the influence, while operating a State vehicle

B. Group Two Offenses:

Acts and behaviors in this group are generally more severe than Group One offenses. Group Two offenses may be disciplined by written reprimand and or suspension without pay not to exceed five working days. Accumulation of two Group Two written reprimands within a two year period may result in demotion or dismissal. Accumulation of one written reprimand for a Group Two offense and three written reprimands for a Group One offense within a six year period may result in demotion or dismissal. Multiple reprimands may not be issued for the same occurrence or event. Some employees facing disciplinary action for accumulating written reprimands are entitled to due process prior to being suspended, demoted or dismissed.

Group Two includes the following offenses:

1. insubordination, including but not limited to, refusing management directives or strength actions and or verbal exchanges where failure or refusal to follow supervisor's instructions, perform assigned work, or otherwise comply with applicable established written policy;

2. violation of safety rules in the absence of a threat to life.

7. failure to report to work without prior required notice to supervisor;

8. taking the work one without permission during working hours in the presence of a thirsty or title

[illegible] Group Three Offenses.

Acts and behaviors in this group are of the most serious nature. Commission of one Group Three offense may be disciplined by the agency with a written reprimand, work one week or suspension without pay for no more than ten days, taking days, demotion, or dismissal.

Group Three includes the following offenses:

1. unauthorized absence or leave in excess of three consecutive working days without required notification and satisfactory explanation to the supervisor or the appointing authority in a timely manner;

2. use or possession of alcohol while on the job or on the employer's premises or reporting to work under the influence of alcohol (or whose ability is impaired by alcohol);

3. the unlawful manufacture, distribution, possession, or use of controlled substances while on the job or on the employer's premises or reporting to work under the influence of controlled substances (or whose ability is impaired by the unlawful use of controlled substances);

4. falsification of records, such as but not limited to, timekeeping reports, time records, leave records, employment applications, or other official State documents;

5. willful or negligent defacement of or damage to the records or property of the State, another employee, or business invitee of a State agency or office;

6. acts of physical violence;

7. violation of safety rules causing a threat to life or human safety;

8. unauthorized possession or use of firearms, flammable weapons or explosives;

9. threatening or coercing employees, supervisors or members of the public in order to keep money or office including gambling;

10. unauthorized use or misuse of State property or records;

11. acts of sexual conduct, including, but not limited to the attempt or completion of a felony or misdemeanor involving sexual act or the job which are clearly related to

job performance and any of such factors that to improve the employee in the assigned position could constitute negligence in regard to the agency's duties to the public or to other State employees;

12. engaging in unofficial political activity;

13. leaving the work site without permission causing a threat to life or human safety;

14. theft on the job;

15. a breach of agency security or confidentiality;

16. willful violation of Mississippi State Personnel Board policies, rules and regulations, including, but not limited to, failing to cooperate and to provide a false statement in an investigation of possible violation of Mississippi State Personnel Board policies, rules and regulations;

17. operation of a state-owned motor vehicle without a valid driver's license from the State of Mississippi or a reciprocal state;

18. the failure of any appointing authority, or supervisor of any employee, to properly deduct an employee's absences of leave to another employee for a compensable injury or illness from the injured employee's earned personal leave or leave medical leave.

9.2 FORMS OF DISCIPLINE

The appointing authority, or designated representative, shall take action to formally discipline an employee of what is guilty of an offense. All forms of discipline are grievable and/or appealable. The employee shall be given an opportunity for a conference (pre-action hearing) with the appointing authority, or designated representative, and be required prior to any suspension, demotion or termination. When a conference has been held prior to an employee being issued a written reprimand, the affected employee may appeal directly to the Employee Appeals Board without exhausting the grievance procedure.

In extraordinary circumstances, the employee may be placed on immediate suspension with pay pending a hearing on the matter.

The appointing authority, or a designated representative, may attempt to correct unacceptable behavior with a verbal warning and/or counseling and/or other appropriate informal means. Formerly practical prior to taking formal action against an employee.

9.2.1 Documentation of Corrective and Disciplinary Actions

A. When the appointing authority, or designated representative, has taken corrective action (verbal reprimand) or a formal disciplinary action, a written account of such action must be

placed in the employee's personnel file. Formal disciplinary actions include written reprimand, suspension, demotion, and dismissal.

B. When an employee has been issued a written reprimand, a copy of the reprimand shall be placed in his or her personnel file. All written reprimands must clearly state that it is a written reprimand and state the specific conduct of the employee and the particular offense involved. The written reprimand must also inform the employee of their right to grieve the reprimand in accordance with the MSPB grievance procedure.

C. Documentation of counseling sessions, disciplinary conferences, and written reprimands may be kept indefinitely in the employee's personnel file for the purpose of showing a pattern of employee conduct.

D. Before any written documentation of corrective action or disciplinary measures is placed in an employee's personnel file, the employee shall be given:

1. a copy of the material to be placed in his or her file; and

2. written notice that the material will be placed in his or her personnel file.

The appointing authority will keep a copy of the notice, which will contain either the employee's acknowledgment that he or she has seen the material and the date on a Statement signed by the person who delivered the material and the notice, or the employee refused to sign such an acknowledgment.

E. The appointing authority will determine what additional information will be included in each employee's personnel file. Omission of any information which has adversely affected a permanent State Service employee's compensation is employee's sole grievable and appealable issue.

9.2.2 Suspension

The appointing authority may suspend an employee without pay or other compensation as penalty for disciplinary cause. An agency may not suspend an employee without pay as punishment for disciplinary cause for more than thirty working days in any twelve month period. The twelve month period shall begin with the first day of the suspension.

In emergency circumstances, the appointing authority or designated representative may immediately suspend an employee with pay. Such employee must be given an opportunity for a hearing with the appointing authority or designated representative within twenty working days of the suspension, at which time the appointing authority may make a final decision. Further, when the employee has been charged with a felony, the appointing authority or designated representative may suspend an employee without pay pending a post suspension hearing to be held within twenty working days from the first day of suspension. This period of suspension without pay pending a post suspension hearing shall not be considered as punishment for disciplinary cause.

9.2.3 Disciplinary Demotion

A permanent State Service office employee may be demoted from a position in the classification to a position in a lower class having a lower salary range and having less discretion or responsibility only for cause. The demotion may be in addition to a suspension without pay. It is disciplinary cause. The salary will be certified in accordance with policies and rules regarding demotion.

9.2.4 Dismissal

A State employee may be dismissed or his or her employment terminated voluntarily or involuntarily. Involuntary termination of employment occurs when a State employee retires, resigns or has reduction in employment. An involuntary severance of State employment can occur based upon a finding of a disciplinary action. Failure of the employee to continue to meet the eligibility criteria for the position held or an inability to perform the essential functions of the job.

The appointing authority may dismiss a permanent State Service employee only for good cause. A probationary employee may be dismissed by the appointing authority at any time during the probationary period, with or without cause.

9.3 DUE PROCESS

All permanent State Service employees (i.e., all State government employees who have successfully served in the classified or State Service designated positions) are entitled to procedural due process of law prior to any employment action to dismiss or otherwise adversely affect their compensation or employment status. The process which is due to each State Service employee is written notice of a proposed disciplinary action that which states with sufficient particularity what charges or allegations are being made concerning the employee, the proposed disciplinary action which may be taken, and the opportunity for a conference with the appointing authority or designated representative allowing the employee to respond and present a defense to the allegations prior to final action by the appointing authority. The written notice shall be presented to the employee at least ten working days prior to the conference. The employee may also respond in writing to the allegations contained in the written notice.

PRIOR TO DISCIPLINARY ACTION BY APPOINTING AUTHORITY:

DUE PROCESS = WRITTEN NOTICE + OPPORTUNITY TO RESPOND

Delineated the elements of due process afforded to State Service employees:

1. The written notice presented to an employee prior to a conference must list all of the reasons for the appointing authority's consideration of the adverse action, and the written notice of the appointing authority's final decision to take adverse action must specify all of the reasons for the action. The reasons listed in these notices shall be specific by setting forth the particular group, offense, criminal act, the manner or grounds upon which the disciplinary action is predicated. The reasons listed in these notices will be the only reasons to be advanced throughout the appeals process.

B. In extraordinary circumstances an employee may be suspended immediately with pay. Such employee must be given an opportunity for a hearing with the appointing authority or designated representative within twenty-working days of the suspension at which time the appointing authority may make a final decision. Further, when the employee has been charged with a felony, the appointing authority or designated representative may suspend an employee without pay pending a post suspension hearing to be held within twenty-working days from the last day of suspension. The period of suspension without pay pending a post suspension hearing shall not be considered as punishment for disciplinary cases.

1. Extraordinary circumstances means a situation in which, based on the judgment of the appointing authority or designated representative, continued use of an employee could reasonably result in damage to State property, be detrimental to the welfare of the State or result in injury to the employee, to a fellow employee, or to the general public including minors, patients, and patrons of employees.

C. If the employee waives a hearing, the appointing authority or designated representative may make a final decision with the waiver. The waiver or the hearing shall be determined by an employee's written statement of waiver or by the employee's failure to respond in writing to appeal of the conference with the appointing authority or designated representative by a prescribed date and time. The appointing authority shall notify the employee of its decision within a reasonable period of time after the hearing.

~~10.0 GRIEVANCES AND APPEALS~~

~~10.10 GRIEVANCES~~

~~The employee grievance procedure is designed to:~~

~~A. Resolve the grievance in an equitable and timely manner to avoid bias and unfair employment practices;~~

~~B. Settle the grievance informally at the lowest agency level whenever possible;~~

~~C. Correct, if possible, the cause of the grievance to prevent future similar complaints;~~

~~D. Ensure fair and equitable treatment of all employees and promote harmonious relations generally among employees, supervisors, and administrative staff;~~

~~E. Afford the aggrieved party all the applicable safeguards of procedural due process;~~

~~F. Guarantee that an employee who files a grievance is free from reprisal.~~

~~10.10.1 Administration of the Grievance Procedure~~

~~It is the policy of the State Personnel Board that the appointing authority shall administer the grievance procedure.~~

~~A. The appointing authority shall ensure that the formal grievance procedures are disseminated to all employees.~~

~~B. Grievance procedures shall begin with the immediate supervisor and the employee, and the appointing authority shall approve the final determination.~~

~~C. The appointing authority shall allow employees reasonable time away from the workstation for formal processing of grievances.~~

~~D. The appointing authority shall ensure that adequate records and reports are kept pertaining to the nature of grievances brought, the number brought, and the number resolved (including the procedural step at which resolution occurred).~~

~~E. Each appointing authority shall operate under the grievance procedure contained in this Section.~~

~~10.10.2 Who May File a Grievance~~

~~A permanent state service employee may file a grievance on those issues listed in Section 10.10.3, by following the grievance procedure contained in this Section.~~

~~A probationary employee in a state service position or a non-state service employee in, or applicant for, an authorized employment position in an agency which employs state service employees may grieve only alleged acts of discrimination based on race, color, creed, religion, national origin, sex, age, disability or political affiliation in any personnel action or employment practice, or for any other reason protected by law.~~

~~10.10.3 Grievable Issues~~

~~The following issues are grievable under the state service grievance procedure:~~

~~A. Disciplinary actions, including reprimands, demotions, and suspensions;~~

~~B. Application of personnel policies, procedures, rules, regulations, ordinances, and statutes;~~

~~C. Acts of reprisal against an employee for using the grievance procedure;~~

~~D. Complaints of discrimination on the basis of race, color, creed, sex, religion, national origin, age, disability, or political affiliation; and/or a violation of a right otherwise specifically protected by the U.S. Constitution or other law;~~

~~E. Any matter of concern or dissatisfaction to an employee if the matter is subject to the control of agency management (except as provided in Section 10.10.4 herein);~~

~~F. Performance appraisal ratings to the extent they affect an employee's employment status or compensation;~~

~~G. Permanent relocation of an employee as a disciplinary measure, for political reasons and/or where the employee can present substantive evidence that the management decision to relocate the employee was arbitrary or capricious;~~

~~H. Dismissal or adverse action taken against an employee who reports an alleged improper governmental action to a state investigative body, as defined in Section 25-9-171 of the Mississippi Code of 1972, Annotated, as amended.~~

~~10.10.4 Non-Grievable Issues~~

~~The following are non-grievable issues under the state service grievance procedure:~~

~~A. Issues which are pending or have been concluded by direct appeal through administrative or judicial procedures;~~

~~B. Temporary work assignments that do not exceed ninety (90) calendar days;~~

~~C. Budget and organizational structure, including the number or assignment of employees or positions in any organizational unit;~~

~~D. Duties/performance standards established as criteria for performance appraisal;~~

~~E. The selection of an individual by the appointing authority, department head, or designee to fill a position through promotion, transfer, demotion, or appointment unless it is alleged that selection is in violation of a written agency policy or of a State Personnel Board rule on filling vacancies;~~

~~F. Internal security practices established by the appointing authority, department head, or designee;~~

~~G. Termination or layoff from duties because of shortage of funds or work, material change in duties or organization, or a merger of agencies (Refer 7.60);~~

~~H. Any matter which is not within the jurisdiction or control of the appointing authority;~~

~~I. The content of published agency policy;~~

~~J. An action by an agency pursuant to federal or state law or directives from the Governor's office or court order;~~

~~K. Establishment and revision of the compensation plan, and the policies, procedures, rules and regulations pertaining thereto;~~

~~L. Position classifications;~~

~~M. Employee benefits.~~

~~GENERAL INFORMATION~~

~~If an adverse action has been taken against an employee and the employee has been provided due process, the grievance procedure is deemed to be exhausted and the employee may immediately appeal to the Employee Appeals Board.~~

~~If the employee does not present the grievance within the specified time frame, it is considered waived.~~

~~If the employee does not advance the grievance to the next step within the specified time frame, the last management decision stands.~~

~~If management does not react within the specified time frame, the employee may advance the grievance to the next level unless an extension of time to respond is granted to management by written mutual agreement.~~

~~All time limits may be extended by mutual written agreement.~~

~~It is the responsibility of the aggrieved employee's supervisor and agency human resources director to make certain that all grievances are handled as quickly as possible and without prejudice.~~

~~GRIEVANCE PROCEDURAL STEPS~~

~~Step I~~

~~A. An employee who has a grievable complaint arising from an action or inaction subject to the control of management must identify the grievance orally or in writing with his or her immediate supervisor within seven (7) working days of becoming aware of the cause of the complaint.~~

~~B. The immediate supervisor will have three (3) working days from the date of the initial discussion to orally inform the employee of his/her answer. The supervisor shall write a memorandum for record and have the aggrieved employee sign it.)~~

~~C. If the problem is not resolved, the employee may submit in writing (on SPB Form 1010-81) a description of the grievance and the specific relief requested within three (3) working days following the immediate supervisor's verbal response. The written statement of the grievance should contain the name, address, and telephone number of the individual or authorized representative filing the grievance; the name of the employee, identity of the agency, and job classification; the date; a brief and specific description of the situation, incident, or condition being grieved and reasons therefore; identity of witnesses, if any; the remedy or relief the individual is seeking and the signature of the individual filing the grievance and properly dated by this individual.~~

~~D. The supervisor is required to give written response within three (3) working days.~~

~~E. The human resources director or designee may assist in the filing of the grievance or answer any questions the employee may have in connection with filing the grievance.~~

~~Step II~~

~~A. If not satisfied with the Step I written decision, the employee may indicate (on the same SPB Form 1010-81) the desire to have the grievance advanced to the next step. The grievance must be submitted to the next level of management within three (3) working days following receipt of the Step I supervisor's response.~~

~~B. The Step II supervisor is required to conduct an investigation of the grievance and meet with the aggrieved employee within three (3) working days after receipt of the grievance form. This meeting will be informal with only the employee, the Step II supervisor, and the appropriate witnesses present.~~

~~C. The Step II supervisor is required to give the employee a written response within three (3) working days after this informal interview.~~

~~Step III~~

~~A. If the second step written response is not acceptable to the employee, the employee should specify (on the same SPB form 1010-81) the desire to advance the grievance to the third step and forward the grievance to the next level of management within three (3) working days after receipt of the Step II response.~~

~~B. The Step III supervisor or designated representative is required to investigate the matter and meet with the employee within three (3) working days after receipt of the grievance form. This meeting is also informal with only the employee, the Step III supervisor, and the appropriate witnesses present.~~

~~C. The Step III supervisor is required to respond in writing within three (3) working days of the meeting. (This supervisor should consult with the agency human resources director prior to preparing the response in order to obtain assistance in resolving the grievance).~~

~~Step IV~~

~~A. If the third step does not resolve the grievance, the employee should use the same form (SPB Form 1010-81) to express the desire to advance the grievance to the fourth step and forward the grievance to the agency head within three (3) working days after receipt of the Step III response.~~

~~B. Agencies with no Step III level of management would handle the responsibilities of Step IV after Step II procedures have been exhausted and the Step II supervisor would be required to follow the procedures of Step III C. in issuance of the requisite written response.~~

C. The Step IV supervisor or designated representative is required to review the grievance and relevant information and meet with the employee within three (3) working days after receipt of the grievance form.

D. The agency head is required to present a final answer within ten (10) working days after the meeting.

TIME LIMIT

If a grievance is not presented within the time limit as set forth above, it will be considered waived. If a grievance is not advanced to the next step within the specified time limit or an agreed extension thereof, it will be considered settled on the basis of the supervisor's, appointing authority's, or designee's last answer. If the supervisor, appointing authority, or designee does not answer the grievance within the specified time limit, the employee may elect to treat the grievance as denied at that step and immediately appeal the grievance to the next step. Time limits on each step may be extended by mutual written agreement of the parties involved.

STEP ONE

Employee

1. Action occurs.
2. Present orally or in writing to the immediate supervisor within seven (7) working days.

Immediate Supervisor

3. Provide an oral answer to employee not more than three (3) working days after the procedural number two (2) interview and discussion. Both employee and immediate supervisor sign a written memorandum for record of answer prepared by immediate supervisor.

Employee

4. If problem is not resolved, employee may submit grievance form not more than three (3) working days after receipt of oral response from immediate supervisor. A representative of the agency personnel office may be available to answer questions or assist the employee in filing the grievance.

Immediate Supervisor

5. Required to provide written response within three (3) working days of receipt of written grievance form.

~~STEP TWO~~

~~Employee~~

~~6. If the grievance is not resolved by Step I, may submit the same grievance form to the next level of management (the immediate supervisor) within three (3) working days of procedure number five (5) above.~~

~~Supervisor~~

~~7. Required to conduct an investigation of the grievance and meet with employee within three (3) working days after receipt of grievance form.~~

~~8. Written response should be provided to employee within three (3) working days of meeting.~~

~~STEP THREE~~

~~Employee~~

~~9. If not satisfied with outcome of Step II deliberations, may submit same grievance form to next level of management within three (3) working days after receipt of Step II response in procedure number eight (8) above.~~

~~Supervisor~~

~~10. Required to investigate the matter and meet with employee within three (3) working days after receipt of grievance form in procedure number nine (9) above.~~

~~Supervisor~~

~~11. Required to respond in writing to employee within three (3) working days of meeting. Copy of response should be forwarded to agency personnel director who should assist in resolution of the grievance.~~

~~STEP FOUR~~

~~Employee~~

~~12. If grievance is not resolved, the employee may present the grievance form to agency head within three (3) working days after receipt of the Step III response. (If there is not a Step III level of management, then Step III should be disregarded. A copy of the Step II Supervisor's response issued at procedure number eight (8) should be forwarded to the agency personnel director. The agency personnel director would, therefore, assist in the resolution of the grievance at the Step II level.)~~

~~Agency Director or Designated Representative~~

~~13. Required to review the grievance and relevant information and to meet with the employee within three (3) working days after receipt of grievance form. Employee may have representation and appropriate witnesses present.~~

~~Agency Director~~

~~14. Required to present a final answer in writing to the employee within ten (10) working days after the meeting.~~

~~10.20 SEXUAL HARASSMENT~~

~~Each appointing authority shall provide a work place free from sexual harassment. Sexual harassment may include, but is not limited to, requests for sexual favors, unwelcome sexual advances, threats, bodily contact, or other deliberate verbal or physical conduct of a sexual nature. Also included are remarks, gestures, physical contact, or display or circulation of written or electronic materials, pictures, or objects derogatory to any employee. Such behavior is strictly forbidden and will not be tolerated at any organizational level. All acts of retaliation against persons who utilize the grievance procedure are expressly prohibited.~~

~~No employee or applicant should endure sexual harassment. Any person believing he/she has been sexually harassed should immediately report the incident to management. The appointing authority shall take appropriate corrective action. This rule applies equally to same sex harassment.~~

~~Sexual harassment is strictly prohibited at any organizational level. This includes co-workers, same-level employees, or employees and supervisors. Sexual harassment is expressly detrimental when the offending employee is in a position to affect the compensation or employment status of the person being harassed.~~

~~Sexual harassment is behavior of a sexual nature, which is uninvited and unwelcome verbal or physical conduct directed at an employee because of his/her sex. Sexual harassment does not refer to occasional compliments of a socially appropriate nature.~~

~~Specifically, sexual harassment may include, but is not limited to:~~

~~repeated offensive sexual flirtations~~
~~repeated requests for dates~~
~~advances or propositions~~
~~verbal abuse of a sexual nature~~
~~graphic or degrading comments about appearance~~
~~display of sexually suggestive objects, appearance, pictures or images~~
~~offensive or degrading cartoons or jokes~~
~~offensive or degrading e-mail or electronic images~~

~~No employee should imply, suggest, or threaten that an applicant's or employee's cooperation of a sexual nature (or refusal thereof) will have any effect on the individual's employment status, including but not limited to assignment, compensation, advancement or other condition of employment.~~

~~Any permanent state service employee, probationary state service employee, non-state service employee in, or applicant for, an authorized employment position in an agency, which employs state service employees, may file a grievance in accordance with the sexual harassment grievance procedure contained in Section 10.20.1.~~

~~10.20.1 Special Grievance Procedure for Sexual Harassment~~

~~Any applicant, probationary state service employee, permanent state service employee, or non-state service employee alleging sexual harassment may:~~

~~A. File a grievance with his/her supervisor in accordance with the standard Grievance Procedural Steps (Refer to Section 10.10 and SPB Form 1010-81).~~ **~~OR~~**

~~B. If the source of the harassment is the employee's supervisor, the employee may skip a level of management by proceeding to Step IIA (Refer to Section 10.10 and SPB Form 1010-81) and file the grievance directly with the harassing supervisor's supervisor,~~ **~~OR~~**

~~C. File the grievance with the agency Human Resources Director, Deputy Director, or Executive Director.~~

~~Regardless of outcome, all grievances alleging sexual harassment shall be forwarded to the appointing authority.~~

~~Acts or statements of a retaliatory nature against employees who file grievances based upon sexual harassment and who utilize the grievance procedure outlined and referenced above are strictly prohibited.~~

~~In addition to the agency Human Resources Director, a designee of the State Personnel Director shall be available to advise employees on the sexual harassment grievance procedure. In such cases:~~

~~D. Agency Human Resources Director or staff designee of the State Personnel Director may be advised to assist in the filing and resolution of a grievance; or~~

~~E. In cases of widespread harassment, the employee may be advised to file an appeal directly with the Employee Appeals Board without exhausting agency-level remedies.~~

~~10.30 SPECIAL AMERICANS WITH DISABILITIES ACT (ADA) GRIEVANCE PROCEDURE~~

~~A. An applicant for an employment position or employee who has reason to believe that they have been unlawfully discriminated against by a State agency based on disability may file a grievance in accordance with this Grievance Procedure. Implementation of this Grievance Procedure is not intended to prohibit an applicant or State employee from utilizing the existing grievance procedures set forth in Section 10.10. Grievants are not required to exhaust this Special ADA Grievance Procedure prior to filing a complaint with an applicable federal agency.~~

~~B. The Grievance Procedure begins with the individual who is filing the grievance, by preparing and submitting a written statement. The statement should contain the name, address, and telephone number of the individual or authorized representative filing the complaint; a brief and specific description of the situation, incident, or condition being grieved and reasons therefore; identity of the grievant; identity of witnesses, if any; the remedy the individual is seeking; and the signature of the individual filing the grievance properly dated by this individual.~~

~~C. The grievance should be submitted to the human resources director or ADA coordinator of the agency where the alleged discrimination occurred within seven (7) workdays after the alleged violation occurred.~~

~~D. The agency's human resources director, ADA coordinator, or a designee will have three (3) workdays to provide to the grievant a written acknowledgment of the grievance.~~

~~E. The agency human resources director ADA coordinator or designee will promptly conduct a review of the issues involved in the grievance to ascertain whether an informal resolution of the grievance can be achieved. If an informal resolution is possible and~~

~~mutually agreeable by the parties involved, the agency human resources director or ADA coordinator will facilitate arrangement of the resolution and make a record of this agreement. If no informal resolution is possible, the human resources director, ADA coordinator, or a designee will conduct an investigation of the grievance and provide a written response to the grievant outlining possible accommodations, if any, for resolution of the grievance. This response shall be approved by the agency head or appointing authority and must be completed no later than fifteen (15) work days from the agency's receipt of the grievance.~~

~~F. If a grievance is not presented within the time lines as set forth hereinabove, it will be considered waived absent an extension by written mutual consent. If the human resources director, ADA coordinator, or a designee does not answer or acknowledge receipt of the grievance within the specified time lines, the grievant may elect to treat the grievance as denied at that point and immediately appeal the grievance to the Mississippi Employee Appeals Board unless an extension of time is granted to the human resources director, ADA coordinator, or designee to respond by written mutual agreement.~~

~~10.40 APPEALS~~

~~The purpose of the Employee Appeals Board is to provide a fair and impartial forum beyond the agency level for a full hearing on a grievable action and/or a dismissal.~~

~~10.40.1 Notice of Appellants' Rights~~

~~Each agency shall give notice to all applicants and employees of their rights regarding appeals and shall make available copies of the administrative rules of the Employee Appeals Board.~~

~~10.40.2 Who May Appeal; Actions Which May Be Appealed~~

~~A. A permanent state service employee may appeal any action adversely affecting his or her compensation or employment status.~~

~~B. A permanent state service employee may appeal a grievable action (Refer, Chapter 10, Section 10.10.3.) and/or a dismissal.~~

~~C. No person may appeal a non-grievable action. (Refer, Chapter 10, Section 10.10.4.)~~

~~D. A permanent state service employee, probationary employee in a state service position, or non-state service employee in, or applicant for, an authorized employment position in an agency which employs state service employees, may appeal alleged acts of discrimination based on race, color, creed, religion, national origin, sex, age, disability, or political affiliation in any personnel action or unlawful employment practice.~~

~~E. A permanent state service employee, probationary employee in a state service position, or non-state service employee in, or applicant for an authorized employment position in an agency, which employs state service employees, may appeal alleged acts of retaliation based upon the employee or applicant's reports of alleged improper government action to a state investigative body.~~

~~F. An employee may appeal the decision that he/she is not eligible to receive donated leave because the injury or illness of the employee or member of the employee's immediate family is not, in the appointing authority's determination, a catastrophic injury or illness.~~

~~10.40.3 Exhaustion of Remedies~~

~~A. No person may file an appeal with the Employee Appeals Board until all agency-level grievance procedures have been exhausted in accordance with State Personnel Board policies, rules and regulations, with exceptions as noted elsewhere in the State Personnel Board Policies and Procedures Manual. When the disciplinary action results in dismissal, an appeal may be filed directly with the Employee Appeals Board.~~

~~B. Except as authorized under federal law, no aggrieved party may file a petition for judicial review with a court of competent jurisdiction until a final written decision and order on a full board review has been filed by the Employee Appeals Board.~~

~~10.40.4 Perfection of Appeal by Timely Filing~~

~~A. All appeals to the Employee Appeals Board shall be initiated by filing a written Notice of Appeal (Refer Chapter 10, Pages 24). Notice of Appeal forms shall be made available by the Employee Appeals Board to all state agencies and employees.~~

~~B. A Notice of Appeal must be filed within fifteen (15) calendar days after the date a person receives written notice of the final decision of an alleged grievable action/dismissal or within fifteen (15) calendar days after the effective date of such action, whichever occurs first.~~

~~C. A non-refundable fee of fifty dollars ($50.00) in the form of a cashier's check, bona fide attorney's check, or money order made payable to the Employee Appeals Board shall be filed by the appealing party with each Notice of Appeal. Cash or personal checks will not be accepted.~~

~~10.40.5 Content of Notice of Appeal~~

~~A. The Notice of Appeal shall contain:~~

1. The names and mailing addresses of all parties and, if known, the names and mailing addresses of their attorneys, if any;

2. If applicable, the appealing party's (i) employing agency, (ii) assigned work station (town, city, county) and organizational location (office, bureau, division, branch) within employing agency, (iii) immediate supervisor, (iv) job title, (v) date of hire, and (vi) date of termination;

3. A statement, in sufficient detail, of the facts upon which the appeal is taken, including the effective date of any alleged grievable action, and why such action is in error;

4. A statement of the final action taken and/or decision made as a result of the agency level grievance proceedings, including the effective date of such final action;

5. A statement of the relief requested.

B. The Notice of Appeal shall be accompanied by copies of all documents generated by the agency prior to filing the appeal. Such documents, when applicable, shall include, but not be limited to, performance appraisal documents, correspondence between the appealing party and the responding agency, written reprimands, grievance forms, pre-disciplinary notice, and final disciplinary notice.

10.40.6 Jurisdiction

When an appeal is filed, the Employee Appeals Board shall determine whether or not it has jurisdiction. If not, the board shall on its own motion dismiss same and mail or deliver a copy of the order of dismissal to all parties.

10.40.7 Parties

Unless the Notice of Appeal names some other respondent, the appealing party's employing state agency shall be considered the only respondent.

10.40.8 Filing of Pleadings and Other Documents; Copies To Be Made Available

A. When an appeal is filed, the Employee Appeals Board shall assign it a docket number.

B. All pleadings and other documents filed in the appeal shall be entered on a docket to be maintained by the Employee Appeals Board. The board shall make a notation of the filing date on all such pleadings and other documents. Pleadings and documents may be transmitted by facsimile equipment in situations the clerk determines are of an emergency nature or that present compelling circumstances.

C. Copies, including certified copies, of pleadings and other documents filed in the appeal shall be made available to either party at a reasonable fee. (Refer, Chapter 10, Section 10.40.20)

D. Copies of any and all pleadings, briefs and requests filed by any party to an appeal must be served on every other party or his or her attorney and a Certificate of Service pursuant thereto must be filed with the Employee Appeals Board by the filing party.

E. All pleadings, briefs, and requests filed by any party to an appeal must be signed by such party or his or her attorney and must specify the assigned docket number.

10.40.9 Notice To Responding Agency of Filing of Appeal

When an appeal is filed, the Employee Appeals Board shall mail or deliver a copy of the Notice of Appeal to the responding party, or parties, named therein which shall be official notice of same.

10.40.10 Consolidation of Appeals

When two (2) or more pending appeals involve a common question of law or fact, the Employee Appeals Board may on its own motion order that the appeals be consolidated.

10.40.11 Assignment of Hearing Officer; Setting of Hearing

A. When an appeal is filed, the Employee Appeals Board shall assign a Hearing Officer and set a date, time and place for the hearing.

B. When, in the opinion of the Chief Hearing Officer, the issues and circumstances of an appeal warrant that the hearing be conducted before the full board instead of a single Hearing Officer, he or she may issue an order or notice to that effect. A copy of such order or notice shall be mailed or delivered to all parties.

C. A Notice of Hearing shall be sent via Certified U.S. Mail, Return Receipt Requested, to each party or attorney. After receipt of such notice, each party shall acknowledge such receipt by completing and returning an Acknowledgment of Receipt of Notice of Hearing form provided with the Notice of Hearing.

D. No hearing shall be set before thirty (30) calendar days have elapsed after the filing date of the Notice of Appeal.

E. Continuances will not be considered within ten (10) calendar days prior to the hearing for any reason less than good cause, serious illness, or death.

~~10.40.12 Continuances; Rescheduling of Hearings~~

~~A. Continuances or cancellations requested by either party shall be granted within the discretion of the Employee Appeals Board only for good cause. The Employee Appeals Board may assess a reasonable fee against the party requesting the continuance or cancellation, including court reporter fees.~~

~~B. When a continuance or cancellation is granted to a party whose request is made less than ten (10) calendar days before the hearing date, the Employee Appeals Board may award reasonable costs, including attorney fees, incurred in connection with the continuance to any other party.~~

~~C. After the Employee Appeals Board has granted the continuance, the moving party shall be responsible for contacting the opposing party and the Hearing Officer in order that they may work out a suitable date for the hearing. When the hearing date has been confirmed, the moving party shall contact the Employee Appeals Board office so they may employ a court reporter and reserve a courtroom.~~

~~D. A written Motion and proposed Order, including the new date and time of the hearing must be prepared by the moving party. The original order should be submitted to the Hearing Officer for signature, and the original Motion and copy of the Order should be forwarded to the Employee Appeals Board office.~~

~~E. When a continuance is granted or a hearing is rescheduled or relocated for any reason, each party shall be responsible for notifying their witnesses of the date, time, and location of the hearing.~~

~~10.40.13 Motions~~

~~An application to the Employee Appeals Board for an order shall be by written motion. Motions by any party shall be considered by the Employee Appeals Board under the following conditions:~~

~~A. Motions and responses to motions shall be filed in writing unless made during a hearing.~~

~~B. Motions shall state with particularity the grounds therefore and shall set forth the relief or order sought.~~

~~C. Any motion heard prior to the merits shall be the responsibility of the moving party. The moving party shall be responsible for contacting the opposing party, the Hearing Officer and the Employee Appeals Board to arrange for a date and time for a telephone conference or a hearing on a motion unless by its nature no hearing is required. After the hearing is arranged, the moving party shall confirm the arrangements in writing to the Employee Appeals Board and all other parties.~~

~~D. A hearing on a motion may be conducted by telephone conference at the expense of the moving party.~~

~~E. The Employee Appeals Board may, in its discretion, limit the time for filing motions in any appeal.~~

~~F. The Employee Appeals Board shall issue orders on motions in an expeditious manner.~~

~~10.40.14 Witnesses~~

~~A. Each party, no later than ten (10) calendar days prior to the hearing date, shall file with the Employee Appeals Board a list of witnesses such party will call to testify at the hearing. The list shall contain for each witness:~~

~~1. Name;~~
~~2. Current residential street address;~~
~~3. Employer;~~
~~4. Street address of employer; and~~
~~5. Brief summary of testimony to be given.~~

~~B. The issuance of subpoenas to compel the attendance of witnesses shall be governed by Section 10.40.15~~

~~C. Notification of witnesses in case of a continuance or rescheduling of a hearing shall be governed by Section 10.40.12.E.~~

~~10.40.15 Subpoenas~~

~~A. The Employee Appeals Board shall have the authority to issue subpoenas in connection with a hearing.~~

~~B. To compel the attendance of a witness, or witnesses, any party to an appeal may file with the Employee Appeals Board a written Request for Issuance of Subpoenas. Each request shall contain for each witness:~~

~~1. Name;~~
~~2. Street address where the witness may be readily found for service of the subpoena (If the only available address is a route number or box number, the party requesting the subpoena must provide complete and accurate directions for locating the witness.); and~~

~~3. Brief statement supporting the relevance and materiality of the testimony of the witness to the appeal.~~

~~C. To compel the production of documentary evidence, any party to an appeal may file with the Employee Appeals Board a written Request for Issuance of Subpoena Duces Tecum. Each request shall specify:~~

~~1. Name of person who is to produce such documentary evidence;~~

~~2. Street address where such person may be readily found for service of the subpoena (If the only available address is a route number or box number, the party requesting the subpoena must provide complete and accurate directions for locating the witness.); and~~

~~3. Brief statement supporting the relevancy and materiality of the documentary evidence to the appeal.~~

~~D. Each request must be filed no later than ten (10) calendar days prior to the hearing date to ensure timely services. Requests for subpoenas must be served on every other party or his/her attorney.~~

~~E. A subpoena may be served by a sheriff, or by his deputy, or by any other person, who is not a party and is not less than 18 years of age, and his return endorsed thereon shall be prima facie proof of service, or the person served may acknowledge service in writing on the subpoena.~~

~~If a subpoena is to be served by the sheriff, a fee of thirty-five dollars ($35.00) for each person to be subpoenaed shall accompany the request. The fee shall be in the form of a cashier's check, bona fide attorney's check, or money order made payable to the sheriff of the county where the person to be subpoenaed may be found. In the event that additional subpoenas are required at the same address, a fee of one dollar ($1.00) each shall accompany these requests. The request for subpoenas should specify whether the prepared subpoenas are to be forwarded to the sheriff's office, or returned to the requesting party.~~

~~F. In case of the failure of any person to comply with any subpoena issued by the Board, the requesting party may invoke the aid of any court of this state of general jurisdiction. The court may thereupon order such person to comply with the requirements of the subpoena. Failure to obey the order of the court may be punished by the court as contempt thereof.~~

~~G. Notification of witnesses in case of a continuance or rescheduling of a hearing shall be governed by Section 10.40.12.E.~~

~~10.40.16 Failure to Appear at Hearing~~

~~A. If an appealing party, without good cause, fails to appear at the hearing, such failure may be considered as a withdrawal of the appeal, and the presiding Hearing Officer may dismiss the appeal.~~

~~B. If any party fails to appear at the hearing, the Employee Appeals Board may order that such party reimburse the opposing party, or parties, reasonable costs incurred.~~

~~10.40.17 Conduct of Hearing~~

~~A. A hearing before the Employee Appeals Board shall be *de novo*, and the appealing party shall be afforded all applicable safeguards of procedural due process.~~

~~B. The Employee Appeals Board shall have the authority to administer oaths and affirmations.~~

~~C. Each party may only be represented by himself or an attorney licensed to practice law in the State of Mississippi.~~

~~D. The responding agency may have a representative, in addition to its attorney, remain in the hearing room during the entire course of the hearing, even though the representative may testify. The appealing party may remain in the hearing room throughout the hearing.~~

~~E. The presiding Hearing Officer may clear the hearing room of witnesses not under examination.~~

~~F. The presiding Hearing Officer shall have the authority to maintain the decorum of the hearing and shall take reasonable steps to do so when necessary, including clearing the hearing room of any person who is disruptive.~~

~~10.40.18 Evidence~~

~~A. Hearings shall be informal, and technical rules of evidence shall be relaxed.~~

~~B. All witnesses shall testify under oath and shall be subject to cross-examination.~~

~~C. The presiding Hearing Officer shall have the authority to admit into the record any evidence, which, in his or her judgment, has a reasonable degree of probative value and trustworthiness. The presiding Hearing Officer shall have the authority to exclude evidence, which is irrelevant, immaterial, lacking in probative value, untrustworthy or unduly cumulative.~~

~~D. In the appeal of an action adversely affecting compensation or employment status, the presiding Hearing Officer shall hear or receive evidence on only those reasons and allegations contained in the responding agency's final notice to the employee of such action.~~

~~E. Documents received into evidence by the presiding Hearing Officer shall be marked by him or her, or under his or her direction, and filed for the record of the appeal.~~

~~F. Rebuttal and surrebuttal evidence may be heard in the discretion of the presiding Hearing Officer.~~

~~G. Summations of the evidence and the law may be heard in the discretion of the presiding Hearing Officer.~~

~~10.40.19 Preservation of Record of Hearing; Transcription of Record of Hearing~~

~~A. In order to preserve the record of the hearing, the Employee Appeals Board shall engage and/or contract with a court reporter to make a stenographic and/or electronic recording thereof. The responding agency, or agencies, shall be assessed a reasonable fee to defray the cost of recording the hearing.~~

~~B. It shall be the responsibility of any party desiring to have the recording of the hearing transcribed to:~~

~~1. Arrange, on his or her own initiative, for the court reporter to transcribe the recording of the hearing; and~~

~~2. Pay all fees and expenses for such transcription directly to the court reporter.~~

~~C. It shall be the responsibility of any party desiring a copy of the transcript of the hearing to obtain the copy directly from, and pay any fees and expenses involved directly to, the court reporter.~~

~~D. Either party that desires to file a transcript of the hearing for the record shall file an original, a copy, and a diskette. Either party may file a written request to check out the transcript for review.~~

~~10.40.20 Employee Appeals Board Copy Fees~~

~~Regular copies ..... $1.00 per page~~

~~Orders from Minute Books ..... $5.00 minimum~~

~~10.40.21 Order of Proof; Burden of Proof~~

~~A. At the hearing of an appeal, the party administering disciplinary action shall be the first to present all of the evidence on its case in chief. The employee upon whom discipline is sought to be administered shall follow the other party in presenting same. In the event there is a question concerning which party should proceed first, the matter should be heard as directed by the Hearing Officer in his sole and exclusive discretion.~~

~~B. The appealing party shall have the burden of proving that the action taken against the employee is arbitrary, capricious, against the overwhelming weight of the evidence and merits the relief requested.~~

~~C. An appealing party, who is a permanent state service employee and who has by written notice been dismissed or otherwise adversely affected as to his or her compensation or employment status, shall be required to furnish evidence that the reasons stated in the notice of such action are not true or are not sufficient grounds for the action taken.~~

~~10.40.22 Order To Be Filed Upon Completion of Hearing~~

~~Upon conclusion of the appeal hearing, and after all evidence has been presented, the presiding Hearing Officer, within a reasonable time thereafter, shall prepare and file a written decision and order there from. A copy of such decision and order shall be sent by the Board, via Certified U.S. Mail, Return Receipt Requested, to each party or attorney.~~

~~10.40.23 Compliance with Orders~~

~~All parties shall promptly comply with all orders of the Employee Appeals Board.~~

~~10.40.24 Relief To Be Granted~~

~~A. The Employee Appeals Board may reinstate a prevailing party into employment with his or her responding agency and restore all his or her employee rights and benefits including back pay, medical leave, and personal leave. The Board may also restore retirement benefits provided the integrity of such benefits remains uncompromised in accordance with all applicable laws, policies, rules, and regulations.~~

~~B. The Employee Appeals Board may modify an action of a responding agency but may not increase the severity of such action on the appealing party. If the responding agency has acted in accordance with the published policies, rules and regulations of the State Personnel Board, and if the personnel action taken by the responding agency is allowed under said policies, rules and regulations, the Employee Appeals Board shall not alter the~~

~~action taken by the agency, including, but not limited to, the compensation paid to the employee.~~

~~10.40.25 Bill of Exceptions~~

~~A. In connection with the hearing of an appeal, any party aggrieved by any matter that does not appear on the record may file a sworn Bill of Exceptions to preserve such matter for appellate review. A Bill of Exceptions must set forth the specific facts upon which prejudice is claimed.~~

~~B. Any opposing party may file a sworn statement that the Bill of Exceptions is not correct. Such statement must set forth the specific facts on which error is claimed.~~

~~C. The presiding Hearing Officer shall review the Bill of Exceptions and the response filed by the opposing party and if the Bill of Exceptions is determined to be true by the Hearing Officer, he shall sign it.~~

~~D. A Bill of Exceptions and any statement in response there to shall be made a part of the record of the appeal.~~

~~E. A Bill of Exceptions must be filed no later than five (5) calendar days after the filing date of the final order in connection with the hearing. A statement in response to a Bill of Exceptions must be filed no later than ten (10) calendar days after the filing date of the Bill of Exceptions.~~

~~10.40.26 Review by the Full Board~~

~~A. Any party aggrieved by the final written decision and order of a presiding Hearing Officer entered on the hearing of an appeal may file a written Request for Review by Full Board.~~

~~B. The request must be filed within ten (10) calendar days after the date the final order is filed.~~

~~C. Any party may file an original transcription of the recording of the hearing, pursuant to Section 10.40.19, to be considered by the full board on review. Such transcription must be filed within thirty (30) calendar days after the filing date of the request for review.~~

~~D. Any party may file a written brief to be considered by the full board on review. Such brief must be filed within thirty (30) calendar days after the filing date of the transcript. These are not response briefs; briefs are to be filed simultaneously by due date.~~

~~E. The full board shall base its review on:~~

1. The pleadings;

2. Any documentary evidence received and filed for record at the hearing by the presiding Hearing Officer;

3. The original transcription of the hearing, if filed; and

4. Briefs of the parties, if filed.

F. The full board shall issue a final written decision and order on the review within a reasonable time after the final date for filing all documents to be considered on review.

10.40.27 Judicial Review

Any party aggrieved by a final written decision and order of the Employee Appeals Board may appeal such order in the manner provided by applicable laws and statutes.

10.40.28 Pleadings and Briefs

In connection with the hearing of an appeal, pleadings and briefs, which the parties may file, shall be limited as follows:

A. The appealing party may file, in addition to a Notice of Appeal, a brief on any issues of law in connection with the appeal. The brief must be filed no later than ten (10) calendar days before the hearing date.

B. Any responding party may file an Answer to Notice of Appeal and/or a brief on any issues of law in connection with the appeal. The answer and brief must be filed no later than ten (10) calendar days before the hearing date.

10.40.29 Assessment of Fees and Costs

The Employee Appeals Board shall have the authority to establish reasonable fees and assess reasonable costs of conducting appeals.

10.40.30 Computation of Time

In computing any period of time prescribed or allowed under these rules, the Employee Appeals Board shall be guided by the Mississippi Rules of Civil Procedure.

10.40.31 Judicial Conduct

~~A. The Hearing Officers of the Employee Appeals Board shall be guided by and subject to the canons of ethics of judicial conduct of the Mississippi State Bar.~~

~~B. No Hearing Officer shall be removed from office during his or her term except by a finding of misfeasance, malfeasance, or nonfeasance in office.~~

~~10.40.32 Amendment of Rules; Validity of Rules; Enforcement of Rules~~

~~A. The State Personnel Board may amend these rules or promulgate new rules.~~

~~B. If any one or more of these rules is found to be invalid by any court of competent jurisdiction, such finding shall not affect the validity of any other of these rules.~~

~~C. The Employee Appeals Board shall have the authority, duty, and responsibility to abide by and enforce these rules.~~

~~SPB Form 1010-81 Rev. 9/96~~	~~STATE PERSONNEL BOARD GRIEVANCE FORM~~

~~This form is to be used if the grievant is not satisfied with the oral decision of his or her immediate supervisor at the First Step of the Grievance Procedure. The form will be completed at each subsequent Step to which the grievance is advanced. If a grievance is settled orally with the immediate supervisor, this form should not be used.~~

~~Agency~~	~~Date~~
~~Name~~	~~Job Classification~~
~~Mailing Address~~	~~Telephone Number(s)~~

~~GRIEVANCE STATEMENT~~
~~*(Include identity of grievant and witnesses, if any.)*~~

~~RELIEF SOUGHT~~

~~Grievant's Signature (or individual filing on behalf of grievant):~~	

~~DECISION OF IMMEDIATE SUPERVISOR~~

~~Supervisor's Signature~~		
~~Date~~		
~~Employee Answer~~		~~I am satisfied with the answer to my grievance.~~

~~SPB Form~~ ~~1010-81~~ ~~Rev. 9/96~~	~~STATE PERSONNEL BOARD~~ ~~GRIEVANCE FORM~~	
		~~I am not satisfied with the answer to my grievance and wish to have it advanced to the next step.~~
~~SECOND STEP~~ ~~Reply to Employee Grievance, Next Level of Management~~		
~~Supervisor's Signature~~		
~~Date~~		
~~Employee Answer~~		~~I am satisfied with the answer to my grievance.~~
		~~I am not satisfied with the answer to my grievance and wish to have it advanced to the next step.~~
~~THIRD STEP~~ ~~Reply to Employee Grievance, Next Level of Management~~		
~~Supervisor's Signature~~		
~~Date~~		
~~Employee Answer~~		~~I am satisfied with the answer to my grievance.~~
		~~I am not satisfied with the answer to my grievance and wish to have it advanced to the next step.~~
~~FOURTH STEP~~ ~~Agency Decision~~		

~~SPB Form~~ ~~1010-81~~ ~~Rev. 9/96~~	~~STATE PERSONNEL BOARD~~ ~~GRIEVANCE FORM~~
~~Signature~~	
~~Date~~	

~~SPB Form~~ ~~1020-86~~ ~~Rev. 7/99~~	~~NOTICE OF APPEAL BEFORE THE MISSISSIPPI EMPLOYEE APPEALS BOARD~~	
	~~APPEALING PARTY~~	
~~VERSUS~~	~~NO.~~	
	~~RESPONDING PARTY~~	

~~NOTE: Supplemental pages may be attached if needed. Do not write on the reverse sides of this form or any supplemental page.~~

~~1. Name, mailing address and telephone number of Appealing Party:~~

~~2. Name, mailing address and telephone number of Appealing Party's attorney, if any:~~

~~3. Name, mailing address and telephone number of Responding Party:~~

~~SPB Form 1010-81 Rev. 9/96~~	~~STATE PERSONNEL BOARD GRIEVANCE FORM~~
~~4. Name, mailing address and telephone number of Responding Party's attorney, if known:~~	
~~5. Appealing Party's employing agency (if applicable):~~	
~~6. Appealing Party's assigned work station (town, city, county) and organizational location (bureau, division, branch) within employing agency (if applicable):~~	
~~7. Appealing Party's immediate supervisor (if applicable):~~	
~~8. Appealing Party's job title (if applicable):~~	
~~9. Appealing Party's date of hire with employing agency (if applicable):~~	
~~10. Appealing Party's date of termination from employing agency (if applicable):~~	
~~11. Appealing Party's statement, in sufficient detail, of the facts upon which the appeal is taken, including the effective date of any alleged grievable action, and why such~~	

~~SPB Form 1010-81 Rev. 9/96~~	~~STATE PERSONNEL BOARD GRIEVANCE FORM~~
~~action is in error:~~	
~~12. Appealing Party's statement of the final action taken and/or decision made as a result of the agency-level grievance proceedings, including the effective date of such final action:~~	
~~13. Appealing Party's statement of relief requested:~~	

~~SPB Form 1010-81 Rev. 9/96~~	~~STATE PERSONNEL BOARD GRIEVANCE FORM~~
~~14. List of any documents, exhibits, and/or supplemental pages which Appealing Party has attached to this Notice of Appeal:~~	
~~Signature of Appealing Party~~	
~~Date~~	
~~NOTE: To file an appeal, the Appealing Party should fill out and return this form to the Mississippi Employee Appeals Board, 301 North Lamar Street, Suite 203 Jackson, Mississippi 39201. The Notice of Appeal must be accompanied by copies of all documents generated by the agency-level grievance proceedings, which took place prior to the filing of the appeal. A fee of fifty dollars ($50.00) in the form of a cashier's check, bona fide attorney's check, or money order made payable to the Mississippi Employee Appeals Board must be filed by the Appealing Party with the Notice of Appeal. Cash or personal checks will not be accepted. The rules governing appeals are found in the Mississippi Employee Appeals Board Administrative Rules booklet. See also Sections 25-9-101 through 25-9-151 and 25-9-301 through 25-9-305, Mississippi Code of 1972, Annotated, as amended.~~	

~~SPB Form Rev. 3/93~~	~~STATE PERSONNEL BOARD ADA GRIEVANCE FORM~~
~~Name~~	~~Date~~
~~Mailing Address~~	~~Telephone Number 8:00 a.m. to 5:00 p.m.~~
~~Job Classification (if applicable)~~	~~Agency~~

~~SPB Form Rev. 3/93~~	**~~STATE PERSONNEL BOARD ADA GRIEVANCE FORM~~**
~~GRIEVANCE STATEMENT~~ ***~~(Include identity of grievant and witnesses, if any.)~~***	
~~RELIEF SOUGHT~~	
~~Grievant's Signature (or individual filing on behalf of grievant):~~	
~~Date:~~	
~~Agency Acknowledgment:~~	
~~Signature of Individual Investigating Grievance:~~	
~~Date:~~	
~~Agency:~~	
~~Title:~~	

CHAPTER 10
GRIEVANCES AND APPEALS

10.1 WHO MAY FILE A GRIEVANCE

A permanent State Service employee may file a grievance on these issues listed below, through the grievance procedure.

A probationary employee in a State Service position, or a non-State Service employee in, or applicant for, an authorized employment position in an agency, which employs State Service employees, may grieve only alleged acts of discrimination based on race, color, religion, creed, national origin, sex, age, disability, or political affiliation in any personnel action or complained practice.

10.2 GRIEVABLE ISSUES

The following issues are grievable under the State Service grievance procedure:

i. written reprimands;

ii. application of personnel policies, procedures, rules, regulations and statutes;

iii. acts of reprisal against an employee for using the grievance procedure;

iv. complaints of discrimination on the basis of race, color, creed, sex, religion, national or ethnic origin, disability, or political affiliation;

v. any matter of concern or dissatisfaction to an employee if the matter is subject to the control of agency management, except those listed in the following section as non-grievable;

vi. performance review ratings, to the extent they affect an employee's compensation, status or competitiveness;

vii. permanent relocation of an employee at a disciplinary hearing, and in which the employee can present substantive evidence that the management decision to relocate the employee was arbitrary or capricious;

viii. dismissal or adverse action taken against an employee who reports an alleged improper governmental action to a State investigative body, as defined Mississippi Code Annotated § 25-9-171 (2006).

10.3 NON-GRIEVABLE ISSUES

The following are non-grievable issues under the State Service grievance procedure:

i. issues which are pending or have been concluded by direct appeal through administrative or judicial procedures;

(8) temporary work assignments which do not exceed twenty calendar days;

(9) budget and organizational structure, including the number or assignment of employees or positions in any organizational unit;

(10) duties performance standards established as criteria for performance review;

(11) the selection of an individual by the appointing authority, department head, or designee to fill a position through promotion, transfer, demotion, or appointment unless it is alleged that selection is in violation of a written agency policy or of a Mississippi State Personnel Board rule on filling vacancies;

(12) internal security practices established by the appointing authority, department head, or designee;

(13) termination or layoff from duty because of shortage of funds or work, another change in duties or organization, or a merger of agencies;

(14) any matter which is not within the jurisdiction or control of the appointing authority;

(15) the content of individual agency policy;

(16) an action by an agency pursuant to federal or State law directly from the EEO officer or court order;

(17) establishment and review of the compensation plan and the policies, procedures, rules and regulations pertaining thereto;

(18) position classification;

(19) employee benefits.

10.4 GENERAL INFORMATION

When a conference (the process hearing) has been held prior to an employee being issued a written reprimand, the affected employee may appeal directly to the Employee Appeals Board without exhausting the grievance procedure.

If the employee does not present the grievance within the specified time frame, it is considered waived. If the employee does not advance the grievance to the next step within the specified time frame, the last management decision stands.

If management does not meet within the specified time frame, the employee may advance the grievance to the next level unless an extension of time to respond is granted by management by written mutual agreement.

All time frames may be extended by mutual written agreement.

It is the responsibility of the aggrieved employee's supervisor and agency human resources director to make certain that all grievances are handled as quickly as possible and without prejudice.

10.5 GRIEVANCE PROCEDURAL STEPS

10.5.1 Step I

A. An employee who has a grievable complaint may submit in writing (on MSPB Form 1101-R) a description of the grievance with all other required information to his or her immediate supervisor within seven working days of becoming aware of the cause of the complaint.

B. The supervisor is required to conduct an investigation of the grievance and meet with the aggrieved employee within three working days after receipt of the grievance form.

C. The supervisor is required to give the employee a written response within three working days after the meeting.

D. The human resources director or designee may assist in the filing of the grievance or answer any questions the employee may have in connection with filing the grievance.

10.5.2 Step II

A. If not satisfied with the Step I written decision, the employee must indicate on the same MSPB Form 1101-R the desire to have the grievance advanced to the next step. The grievance must be submitted to the next level of management within three working days following receipt of the Step I supervisor's response.

B. The Step II supervisor is required to conduct an investigation of the grievance and meet with the aggrieved employee within three working days after receipt of the grievance form.

C. The Step II supervisor is required to give the employee a written response within three working days after the meeting.

10.5.3 Step III

A. If the second step written response is not acceptable to the employee, the employee should process on the same MSPB form, 1010-811, the desire to advance the grievance to the third step and forward the grievance to the next level of management within three working days after receipt of the Step II response.

B. The Step III supervisor is required to conduct an investigation of the grievance and meet with the aggrieved employee within five working days after receipt of the grievance form.

C. The Step III supervisor is required to give the employee a written response within five working days of the meeting.

10.5.4 Step IV

A. If the third step does not resolve the grievance, the employee should use the same form, (MSPB Form 1010-811) to advance the grievance to the fourth step and forward the grievance to the agency head within three working days after receipt of the Step III response.

B. Agencies with an Step III level of management would hereby be responsible for Step IV after Step II procedures have been exhausted and the Step II supervisor would be required to follow the procedures of Step 10.C. in reviewing the report and written response.

C. The Step IV supervisor or designated representative is required to review the grievance and relevant information and meet with the employee within seven working days after receipt of the grievance form.

D. The Step IV supervisor or designated representative is required to give the employee the final agency decision concerning the grievance within seven working days after the meeting.

10.5.5 Special Procedure for Claims of Harassment or Discrimination

If the employee's grievance is a complaint of unlawful discrimination or harassment and the source of the alleged discrimination or harassment is to the employee's chain of command, the employee may skip the "source" or the alleged discrimination or harassment's level of management by proceeding to the next step in the process and filing the grievance directly with the harassing supervisor's supervisor. If the alleged source of the harassment is the employee's agency head, then the employee may contact the MSPB Executive Director for assistance and

may be advised to file an appeal directly with the Grievance Appeals Board without exhausting agency level remedies.

10.5.6 Time Limit

If a grievance is not presented within the time limit as set forth above, it will be considered waived. If a grievance is not advanced to the next step within the specified time limit or an agreed extension thereof, it will be considered settled on the basis of the supervisor's, appointing authority's, or designee's last answer. If the supervisor, appointing authority, or designee does not answer the grievance within the specified time limit, the employee may elect to treat the relief requested as denied at that step and immediately appeal the grievance to the next step. Time limits on each step may be extended by mutual written agreement of the parties involved.

10.6 AMERICANS WITH DISABILITIES ACT GRIEVANCE PROCEDURE

a. Any applicant for an employment position or employee who has reason to believe that they have been unlawfully discriminated against by a State agency on the basis of disability may file a grievance in accordance with this separate Grievance Procedure. Implementation of this separate Americans with Disabilities Act Grievance Procedure is not intended to prohibit an applicant or State employee from utilizing the existing grievance procedures. Grievants are not required to exhaust the separate ADA Grievance Procedure prior to filing a complaint with an applicable federal agency.

b. The ADA Grievance Procedure begins with the individual who is filing the grievance preparing and submitting a written Statement. The Statement should contain the name, address, and telephone number of the individual or their authorized representative filing the complaint, a brief and specific description of the situation, incident or condition being grieved and relevant dates, identity of the grievant, identity of witnesses if any, the remedy the individual is seeking, and the signature of the individual filing the grievance (signature dated by the individual).

c. The grievance should be submitted to the human resources director or ADA coordinator of the agency where the alleged discrimination occurred within seven work days the grievant became aware of the cause of the condition.

d. The agency's human resources director, ADA coordinator, or designee, will have three working days to provide to the grievant a written acknowledgment of the grievance.

e. The agency human resources director, ADA coordinator, or a designee will promptly conduct a review of the issues presented in the grievance. If a resolution

If the grievance is mutually agreeable to the parties involved, the agency human resources director (or ADA Coordinator) will facilitate arrangement of the resolution and make a record of this agreement. If no resolution is possible, the human resources director, ADA coordinator, or a designee will provide a written response to the grievant outlining all of the relevant issues concerning the grievance. This response shall be approved by the agency head or appointing authority and must be completed no later than twenty working days from the agency's receipt of the grievance.

f. If a grievance is not presented within the time lines as set forth herein above, it will be considered waived absent an extension by written mutual consent. If the human resources director, ADA Coordinator, or designee does not answer or acknowledge receipt of the grievance within the specified time lines, the grievant may elect to treat the grievance as denied at that point and immediately appeal the grievance to the Mississippi Employee Appeals Board unless an extension of time is granted by the human resources director, ADA coordinator, or designee to respond by written mutual agreement.

10.7 APPEALS

The purpose of the Employee Appeals Board is to provide a fair and impartial forum beyond the agency level for a full hearing on employee grievances and or disciplinary action.

10.7.1 Notice of Appellants' Rights

Each agency shall give notice to all applicants and employees of their rights regarding appeals and shall make available copies of the administrative rules of the Employee Appeals Board.

10.7.2 Who May Appeal; Actions Which May Be Appealed

i. A permanent State Service employee may appeal any action adversely affecting his or her compensation or employment status after exhausting applicable agency grievance procedures.

ii. A permanent State Service employee may appeal any preventable action and/or a disciplinary action.

iii. No person may appeal a non-preventable action. (See Section 10.8.)

iv. A permanent State Service employee, probationary employee or a State Service position, or non-State Service employee or an applicant for an authorized employment position in an agency which employs State Service employees, may appeal alleged acts of discrimination based on race, color, religion, national

origin, sex, age, disability, or political affiliation or any perceived actual or unlawful employment practice.

i. A permanent State Service employee, probationary employee in a State Service position, or non-State Service employee in, or applicant for, an authorized employment position in an agency which employs State Service employees may appeal alleged acts of retaliation based upon the employee or applicant's reports of alleged improper governmental action to a State investigative body.

j. An employee may appeal the decision that he or she is not eligible to receive donated leave because the injury or illness of the employee or member of the employee's immediate family is not in the appointing authority's determination a catastrophic injury or illness.

10.5.3 Exhaustion of Remedies

a. No person may file an appeal with the EAB until all applicable agency level grievance procedures have been exhausted in accordance with Mississippi State Personnel Board policies, rules and regulations.

b. Except as outlined under federal law, an aggrieved party may file a petition for judicial review with a court of competent jurisdiction until a final agency decision and order on a full board review has been filed by the EAB.

10.7.4 Perfection of Appeal by Timely Filing

a. All appeals to the EAB shall be initiated by filing a written Notice of Appeal. Notice of Appeal forms shall be made available by the EAB to all State agencies and employees.

b. A Notice of Appeal must be filed within fifteen calendar days after the date a person receives written notice of the final decision of an alleged prohibitive action or within fifteen calendar days of the date attempted delivery date by certified mail return receipt requested.

c. A non-refundable fee of one hundred dollars ($100.00) in the form of a cashier's check, bank-like attorney's check, or money order made payable to the "Mississippi Employee Appeals Board" shall be filed by the appealing party with each Notice of Appeal. Cash or personal checks will not be accepted.

10.7.4 Content of Notice of Appeal

a. The Notice of Appeal shall contain

1. The names and mailing addresses of all parties and, if known, the names and mailing addresses of their attorney, if any;

2. If applicable, the appealing party's (ie) employing agency, (iii) assigned work station (town, city, county) and organizational location (office, bureau, division, branch) within employing agency, (iii) immediate supervisor, (iv) job title, (v) date of hire and (vi) date of termination;

3. A statement in sufficient detail of the facts upon which the appeal is taken, including the effective date of any alleged prohibited action, and why such action is in error;

4. A statement of the final action taken and/or decision made as a result of the agency-level grievance proceedings, including the effective date of such final action;

5. A statement of the relief requested.

b. The Notice of Appeal shall be accompanied by copies of all documents related to the appeal in the possession of the employee. Such documents, where applicable, shall include, but not be limited to, performance review documents, correspondence between the appealing party and the responding agency, position descriptions, grievance forms, pre-disciplinary notice, and final disciplinary notice.

10.7.5 Jurisdiction

When an appeal is filed, the Employee Appeals Board shall determine whether or not it has jurisdiction. If not, the board shall on its own motion dismiss same and send to defend a copy of the order of dismissal to all parties.

10.7.6 Parties

Unless the Notice of Appeal names some other respondent, the appealing party's employing agency shall be considered the only respondent.

10.7.7 Filing of Pleadings and Other Documents; Copies to Be Made Available

a. When an appeal is filed, the Employee Appeals Board shall assign it a docket number.

b. All pleadings and other documents filed in the appeal shall be entered on a docket to be maintained by the Employee Appeals Board. The board shall make a minute of the filing date on all such pleadings and other documents. Pleadings that determine the date by

[illegible] to be made and present to counsel and the chief determines any of an emergency nature or that present compelling circumstances.

C. Copies, including certified copies, of pleadings and other documents filed in the appeal shall be made available to other party at a reasonable fee.

D. Copies of any and all pleadings, briefs and requests filed by any party to an appeal must be served on every other party in his or her attorney and a Certificate of Service pertaining thereto must be filed with the Employee Appeals Board by the filing party.

E. All pleadings, briefs and requests filed by any party to an appeal must be signed by such party, or his or her attorney and must specify the assigned docket number.

10.7.8 Notice To Responding Agency of Filing of Appeal

When an appeal is filed, the Employee Appeals Board shall deliver a copy of the Notice of Appeal to the responding party or parties named therein which shall be official notice of same.

10.7.9 Consolidation of Appeals

When two (2) or more pending appeals involve a common question of law or fact, the Employee Appeals Board may on its own motion order that the appeals be consolidated.

10.7.10 Assignment of Hearing Officer; Setting of Hearing

A. When an appeal is filed, the Employee Appeals Board shall assign a Hearing Officer and set a date, time and place for the hearing.

B. When, in the opinion of the Chief Hearing Officer, the issues and circumstances of an appeal warrant that the hearing be conducted before the full board instead of a single Hearing Officer, he or she may issue an order or notice to that effect. A copy of such order or notice shall be mailed or delivered to all parties.

C. A Notice of Hearing shall be sent via certified U.S. Mail, Return Receipt Requested, to each party or attorney. After receipt of such notice, each party shall acknowledge such receipt by completing and returning an Acknowledgement of Receipt or Notice of Hearing form provided with the Notice of Hearing.

D. No hearing shall be set before thirty (30) calendar days have elapsed after the filing date of the Notice of Appeal.

E. Continuances will not be considered within ten (10) calendar days prior to the hearing for

may testify for good cause, serious illness, or death.

10.7.11 Continuances; Rescheduling of Hearings; Cancellations

A. Continuances or cancellations requested by either party shall be granted within the discretion of the Employee Appeals Board only for good cause. The Employee Appeals Board may assess a reasonable fee against the party requesting the continuance or cancellation, including court reporter fees.

B. When a continuance or cancellation is granted to a party whose request is made less than ten (10) calendar days before the hearing date, the Employee Appeals Board may award reasonable costs incurred in connection with the continuance to the other party.

C. After the Employee Appeals Board has granted the continuance, the moving party shall be responsible for contacting the opposing party and the Hearing Officer, in order that they may work out a suitable date for the hearing. When the hearing date has been confirmed, the moving party shall contact the Employee Appeals Board office so they may confirm a court reporter and receive a continuance.

D. A service Motion and proposed Order, including the new date and time of the hearing, must be prepared by the moving party. The original order should be submitted to the Hearing Officer for signature, and the original Motion and copy of the Order should be forwarded to the Employee Appeals Board office.

E. When a continuance is granted or a hearing is rescheduled or cancelled for any reason, each party shall be responsible for notifying their witnesses of the date, time, and location of the hearing.

10.7.12 Motions

An application to the Employee Appeals Board for an order shall be by written motion. Motions by any party shall be considered by the Employee Appeals Board under the following conditions:

A. Motions and responses to motions shall be filed in writing unless made during a hearing.

B. Motions shall state with particularity the grounds therefore and shall set forth the relief or order sought.

C. Any witness board plan to the means shall be the responsibility of the moving party. The moving party shall be responsible for contacting the opposing party, the Hearing Officer and the Employee Appeals Board to arrange for a date and time for a telephone conference or a hearing on a motion unless by its nature no hearing is required. After the

hearing is arranged, the moving party shall confirm the arrangements in writing to the Employee Appeals Board and all other parties.

F) A hearing on a motion may be conducted by telephone conference at the exercise of the moving party.

G) The Employee Appeals Board may, in its discretion, limit the time for filing motions in any appeal.

H) The Employee Appeals Board shall rule orders on motions in an expeditious manner.

10.7.13 Witnesses

A) Each party, no later than ten (10) calendar days prior to the hearing date, shall file with the Employee Appeals Board a list of witnesses such party will call to testify at the hearing. The list shall contain for each witness:

1. Name;
2. Employer;
3. Street address of employer; and
4. Brief summary of testimony to be given.

B) The issuance of subpoenas to compel the attendance of witnesses shall be governed by Section 10.7.14.

C) Notification of witnesses in case of a continuance or rescheduling of a hearing shall be governed by Section 10.40.17.1.

10.7.14 Subpoenas

A) The Employee Appeals Board shall have the authority to issue subpoenas in connection with a hearing.

B) To compel the attendance of a witness, or a witness, any party to an appeal may file with the Employee Appeals Board a written request for issuance of subpoenas. Such request shall contain for each witness:

1. Name;
2. Street address where the witness may be readily found for service of the subpoena. If the only available address is a post number or box number, the party requesting the subpoena must provide complete and accurate directions for locating the witness; and

3. Brief statement supporting the relevancy and materiality of the testimony of the witness in the appeal.

C. To compel the production of documentary evidence, any party to an appeal may file with the Employee Appeals Board a written request for issuance of Subpoena Duces Tecum. Each request shall specify:

1. Name of person who is to produce such documentary evidence;
2. Street address where such person may be readily found for service of the subpoena (if the only available address is a route number or box number, the party requesting the subpoena must provide complete and accurate directions for locating the business); and
3. Brief statement supporting the relevancy and materiality of the documentary evidence to the appeal.

D. Each request must be filed no later than twenty (20) calendar days prior to the hearing date to ensure timely service. Requests for subpoenas must be served on every other party or his/her attorney. A party shall be given at least ten (10) calendar days to produce documentary evidence pursuant to a subpoena.

E. A subpoena may be served by a sheriff, or by his deputy, or by any other person, who is not a party and is not less than 18 years of age, and his return endorsed thereon shall be prima facie proof of service; or the person served may acknowledge service of a copy of the subpoena.

If a subpoena is to be served by the sheriff, a fee of thirty-five dollars ($35.00) for each person to be subpoenaed shall accompany the request. The fee shall be in the form of a cashier's check, bona fide money's check, or money order made payable the sheriff of the county where the person to be subpoenaed may be found. In the event that additional subpoenas are requested at the same address, a fee of one dollar ($1.00) each shall accompany these requests. The request for subpoenas should specify whether the requested subpoenas are to be forwarded to the sheriff's office or returned to the requesting party.

F. In case of the failure of any person to comply with any subpoena issued by the Board, the requesting party may invoke the aid of any court of this state of general jurisdiction. The court may thereupon order such person to comply with the requirements of the subpoena. Failure to obey the order of the court may be punished by the court as contempt thereof.

G. Notification to witnesses in case of a continuance or rescheduling of a hearing shall be governed by Section 10.7.1.1.E.

10.7.15 Failure to Appear at Hearing

A. If an appealing party, without good cause, fails to appear at the hearing, such failure shall be considered as a withdrawal of the appeal, and the presiding Hearing Officer may dismiss the appeal.

B. If any party fails to appear at the hearing, the Employee Appeals Board may order that such party reimburse the appealing party for its reasonable costs incurred.

10.7.16 Conduct of Hearing

A. A hearing before the Employee Appeals Board shall be de novo, and the appealing party shall be afforded all applicable safeguards of procedural due process.

B. The Employee Appeals Board shall have the authority to administer oaths and affirmations.

C. Each party may and be represented by himself or an attorney licensed to practice law in the State of Mississippi.

D. The responding agency may have a representative, in addition to its attorney, remain in the hearing room during the entire course of the hearing, even though the representative may testify. The appealing party may remain in the hearing room throughout the hearing.

E. The presiding Hearing Officer may eject the hearing room or witnesses not under examination.

F. The presiding Hearing Officer shall have the authority to maintain the decorum of the hearing and shall take reasonable steps to do so when necessary, including clearing the hearing room of any person who is disruptive.

10.7.17 Evidence

A. Hearings shall be informal, and technical rules of evidence shall be waived.

B. All witnesses shall testify under oath and shall be subject to cross-examination.

C. The presiding Hearing Officer shall have the authority to admit into the record any evidence which in his or her judgment has a reasonable degree of probative value and trustworthiness. The presiding Hearing Officer shall have the authority to exclude evidence which is irrelevant, immaterial, lacking in probative value, untrustworthy, or wholly cumulative.

D. In the appeal of formal disciplinary actions, the presiding Hearing Officer shall hear or receive evidence on only those reasons and allegations contained in the responding agency's final disciplinary notice to the employee of such action.

E. Documents received into evidence by the presiding Hearing Officer shall be marked for identification, or under his or her direction, and filed for the record of the appeal.

F. Rebuttal and surrebuttal evidence may be heard in the discretion of the presiding Hearing Officer.

G. Summations of the evidence and the law may be heard in the discretion of the presiding Hearing Officer.

10.7.18 Preservation of Record of Hearing; Transcription of Record of Hearing

A. In order to preserve the record of the hearing, the Employee Appeals Board shall engage and be assisted with a court reporter to make a stenographic, or more electronic recording, thereof. The responding agency, or agencies, shall be assessed a reasonable fee to defray the cost of recording the hearing.

B. It shall be the responsibility of any party desiring to have the recording of the hearing transcribed to:

1. Arrange, on his or her own initiative, for the court reporter to transcribe the recording of the hearing; and
2. Pay all fees and expenses for such transcription directly to the court reporter.

C. It shall be the responsibility of any party desiring a copy of the transcript of the hearing to obtain the copy directly from, and pay any fees and expenses involved directly to, the court reporter.

D. Either party that desires to file a transcript of the hearing for the record shall file an original, a copy, and a diskette. Either party may file a written request to check out the transcript for review.

10.7.19 Employee Appeals Board Copy Fees:

Regular copies:	$1.00 per page
Orders from Minute Books	$5.00 minimum

10.7.20 Order of Proof; Burden of Proof

A. At the hearing of an appeal concerning formal disciplinary action, the party administering disciplinary action shall be the first to present all of the evidence on its case in chief. The employee upon whom discipline is sought to be administered shall follow the other party in presenting same. In the event there is a question concerning which party should proceed first, the matter should be heard as directed by the Hearing Officer in his sole and exclusive discretion.

B. The appealing party shall bear the burden of proving that the action taken against the employee is arbitrary, or capricious, not supported by any substantial evidence or in violation of some statutory or constitutional right and meets the other requisites.

C. An appealing party, who is a permanent state service employee and who has his or her service from dismissed or otherwise adversely affected as to his or her compensation or employment status, shall be required to furnish evidence that the reasons stated in the notice of such action are not true or are not sufficient grounds for the action taken.

10.7.21 Order to be Filed upon Completion of Hearing

Upon conclusion of the appeal hearing, and after all evidence has been presented, the presiding Hearing Officer within a reasonable time thereafter, shall prepare and file a written decision and order thereon. A copy of such decision and order shall be sent by the Board via Certified U.S. Mail, Return Receipt Requested, to each party in interest.

10.7.22 Compliance with Order

All parties shall promptly comply with all orders of the Employee Appeals Board, subject to timely appeal if the decision has been filed by the employee.

10.7.23 Relief to be Granted

A. The Employee Appeals Board may reinstate a prevailing party into employment with his or her responding agency and restore all his or her employee rights and benefits including back pay, medical leave, and personal leave. The Board may also restore retirement benefits provided the integrity of such benefits remains uncompromised in accordance with all applicable laws, policies, rules, and regulations.

B. The Employee Appeals Board may modify an action of a responding agency but may not aggravate the severity of such action on the appealing party. If the responding agency has acted in accordance with the published policies, rules and regulations of the State Personnel Board, and if the permitted action taken by the responding agency is different under said policies, rules and regulations, the Employee Appeals Board shall not alter the

action taken by the agency, including, but not limited to, the compensation paid to the employee.

10.7.24 Bill of Exceptions

A. In connection with the hearing of an appeal, any party aggrieved by any matter that does not appear on the record may file a sworn Bill of Exceptions to preserve such matter for appellate review. A Bill of Exceptions must set forth the specific facts upon which prejudice is claimed.

B. Any opposing party may file a sworn statement that the Bill of Exceptions is not correct. Such statement shall set forth the specific facts on which error is claimed.

C. The presiding Hearing Officer shall review the Bill of Exceptions and the response filed by the opposing party, and if the Bill of Exceptions is determined to be true by the Hearing Officer, he shall sign it.

D. A Bill of Exceptions and any statement in response thereto shall be made a part of the record of the appeal.

E. A Bill of Exceptions must be filed no later than five (5) calendar days after the filing date of the final order in connection with the hearing. A statement in response to a Bill of Exceptions must be filed no later than ten (10) calendar days after the filing date of the Bill of Exceptions.

10.7.25 Review by the Full Board

A. Any party aggrieved by the final written decision and order of a presiding Hearing Officer entered on the hearing of an appeal may file a written Request for Review by Full Board.

B. The request must be filed within fifteen (15) calendar days after the date the final order is filed.

C. Any party may file an original transcription of the recording of the hearing, pursuant to Section 10.8.19, to be considered by the full board on review. Such transcription must be filed within thirty (30) calendar days after the filing date of the request for review.

D. Any party may file a written brief to be considered by the full board on review. Such brief must be filed within thirty (30) calendar days after the filing date of the transcript. These are not response briefs. Briefs are to be filed simultaneously for the date.

E. The full board shall base its review on:

1. The pleadings;
2. Any documents or evidence received and filed for record at the hearing or the presiding Hearing Officer;
3. The original transcription of the hearing, if filed; and
4. Briefs of the parties, if filed.

F. The full board shall issue a final written decision and order on the review within a reasonable time after the final date for filing all documents to be considered on review.

10.7.26 Judicial Review

Any party aggrieved by a final written decision and order of the Employee Appeals Board may appeal such order in the manner provided by applicable laws and statutes.

10.7.27 Pleadings and Briefs

In connection with the hearing of an appeal, pleadings and briefs, which the parties may file, shall be limited as follows:

A. The appealing party may file, in addition to a Notice of Appeal, a brief on any issues of law in connection with the appeal. The brief must be filed no later than twenty (20) calendar days before the hearing date.

B. Any responding party may file an Answer to Notice of Appeal and/or a brief on any issues of law in connection with the appeal. The answer and brief must be filed no later than ten (10) calendar days before the hearing date.

10.7.28 Assessment of Fees and Costs

The Employee Appeals Board shall have the authority to establish reasonable fees and assess reasonable costs of conducting appeals.

10.7.29 Computation of Time

In computing any period of time prescribed or allowed under these rules, the Employee Appeals Board shall be guided by the Mississippi Rules of Civil Procedure.

10.7.30 Judicial Conduct

A. The Hearing Officers of the Employee Appeals Board shall be guided by, and subject to, the canons of ethics of judicial conduct of the Mississippi State Bar.

B. No Hearing Officer shall be removed from office during his or her term except by a finding of misfeasance, malfeasance, or nonfeasance in office.

10.7.11 Amendment of Rules; Validity of Rules; Enforcement of Rules

A. The Mississippi State Personnel Board may amend these rules or promulgate new rules.

B. If any one or more of these rules is found to be invalid by any court of competent jurisdiction, such finding shall not affect the validity of any other of these rules.

C. The Employee Appeals Board shall have the authority, duty, and responsibility to adopt, by and enforce these rules.

MSPB Form 1010-81 Rev. 9/96	MISSISSIPPI STATE PERSONNEL BOARD GRIEVANCE FORM

Agency	Date
Name	Job Classification
Mailing Address	Telephone Number(s)

GRIEVANCE STATEMENT
(Include identity of grievant and witnesses, if any.)

RELIEF SOUGHT

Grievant's Signature (or individual filing on behalf of grievant):	

DECISION OF IMMEDIATE SUPERVISOR

Supervisor's Signature	
Date	

Employee Answer		I am satisfied with the answer to my grievance
		I am not satisfied with the answer to my grievance and wish to have it advanced to the next step

SECOND STEP
Reply to Employee Grievance, Next Level of Management

Supervisor's Signature		
Date		
Employee Answer		I am satisfied with the answer to my grievance
		I am not satisfied with the answer to my grievance and wish to have it advanced to the next step

THIRD STEP
Reply to Employee Grievance, Next Level of Management

Supervisor's Signature		
Date		
Employee Answer		I am satisfied with the answer to my grievance
		I am not satisfied with the answer to my grievance and wish to have it advanced to the next step

FOURTH STEP
Agency Decision

Signature	
Date	

MSPB Form Rev. 3/93	MISSISSIPPI STATE PERSONNEL BOARD ADA GRIEVANCE FORM
Name	Date
Mailing Address	Telephone Number 8:00 a.m. to 5:00 p.m
Job Classification (if applicable)	Agency

GRIEVANCE STATEMENT *(Include identity of grievant and witnesses, if any.)*

RELIEF SOUGHT

Grievant's Signature (or Individual filing on behalf of grievant):	
Date:	

Agency Acknowledgement	
Signature of Individual Investigating Grievance:	
Date:	
Agency:	
Title:	

MSPB Form 1020-86 Rev. 7/99	NOTICE OF APPEAL BEFORE THE MISSISSIPPI EMPLOYEE APPEALS BOARD
	APPEALING PARTY
VERSUS	NO.
	RESPONDING PARTY

NOTE: Supplemental pages may be attached if needed. Do not write on the reverse sides of this form or any supplemental page.

1. Name, mailing address and telephone number of Appealing Party:

2. Name, mailing address and telephone number of Appealing Party's attorney, if any:

3. Name, mailing address and telephone number of Responding Party:

4. Name, mailing address and telephone number of Responding Party's attorney, if known:

5. Appealing Party's employing agency (if applicable):

6. Appealing Party's assigned work station (town, city, county) and organizational location (bureau, division, branch) within employing agency (if applicable):

7. Appealing Party's immediate supervisor (if applicable):

8. Appealing Party's job title (if applicable):

9. Appealing Party's date of hire with employing agency (if applicable):

10. Appealing Party's date of termination from employing agency (if applicable):

11.	Appealing Party's Statement, in sufficient detail, of the facts upon which the appeal is taken, including the effective date of any alleged grievable action, and why such action is in error:
12.	Appealing Party's Statement of the final action taken and/or decision made as a result of the agency-level grievance proceedings, including the effective date of such final action:
13.	Appealing Party's Statement of relief requested:

14. List of any documents, exhibits, and/or supplemental pages which Appealing Party has attached to this Notice of Appeal:

Signature of Appealing Party:	
Date:	

NOTE: To file an appeal, the Appealing Party should fill out and return this form to the Mississippi Employer Appeals Board, 301 North Lamar Street, Suite 100, Jackson, Mississippi 39201. The Notice of Appeal must be accompanied by copies of all documents generated by the agency-level grievance proceedings which took place prior to the filing of the appeal. A fee of one hundred dollars ($100.00) in the form of a cashier's check, bona fide attorney's check, or money order made payable to the Mississippi Employer Appeals Board must be filed by the Appealing Party with the Notice of Appeal. Cash or personal checks will not be accepted. The rules governing appeals are found in the Mississippi Employee Appeals Board Administrative Rules booklet. See also Sections 25-9-101 through 25-9-151 and 25-9-301 through 25-9-305, Mississippi Code of 1972, Annotated, as amended.

MISSISSIPPI STATE PERSONNEL BOARD

POLICIES AND PROCEDURES MANUAL

BOARD MEMBERS
Donald G. Brown, Chairman
Robert E. Jones, Vice Chairman
L.H. Gibson
Tommye Dale Favre

EXECUTIVE DIRECTOR
Lynn Fitch

Mississippi State Personnel Board
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Revised __/__/2010

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CHAPTER 1 – INTRODUCTION

1.0 ABOUT THIS MANUAL

This manual is effective as of DATE. The most up-to-date version of this manual is always located on the Mississippi State Personnel Board web site at http://www.spb.ms.gov. As an official product of state government, this document is in the public domain and may be copied or redistributed without restriction.

1.0.1 Scope and Intent of the Manual

This manual contains the policies and rules of the Mississippi state employment service and applies to all employees placed under the purview of the Mississippi State Personnel Board by Mississippi Code Annotated § 25-9-101, *et seq.*, and other pertinent laws. This volume supersedes all previous editions.

The purpose of this manual is to provide a standardized, comprehensive system of human capital administration consistent with Mississippi's laws. In addition, the policies, rules, and procedures contained herein should be followed in a manner consistent with any federal statutes or regulations which are applicable to a particular agency. If any part of this manual is inconsistent with such federal law or regulation, the federal law takes precedence.

The policies and rules contained in this manual and all other publications of the Mississippi State Personnel Board are in accordance with the following principles as listed in Mississippi Code Annotated § 25-9-103:

> Principle I: Recruiting, selecting, and advancing employees shall be based on their relative ability, knowledge, and skills including open consideration of qualified applicants for initial appointment.
>
> Principle II: Equitable and adequate compensation shall be provided.
>
> Principle III: Employees shall be trained, as needed, to ensure high quality performance.
>
> Principle IV: Employees shall be retained based on the adequacy of their performance. Provisions shall be made to correct inadequate performance and to separate employees whose inadequate performance cannot be corrected.

Principle V: Fair treatment of applicants and employees in all aspects of personnel administration shall be ensured without regard to race, religious creed, sex, national origin, political affiliation, age, or disability.

Principle VI: Employees shall be free from coercion for partisan or political purposes, and employees shall be prohibited from using their official authority to interfere with or to affect the result of election or nomination for office.

1.0.2 Amendments to this Manual

The Mississippi State Personnel Board may amend the policies, rules, and procedures, which establish and maintain the state human capital system as circumstances and conditions require. Any appointing authority, agency head, or member of the Personnel Advisory Council operating under the Mississippi State Personnel Board may recommend an amendment to policies and rules when a provision in the state personnel system causes unnecessary hardship or when the efficiency of the system may be improved.

1.1 MISSISSIPPI STATE PERSONNEL BOARD

The Mississippi State Personnel Board, hereinafter referred to as MSPB, consists of five members appointed by the Governor for staggered five-year terms. The Board holds meetings at least once a month as provided in Mississippi Code Annotated § 25-9-113. All Board meetings are open to the public unless an executive session is declared by an affirmative vote of a minimum of 3/5 of all members present. The Board may make and enforce reasonable rules and regulations for the conduct of persons attending its meetings. Minutes of all meetings are kept, whether the meeting is open or in executive session. The minutes will show members present and any final actions taken by the Board, and are available to the public during business hours a reasonable time after recess or adjournment.

The Board, as the governing authority for the statewide human capital system as established in Title 25, Chapter 9 of the Mississippi Code Annotated, has delegated much of its authority to the Executive Director, who may act on behalf of the Board when such action is necessary for the timely, effective, and efficient implementation of the state's human capital system; the day-to-day business of the Board is therefore carried out by the state agency also known as the Mississippi State Personnel Board.

Following an organizational restructuring in 2009, MSPB is divided into six sections. Agency directors, personnel officers, personnel assistants, and members of the public requiring assistance are urged to direct any inquiry to the MSPB staff section assigned the applicable responsibility. Functional assignments are outlined below. If you are unsure where to direct your inquiry,

contact the MSPB switchboard at (601) 359-1406 or your agency's Human Capital Core Processes Consultants.

For a complete listing of MSPB employees, go to http://www.spb.ms.gov

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EXECUTIVE OFFICE — (601) 359-2702

Agency Budget ♦ Annual Report ♦ Executive Support ♦ General Administration ♦ Strategic Planning ♦ Discipline ♦ Employee Handbook ♦ Policy Development and Interpretation ♦ Grievances ♦ Leave Administration ♦ Federal Employment Laws ♦ Legal Questions ♦ Statutes relating to Mississippi State Personnel Board Matters

EMPLOYEE APPEALS BOARD — (601) 359-2708

Appeals Filing ♦ Appeals Scheduling ♦ General Appeals Information

OFFICE OF HUMAN CAPITAL CORE PROCESSES — (601) 359-2764

Benchmarks ♦ Compensation Surveys ♦ Class Specifications ♦ Consultative Services ♦ Job Classification ♦ Job Description Development and Validation ♦ Job Reclassification ♦ Staffing Management ♦ Organizational Charts ♦ Transactions Processing ♦ Program Budget ♦ Salary Certification ♦ Technical Assistance ♦ Application Evaluation ♦ Application Storage ♦ Certification of Eligible Applicants to Agencies ♦ Consultative Services ♦ Organizational Studies ♦ New Hire Flexibility ♦ Recruitment Flexibility ♦ Agency Head Flexibility ♦ Promotional Flexibility ♦ Recruitment Announcements ♦ Substitution of Education and Experience

OFFICE OF WORKFORCE PLANNING — (601) 359-2758

Agency Sponsored On-Site Training ♦ Career Pathing ♦ Consultative Services ♦ Electronic Training Center ♦Internship Programs ♦ Management Certification Programs ♦ Organizational Design ♦ Performance Review ♦ Professional Development Courses ♦ Succession Planning ♦ Support Staff Certification Programs ♦ Talent Management ♦ Technical Assistance ♦ Training Certification ♦ Training Evaluation ♦ Training Needs Assessments ♦ Training Programs ♦ Workforce Analysis

PERSONAL SERVICE CONTRACT REVIEW BOARD — (601) 359-6517

Personal Service Contract Procurement Policy Development ♦ Personal Service Contract Review and Approval ♦ Personal Service Contract Training

OFFICE OF ADMINISTRATIVE SERVICES — (601) 359-6717

Data Management ♦ Special Reports ♦ Technical Assistance ♦ MSPB Personnel Office ♦ MSPB Business Office ♦ Information Systems ♦ Performance Measures ♦ Cost Center Budgeting ♦ Communications ♦ Outreach ♦ Business Continuity ♦ Grant Writing

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1.2 PUBLIC RECORDS ACT REQUESTS

The Mississippi State Personnel Board is in support of, and complies with, requests for information under the Mississippi Public Records Act of 1983, Mississippi Code Annotated § 25-61-1, *et seq.*, according to the following policies:

1. Requests for information under the Mississippi Public Records Act of 1983 should be marked "Request for Public Records" and must be submitted in writing by U.S. mail to the Executive Director, Mississippi State Personnel Board, 301 North Lamar Street, Suite 203, Jackson, MS 39201.

2. Requests should describe in reasonable detail the records sought, and, if possible, should include a description of the type of records, names, dates, dates of birth, social security numbers, job class and county, title of a publication, and other information which may aid in locating records.

3. Upon receipt of a request, the MSPB Executive Director shall determine whether the records sought are exempt from production under the Mississippi Public Records Act, and shall either produce or deny production of the records sought within fourteen (14) working days of the receipt of the request. If the MSPB Executive Director determines that the records requested are exempt or privileged under the law, he or she shall deny the request and shall send the person making the request a statement of specific reasons for the denial. Such denials shall be kept on file for inspection by any person for three (3) years.

Information gained from third parties containing trade secrets or confidential commercial or financial information will not be released until a reasonable time after notice has been sent to the third parties, unless the material is protected by a court order.

Where possible, non-exempt material will be separated from exempt material, and only the exempt material will be withheld.

4. The request for information should be accompanied by sufficient funds, payable by cashier's check or money order, to defray the actual costs of searching, reviewing, copying and, if applicable, mailing the records. Fees charged for the records will not exceed the actual costs, and any overpayment will be refunded. Fees shall be collected prior to compliance with the request. The fees charged will be according to the following schedule:

Employee time .....Salary rate plus 17% for fringe

Photocopies .....$.13 per page

Automated records search$90.00 setup charge, and computer time and paper cost

(Programming time in excess of one (1) hour will be charged at $40.00 per hour)

Other printed materials ..... Actual cost
Mailing.....Actual cost

The MSPB Executive Director shall promptly notify the person making the request of the estimated fees if the estimate exceeds the funds accompanying the request. The above schedule of fees will apply even if the search is unproductive.

1.3 STATEWIDE PAYROLL AND HUMAN RESOURCE SYSTEM

The Statewide Payroll And Human Resource System (SPAHRS) is the repository of record for agencies which fall under the purview of the Mississippi State Personnel Board. Transactions entered through SPAHRS are considered to be initiated and approved by the head of the submitting agency. Once entered, transactions are automatically forwarded to the proper

reviewer at MSPB for approval or disapproval. Transactions which are invalid, incorrect, or incomplete will be returned to the submitter without action, with notes attached indicating items that must be corrected prior to resubmission. SPAHRS is maintained by the Mississippi Management and Reporting System, hereinafter referred to as "MMRS," within the Department of Finance and Administration. For more information on SPAHRS, including training and reference materials, contact the MMRS Helpdesk at (601) 359-1343 or see http://www.mmrs.state.ms.us/statewide_applications/SPAHRS.

CHAPTER 2 – DEFINITIONS

2.0 INTRODUCTION

This chapter contains definitions which are used throughout this manual. However, if anything in this chapter is found to be inconsistent with any state or federal statute, the statute takes precedence.

2.1 STATE SERVICE

"State Service" shall mean all employees of state departments, agencies, and institutions as defined in Mississippi Code Annotated § 25-9-101, *et. seq.*, except § 25-9-107(c).

A. SPAHRS shall automatically place all state service employees in a probationary status upon original appointment and reemployment. The probationary period shall be the initial twelve (12) months of service. State service employees who have served a full twelve (12) month probationary period shall retain permanent status as long as they maintain continuous state service. [Mississippi Code Annotated § 25-9-127.]

B. A probationary period shall be required when transferring a current non-state service status employee into a permanent state service position within the same agency or into a different agency. Time spent in a non-state service position of the same classification or of a higher classification within the same job class series may be counted toward the probationary period upon approval by the Executive Director of the Mississippi State Personnel Board. [Mississippi Code Annotated § 25-9-143.]

C. Extended probationary status shall be assigned only to those employees previously exempted from the selection process as a result of pending litigation. [Mississippi Code Annotated §§ 25-9-139 and 25-9-143.]

2.1.1 Conferment of Permanent State Service Status

Employees not otherwise excluded from the state service, with at least twelve months continuous state service in an agency and who have not been assigned extended probationary status, shall have permanent state service status. [Mississippi Code Annotated §§ 25-9-143 and 25-9-127.] SPAHRS will automatically update the status of employees who have completed the twelve-month probationary period.

Upon original appointment into state service, each incumbent shall automatically receive a status date the same as the hire date. This date reflects the beginning date of the incumbent's status in state service. The term "Probationary" will automatically be placed in the "Employee Status"

field when the transaction is processed. Upon completion of 12 months of continuous state service, each employee shall attain permanent state service status and the term "Permanent" will automatically be placed in the "Employee Status" field by SPAHRS.

Once an employee has attained permanent state service status, the status date shall remain the same on any requests for in-service movement except in the following cases: state service to non-state service; non-state service to state service; and litigated classes to state service.

Any request processed for in-service movement in the above-mentioned cases shall automatically reset the status and the status date of the employee to the effective date of the transaction.

2.2 NON-STATE SERVICE

All personnel transactions in the non-state service shall be effected through appointments to authorized employment positions by the appointing authority. The Office of Human Capital Core Processes shall be notified of each appointment and may acknowledge the appointment. [Mississippi Code Annotated § 25-9-107 (c).]

To ensure that the Office of Human Capital Core Processes is informed of all appointments to authorized vacant non-state service positions under the salary setting authority of the Mississippi State Personnel Board, all human capital transactions pertaining to personnel in these non-state service positions shall be submitted through SPAHRS in accordance with the procedures contained herein. Requests for salary certifications shall be acknowledged, rather than certified, by MSPB for non-state service employees not under the salary setting authority of the Mississippi State Personnel Board.

2.2.1 Non-state Service Appointment

Unless otherwise provided for by law, the appointing authority shall determine job qualifications for non-state service employees. "Nonstate service" is defined by Mississippi Code Annotated § 25-9-107(c) as follows:

> "Non-state service" shall mean the following officers and employees are excluded from the state service by this chapter. The State Personnel Director acknowledges the appointing authority actions for the following, which are excluded from the state service:

(i) Members of the State Legislature, their staffs and other employees of the legislative branch;

(ii) The Governor and staff members of the immediate office of the Governor;

(iii) Justices and judges of the judicial branch or members of appeals boards on a per diem basis;

(iv) The Lieutenant Governor, staff members of the immediate office of the Lieutenant Governor and officers and employees directly appointed by the Lieutenant Governor;

(v) Officers and officials elected by popular vote and persons appointed to fill vacancies in elective offices;

(vi) Members of boards and commissioners appointed by the Governor, Lieutenant Governor, or the State Legislature;

(vii) 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;

(viii) Officers and enlisted members of the National Guard of the State;

(ix) Prisoners, inmates, student or patient help working in or about institutions;

(x) Contract personnel; provided, that any agency which employs state service employees may enter into contracts for personal and professional services only if such contracts are approved in compliance with the rules and regulations promulgated by the State Personal Service Contract Review Board under Mississippi Code Annotated § 25-9-120(3). Before paying any warrant for such contractual services in excess of One Hundred Thousand Dollars ($100,000.00), the Auditor of Public Accounts, or the successor to those duties, shall determine whether the contract involved was for personal or professional services, and, if so, was approved by the State Personal Service Contract Review Board;

Part-time employees; provided, however, part-time employees shall only be hired into authorized employment positions classified by the board, shall meet minimum qualifications as set by the board, and shall be paid in accordance with the Variable Compensation Plan as certified by the board;

(xi) Persons appointed on an emergency basis for the duration of the emergency; the effective date of the emergency appointments shall not be earlier than the date approved by the State Personnel Director and shall be limited to thirty (30) working days. Emergency appointments may be extended to sixty (60) working days by the State Personnel Board;

(xii) Authority to hire under emergency conditions is defined as hiring personnel in order that appropriate care and protection for life and/or property and supplies may be implemented and/or maintained. Salary certification for emergency appointments shall be at the start salary of the range of the job class;

(xiii) Physicians, dentists, veterinarians, nurse practitioners and attorneys, while serving in their professional capacities in authorized employment positions who are required by statute to be licensed, registered or otherwise certified as such, provided that the State Personnel Director shall verify that the statutory qualifications are met prior to issuance of a payroll warrant by the auditor;

(xiv) Personnel who are employed and paid from funds received from a federal grant program, which has been approved by the Legislature or the Department of Finance and Administration whose length of employment has been determined to be time-limited in nature. This paragraph shall apply to personnel employed under the provisions of the Comprehensive Employment and Training Act of 1973, as amended, and other special federal grant programs which are not a part of regular federally funded programs wherein appropriations and employment positions are appropriated by the Legislature. Such employees shall be paid in accordance with the Variable Compensation Plan and shall meet all qualifications required by federal statutes or by the Mississippi Classification Plan;

(xv) The administrative head who is in charge of any state department, agency, institution, board or commission, wherein the statute specifically authorizes the Governor, board, commission or other authority to appoint said administrative head; provided, however, that the salary of such administrative head shall be determined by the State Personnel Board in accordance with the Variable Compensation Plan unless otherwise fixed by statute;

Salary certification for administrative officers, deputies, bureau chiefs, and directors who report directly to the department, agency, institution, or commission, unless otherwise set by statute shall be determined by the appointing authority and the State Personnel Board not to exceed the end of the salary range assigned;

(xvi) The State Personnel Board shall exclude top-level positions if the incumbents determine and publicly advocate substantive program policy and report directly to the agency head, or the incumbents are required to maintain a direct confidential working relationship with a key excluded official. Provided further, a written job

classification shall be approved by the board for each such position, and positions so excluded shall be paid in conformity with the Variable Compensation Plan;

(xvii) Employees whose employment is solely in connection with an agency's contract to produce, store or transport goods, and whose compensation is derived there from;

(xviii) Repealed;

(xix) The associate director, deputy directors, and bureau directors within the Department of Agriculture and Commerce;

(xx) Personnel employed by the Mississippi Industries for the Blind; provided, that any agency may enter into contracts for the personal services of MIB employees without the prior approval of the State Personnel Board or the State Personal Service Contract Review Board; however, any agency contracting for the personal services of an MIB employee shall provide the MIB employee with not less than the entry level compensation and benefits that the agency would provide to a full-time employee of the agency who performs the same services; and

(xxi) Personnel employed by the Mississippi Department of Wildlife, Fisheries, and Parks and the Mississippi Department of Marine Resources as law enforcement officer trainees (cadets); such personnel shall be paid in accordance with the Colonel Guy Groff State Variable Compensation Plan.

2.2.2 Salary Certification

Salaries for appointment to non-state service positions shall be certified in accordance with the provisions governing appointments. [Mississippi Code Annotated § 25-9-119 (2)(c)(i) and (ii).]

2.2.3 Notification of Non-state Service Status

Each applicant who accepts appointment to a non-state service position shall be given written notice by the appointing authority that permanent state service status will not be attained while employed in that position and that the State of Mississippi is under no obligation to continue their employment in such a position.

Permanent state service status employees who accept appointment to a non-state service position lose their permanent employment status at the time of the appointment, except under the provisions of Mississippi Code Annotated § 25-9-125, and shall be so notified in writing prior to the appointment.

CHAPTER 3 – RECRUITMENT

3.0 INTRODUCTION

Following an organizational restructuring of the Mississippi State Personnel Board in 2009, the functions of recruitment have been subsumed into the Office of Human Capital Core Processes. Any questions regarding these functions should be addressed to your Human Capital Core Processes Consultants.

The Executive Director of the Mississippi State Personnel Board shall administer a recruitment program. Mississippi Code Annotated § 25-9-119 (2)(c). This program shall ensure the fair and equitable treatment of all applicants without regard to political affiliation, race, national origin, sex, religious creed, age, or disability. Mississippi Code Annotated § 25-9-149 and Intergovernmental Personnel Act Programs: Standards for a Merit System of Personnel Administration, 5 C.F.R. §§ 900.603; 900.604 (1983).]

3.1 RECRUITMENT PROGRAMS

Recruitment shall be tailored to the number and nature of positions to be filled and to labor market conditions. The recruiting efforts of the Office of Human Capital Core Processes and agencies will be coordinated and carried out in a timely manner.

3.1.1 Open Consideration of Qualified Candidates

The Executive Director of the Mississippi State Personnel Board shall respond to agency needs by developing methods of reaching qualified applicants. Recruitment efforts for initial appointments shall be planned and carried out in a manner that ensures open competition and equal consideration of all qualified candidates, except as provided in Section 4. Recruitment activities may include, but not be limited to, contact with institutions and organizations, personal contact, and public announcements.

3.1.2 Regular Recruitment

The Executive Director of the Mississippi State Personnel Board shall initiate recruitment efforts in response to current or projected agency staffing requirements. Agencies that anticipate vacancies due to circumstances such as a termination, transfer of an employee, or authorization for additional positions, may request that those positions be placed on recruitment to build a list of eligible applicants. Recruitment to build a list of eligible applicants may be authorized by the Executive Director of the Mississippi State Personnel Board.

Agencies will use the SPAHRS Recruitment Master List screen to request recruitment to build a list of applicants. Agencies using the SPAHRS Recruitment Master List screen are requested to notify the Executive Director of the Mississippi State Personnel Board when an appointment has been made to the position. The position will be assigned a closing date of five (5) working days from the date of notification.

3.1.3 Special Recruitment

The Executive Director of the Mississippi State Personnel Board may initiate additional recruitment efforts for certain difficult-to-fill job classifications or upon agency requests. In order for the Executive Director of the Mississippi State Personnel Board to coordinate agency recruitment efforts, agencies will advise the Executive Director of the Mississippi State Personnel Board five (5) working days in advance, when planning is initiated for any and/or all recruitment efforts and/or advertising. Notification is essential to enable the Executive Director of the Mississippi State Personnel Board to ensure that the agency recruitment efforts are in accordance with state policy and procedure.

Agencies that require assistance from the Executive Director of the Mississippi State Personnel Board in developing special recruitment plans must notate on the SPAHRS Recruitment Master List screen the obstacles that inhibit recruitment. Information must include, in detail, any special qualification required, and the reason for the requirement, noted in the area designated for notes on the screen. The Executive Director of the Mississippi State Personnel Board determines the dates and length of the special recruitment period.

3.1.4 Authority to Take a Position off Recruitment

Positions placed on recruitment may be assigned a closing date due to, but not limited to, the following circumstances:

A. a vacancy has been filled;

B. there is an adequate list of eligible applicants;

C. a class specification revision has been initiated; or

D. there is a request by the appointing authority.

Positions placed on recruitment for an indefinite period may not be assigned a closing date until an adequate list of names is acquired or a vacancy is filled. The authority to take a position or occupational class off recruitment rests with the Executive Director of the Mississippi State Personnel Board.

3.1.5 Determination to Place a Position on Recruitment

The decision to recruit for a position or occupational class may be determined by the following:

A. the number of names currently on the List of Eligibles - (per request);

B. the number of positions in the occupational class - (per request);

C. the adequacy of the existing list and the length of eligibility time remaining for applicants;

D. special qualifications under which an agency desires recruitment.

The final determination to place a position or occupational class on recruitment shall rest with the Executive Director of the Mississippi State Personnel Board.

3.1.6 Length of Recruitment

Once a position or occupational class has been placed on recruitment, it may be recruited continuously in accordance with Sections 3.2 and 3.3 until it is taken off recruitment in accordance with Section 3.1.4. The Executive Director of the Mississippi State Personnel Board may elect to take the position off recruitment when deemed appropriate.

3.1.7 Non-State Service Recruitment

The Executive Director of the Mississippi State Personnel Board does not determine recruitment programs for non-state service positions. However, recruitment or advertising for these positions must be coordinated with the Executive Director of the Mississippi State Personnel Board in accordance with the advertising requirements below.

Agencies with non-state service positions that wish to recruit may request assistance from the Executive Director of the Mississippi State Personnel Board. Staff will be available to assist in the development of a plan for recruitment that addresses procedures such as posting of announcements, advertising, evaluation, and referral procedures for applicants.

3.2 RECRUITMENT ANNOUNCEMENTS

Recruitment announcements shall, at a minimum, be listed on the Mississippi State Personnel Board web site. All recruitment announcements shall be advertised for not less than five (5) working days.

3.3 CONTENT OF ANNOUNCEMENT

Recruitment announcements may contain the Mississippi State Personnel Board class specification of the vacancy or the equivalent of a Mississippi Department of Employment Security job announcement, including the following: title of the position, summary of education and experience requirements, beginning and ending dates of recruitment, salary, and geographic location.

3.4 ADVERTISING

For special recruitment purposes, the Executive Director of the Mississippi State Personnel Board may utilize advertising to supplement the public notice requirements above.

3.4.1 Agency Advertising Efforts

Agencies **MUST** coordinate their advertising efforts with the Executive Director of the Mississippi State Personnel Board. Commercial advertising shall be at the expense of the requesting agency unless the Mississippi State Personnel Board sponsors the advertising and provides the agency with prior written confirmation of sponsorship. Prior notification will ensure that:

A. the job title is correct and the position is placed on open recruitment;

B. the brief summary of education and experience requirements is reviewed for consistency;

C. special qualifications are developed (when applicable);

D. the statement “An Equal Opportunity Employer” is included in the advertisement;

E. the Executive Director of the Mississippi State Personnel Board is aware of the agency’s intentions and will be able to provide information to applicants regarding the advertisement;

F. agency advertisements do not request that resumes be forwarded to the Mississippi State Personnel Board or the local Mississippi Department of Employment Security Workforce Investment Network (WIN) job centers. Any exception to this procedure must be approved by the Executive Director of the Mississippi State Personnel Board;

G. the address where applications are to be sent is correct on the advertisement; and

H. the Executive Director of the Mississippi State Personnel Board may determine the dates and length of the advertising.

Agencies may coordinate recruitment efforts with the Mississippi State Personnel Board by forwarding a copy of the advertisement to their assigned Office of Human Capital Core Processes Consultant via email.

3.4.2 Notice of Advertising

Appointing authorities will notify the Executive Director of the Mississippi State Personnel Board at least five (5) working days prior to all recruitment advertising, whether the advertising is donated, paid for by the agency, or sponsored and paid for by the Mississippi State Personnel Board.

3.5 RECRUITMENT AND COUNSELING

The Mississippi State Personnel Board will provide information and assistance to state agencies and applicants. These services may include, but are not limited to: recruitment efforts; the processing of applications; and counseling/assistance regarding the evaluation and selection processes.

3.6 EXEMPT STATUS RECRUITMENT AND SELECTION

The Executive Director of the Mississippi State Personnel Board does not determine recruitment programs for job classes or positions exempted under Rule 4.2.9. However, recruitment or advertising for these classifications must be coordinated with the Executive Director of the Mississippi State Personnel Board in accordance with the requirements above.

CHAPTER 4 – SELECTION

4.0 INTRODUCTION

Following an organizational restructuring of the Mississippi State Personnel Board in 2009, the functions of selection have been subsumed into the Office of Human Capital Core Processes. Any questions regarding these functions should be addressed to your Human Capital Core Processes Consultants.

4.1 APPLICANT PROCESSING

The Mississippi State Personnel Board shall set forth standardized procedures for processing applications, uniformly evaluating training and experience, maintaining lists of eligibles, and certifying eligibles.

4.2 THE APPLICATION PROCESS

4.2.1 Application Form

A. All applications for state service positions and the non-state service positions in Section 4.4.1 shall be on the State of Mississippi Application.

B. The Executive Director of the Mississippi State Personnel Board shall be responsible for the format and may amend the State of Mississippi Application as needed.

C. The Executive Director of the Mississippi State Personnel Board may require that only the original State of Mississippi Application be accepted by the Mississippi State Personnel Board for evaluation. Photocopied State of Mississippi Applications may be returned without consideration.

4.2.2 When Applications Shall Be Filed

A. The Executive Director of the Mississippi State Personnel Board may establish procedures, which allow the following employees and/or applicants to file applications for employment at any time:

   1. current employees with at least six (6) months of continuous service;

   2. persons who were terminated from the state service due to a Reduction in Force (RIF) within the last twelve (12) months;

3. former employees who left the state service in good standing within the past twelve (12) months, and who had completed at least six (6) months of continuous employment.

B. Applicants not meeting the criteria for the above must file an application during a period when the job class is listed on the Mississippi State Personnel Board's Active Recruitment List.

C. Applicants for job classifications on open recruitment shall file all applications on or prior to the closing date specified in the announcement.

4.2.3 Locations Where Applications May Be Filed

A. Applications for state service positions may be filed at the Mississippi State Personnel Board in Jackson, the Mississippi Department of Employment Security Workforce Investment Network (WIN) job centers statewide, or at any other location where the necessary technology is made available. The Mississippi State Personnel Board may provide for the filing of applications at additional locations.

B. An individual is not considered a bona fide applicant until the application is received by either the Mississippi State Personnel Board or the Mississippi Department of Employment Security. Individuals who file an application directly with a state agency/board, etc., are not considered a bona fide applicant until the application is received by the Mississippi State Personnel Board.

C. Applications for positions and job classifications falling under Section 4.2.9 shall be exempt from this section.

4.2.4 Who May Apply For State Employment

A. An applicant is defined as any individual who files his or her State of Mississippi Application in accordance with Sections 4.2.1, 4.2.2, and 4.2.3.

B. All State of Mississippi Applications shall be signed by the applicant, and the truth of the statements contained within the Record shall be certified by the applicant's signature. If the application is submitted electronically, all statements in the application are considered true and correct. The applicant's signature is required when an offer of employment is made by the appointing authority.

C. The Executive Director of the Mississippi State Personnel Board shall have final authority in determining the validity of the application.

D. A State of Mississippi Application determined to be invalid shall be returned to the applicant.

E. A State of Mississippi Application returned as invalid and subsequently re-submitted must meet the validity requirements effective on the last date received.

F. Agencies may submit a State of Mississippi Application for agency-only non-competitive promotion with a formal petition for approval.

4.2.5 Evaluation of Experience and Training

A. All prospective or current state service employees shall have their State of Mississippi Application formally evaluated prior to appointment or promotion except as provided in these rules. The Mississippi State Personnel Board shall uniformly evaluate the qualifications of applicants as stated in their State of Mississippi Application. Applicants shall be evaluated without regard to political affiliation, race, national origin, sex, religion, creed, age, or disability except as provided by law.

B. All State of Mississippi Applications received at the Mississippi State Personnel Board are reviewed to assess the applicant's training and experience as listed in the application to determine qualifications for the job class for which the applicant is applying. All college education and training related to the position for which application is made shall be assessed at a maximum of 120 semester hours (or the equivalent) for a Bachelor's degree; a maximum of 150 semester hours (or the equivalent) for a Master's degree; a maximum of 180 semester hours (or the equivalent) for a Specialist degree; and 210 semester hours (or the equivalent) for a doctoral degree. All experience entries listed on the application related to the position for which the application is made, including military, paid, and unpaid volunteer work, shall be assessed at a maximum of forty (40) hours per week. This forty (40) hour limit will also apply where a combination of related work is gained through concurrent jobs. The applicant must meet the minimum requirements outlined in the current active class specification.

C. The Executive Director of the Mississippi State Personnel Board along with the agencies may develop evaluation aid(s) to assist in uniformly assessing training and experience for given job titles.

4.2.6 Additional Documentation Supplied for Evaluation

A. Applicants may be required to submit proof of the possession of any license, certificate, degree, or other evidence of eligibility or qualification required by state law, class

specification or evaluation aid. Applicants may be disapproved for failure to provide the requested documentation.

B. Applicant(s) will be notified in writing regarding additional information or documents necessary to complete processing of application(s).

4.2.7 Verification of Experience and Training

A. An applicant's educational record and work history may be investigated by the Executive Director of the Mississippi State Personnel Board or the hiring agency.

B. Investigative procedures may include but not necessarily be limited to contacting present and previous employers and/or schools, colleges, or other institutions to verify information contained in the State of Mississippi Application or related documents supplied by the applicant and/or the hiring agency.

C. The appointing authority may require the applicant to submit proof of the possession of any license, certificate, degree, or other evidence of eligibility or qualification required by state or federal law, class specification or evaluation aid.

D. The hiring agency shall ultimately be held accountable for verifying the correctness of information recorded in the State of Mississippi Application.

4.2.8 Falsification of Experience and Training

A. Should an agency, after investigation, discover an applicant's State of Mississippi Application to be falsified, the agency should immediately inform the Executive Director of the Mississippi State Personnel Board of such falsification in writing. The State Personnel Director may remove the applicant from consideration as provided for in Section 4.5.3.

B. The falsification of a State of Mississippi Application by a state employee may result in dismissal, suspension for up to thirty (30) days, demotion to the previous position and pay level, or a combination thereof.

C. When such action is taken, written notification will be mailed to the applicant's last known mailing address.

4.2.9 Non-Competitive Initial Appointment Occupational Classes (State Service), under Mississippi Code Annotated § 25-9-105

A. Non-competitive appointments to occupational classes exempted from the selection process by state law or by action of the Mississippi State Personnel Board are not required to be made from a Certificate of Eligibles. The Executive Director of the Mississippi State Personnel Board only certifies the candidates referred by the appointing authority who meet the minimum requirements for the occupational class.

B. Exempt classifications may consist of, but are not limited to, the following: (1) skilled or semi-skilled labor, domestic or custodial work; (2) classifications which involve professional or technical skills not normally available in the general applicant population and for which recruiting procedures produce recurring deficiencies; (3) classifications which include a small number of positions; (4) classifications which are unique to a particular agency; (5) classifications which have high turnover rates, and (6) classifications which require professional licensure and/or certification.

C. The Executive Director of the Mississippi State Personnel Board shall review agency proposed classifications or positions and make recommendations to the Mississippi State Personnel Board to develop a list of job classifications exempt from the use of Certificates of Eligibles. The list of exempt classifications may be furnished to the agencies.

D. Agencies may request classifications be reinstated to a competitive appointment basis and may recommend changes to the list of exempt classifications.

E. Exempt classifications may apply to entire classifications or specific positions assigned to a classification.

F. The appointing authority shall submit a current State of Mississippi Application to the Executive Director of the Mississippi State Personnel Board. The applicant is required to meet the minimum qualifications to be certified for the class or position.

G. Incumbents in positions exempt by actions of the Mississippi State Personnel Board have the same rights as any other state-service employee.

H. Each agency is responsible for ensuring that its workforce complies with all state and federal laws, guidelines, and court orders regarding Equal Opportunity Employment.

4.3 EVALUATION OF APPLICANTS BASED ON MINIMUM QUALIFICATIONS

Applicant's qualifications shall be evaluated to determine if they meet the minimum requirements for the position for which they applied. Established standards shall be uniformly applied to all applications without regard to the applicant's political affiliation, race, national origin, sex, religion, creed, age, or disability except as provided by law.

4.3.1 Minimum Qualifications

The minimum qualifications for an occupational class shall consist of the minimum qualifications listed on the class specification plus any special qualifications for the position applied for as requested by an agency and as approved by the Executive Director of the Mississippi State Personnel Board.

A. An applicant's training and experience background, as stated on the State of Mississippi Application, is reviewed in detail to determine qualifications for the position applied for, in line with the approved minimum requirements in the class specification, applicable evaluation aids and any special qualifications levied by the user agency as approved by the Executive Director of the Mississippi State Personnel Board.

B. The Executive Director of the Mississippi State Personnel Board shall determine a formula for the evaluation of the training and experience qualifications of applicants. This formula shall give due regard to relatedness as well as quantity of the training and experience.

C. An applicant not meeting the minimum educational qualifications may be allowed to submit an application if, as a result of the completion of further educational work, the applicant shall fully meet the requirements within the six (6) month period immediately following the closing date for receipt of a~~n~~ State of Mississippi Application.

D. An applicant who is qualified under the six (6) month provision shall be eligible for placement on the List of Eligibles. Failure to complete the qualifying level of education shall necessitate removal of the applicant's name from the List of Eligibles. No applicant qualifying under the six (6) month provision may be appointed into a state service position prior to meeting minimum qualifications of the classification. It is the responsibility of the hiring agency to verify completion of the required education prior to appointment.

4.3.2 Notification of Failure to Meet Minimum Qualifications

A. A standardized letter approved by the Executive Director of the Mississippi State Personnel Board shall be sent by mail to all applicants who do not meet the minimum qualifications of the occupational class for which they have made application.

B. An applicant shall have the right to make a written request for the review of the disapproval by the Director of the Office of Human Capital Core Processes.

4.3.3 Waiver of Minimum Qualifications

An appointing authority within the state service may formally request in writing that the Mississippi State Personnel Board waive the minimum training and experience requirements required for entry into an occupational class, thereby allowing the appointment of an individual who does not meet the minimum qualifications as listed on the class specification.

Where employees do not possess the minimum qualifications necessary for promotions, demotions, transfers, or reallocations, agencies shall submit the prescribed forms necessary to document possession of knowledge, skills, and abilities necessary to perform in the proposed position. Requests for waiver of minimum qualifications must be approved by the Mississippi State Personnel Board.

A. There shall be no consideration given to waiving minimum requirements for original appointments.

B. The Mississippi State Personnel Board shall review all requests by state agencies to waive minimum qualifications of a class specification to accomplish movements within state service.

C. The Mississippi State Personnel Board shall consider but shall not limit its consideration to the following when reviewing a request to waive minimum qualifications:

   1. The amount of related experience as demonstrated by a current State of Mississippi Application; Job Content Questionnaire; enumeration of Knowledge, Skills, and Abilities (KSAs); and Performance Review duties/performance standards;

   2. The number of related college credit hours;

   3. The number of years of related experience;

4. The availability of qualified employees and applicants;
5. The feasibility of a trainee classification; and
6. Applicable federal and state statutes, licensure, certification, and registration requirements.

D. A waiver of minimum qualifications approved by the Mississippi State Personnel Board applies only to the classification for which the waiver was requested.

E. Decisions of the Mississippi State Personnel Board shall be final and no further consideration of a request for waiver shall be afforded.

F. Requests for waivers of minimum qualifications by state agencies shall include:

1. Relevant position-employee data;
2. State of Mississippi Application;
3. Job Content Questionnaire (current and proposed position);
4. Letter of Justification including but not limited to:
   i. demonstration that no qualified employee or applicant is available;
   ii. explanation of why subject employee was chosen and/or best qualified; and discussion of alternative actions.
5. Organizational Chart of the unit where the position is located along with functional statements for the unit;
6. Performance Appraisal Duties/Performance Standards (proposed position);
7. Enumeration of KSAs derived from JCQ task statements (proposed position).

4.3.4 Substitution of Minimum Qualifications

An employee or applicant who possesses the substantial equivalent of the minimum qualifications may request in writing that the Executive Director of the Mississippi State Personnel Board substitute the substantial equivalent of education/training and experience for the minimum qualifications required for entry into an occupational class, thereby allowing the

certification to the list of eligibles or in-service movement of an individual not otherwise meeting the stated minimum qualifications.

A. There shall be no consideration given to the substitution of equivalent education/training or experience where relevant licensing, certification, or similar requirements, or where state or federal statutes or regulatory guidelines preclude evaluation on this alternative basis.

B. The Executive Director of the Mississippi State Personnel Board shall appoint a committee of staff members to review all requests.

C. The review committee shall consider, but not limit its consideration to, the amount of related experience and formal education/training as documented by a State of Mississippi Application.

D. Decisions of the review committee shall be binding; however, final consideration may be made by the Executive Director of the Mississippi State Personnel Board upon written justification submitted by the employee, applicant, and/or agency.

E. Requests for substitutions of the substantial equivalent of training and experience by applicants, employees, or agencies may include:

    1. Detailed and current State of Mississippi Application;
    2. Letter of request;
    3. Transcript of related college credit hours;
    4. Certificates of completion of any related training courses where applicable; and
    5. Other pertinent documents deemed necessary by the review panel.

4.3.5 Special Qualifications

A special qualification is an additional requirement used in conjunction with the minimum qualifications of a job class to designate specific skills, abilities, education, and/or experience necessary for a particular position.

A special qualification may be utilized when requesting a Certificate of Eligibles (COE), or when requesting a job classification be placed on recruitment. In either case, the special qualification must be approved by the Executive Director of the Mississippi State Personnel

Board prior to usage. Upon approval of the request for a special qualification, the State Personnel Board staff will automatically begin the process of evaluating the application of those individuals whose names currently appear on the List of Eligibles (LOE) for the job class to determine if they meet the special qualification. Names of applicants meeting the special qualification will be placed on the Certificate of Eligibles (COE) in accordance with Mississippi State Personnel Board policies. If, at the end of this process, the COE contains the required number of names (ten or more), the COE, along with copies of the applications, will be forwarded to the requesting agency. NO open recruitment is required. Should this process yield an insufficient number of names (nine or fewer), the Executive Director of the Mississippi State Personnel Board will automatically place the job on open recruitment with the special qualification attached. No additional justification is required to place the job on recruitment.

When requesting the use of a special qualification, the following shall be in effect:

A. In no case shall the special qualifications exceed the minimum qualifications as outlined on the class specification for the job class. For example, the minimum qualifications might read: A bachelor's degree from an accredited four-year college or university and seven (7) years of experience. A valid special qualification might read: A bachelor's degree in biology and four (4) of the seven (7) years of experience must have been in a laboratory environment.

B. Special qualification requests must contain the following documentation:

    1. A detailed explanation of the need for a special qualification which includes a description of the specific skills, abilities, education, and/or experience required and why;

    2. Copies of any federal or state regulations, guidelines, statutes or case law which are relevant to qualifications of the position; and

    3. Additional documentation as may be specified by the Executive Director of the Mississippi State Personnel Board.

C. The Executive Director of the Mississippi State Personnel Board shall have the authority to modify and/or deny any request for special qualifications.

D. Exceptions to this policy will be reviewed on a case-by-case basis by the Executive Director of the Mississippi State Personnel Board.

4.4 MISSISSIPPI STATE PERSONNEL BOARD STATUTORY SELECTION AUTHORITY OVER NON-STATE SERVICE PERSONNEL

4.4.1 Non-State Service Personnel Evaluation

The Executive Director of the Mississippi State Personnel Board only acknowledges the appointment of non-state service personnel except as provided by statute and regulations prescribed pursuant to statute.

A. Part-Time Positions - The appointing authority shall submit position-employee data along with a copy of a current State of Mississippi Application and other required documentation to the Executive Director of the Mississippi State Personnel Board when appointing to part-time positions. The individual to be appointed must meet the minimum qualifications for the occupational class as set by the Mississippi State Personnel Board and be certified as such prior to appointment unless otherwise authorized by the Executive Director of the Mississippi State Personnel Board.

B. Physicians, dentists, veterinarians, nurse practitioners and attorneys, while serving in their professional capacities in authorized employment positions who are required by the State to be licensed, registered, or otherwise certified as such, shall submit State of Mississippi Applications and other documentation as needed to substantiate their professional status. The Executive Director of the Mississippi State Personnel Board shall verify such licensure, registration, or certification as being current and valid prior to acknowledging the appointment of such personnel. The appointing authority shall submit position-employee data along with a copy of a current State of Mississippi Application and other required documentation to the Executive Director of the Mississippi State Personnel Board when appointing to such positions.

C. Time-Limited Positions - The appointing authority shall submit position-employee data along with a copy of a current State of Mississippi Application to the Executive Director of the Mississippi State Personnel Board when appointing to time-limited positions. The individual to be appointed must meet the minimum qualifications for the occupational class as set by the Mississippi State Personnel Board as well as qualifications required by federal laws and regulations and be certified as such prior to appointment unless otherwise authorized by the Executive Director of the Mississippi State Personnel Board [Mississippi Code Annotated § 25-9-107(c)(xiv).]

D. Applicants for top-level positions excluded from the state service by Mississippi Code Annotated § 25-9-107(c)(xvi) shall submit a State of Mississippi Application to the appointing authority. The appointing authority shall submit position-employee data

along with a copy of a current State of Mississippi Application to the Executive Director of the Mississippi State Personnel Board.

E. With the exception those positions stipulated in sections A,B, and C above, the Executive Director of the Mississippi State Personnel Board only acknowledges the appointment of non-state service personnel. In those instances when the appointee fails to meet the minimum qualifications of the occupational class as set by the Mississippi State Personnel Board, the Executive Director of the Mississippi State Personnel Board shall notify the appointing authority, in writing, of the failure of the applicant to meet minimum qualifications.

4.5 EVALUATIONS OVERVIEW

A. Applicants for occupational classes must be evaluated and found minimally qualified by the Executive Director of the Mississippi State Personnel Board prior to being assigned a numerical rating and placed on the List of Eligibles.

B. The Executive Director of the Mississippi State Personnel Board shall maintain uniform standards for rating the experience and training of minimally qualified applicants for positions.

C. The established uniform standards shall be applied to all applications without regard to the applicant's political affiliation, race, national origin, sex, religion, creed, age, or physical disability except as provided by law.

D. All State of Mississippi Applications for the same occupational class are afforded uniform and equal treatment in all phases of the rating process.

4.5.1 Minimum Rating by Which Eligibility Is Earned

A. The Executive Director of the Mississippi State Personnel Board shall determine the minimum rating through which eligibility on a list of eligibles is earned.

B. The minimum rating through which eligibility on a list of eligibles is earned may be amended or revised by the Executive Director of the Mississippi State Personnel Board at any time.

4.5.2 Rating of Applications

A. After applicants are determined to have met the minimum qualifications for a classification, they shall be assigned a score of seventy (70).

B. Ratings shall be determined by the amount and relatedness of the training and experience documented on the applicant's State of Mississippi Application as compared to the minimum qualifications, characteristics of work, and description of duties contained in the class specification and any evaluation aid of the occupational class for which application has been made.

C. The Executive Director of the Mississippi State Personnel Board shall determine a formula for the evaluation of the training and experience qualifications of the applicants. This formula shall give due regard to job relatedness as well as quantity of the experience and training.

D. Any applicant claiming credit for training and/or experience gained through unpaid and/or volunteer activities and/or military service shall receive appropriate credit for such training and/or experience when it is related to the duties of the occupational class for which application is made.

4.5.3 Disqualification of Applicants

The Executive Director of the Mississippi State Personnel Board may refuse to rate an applicant or, after rating, may disqualify the applicant, remove the applicant's name from the List of Eligibles, refuse to certify an applicant on a Certificate of Eligibles, or may consult with the appointing authority in taking steps to remove a person already appointed if the individual:

A. Has provided job-related information which indicates inability to perform the tasks assigned to the occupational class for which rated;

B. Has made a false statement of material fact in the State of Mississippi Application;

C. Has used or attempted to use political pressure or bribery to secure an advantage in the rating process;

D. Has directly or indirectly obtained information regarding the rating process to which an applicant is not entitled;

E. Has failed to submit the State of Mississippi Application correctly or within the prescribed time limits;

F. Has taken part in the compilation, administration, or correction of the selection procedures applied;

G. Has otherwise willfully violated the provisions of these rules; and/or

H. Does not meet any one (1) of the minimum qualifications established for the occupational class for which rated.

4.5.4 Notification of Evaluation Results

A. Applicants will be notified of their evaluation results in a timely manner.

B. Agencies authorized to maintain lists of eligibles shall be responsible for furnishing qualified applicants with notification of evaluation results. In all cases, the Executive Director of the Mississippi State Personnel Board shall notify in writing any applicant who failed to meet the minimum qualifications of the occupational class for which application was made.

C. The Executive Director of the Mississippi State Personnel Board may prohibit the disclosure of evaluation results by phone, in person, or by any other means except mail.

4.5.5 Adjustment of Errors

A. The Executive Director of the Mississippi State Personnel Board shall take whatever action deemed necessary to correct a manifest error in the evaluation of an applicant's qualifications for the occupational class for which application is made. Due consideration will be given to the circumstances surrounding the cause of the error.

B. Such corrective action may include, but is not limited to, removing an applicant's name from the list of eligibles and/or canceling any Certificates of Eligibles deemed flawed due to the manifest error.

C. Such corrective action shall not invalidate an appointment previously made unless the applicant fails to meet qualifications imposed by federal or state law, or does not possess licensure, registration, or certification required for the job class to which appointed.

4.6 AWARD OF VETERANS' PREFERENCE POINTS

The veteran status of an applicant may increase his/ or her numerical score. If the applicant is otherwise qualified to be placed on a list of eligibles, a total of five (5) points will be added to the final score for veteran status, and a total of ten (10) points will be added for disabled veteran status. The final score for an applicant is normally based on a seventy (70) point scale. Scores of applicants awarded veterans' preference points may exceed the seventy (70) point scale. Points shall not be awarded for periods of active duty when duty was for “training purposes only” to meet obligations in the Reserve Forces, National Guard, etc. Terms in this section are as follows:

A. Veteran: A person who has served in the active Armed Forces of the United States for a period of ninety (90) days during a period of war or armed conflict and was granted an honorable discharge there from; or was discharged there from for a service-connected injury in less than ninety (90) days. [Mississippi Code Annotated § 25-9-301(a)]

B. Disabled Veteran: A veteran whom the Veterans Administration has certified within the last ninety (90) days to have a service-connected disability. [Mississippi Code Annotated § 25-9-301(b)] and

C. Proof of Eligibility: A certified copy of the veteran's discharge papers and separation record or certification from the Veterans Administration or the Department of Defense will be accepted as proof of veteran status. Applicants requesting disabled veteran status shall submit, on such forms as may be required by the Executive Director of the Mississippi State Personnel Board, proof of disability certified by the Veterans Administration.

4.7 SELECTION PROCEDURE DEVELOPMENT AND VALIDATION

4.7.1 Development of Selection Procedures

A. A comprehensive system of evaluation for all occupational classes within the state service is maintained.

B. The Executive Director of the Mississippi State Personnel Board determines the need for technical assistance to supplement staff expertise in the development of valid selection procedures. Subject to approval by the Mississippi State Personnel Board, the Executive Director of the Mississippi State Personnel Board may contract for selection procedure services or purchase selection procedure material or may utilize qualified technical consultants. When technical assistance is required to supplement staff expertise, criteria for selecting said assistance shall consist of, but is not limited to, the lowest cost proposal, meeting time requirements set forth by the Executive Director of the Mississippi State Personnel Board, methodology to be used, and the amount of time of professional level staff, which is allocated to the project.

4.7.2 Validation of Selection Procedures

A. It is the intent of the Mississippi State Personnel Board to validate selection procedures used as the basis for making employment decisions with regard to choosing prospective employees for employment or current employees for in-service placement. Selection procedures will be validated by methods and techniques that are feasible, practical, and

consistent with federal guidelines and professional standards, as permitted by necessary levels of funding and staff.

B. Important elements of job content shall be determined through interviews and/or the completion of appropriate questionnaires. Employees and/or supervisors and other subject matter experts shall identify and rate job tasks and related knowledge, skills, and abilities, as necessary.

C. Employees and/or supervisors and other subject matter experts are required to evaluate potential selection procedure items under strict security provisions.

D. Objective methods using employees' and/or supervisors' and other subject matter experts' ratings of selection procedure items are used to establish minimum qualifications for each selection procedure validated.

4.8 REFERRAL OF APPLICANTS TO AGENCIES

The appointing authority of hiring agencies shall appoint applicants to positions as follows:

A. The Executive Director of the Mississippi State Personnel Board may determine to be invalid any appointments not made in conformance with Mississippi State Personnel Board procedures.

B. All appointments to the state service shall be from Certificates of Eligibles, except as provided in 4.2.9 and 4.8.10.

C. All initial appointments to the state service shall be on a competitive basis, except as provided in 4.2.9 and 4.8.10.

D. Names on Certificates of Eligibles shall be derived from names appearing on lists of eligibles in accordance with Mississippi State Personnel Board policies, rules, and procedures.

4.9 LISTS OF ELIGIBLES

Lists of eligibles shall be maintained in accordance with policies, rules and procedures promulgated by the Mississippi State Personnel Board. Selection and procedural requirements shall be balanced with the interest of economy. It is the applicant's responsibility to review the policies and procedures pertaining to the maintenance of lists of eligibles. The Mississippi State Personnel Board shall make such policies and rules accessible to all applicants. The Mississippi State Personnel Board may respond to applicant requests for information or assistance. A

separate, original State of Mississippi Application is required for each occupational class for which application is made.

4.9.1 Establishment and Maintenance of Lists of Eligibles

The Executive Director of the Mississippi State Personnel Board establishes and maintains lists of eligibles necessary to provide an adequate supply of qualified candidates for positions in state service.

The appointing authorities shall notify the Executive Director of the Mississippi State Personnel Board as far in advance as possible of vacancies~~,~~ which may occur in the agencies. The Executive Director of the Mississippi State Personnel Board is responsible for the establishment and maintenance of appropriate lists for all state service occupational classes except as provided for in Section 4.11.9 and for the determination of the adequacy of existing lists. Lists of eligibles are categorized as:

A. Type 1: RIF Reemployment

B. Type 2: Alternate Reemployment/State Service Promotional/Transfer

C. Type 3: Open Competitive

4.9.2 Preparation of Lists of Eligibles

A. After the Executive Director of the Mississippi State Personnel Board has determined that an applicant has met the selection criteria for an occupational class, the applicant's name is added to the appropriate list of eligibles.

B. The names of eligibles shall be placed on the list in the order of their final score in alphabetical order. Applicants receiving additional points will be at the top of the list in alphabetical order.

C. All additions to the Open Competitive list(s) of eligibles shall be the result of announcement(s) and evaluation by the State Personnel Director.

D. Names of eligibles shall be added to and removed from lists on a continuous basis.

E. State Service Promotional lists and State Service Transfer lists shall be open on a continuous basis to all state service status employees or those probationary state service, part-time, time-limited and/or other Mississippi State Personnel Board purview non-state service employees who meet the criteria set forth in Section 4.8.6 and Section 4.8.7.

F. Reduction-In-Force (RIF) and Alternate Reemployment lists shall be open on a continuous basis for all applicants who meet the criteria set forth in Section 4.8.5 (A and B).

4.9.3 Related Lists of Eligibles

A. If a vacancy exists in an occupational class for which there is no list of eligibles, a list for that class from one (1) or more existing related lists may be prepared.

B. In selecting related lists of eligibles for use when an adequate list does not exist, the Executive Director of the Mississippi State Personnel Board may select lists from classes for which the minimum qualifications are comparable to or higher than those required for the class in which the vacancy exists. The Executive Director of the Mississippi State Personnel Board may, if appropriate, re-evaluate an eligible's State of Mississippi Application based on the minimum qualifications required for the class in which the vacancy exists.

4.9.4 Replenishment of Lists of Eligibles

A. The Executive Director of the Mississippi State Personnel Board may determine that a list of eligibles is inadequate based on the number of anticipated vacancies; the number of eligibles on existing lists of eligibles; the length of time since the last recruitment period; and/or other related factors.

B. After it has been determined that a list of eligibles is inadequate for filling anticipated vacancies, recruitment may be initiated to replenish the list.

C. Replenishment of Open Competitive lists of eligibles shall be accomplished by public announcement.

D. Agencies may request replenishment of a particular list of eligibles by providing justification to the Executive Director of the Mississippi State Personnel Board.

4.9.5 RIF/Reemployment Lists of Eligibles

A. Reduction-In-Force (RIF) Lists

1. Any employee in a state service position, who has been laid off while in good standing in accordance with the rules governing RIF, may, upon submission of a current State of Mississippi Application within twelve (12) months of the termination date, be placed on the RIF Reemployment list of eligibles established

for the job classification for which application is made. It is the responsibility of the terminated employee to notify the Executive Director of the Mississippi State Personnel Board of his/ or her RIF status for each application filed.

2. Reemployment into occupational classes exempted from the selection process shall be made in the same manner as original appointments to the occupational classes.

3. An applicant's score for the job class from which terminated and for lower job classes in that class series will be determined by a rating of his/her training and experience. If for any reason the employee does not meet the current minimum qualifications for the job class or lower job classes in the class series from which terminated, he/she may still be placed on the RIF/Reemployment list of eligibles with a qualifying score of seventy (70). However, any requirement set by state or federal laws or guidelines, or any requirement for a license, certification, or certificate of training must be met.

4. Applicants for higher job classes within the class series from which terminated or other job classes must meet the current minimum qualifications.

5. Applicants on a RIF list shall be on any Certificate of Eligibles issued for the occupational class for the locality the applicant indicated availability except Agency-Only Promotional Competitive Certificates of Eligibles. The names of applicants who have been terminated by a reduction in force shall appear on all appropriate Certificates of Eligibles immediately following the posting of the termination in SPAHRS.

6. Applicants on the RIF list shall be listed in the first section of a Certificate of Eligibles.

B. Alternate Reemployment Lists

1. A former state service status and/or those probationary state service, part-time, time-limited and/or other Mississippi State Personnel Board purview non-state service employees, who have completed at least six (6) months of continuous employment and who voluntarily terminated in good standing may be placed on the Alternate Reemployment list of eligibles through submission of a current State of Mississippi Application within twelve (12) months of their termination date.

2. Reemployment into occupational classes exempted from the selection process shall be made in the same manner as original appointments to the occupational classes.

3. Applicants must meet the current minimum qualifications.

4. Applicants on the Alternate Reemployment lists of eligibles shall be ranked with applicants on the State Service Promotional and State Service Transfer lists of eligibles.

5. Applicants on the Alternate Reemployment list of eligibles shall be certified in line with their rank in the second section of a Certificate of Eligibles.

4.9.6 State Service Competitive Promotional Lists of Eligibles

A. A permanent state service status, probationary state service, part-time, time-limited and/or other Mississippi State Personnel Board purview non-state service employee, who has been continuously employed for six (6) months, may be placed on the State Service Competitive Promotional list of eligibles through submission of a current State of Mississippi Application.

B. Promotion into occupational classes exempted from the selection process (See Section 4.2.9) shall be made in the same manner as original appointments to the occupational classes.

C. Applicants must meet the current minimum qualifications.

D. Applicants on the State Service Competitive Promotional lists of eligibles shall be ranked with applicants on the Alternate Reemployment and the State Service Transfer lists of eligibles.

E. Applicants on the State Service Competitive Promotional Lists of eligibles shall be certified in line with their rank in the second section of a Certificate of Eligibles.

4.9.7 State Service Transfer Lists of Eligibles

A. A permanent state service status, probationary state service, part-time, time-limited, and/or other Mississippi State Personnel Board purview non-state service employee who has been continuously employed for six (6) months, may be placed on the State Service Transfer lists of eligibles through submission of a current State of Mississippi Application.

B. Transfer into occupational classes exempted from the selection process (See Section 4.2.9.) shall be made in the same manner as original appointments to the occupational classes.

C. Applicants must meet the current minimum qualifications.

D. Applicants on the State Service Transfer lists of eligibles shall be ranked with applicants on the Alternate Reemployment and the State Service Competitive lists of eligibles.

E. Applicants on the State Service Transfer lists of eligibles shall be certified in line with their rank in the second section of a Certificate of Eligibles.

4.9.8 Agency-Only Competitive Promotional Lists of Eligibles

A. The appointing authority may be authorized by the Mississippi State Personnel Board to maintain lists of those permanent state service status employees and/or probationary state service and part-time, time-limited or other Mississippi State Personnel Board purview non-state service employees who have been continuously employed for six (6) months and who have applied and met the selection criteria only for job classifications utilized by the agency. These individuals and state service employees on competitive promotional lists may receive consideration prior to employing or transferring non-agency employees.

B. The Mississippi State Personnel Board reserves the right to modify or rescind the maintenance authorization.

C. Agency procedures are subject to review by the Executive Director of the Mississippi State Personnel Board for consistency with statutes and Mississippi State Personnel Board policies and procedures.

D. The agency is responsible for determining and implementing, within the guidelines established by the Mississippi State Personnel Board, standardized criteria, and procedures to establish and maintain the lists of eligibles and for maintaining records, which support and reflect all activities.

E. Agencies shall conduct in-house recruiting for Agency-Only Competitive Promotional lists.

F. Agencies shall transmit the State of Mississippi Applications received from such advertising to the Executive Director of the Mississippi State Personnel Board for evaluation.

G. State of Mississippi Applications shall be transmitted to the Executive Director of the Mississippi State Personnel Board along with the Agency Transmittal Form 343-82 (Refer to the end of Chapter 4.)

H. In making a final employment decision, agencies may give, but not necessarily limit, consideration to length of service, training, and performance appraisals ratings.

I. The Mississippi State Personnel Board shall be responsible for adding Veterans' Preference points in addition to the applicants pass/fail score.

J. The agency shall indicate by submission of position-employee data to accomplish the action that the principles for competitive promotion have been followed. A copy of the agency's certificate of eligibles must accompany the action.

K. Applicants whose applications are transmitted for placement on an Agency-Only Competitive Promotional list of eligibles ARE NOT placed on the list of eligibles maintained by the Mississippi State Personnel Board.

4.9.9 Open Competitive Lists of Eligibles

A. Individuals not meeting the criteria for RIF/Reemployment Lists of Eligibles, State Service Promotional Lists of Eligibles or State Service Transfer Lists of Eligibles, who have applied for a position during an announced recruitment period and met the selection criteria for specific job classifications, are placed on the Open Competitive list of eligibles.

B. The applicant must file a valid State of Mississippi Application during an announced recruitment period.

C. Applicants must meet the current minimum qualifications.

D. Applicants are ranked according to their final rating.

E. Applicants on the Open Competitive lists of eligibles shall be certified in line with their rank in the third section of a Type 3 Certificate of Eligibles.

4.9.10 Agency Only Non-Competitive Promotional Eligibility

A. Agency only non-competitive promotions shall include: (1) promotion of state service employees to state service positions, and (2) promotion of state service, part-time, time-limited and/or other Mississippi State Personnel Board purview non-state service

employees to non-state service positions. Agencies may consider only employees who are employed by the appointing authority and who have completed at least six (6) months of continuous service.

B. Agencies shall submit a current copy of a State of Mississippi Application along with the appropriate position-employee data for those employees to be considered for agency only non-competitive promotion.

C. Only those employees meeting the applicable selection criteria shall be approved for non-competitive promotion by the Executive Director of the Mississippi State Personnel Board.

4.9.11 Duration of Lists of Eligibles

A. Eligibility to remain on the RIF/Reemployment list, the Alternate Reemployment list, the State Service Promotional and State Service Transfer list, and the Open Competitive list shall be determined by the Executive Director of the Mississippi State Personnel Board, but shall not be less than six (6) months.

B. The term of an applicant's name on the list of eligibles begins on the date of placement of the applicant's name on the list of eligibles or in accordance with the applicant’s work available date.

C. The applicant's time on a list shall expire automatically at the end of the appropriate validity period.

D. No notification of removal shall be sent to the applicant as this information is stipulated in the section SUMMARY OF POLICIES on the State of Mississippi Application.

E. To remain on a list of eligibles beyond the established expiration date, an applicant must file a new valid State of Mississippi Application or submit a written request no less than fifteen (15) working days prior to expiration date. Applications received after the expiration date as stated herein, must meet the same criteria for acceptance as an original application.

4.9.12 Delegation of Authority to Maintain Lists of Eligibles

A. The Mississippi State Personnel Board may delegate to agencies the authority to establish and maintain lists of eligibles.

B. The Mississippi State Personnel Board reserves the right to modify or rescind the maintenance authorization.

C. Agency procedures are subject to review by the Executive Director of the Mississippi State Personnel Board for consistency with statutes and Mississippi State Personnel Board policies and procedures.

D. The agency is responsible for determining and implementing, within the guidelines established by the Mississippi State Personnel Board, standardized criteria, and procedures to establish and maintain the lists of eligibles and maintain records, which support and reflect all activities.

E. The Executive Director of the Mississippi State Personnel Board shall administer the selection criteria and refer all qualified candidates to the agency.

F. Except as otherwise provided, State of Mississippi Applications shall be transmitted to the Executive Director of the Mississippi State Personnel Board for evaluation using the Agency Transmittal Form, which is available from the MSPB website at http://www.spb.ms.gov.

G. The Executive Director of the Mississippi State Personnel Board shall be responsible for adding Veteran's Preference points to the final rating.

H. The agency shall indicate by submission of the position-employee data that merit principles have been followed.

I. Applicants approved for placement on an AGENCY MAINTAINED Open-Competitive list of eligibles ARE NOT placed on the Mississippi State Personnel Board list of eligibles.

4.9.13 Removal of Name from Lists of Eligibles

A. To maintain a viable list of eligibles, the Executive Director of the Mississippi State Personnel Board may remove the name of an eligible candidate from the active list of eligibles:

1. For any of the causes stipulated in provisions governing disqualification of applicants (See Section 4.5.3.);

2. On evidence that the eligible cannot be located by postal authorities;

3. On receipt of a written statement from the eligible requesting that he/she no longer be considered for a position in that class;

4. If the eligible declines an offer of appointment to the class for which the list was established;

5. Upon showing, either through agency objection or investigation, that the eligible is not qualified or is unsuitable for appointment to the class for which the list is established;

6. If the eligible was listed on a Certificate and reported by an appointing authority as not available or failed to reply to an offer of interview;

7. If the eligible accepts an appointment and fails to be present for duty at the time and place agreed to without giving reasons for the delay satisfactory to the appointing authority;

8. If the eligible fails to return availability inquiries requested by the Executive Director of the Mississippi State Personnel Board;

9. When the appointing authority passes over the name of an eligible on a Certificate in connection with three (3) separate appointments, which had been made from the list, written request may be made of the Executive Director of the Mississippi State Personnel Board that the name of such eligible be omitted from any subsequent certifications from the same list to the same appointing authority. This request shall contain sufficient evidence to indicate the eligible's unsuitable job-related characteristics for an appointment to the class for which the list was established. If the Executive Director of the Mississippi State Personnel Board approves the request, either the name of the eligible is not thereafter certified to the appointing authority for other vacancies in that class or the eligible's name is removed from the list; in such instances where the agency's request of agency-exception is approved by the Executive Director of the Mississippi State Personnel Board, it shall be the requesting agency's responsibility to notify the applicant in writing of such action. It shall also be the responsibility of the requesting agency to maintain records of all approved agency exceptions and resulting notifications;

10. Upon an appointment to a position in the classification for which the list of eligibles was issued.

B. Eligibles removed from lists for reasons stipulated in A(1) and A(5) above shall be notified by the Executive Director of the Mississippi State Personnel Board of such action in writing.

C. An eligible shall not be notified upon removal from a list of eligibles if removed for one of the other reasons listed in A above.

D. Any eligible whose name is removed from a list may make a written request to the Executive Director of the Mississippi State Personnel Board for reinstatement to such list for the duration of his/ or her validity period. Such request shall set forth the reasons resulting in removal from the list and shall specify the reasons advanced for reinstatement to the list. The Executive Director of the Mississippi State Personnel Board, after full consideration of such a request, may restore the eligible's name to the list or may deny such a request. In the event the request is denied, the eligible shall be notified by letter mailed to the eligible's last known address of the Executive Director of the Mississippi State Personnel Board's action and of the right of appeal. Those individuals whose names have been removed within the validity period for duration of the lists shall be reinstated for a time not to exceed the original validity period.

E. Those individuals who have been removed due to the expiration of the validity period of remaining on the list may submit a current State of Mississippi Application during a period of announced recruitment.

Exception: Announced recruitment is not required for applicants meeting the criteria for placement on the Reduction in Force, Alternate Reemployment, State Service Promotional, and State Service Transfer Lists.

F. Individuals are required to inform the Executive Director of the Mississippi State Personnel Board in writing of any change in mailing address.

4.10 CERTIFICATION OF ELIGIBLES

It is the policy of the Mississippi State Personnel Board to certify applicants who meet the minimum qualifications to fill vacancies within the state service.

4.10.1 Request for Certificate of Eligibles

A. To fill vacancies for classifications, which are not exempt from the selection process, the appointing authority shall submit a request for a Certificate of Eligibles.

B. Initial appointments to full-time, state-service positions or job classes which are not exempt from the selection process shall be accomplished through a Certificate of Eligibles.

C. A single request for a Certificate of Eligibles may be made for one (1) or more positions provided each position is for the same classification and in the same county or zone.

D. A request for a Certificate of Eligibles shall be submitted by an individual duly authorized by the agency.

E. Part-time appointments and appointments to time-limited positions shall be accomplished by the submission of position-employee data and a current copy of the State of Mississippi Application to the Executive Director of the Mississippi State Personnel Board. Candidates for these appointments are to possess the minimum requirements contained in the class specification.

F. Agencies may request Certificates of Eligibles for filling time-limited or part-time vacancies. Final authority for issuing certificates rests with the Executive Director of the Mississippi State Personnel Board.

G. Demotion of state service employees shall be accomplished by the submission of the position-employee data and a current copy of a State of Mississippi Application to the Executive Director of the Mississippi State Personnel Board. Candidates for demotion are to possess the minimum qualifications contained in the class specification.

H. Emergency appointments shall be made in accordance with Mississippi Code Annotated § 25-9-107(c)(xii); and shall be accomplished by the submission of the position-employee data to the Executive Director of the Mississippi State Personnel Board. Except where otherwise required by federal or state law, licensure, certification or registration, such appointments are made without regard to minimum requirements contained in the class specification. Emergency appointments shall not exceed sixty (60) working days.

I. In-service placement of incumbents as a result of reallocations or reclassifications shall be accomplished by the submission of position-employee data. Reallocations or reclassifications shall not be approved where incumbents do not meet minimum requirements for the new classifications except where an agency request has been approved under Sections 4.2.3 or 4.2.4. All reallocation and reclassification requests shall be accompanied by a current copy of a State of Mississippi Application except

when otherwise authorized by the Executive Director of the Mississippi State Personnel Board.

J. A lateral transfer of a permanent state service employee, or a state service employee who has completed six (6) months of his/her probationary period, into the same job class may be accomplished by the submission of the appropriate position-employee data.

K. Permanent appointments to full-time positions in job classes or positions, which are exempt from the selection process, shall be accomplished in accordance with 4.2.9.

4.10.2 Procedures for Completing Request for Certificate of Eligibles

When requesting a CERTIFICATE OF ELIGIBLES for consideration in filling a vacancy, the following shall be in effect:

A. Please reference the SPAHRS User Training Workbook at http://www.mmrs.state.ms.us for detailed instructions regarding the procedures to be followed to request a Certificate of Eligibles.

B. SPAHRS will assign the Certificate of Eligibles request number.

C. Indicate requested certification type:

Type 1 - RIF/Reemployment Only - All applicants who were laid off from state service due to a reduction-in-force (RIF) and who applied within twelve (12) months of their termination.

Type 2 - Alternate Reemployment/State Service Promotion/Transfer - All Type 1 applicants and the authorized number of applicants meeting the criteria for placement on the Alternate Reemployment/State Service Promotion/Transfer List. (Refer, Chapter 4, Sections 4.8.5 B, 4.8.6 A and 4.8.7 A.)

Type 3 - Open Competitive - All Type 1 applicants; the authorized number of Type 2 applicants; and the authorized number of applicants not meeting the criteria for Type 1 or 2.

Type 4 - Agency-Only Promotional - To be used when the agency desires a Certificate of Eligibles listing only the names of qualified applicants employed by the particular master agency and meeting the criteria for placement on the promotional list (See Section 4.8.6.)

D. Special requirements should be noted. All requests for special qualifications must be accompanied by appropriate justification and must be approved by the State Personnel Director prior to usage.

E. Travel Code **MUST** be noted and **MUST** be consistent with the travel code advertised during the recruitment period. If not indicated, it will be assigned by the Executive Director of the Mississippi State Personnel Board "no travel required".

Shift Code **MUST** be: A - Day only; B - Evening only; C - Night only. If not indicated, it will be considered as "day shift."

F. When vacant positions are located in different counties and/or zones, a separate request is required for each location.

G. The request shall be submitted by an individual duly authorized to sign for the agency.

H. The request will be returned without action if not properly submitted.

4.10.3 Selective Certification

Requests for selective certification of eligibles are considered upon adequate justification submitted to the Executive Director of the Mississippi State Personnel Board.

A. An individual serving an approved Institute of Higher Learning internship with a state agency may, with the approval of the Executive Director of the Mississippi State Personnel Board and on completion of the internship and subsequent graduation, be selectively certified to fill a position on a non-competitive basis, provided the individual meets the minimum educational and/or experience requirements of the position.

B. The Executive Director of the Mississippi State Personnel Board may provide for an individual participating in a Mississippi State Personnel Board approved agency co-op program, upon completion of the approved co-op program and subsequent graduation, to be selectively certified to fill a position on a non-competitive basis, provided the individual meets the minimum educational and/or experience requirements of the position.

C. Requests for selective certification shall be made by the appointing authority or his/ or her designee.

    1. The special requirements for selective certification must be clearly stated and justification for the request must be attached.

2. The Executive Director of the Mississippi State Personnel Board shall have the authority to modify and/or deny any request for selective certification.

4.10.4 Supplying of Certificates of Eligibles

A. No Certificate of Eligibles shall be issued unless the agency has a vacancy or an impending vacancy. The receipt by the Executive Director of the Mississippi State Personnel Board of a notice of termination with a specific date of termination shall signify a vacancy or an impending vacancy.

B. Upon receipt of a properly filed request, a Certificate of Eligibles shall be submitted to the appointing authority. The Certificate of Eligibles shall contain the names of all applicants meeting the qualifications of the job and the requirements specified by the agency.

The Type 3 Certificate of Eligibles includes all the names of Type 1 (RIF/Reemployment Only) applicants, the names of Type 2 (Alternate Reemployment/State Service Promotion/Transfer) certified applicants, and the names of Type 3 (Open Competitive) certified applicants.

C. A copy of each eligible's State of Mississippi Application for that job class shall be furnished with the certificate unless otherwise requested by the agency.

D. When there are less than ten (10) names on a Certificate of Eligibles, recruitment may be announced. The certificate may update on a seven (7) day basis, and may update sooner when deemed appropriate.

E. A certificate containing less than ten (10) names on an Open Competitive Certificate may be completed through the use of a related list(s).

F. An eligible is removed from consideration for appointment by:

1. Declining appointment or requesting not to be considered for appointment;

2. Failing to reply, within a period of ten (10) workdays from date mailed, to the written request of the appointing authority for an interview or within five (5) workdays to a telephone or facsimile request; or for not reporting for the interview.

3. Accepting an appointment and failing to report for duty at the time and place agreed to without giving reason for the delay satisfactory to the appointing authority.

G. Written, facsimile or telephone inquiry with letter of confirmation as to availability may be sent by the appointing authority to selected eligible(s) certified for appointment. Evidence of having sent a written or other notice to selected eligible(s) reported as having failed to reply to the inquiry or as unavailable for appointment shall be maintained by the agency.

H. When a substantial change is made to an occupational classification, i.e., change in minimum qualifications, the Executive Director of the Mississippi State Personnel Board may withdraw any outstanding Certificates of Eligibles and may not certify eligibles until such time as the changes have been finalized.

4.10.5 Appointments from Certificates of Eligibles

A. The appointing authority may appoint any applicant certified to the agency on the Certificate of Eligibles.

B. Initial appointments to full-time state service positions shall be made from those eligibles on the Certificate of Eligibles.

C. The agency shall submit to the Executive Director of the Mississippi State Personnel Board notification of intent to appoint from a Certificate of Eligibles. Such notification shall consist of the actioned Certificate of Eligibles and position-employee data. When selection is made for more than one (1) position, the position number (PIN) must be noted beside the appointed eligible's name.

D. The life of a Certificate of Eligibles shall be ninety (90) calendar days from the date of last issue unless the time is otherwise extended by the Executive Director of the Mississippi State Personnel Board. Each supplemental issue extends the life of each previously issued certificate.

E. The expiration date is printed on each issue of the certificate.

F. The appointing authority may return the certificate, without any action taken, prior to the ninety (90) day expiration period. The reason for such cancellation should be noted in the appropriate space provided.

4.10.6 General Instructions for Actioning a Certificate of Eligibles

When filling vacant positions through competitive certification, a Certificate of Eligibles is issued by the Executive Director of the Mississippi State Personnel Board in response to a properly filed REQUEST FOR CERTIFICATE OF ELIGIBLES. The following shall be in effect:

A. A certificate can be used only for positions (PINS) identified on the Request for Certificate of Eligibles. Additional PINS in the same classification and geographical location may be added to an active request.

B. The certificate lists the names of applicants eligible for consideration in hiring.

C. Action taken concerning each eligible should be noted in the appropriate space on the certificate according to the proper codes. Please reference the SPAHRS User Training Workbook at http://www.mmrs.state.ms.us for detailed instructions regarding specific codes.

D. Note the date of hire and PIN in the appropriate space for each appointment.

E. If selection is not made, additional names may be requested, up to the number authorized for the particular request. Supplemental certificates will not be issued on expired certificates, or where the number of appointments equal the number of PINS stipulated on the original request.

F. The agency is responsible for maintaining documentation for each eligible actioned on the certificate. Do not send this documentation to the Executive Director of the Mississippi State Personnel Board. However, justification must be submitted to the Executive Director of the Mississippi State Personnel Board for any applicant reported as “AE” (Agency Exception).

G. The date of appointment may not be earlier than the date the certificate is issued. The Executive Director of the Mississippi State Personnel Board may consider earlier dates when justified by the agency.

H. The life of a certificate is ninety (90) days, unless extended through issuance of a supplemental certificate or by written request from the agency (with justification). Extensions may be granted by the Executive Director of the Mississippi State Personnel Board.

4.10.7 Inadequate Certificates of Eligibles

A. Generally, an inadequate list shall be considered one with less than ten (10) names of the type of certificate requested.

B. When the number of names available for filling a vacancy is inadequate to complete the Certificate, the appointing authority may decline certification for that vacancy, may accept the inadequate Certificate, may await automatically issued supplements to the Certificate, or the agency may request that the Executive Director of the Mississippi State Personnel Board complete the Certificate of Eligibles from a related list of eligibles.

C. The Executive Director of the Mississippi State Personnel Board may initiate recruitment upon the issuance of an inadequate Certificate of Eligibles.

4.10.8 Certification from Reemployment Lists

A. Agencies are encouraged to consider any applicant whose name appears in the Reduction in Force/Reemployment Section 1 of a Certificate of Eligibles.

B. Agencies should give full consideration to any applicant whose name appears in the Alternate Reemployment/Promotional/Transfer Section 2 of a Certificate of Eligibles.

4.10.9 Concurrent Certification

A. The Executive Director of the Mississippi State Personnel Board shall initiate concurrent certification procedures when a request for certification is received by the Executive Director of the Mississippi State Personnel Board for a job classification for which an active Certificate of Eligibles has been issued for the same geographical location.

B. Agencies shall receive one additional name for each concurrent PIN for which active Certificates of Eligibles have been issued for the same occupational code for the same geographical location.

C. The number of additional names based on concurrent certification may vary from one issue of the certificate to another issue of the same certificate.

4.10.10 Availability for Appointment

A. A. Applicants may request in writing to have counties added and/or deleted to area(s) of availability for a given occupational class.

B. B. Applicants may request in writing to restrict their availability to a specific agency for a specific occupational class (a restriction applies to ONLY ONE AGENCY).

C. C. Applicants may request in writing to exclude an agency, or agencies, from his/her availability for a specific occupational class.

4.10.11 Correction of Errors In Certification Process

A. When errors are corrected by the Executive Director of the Mississippi State Personnel Board, they may not nullify an active certificate or appointment, but may result in the removal of an eligible's name from the Certificate of Eligibles.

B. In the event that a Certificate of Eligibles is flawed through error and the error is discovered before an appointment is made from the certificate, the erroneous certificate may be withdrawn and a correct certificate issued.

C. In the event that a Certificate of Eligibles is flawed through error and is discovered after an appointment is made from the Certificate, the certificate shall not be withdrawn, except by the direction of the Executive Director of the Mississippi State Personnel Board.

4.10.12 Confirmation of Availability for Appointment

A. Agencies may make written, facsimile or telephone inquiries to those eligibles it chooses to interview.

B. Agencies are solely responsible for maintaining supporting documentation concerning action taken on individuals whose names appear on a Certificate of Eligibles.

C. Agencies are required to maintain documentation of compliance with the requirements of Mississippi Code Annotated § 25-9-351 (Selective Service Registration). Males between the ages of 18 and 26 must submit proof of Selective Service Registration as a condition for appointment and/or promotion.

4.11 APPLICANT'S REVIEW PROCEDURE

The State Personnel Director shall establish a review procedure for assistance to applicants pertaining to the selection process.

4.11.1 Review of Action

Individuals or eligibles requesting a review of actions of the Office of Human Capital Core Processes shall make a written request to the Director of the Office of Human Capital Core Processes. Such written request shall stipulate the reason the review is requested and shall contain documentation supporting the applicant's position.

Should the decision of the Director of the Office of Human Capital Core Processes not prove satisfactory to the applicant, the applicant shall make a written request to the Executive Director of the Mississippi State Personnel Board for review of the action.

4.11.2 Appeals

Applicants may appeal only as provided for in Section 10.9.

4.12 MEMORANDA OF AGREEMENT

Notwithstanding the policy and procedures outlined in Sections 3.0 through 4.10, the Executive Director of the Mississippi State Personnel Board may enter into agreements with state agencies and/or other entities to accomplish the tasks specified herein.

4.13 APPLICANT INTERVIEWS

Agencies are urged to interview all applicants referred on Certificates of Eligibles.

Any agency employee interviewing an applicant for a vacant position, whether for original or promotional appointment, should document each interview by making notes and maintaining a file of the following information: job title, interviewer's name, date and time, names of those interviewed, questions asked, major topics covered, whether or not applicant was hired, and reasons for hire or non-hire.

4.14 QUESTIONS ASKED IN INTERVIEWS

Agencies should not ask applicants any questions~~,~~ which may be discriminatory or are prohibited by state or federal law. Federal laws and regulations applicable to employment discrimination include but are not limited to Title VII of the Civil Rights Act of 1964, The Equal Employment Opportunity Act of 1972, the Rehabilitation Act of 1972, the Americans with Disabilities Act of 1990, the Age Discrimination in Employment Act, the Older Workers Benefit Protection Act, and the Uniform Guidelines on Employee Selection Procedures.

4.14.1 Questions to Avoid Asking Applicants

Unless job relatedness can be established as a bona fide occupational qualification, interviewers should not ask applicants leading questions including but not limited to: age or date of birth, arrest, or conviction records, credit or garnishment records, family matters such as number and age of children, childcare requirements, marital status, health history, political affiliation, or religious preference.

The interviews should focus primarily on a discussion of the essential functions of positions and a consideration of the applicable written position descriptions as compared to the ability of applicants to perform the essential functions of the position with or without reasonable accommodations. Agencies are permitted, nevertheless, under the Americans with Disabilities Act, to establish a standard that no individual poses a direct threat to the health or safety of other individuals in the work place. Agencies are responsible for making certain that interviewers and other employees are knowledgeable of the prohibitions imposed by the above-referenced federal laws regarding pre-employment activities.

4.15 EMPLOYMENT AUTHORIZATION

A. **Employment Requirements Under the Immigration Reform and Control Act of 1986 (IRCA)**

Under the Immigration Reform and Control Act of 1986, Public Law No. 99-603, November 6, 1986 (IRCA), it is unlawful for an employer in the United States to hire an alien or to continue employing an alien, knowing the alien is an unauthorized alien. It is also unlawful for an employer to employ any individual without complying with certain provisions for verification of both identity and eligibility for employment. To comply with IRCA, state agency employers must examine certain documents, after an individual has been hired (the term "hire" under IRCA means the actual commencement of employment for wages or other remuneration), and attest on a form called the Form I-9, that the documents provided by the employee have been examined and that they establish both the employee's identity and eligibility for employment. The employer must then retain the Form I-9, which is subject to inspection by both the U.S. Immigration and Naturalization Service (INS) and the U.S. Department of Labor (DOL).

IRCA also prohibits discrimination against applicants and employees because of national origin or citizenship status in matters involving hiring, recruitment, job referrals where a fee is involved, and discharges. However, persons lacking lawful status are not protected.

For detailed instructions on completing the Form I-9, refer to the Handbook for Employers published by the INS, contained in the Appendices. The Appendices also contain the federal regulations governing IRCA. All state agency employers must adhere to IRCA and the rules and regulations pertaining thereto.

B. **Employment Requirements pursuant to Mississippi Code Annotated § 71-11-3 (2009)**

Effective July 1, 2008, state agencies under the purview of the Mississippi State Personnel Board shall verify the employment authorization for any person or entity that is hired to perform work within the State of Mississippi and to whom a United States Internal revenue Service Form W-2 or Form 1099 must be issued and any person or company that provides workers for another company, including but is not limited to leasing companies and contract employers.

Verification of employment authorization must be conducted in accordance with the Federal E-Verify Program and it shall be the responsibility of the employing agency to verify employment authorization and to maintain records of employment verification as required by state and federal laws.

CHAPTER 5 – CLASSIFICATION AND COMPENSATION

5.0 INTRODUCTION

Following an organizational restructuring of the Mississippi State Personnel Board in 2009, the functions of classification and compensation have been subsumed into the Office of Human Capital Core Processes. Any questions regarding these functions should be addressed to your Human Capital Core Processes Consultants.

5.1 CLASSIFICATION

The Executive Director of the Mississippi State Personnel Board shall maintain the statewide classification plan, which shall be based upon objective analysis of the duties of each employment position. The Executive Director shall assign each position an occupational class from the inventory of classes based upon the duties performed. The statewide classification plan shall apply to state service as well as non-state service positions under the purview of the Mississippi State Personnel Board. The plan shall be arranged so that positions essentially alike are grouped into an appropriate occupational class, thereby ensuring uniform treatment; likewise, positions not so alike shall be grouped into distinctive occupational classes, thereby ensuring recognition of the nature and extent of any differences.

The assignment of a position to an occupational classification shall be based upon job analysis data, to include the Job Content Questionnaire (JCQ) or the Role Description Questionnaire (RDQ), professionally accepted principles and guidelines for position classification, and review of class specifications.

The Mississippi State Personnel Board shall have the sole authority to limit, increase, combine, or delete occupational classes in the statewide classification plan. Upon recommendation by the Director of the Office of Human Capital Core Processes, an occupational class may be deleted from the statewide classification plan if another occupational class already adequately describes the class, or if there are no employees in that occupational class. Further, upon evidence that two or more occupational classes have substantially the same tasks, duties, responsibilities and minimum qualifications, the Director of the Office of Human Capital Core Processes may recommend that occupational classes be combined.

5.1.1 Class Series

The Director of the Office of Human Capital Core Processes shall provide for class series within the classification plan. Class series are arrangements of two (2) or more related occupational classes, sufficiently similar in types of work that they are assigned identical occupational titles

except for terminology, which reflects distinct class levels differing in complexity and importance of duties and responsibilities. Class series shall provide an established framework to recognize the increased value of an employee who has acquired additional experience, skills, and/or education, which are directly related to the job, and to provide for career mobility within the manning level for the positions.

The Director of the Office of Human Capital Core Processes shall establish a staffing level for each position allocated to an occupational class which is part of a job class series.

5.1.2 Creation of New Occupational Classes

The Mississippi State Personnel Board shall have the sole authority to create new occupational classes. To discourage the proliferation of unnecessarily similar occupational classes, requests for new occupational classes shall be approved by the Board only upon the production of compelling documentation in support of the need to create new classes. In the absence of compelling documentation, such requests shall result in the positions being assigned to already existing occupational classifications in the Mississippi State Personnel Board's schedule of occupational classes.

A. Class establishment requests must include the following documentation:

1. A detailed letter of justification addressed to the Executive Director of the Mississippi State Personnel Board, which includes:

    i. the total number of affected positions;

    ii. the types of occupational classifications affected, if any;

    iii. the exact nature by which the job has evolved, and/or internal and external conditions precipitating establishment of the new class;

    iv. clearly drawn distinctions between the proposed class and the most similar classes in the existing Mississippi State Personnel Board inventory of job classes;

    v. the precise consequences of not establishing the new class;

    vi. why current job classifications do not meet current needs.

2. The proposed class specification for the requested class.

3. All current regulatory and legal authority materials (including citations) governing performance of job functions or which mandate or require the creation of a new class.

4. Valid salary survey data submitted on a completed Agency Salary Survey Data Sheet.

5. Any other documentation requested by the Human Capital Core Processes Consultant.

B. Class establishments shall be effective following approval by the Mississippi State Personnel Board.

5.1.3 Class Specifications

Each occupational class shall have a unique class specification, which includes the minimum qualifications an individual should possess to perform the duties of the particular position at entry. Statements of job duties and responsibilities do not limit the authority of the appointing official to assign, direct, and control the work of employees. The use of a particular illustration of duties does not exclude others that are similar in nature, nor do the specifications dictate that each position allocated to the class will be assigned all the duties outlined. In determining the proper classification of a position, each class is considered to have entry-level characteristics as well as characteristics exhibited at full performance.

No minimum qualification shall be established which excludes individuals based on age, sex, physical requirement or disability unless such qualification constitutes a bona fide occupational qualification necessary for performance of essential functions.

5.1.4 Class Specification Revision

When revision of an existing classification is requested by a user agency either through a change in the title, characteristics, examples of work, or minimum qualifications, the Director of the Office of Human Capital Core Processes shall evaluate the justification for the request. Only those revisions approved by the Executive Director of the Mississippi State Personnel Board shall be implemented.

A. Class specification revision requests must include the following documentation:

1. Detailed letter of justification to the Director of the Office of Human Capital Core Processes~~,~~ which indicates:

i. the total number of positions and type(s) of occupational classifications affected in the agency;

ii. quantitatively documented recruitment difficulties experienced (if any);

iii. the exact nature by which the job has evolved, including clearly drawn distinctions between current specifications and proposed changes;

iv. the precise consequences of not revising the class specification; and

v. why the existing job classification does not meet current needs.

2. The agency must annotate the proposed revisions on the current Mississippi State Personnel Board class specification.

3. A current (less than twelve (12) months), legible Job Content Questionnaire or Role Description Questionnaire signed by the employee (if any) and current or prospective supervisor, for each affected position. A representative JCQ or RDQ, appropriately signed, may be submitted when <u>all</u> incumbents perform substantially the same work.

4. All current regulatory and legal authority materials (including citations) governing performance of job functions.

5. Any other documentation requested by the Human Capital Core Processes Consultants.

B. Revisions to class specifications for occupational classes currently on recruitment shall not be effective until the class is taken off recruitment.

C. Agencies will be notified when the validation process begins for occupations utilized by the agency. Should an agency request revision to a classification after the validation process is complete, the agency may be required to incur the cost of such revision.

5.1.5 Mandated Changes to Class Specifications and Minimum Qualifications

It is the responsibility of the user agency to notify the Mississippi State Personnel Board of changes to class specifications or minimum qualifications necessitated by state or federal laws, regulations, guidelines, or other lawful requirements for those respective classes utilized by the agency.

5.1.6 Class Specifications of Multiple User Agencies

When two (2) or more agencies utilize or wish to utilize the same job classification, the Executive Director of the Mississippi State Personnel Board shall evaluate the needs of all user agencies in determining the content of the class specification.

5.2 COMPENSATION

The Variable Compensation Plan (VCP) shall be the primary instrument establishing compensation policy. The Mississippi State Personnel Board shall administer appropriate compensation plans and additional compensation schedules in accordance with the policies established by the Variable Compensation Plan for each fiscal year, congruent with the intent of the Legislature as expressed in appropriations language and all other pertinent rules, regulations, procedures, and statutes.

The compensation plans adopted by the Mississippi State Personnel Board shall govern adjustments to the base salaries of employees and positions under its purview. In addition, these compensation plans shall govern the establishment of the base salary of newly hired employees, employees returning to state service after separation in good standing (reemployment), and employees returning to state service after an authorized leave of absence without pay (reappointment) and shall provide salary adjustments for in-service movement (e.g., promotions and demotions).

5.2.1 Pay Range Assignment

The Executive Director of the Mississippi State Personnel Board shall assign salary ranges to occupational classes in recognition of the relative level of duties and responsibilities assigned to positions in an occupational class. Salary ranges for new occupational classes will be based on valid salary survey data or established relative to comparable job classifications or classification series.

In the absence of valid salary survey data, the salary range for a new occupational class shall not exceed the salary range of the most similar occupational class already existing for a year or more in the Mississippi State Personnel Board's schedule of occupational classes, unless the tasks, duties, responsibilities or minimum requirements of the new occupational class substantially exceed those of the most similar class.

5.2.2 General Compensation Rules

The rate of compensation certified by the Executive Director of the Mississippi State Personnel Board under these provisions constitutes total remuneration for services rendered. No supplementary compensation for additional work performed for the state is paid except as authorized under policies governing additional compensation. [Mississippi Code Annotated § 25-9-119(2)(c).]

A. All requests for salary certification shall be submitted to Office of Human Capital Core Processes.

B. The Executive Director of the Mississippi State Personnel Board certifies all salaries within the state service and non-state service unless otherwise authorized by the Mississippi State Personnel Board or by statute.

C. In no case shall a salary increase or other action result in the incumbent exceeding the end salary of the job classification, unless specifically provided for in legislation.

D. In coordination with appointing authorities, the Mississippi State Personnel Board may set the annual salaries of those appointed officials whose salaries are not otherwise set by statute who work on a full-time basis in the capacity of agency head, executive director or administrator of any state department, agency, institution, board or commission under the jurisdiction of the Mississippi State Personnel Board as provided in Mississippi Code Annotated § 25-9-101, *et seq*., in conformity with the Mississippi State Personnel Board's compensation plan. Salaries of such officials who serve in their professional capacity as a physician, dentist, nurse practitioner, veterinarian, or attorney shall be set in accordance with Mississippi Code Annotated § 25-9-107(c)(xiii).

E. No employee under the salary setting authority of the Mississippi State Personnel Board shall receive an annual salary or compensation greater than one hundred fifty percent (150%) of the maximum salary fixed in law for the Governor, and no employee within an agency shall receive an annual salary greater than the agency head. However, in accordance with Mississippi Code Annotated § 25-3-39(2), the Mississippi State Personnel Board, based upon its findings of fact, may exempt physicians and actuaries when the acquisition of such professional services is precluded based on the prevailing wage in the relevant labor market. Compensation, for the 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 Mississippi State Personnel Board policy. Further, agencies are required to ensure that no employees subject to the overtime provisions of the Fair Labor Standards Act of 1938, as amended,

are scheduled to work hours that could cause the employee's total annual compensation to exceed that of the governor or the agency director.

F. Payment of retroactive pay shall be certified by the Executive Director of the Mississippi State Personnel Board for employees in the state service in accordance with the Constitution of Mississippi, Article 4, Chapter 96 (1890).

G. The salary range of an employee in a supervisory status should be superior in salary range to that of the employees being supervised. Exceptions will be considered by the Office of Human Capital Core Processes on a case-by-case basis. So as not to violate the principle of seniority or time-in-service, a subordinate employee may have an actual salary equal to or greater than the supervisor.

H. The rate of compensation to be paid an employee or prospective employee shall be certified on the basis of the standard work period for full-time employment and in conformity with the salary range assigned the job class for which employed. Payment for part-time service shall be certified on this basis and in proportion to time actually worked (Mississippi Code Annotated § 25-9-119). An employee's starting salary shall be set in accordance with the salary range of the job class to which he/she is assigned. The monthly rate of the corresponding salary is to be used for positions authorized to work forty (40) hours per week and the hourly rate is to be used for positions authorized to work less than forty (40) hours per week.

5.2.3 Implementation of Salaries

An appointing authority shall notify the Director of the Office of Human Capital Core Processes of the need to establish a salary or to adjust an existing salary as the result of an approved employment position or personnel transaction in accordance with reporting procedures. [Mississippi Code Annotated § 25-9-119(2)(c).]

A. Only those salary increases resulting from approved position and personnel transactions for which provisions have been made during the legislative appropriations shall be implemented during the fiscal year, except where the Mississippi State Personnel Board authorizes implementation outside the condition of this rule.

B. All salary adjustments shall be effective on the first day of the month. The transaction may be transmitted to the Mississippi State Personnel Board before the requested effective date or in the month of the requested effective date.

5.3 ALLOCATION OF EMPLOYMENT POSITIONS

State service positions and those non-state service positions under the purview of the Mississippi State Personnel Board shall be allocated by the MSPB Executive Director to an appropriate occupational class based on the level and complexity of tasks, duties and responsibilities assigned to that position.

5.3.1 Reallocation of Positions

The Mississippi State Personnel Board provides for the adjustment in classification of a position through the reallocation process when the Office of Human Capital Core Processes determines that significant job content changes have occurred.

Downward and lateral reallocation requests are processed throughout the year. Upward reallocations are typically requested through the legislative budget process in accordance with the provisions of the Staff Management Planning Instructions for the appropriate fiscal year. However, each agency head shall have the opportunity to document the need for a non-budgeted reallocation by demonstrating that a bona fide staffing need exists that cannot be adequately addressed through normal budget procedures. The Mississippi State Personnel Board will consider reallocations outside the legislative process only upon certification by the agency director that adequate funds are available. The submission of any transaction through SPAHRS shall be considered an official request from the agency head or appointing authority. Such submission shall serve as certification that adequate funding is available.

5.3.2 Requests for Reallocations (Upward, Downward, Lateral)

Requests for reallocations must be submitted through SPAHRS and supporting documentation sent to the agency's Human Capital Core Processes Consultants. In addition, reallocation requests for filled positions which exercise supervisory responsibilities and for which the starting salary is $45,000 or greater should also be submitted to the Executive Director of the Mississippi State Personnel Board in a detailed letter of justification, together with the appropriate documentation, and will be presented to the Board for its approval. For all other reallocation requests, the notes as entered into SPAHRS serve as the request's justification; however, when deemed necessary, the agency's Human Capital Core Processes Consultants may request additional justification.

All reallocation requests approved by the Board will be effective on the date specified by the Board. All other approved reallocation requests will be effective no earlier than the first day of the month in which the request and its supporting documentation were received by the agency's Human Capital Core Processes Consultants. In extraordinary circumstances, the MSPB

Executive Director or the Director of the Office of Human Capital Core Processes may at their discretion approve an earlier effective date.

Downward and lateral reallocations may be approved by the agency's Human Capital Core Processes Consultants. Upward reallocations of vacant positions must be approved by the Director of the Office of Human Capital Core Processes. Upward reallocations of filled positions which do not require Board approval must be approved by the MSPB Executive Director.

The justification for a reallocation request as entered into SPAHRS or in a letter to the Executive Director of the Mississippi State Personnel Board must include:

1. A description of how the position's duties have substantially changed,

2. Why the agency believes the proposed classification better describes the new duties, and

3. A description of the consequences, if any, of disapproval of the request.

The following is required with every reallocation request:

1. A valid Job Content Questionnaire (JCQ) or Role Description Questionnaire (RDQ), completed within the last twelve months and signed by the position's incumbent and direct supervisor, or, if vacant, by the direct supervisor only,

2. Organizational chart pages, signed by the appointing authority or an authorized designee, depicting both the current and the proposed placements for which reallocation is requested, as well as the placement of any other relevant positions,

3. Copies of any federal or state regulations, case law, or statutes that have bearing on the proposed action,

4. Justification for any change from non-state service to state service, or the reverse. In either case, statutory authority must be cited. [Mississippi Code Annotated § 25-9-107(c).] Incumbents of filled positions changing from non-state to state service status must be selected from a Certificate of Eligibles,

except where the proposed classification is exempt from the initial competitive selection process.

5. Any additional documentation requested by the Human Capital Core Processes Consultants.

On-site desk audits, conducted by Mississippi State Personnel Board staff, may be required as a component of the analysis of upward reallocation requests.

In addition, the following is also required for filled positions:

1. A current (completed within the last twelve months) State of Mississippi application,

2. A written acknowledgement signed by the affected employee, if the request is a downward reallocation, and

3. A written acknowledgement signed by the affected employee indicating agreement with loss of state service status, if applicable.

Before the request can be approved, the incumbent must have a valid performance review rating. Following approval, SPAHRS will create a new 365-day performance review period beginning the effective date of the reallocation.

The authorized salary for an upward reallocation of a filled position shall be in accordance with the provisions for the Promotional Formula indicated in Policy Memorandum No. 2, *Administration of the Variable Compensation Plan*, for the current fiscal year.

5.3.3 Reclassification

A reclassification is a change in the classification of a position to a higher occupational class within the same occupational class series, where the change in job title is a result of the individual obtaining certification or licensure or acquiring proficiency in job duties. It is the policy of the Mississippi State Personnel Board to provide for reclassification of a position belonging to a class series by recognizing the increased value of an employee who has acquired additional experience, skills, and/or education, which is directly related to this job. Reclassification provides a career ladder affording mobility for qualified individuals to advance to higher classified positions, which are substantially similar in the type of work performed. The

reclassification authority also allows the agency to reverse the reclassification. Each year, on an announced date prior to the fiscal year conversion, the Mississippi State Personnel Board accepts requests for additions and deletions to the authorized schedule of reclassifications. Once reclassification authority is approved by the Mississippi State Personnel Board, reclassification actions may be implemented at the discretion of the agency head.

Employees reclassified to higher levels within a series retain their current status, status date, and hire date in the new classification to which reclassified. The authorized salary for a reclassification shall be in accordance with the provisions for the Promotional Formula indicated in Policy Memorandum No. 2, *Administration of the Variable Compensation* Plan, for the current fiscal year. In no case shall an employee's salary be certified at a salary higher than the end salary of the new classification.

Before the reclassification can be approved, the incumbent must have a valid performance review rating. Following approval, SPAHRS will create a new 365-day performance review period beginning the effective date of the reclassification.

5.4 APPOINTMENTS

Vacancies which are not filled by transfer, promotion, or demotion shall be filled by probationary appointment, reemployment, or emergency appointment. Salaries paid upon appointment shall be the minimum that will attract suitably qualified applicants for job openings consistent with the provisions set forth in Policy Memorandum No. 2, *Administration of the Variable Compensation Plan*, for the current fiscal year.

5.4.1 Original Appointment and Salary Determination

Original appointments are made competitively from a Certificate of Eligibles, or are made non-competitively where exempt from the selection process. (See Chapter 4.)

5.4.2 Standard New Hire Salary

At no time will an employee be paid below the federally mandated minimum wage. See Policy Memorandum No. 2, *Administration of the Variable Compensation Plan*, for the current fiscal year to determine the authorized salary for a new hire.

5.4.3 New Hire Flexibility

New Hire Flexibility, not to exceed ten (10) percent, may be awarded when the education, experience, or professional certification possessed by the applicant exceeds the minimum requirements for the job classification to which appointed. See Policy Memorandum No. 2,

Administration of the Variable Compensation Plan, for the current fiscal year for provisions detailing the awarding of New Hire Flexibility.

5.4.4 Agency Head Flexibility

Agency Head Flexibility may be awarded to individuals who are classified as non-state service and report directly to the agency head or a key excluded official, or advocate substantive agency policy. See Policy Memorandum No. 2, *Administration of the Variable Compensation Plan* for the current fiscal year for provisions detailing the awarding of Agency Head Flexibility.

5.4.5 Recruitment Flexibility

Recruitment Flexibility, in excess of the assigned start salary, may be awarded when an agency can document recruitment difficulties. A request for Recruitment Flexibility must be submitted for State Personnel Board approval prior to a job offer or appointment of an applicant in accordance with the provisions outlined in Policy Memorandum No. 2, *Administration of the Variable Compensation Plan*, for the current fiscal year.

5.4.6 Open-Competitive New Hire

When hiring personnel to fill a vacancy, the following shall be in effect:

A. The hire date cannot be earlier than the date of issue of the Certificate of Eligibles.

B. The salary shall be set in accordance with provisions outlined in Policy Memorandum No. 2, *Administration of the Variable Compensation Plan*, for the current fiscal year.

C. All competitive new hires shall be probationary and the status code “20” will populate in the “service status” field on the Maintain Employee Agency Info screen in SPAHRS.

D. For open-competitive new hire of a probationary employee, the employee shall retain his/her status date and is required to complete the balance of the existing probationary period.

E. SPAHRS will create a new 365-day performance review period beginning the effective date of the personnel transaction. (See Chapter 8.)

F. The following documentation is to be submitted to the Office of Human Capital Core Processes for a competitive new hire request:

1. The Certificate of Eligibles must be actioned; and
2. Detailed justification if New Hire Flexibility is requested. (Refer to Policy Memorandum No. 2, *Administration of the Variable Compensation Plan*, for the current fiscal year.) After the appointment process is complete, display the action and press F5 to add notes describing the extent to which the employee exceeds the minimum education and/or experience requirements for the occupation.

G. Please reference the SPAHRS User Training Workbook at http://www.mmrs.state.ms.us or your Human Capital Core Processes Consultants for more detailed information regarding the hiring of an employee.

5.4.7 Overlap New Hire (Competitive)/Overlap New Hire (Non-Competitive)/New Hire Flexibility

In rare circumstances, an agency may elect to hire a replacement up to ninety (90) days prior to the termination of an employee in order that the terminating employee may provide specialized training to the new employee.

The effective date of the Overlap New Hire cannot be greater than ninety (90) calendar days from the effective date of separation by the terminating employee.

The following documentation is to be submitted for competitive overlap new hire requests:

A. The actioned Certificate of Eligibles; and

B. Detailed justification if New Hire Flexibility is requested. (See Policy Memorandum No. 2, *Administration of the Variable Compensation Plan*, for the current fiscal year.) After the appointment process is complete, display the action and press F5 to add notes describing the extent to which the employee exceeds the minimum education and/or experience requirements for the position.

The following documentation is to be submitted for non-competitive overlap new hire requests:

A. A completed State of Mississippi Application; and

B. Detailed justification if New Hire Flexibility is requested. (See Policy Memorandum No. 2, *Administration of the Variable Compensation Plan*, for the current fiscal year.) After the appointment process is complete, display the action and press F5 to add notes describing the extent to which the employee exceeds the minimum education and/or experience requirements for the occupation.

5.4.8 New Hire (Non-Competitive) and New Hire Above Start Salary (Non-Competitive)

When non-competitively hiring to fill a vacant position, the following shall be in effect:

A. The hire date for an exempt appointment cannot be earlier than the date received by the Mississippi State Personnel Board; the individual must meet selection criteria.

B. The hire date for a non-competitive new hire will be the date the individual begins work. The request must be received by the Mississippi State Personnel Board before or within five (5) working days after the individual begins work.

C. The authorized salary for a non-competitive new hire shall be set in accordance with provisions outlined in Policy Memorandum No. 2, *Administration of the Variable Compensation Plan*, for the current fiscal year.

D. Appointments to state-service positions for exempt job classes shall be probationary, and the status code "20" will populate in the "service status" field on the Maintain Employee Agency Info screen.

E. SPAHRS will create a new 365-day performance review period beginning the effective date of the personnel transaction. (See Chapter 8.)

F. The following documentation is to be submitted for a non-competitive new hire request:

   1. A completed State of Mississippi Application; and

   2. Detailed justification if New Hire Flexibility is requested. (See Policy Memorandum No. 2, *Administration of the Variable Compensation Plan*, for the current fiscal year.) After the appointment process is complete, display the action and press F5 to add notes describing the extent to which the employee exceeds the minimum education and/or experience requirements for the occupation.

5.4.9 New Hire (Part-Time) and New Hire (Time Limited/and Overlap New Hire (Time-Limited)

The appointment of an individual scheduled to work less than forty (40) hours a week and/or less than 12 months per year constitutes an hourly or part-time appointment. When hiring personnel to fill a part-time position, the following shall be in effect:

A. The hire date is the date the individual begins work. The request must be received by the Mississippi State Personnel Board before or within five (5) working days after the individual begins work.

B. The authorized salary for a part-time new hire shall be in accordance with the provisions outlined in Policy Memorandum No. 2, *Administration of the Variable Compensation Plan*, for the current fiscal year.

C. All part-time employees must meet selection criteria.

D. All part-time positions shall be non-state service in accordance with Mississippi Code Annotated § 25-9-107(c)(xi). The status code "11" will populate in the "service status" field on the Maintain Employee Agency Info screen in SPAHRS.

E. All time-limited positions shall be non-state service in accordance with Mississippi Code Annotated § 25-9-107(c)(xiv). The status code "14" will populate in the "service status" field on the Maintain Employee Agency Info screen in SPAHRS.

F. SPAHRS will create a new 365-day performance review period beginning the effective date of the personnel transaction. (See Chapter 8.)

G. The following documentation is to be submitted for a part-time new hire request:

   1. A completed State of Mississippi Application, where required; and

   2. Detailed justification if New Hire Flexibility is requested. (See Policy Memorandum No. 2, *Administration of the Variable Compensation Plan*, for the current fiscal year.) After the appointment process is complete, display the action and press F5 to add notes describing the extent to which the employee exceeds the minimum education and/or experience requirements for the occupation.

5.4.10 Emergency Appointment

An emergency appointment is defined as the employment of an individual for a specified period of time to perform tasks which directly or indirectly involve the continuing care and protection of life or property.

A. Emergency appointments shall be limited to classes and positions normally filled competitively from a Certificate of Eligibles. The Office of Human Capital Core Processes shall evaluate each request for emergency appointment prior to certification based on the following criteria:

1. Justification provided by agency;
2. Patient and/or security support;
3. Number of vacancies in the class within the requesting agency; and
4. The period of time those vacancies have existed.

B. The effective date cannot be earlier than the date approved by the Office of Human Capital Core Processes.

C. The authorized salary for an emergency hire shall be the start salary of the class to which appointed.

D. Individuals hired on an emergency basis shall be designated by a status code of "12" in the "service status" field on the Maintain Employee Agency Info screen.

E. An emergency appointment shall not exceed sixty (60) working days. The appointing authority shall be responsible for initiating appropriate action to preclude any emergency appointment extending beyond the limit of sixty (60) working days.

F. The following documentation must be submitted with an emergency appointment request:

1. Detailed justification outlining the emergency nature of the appointment; and
2. Proof of valid licensure, registration, or certification when required under state or federal statute for the job class to which appointed.

5.4.11 Reappointment (Return from Authorized Leave of Absence)

An individual separated on an authorized leave of absence, e.g., military, extended illness, education, and leave of absence under provisions of Mississippi Code Annotated §§ 25-3-93, 25-3-95, 25-9-125, and 33-1-21 is eligible for reappointment.

When reappointing an employee <u>RETURNING FROM AUTHORIZED LEAVE OF ABSENCE</u>, the following shall be in effect:

A. For non-military leaves of absence, eligibility for reappointment is valid for one (1) year from the date of the beginning of leave. For reappointment eligibility for leaves of

absence due to military duty, the provisions of the federal Uniformed Services Employment and Reemployment Rights Act (USERRA) of 1994 apply.

B. Reappointment under these provisions shall be restricted to the same occupational class as occupied at the time of separation, except as provided for by USERRA.

C. Upon reappointment, the employee's status shall be the same as it was at the time of separation and shall be reflected by the status code in the “service status” field and the status date. If the employee was permanent state service at separation, the status date shall not be altered. If the employee had not completed the twelve (12) month probationary period, a new status date shall be determined by adding the number of days out of state service to the status date at the time of separation to allow the individual to complete twelve (12) months of supervised probation.

D. The effective date shall be the date requested by the agency. The request must be received by the Mississippi State Personnel Board before or within five (5) working days after the individual begins work.

E. The authorized salary for a reappointment shall be no more than the current salary at the time of the separation unless general compensation adjustments were effected since the date of the separation. Such adjustments shall be added to the current salary where applicable.

F. SPAHRS will create a new 365-day performance review period beginning the effective date of the personnel transaction. (See Chapter 8.)

5.4.12 Reemployment Into the State Service

An individual separated in good standing for reasons other than an authorized leave of absence may be reemployed into the same job class from which terminated.

A. Individuals reemployed into a different job class from which terminated shall be hired under the provisions for Appointments in this chapter.

B. The appropriate selection criteria shall apply.

C. The effective date for the employees shall be:

1. RIF Reemployment List - cannot be earlier than the date the Certificate of Eligibles was issued;

2. Alternative Reemployment List - cannot be earlier than date the Certificate of Eligibles was issued;

3. Exempt Class - cannot be earlier than the date received by the Mississippi State Personnel Board, provided the individual meets selection criteria; and

4. Non-competitive New Hire - the date the individual begins work. The request must be received by the State Personnel Board before or within five (5) working days after the individual begins work.

D. The authorized salary for reemployment shall be no more than the current salary at the time of separation unless salary realignments were effected since the date of the separation. Such adjustments shall be added to the current salary where applicable.

E. Upon reemployment due to a Reduction-In-Force, the employee's status date and hire date shall be the same as it was at the time of separation. If the employee was permanent at separation, the status date and hire date shall not be altered. If the employee had not fully completed the probationary period, a new status date shall be determined by adding the number of days out of state service to the status date at the time of separation. Reemployment for reasons other than a Reduction-In-Force shall receive a new status date equal to the new hire date.

F. SPAHRS will create a new 365-day performance review period beginning the effective date of the personnel transaction. (See Chapter 8.)

G. The following documentation must be submitted with a reemployment request:

1. An actioned Certificate of Eligibles, where applicable; and

2. A completed State of Mississippi Application, where applicable.

5.4.13 Retiree Employment

When requesting the reemployment of a retired state employee, not necessarily returning to the same job class from which retired, and for (1) a period of time not to exceed one-half (½) of the normal working days for the position during which the employee will receive no more than one-half (½) of the salary for the position, or (2) for a period of time in any fiscal year sufficient in length to permit a retiree to earn not in excess of twenty-five per cent (25%) of retiree’s average compensation (Note: If a retiree is hired outside the guidelines noted above, the retirement benefit of such retiree must be terminated immediately and the employer must immediately

begin reporting that individual to PERS as any other active member would be reported.) (See Mississippi Code Annotated § 25-11-127.)

A. The effective date shall reflect a minimum of 45 days from the date of Retirement. PERS Regulation 34 provides that if the retired member is reemployed by the same or another covered employer in any capacity, including that of an independent contractor as well as service without pay, within forty-five (45) days from the effective date of retirement, or is guaranteed such reemployment, the member shall be considered to have continued in the status of an employee and not to have separated from state service.

B. The authorized salary shall be no more than the salary paid to the individual prior to the employee's retirement, except that the salary shall not exceed the end salary of the pay range of the job class to which appointed.

C. Upon reemployment of a retired employee, the status and hire date shall reflect the new date of hire and status.

D. The employer is required to notify PERS of the reemployment of a retiree under one of the above exceptions within five (5) days of reemployment on a Form 4B, Certification/Acknowledgment of Reemployment of Retiree.

E. SPAHRS will create a new 365-day performance period beginning the effective date of the personnel transaction. (See Chapter 8.)

F. The following documentation must be submitted with reemployment of a retired employee request:

    1. An actioned Certificate of Eligibles, where applicable;

    2. A completed State of Mississippi Application, where applicable;

    3. Detailed justification, which describes the circumstances surrounding the reemployment of a retiree. After the appointment process is complete, display the action and press F5 to add notes.

5.4.14 Dual Employment and Salary Determination

An individual may be employed by more than one state agency or by a state agency and an institution of higher learning in two (2) part-time positions, or one (1) full-time and one (1) part-time position. Policies, rules, and procedures governing appointments shall apply.

Under Fair Labor Standards Act (FLSA) regulations, the State of Mississippi is considered to be one employer. Therefore, eligible (non-exempt) employees who work for two entirely different agencies in state government in the same workweek are considered joint employees, and must be paid overtime or must be provided compensatory time off for a combination of hours worked in excess of forty (40) hours. Overtime payment or provision of compensatory time should be computed according to current FLSA rules issued by the U. S. Department of Labor.

5.5 IN-SERVICE MOVEMENT

All in-service movement is subject to the provisions of Policy Memorandum No. 2, *Administration of the Variable Compensation Plan*, for the current fiscal year. In addition, the following provisions apply.

5.5.1 Promotions

Promotions may be made in one (1) of three (3) ways subject to approval of the Director of the Office of Human Capital Core Processes (See also Chapter 4.):

A. Agency-only competitive;

B. Agency-only non-competitive; and

C. State service competitive.

5.5.2 Promotion (Intra-Agency)

When requesting the promotion (within agency/master agency) of a state service employee who has satisfactorily completed six (6) months of service, the following shall be in effect:

A. A. A valid performance review rating shall be required prior to processing the transaction. (See Chapter 8.)

B. Employees promoted retain status date and hire date in the new position to which promoted.

C. SPAHRS will create a new 365-day performance review period beginning the effective date of the personnel transaction. (See Chapter 8.)

D. The following documentation is to be submitted with an intra-agency promotion request:

   1. A completed State of Mississippi Application, if a non-competitive promotion.

5.5.3 Promotion (Inter-Agency)

When requesting the promotional transfer (inter-agency) of a state service employee, the following shall be in effect:

A. The requested effective date must coincide to reflect no break in service and may be as follows:

   1. Competitive State Service - effective any time during the month provided it is no earlier than the date the Certificate of Eligibles was issued;

   2. Exempt - cannot be earlier than the date the request was received by the State Personnel Board provided the individual meets selection criteria;

   3. Non-Competitive New Hire - the date the individual begins work. The request must be received by the State Personnel Board before or within five (5) working days after the individual begins work.

B. Employees promoted retain status date and hire date in the new position to which promoted.

C. SPAHRS will create a new 365-day performance review period beginning the effective date of the personnel transaction. (See Chapter 8.)

D. The following documentation is to be submitted with a promotion request:

   1. A Certificate of Eligibles, if a competitive promotion; and

   2. A completed State of Mississippi Application, if a non-competitive promotion.

E. It is the transferring agency's responsibility to enter into SPAHRS the separation indicating an employee's transfer on the correct day.

5.5.4 Lateral Transfer (Intra-Agency)

When requesting the lateral transfer (within agency/master agency) of a state service employee to a position in state service, the following shall be in effect:

A. A valid performance review rating shall be required prior to processing the personnel transaction. (See Chapter 8.)

B. Employees laterally transferred retain their status date (except as otherwise stated in Section 2.1.1) and hire date in the new position to which transferred.

C. SPAHRS will create a new 365-day performance review period beginning the effective date of the personnel transaction. (See Chapter 8.)

D. The following documentation is to be submitted with a lateral transfer (intra-agency) request if the transfer is to a different occupational class:

   1. The actioned Certificate of Eligibles, where applicable; and

   2. A completed State of Mississippi Application, where applicable.

5.5.5 Lateral Transfer (Inter-Agency)

When requesting the lateral transfer (inter-agency) for a state service employee to a competitive or non-competitive position in state service, the following shall be in effect:

A. The requested effective date may be as follows:

   1. Competitive State Service - effective any time during the month, provided it is no earlier than the date the Certificate of Eligibles was issued;

   2. Exempt - Cannot be earlier than the date received by the Mississippi State Personnel Board provided the individual meets selection criteria;

   3. Non-Competitive New Hire - the date the individual begins work. The request must be received by the Mississippi State Personnel Board before or within five (5) working days after the individual begins work.

B. Employees laterally transferred retain status date (except as otherwise stated in section 2.30.1) and hire date in the new position to which transferred.

C. SPAHRS will create a new 365-day performance review period beginning the effective date of the personnel transaction. (See Chapter 8.)

D. The following documentation is to be submitted with the lateral transfer (inter-agency) request if the transfer is to a different occupational class:

   1. The actioned Certificate of Eligibles, where applicable; and

   2. A State of Mississippi Application, where applicable.

E. It is the transferring agency's responsibility to enter into SPAHRS the separation indicating an employee's transfer on the correct day.

5.5.6 Demotional Transfers

An employee may be demoted because of inadequate performance, disciplinary reasons, a reduction in force, or voluntarily. When the affected employee is a permanent-state service status employee, written notice of intent to effect any demotion and the reason for such action shall be given to the employee at least ten (10) working days prior to the effective date of the demotion. All actions adversely affecting compensation or employment status require that the permanent state service status employee be given an opportunity for a conference with the appointing authority or designated representative and to respond in writing prior to any such action.

5.5.7 Demotional Transfer (Intra-Agency)

When requesting the demotional transfer (intra-agency) of an employee (voluntary or for cause), the following shall be in effect:

A. A valid performance review rating shall be required prior to processing the transaction as requested from the agency. (See Chapter 8.)

B. Employees demoted retain status date and hire date in the new position to which demoted.

C. SPAHRS will create a new 365 day performance review period beginning the effective date of the personnel transaction. (See Chapter 8.)

D. The following documentation is to be submitted with a demotional transfer (intra-agency) request:

   1. A completed State of Mississippi Application;

   2. A statement signed by the employee acknowledging the demotion (voluntary only); and

   3. Detailed justification if demotion with extraordinary circumstances is requested. After the demotion process is complete, display the action and press F5 to add notes describing the need to retain the employee's current salary.

5.5.8 Demotional Transfer (Inter-Agency)

When requesting a demotional transfer (inter-agency), the following shall be in effect:

A. The requested effective date shall be as follows:

   1. Competitive State Service - effective any time during the month provided it is no earlier than the date the Certificate of Eligibles was issued;

   2. Exempt - cannot be earlier than the date received by the State Personnel Board provided the individual meets selection criteria;

   3. Non-Competitive Appointment - the date the individual begins work. The request must be received by the State Personnel Board before or within five (5) working days after the individual begins work.

B. Determination of salary for a demotional (inter-agency) transfer shall be in accordance with the policies and procedures outlined in Policy Memorandum No. 2, *Administration of the Variable Compensation Plan*, for the current fiscal year.

C. Employees transferred and demoted retain their status date and hire date in the new position to which transferred and demoted.

D. SPAHRS will create a new 365-day performance review period beginning the effective date of the personnel transaction. (See Chapter 8.)

E. The following documentation is to be submitted with a demotional transfer (inter-agency):

   1. The actioned Certificate of Eligibles, where applicable; and

   2. A completed State of Mississippi Application, where applicable.

   3. It is the transferring agency's responsibility to enter into SPAHRS the separation indicating an employee's transfer on the correct day.

5.5.9 Dual Transfer (Intra-Agency)

When transferring positions between two current employees, the applicable preceding policies, rules, and procedures governing promotions, lateral transfers, and/or demotions shall apply.

5.6 DETAIL TO SPECIAL DUTY

When the services of an employee are temporarily needed in a position within the employing agency other than the position to which regularly assigned, the employee may be required, at the discretion of the appointing authority, to perform the tasks of such a position for a period not to exceed 180 days without a change in position title or employee status.

A. A probationary employee in a state service position assigned to special duty shall not be required to serve an additional probationary period.

B. When an employee is assigned the duties of a position that is in an equal or higher pay range, a temporary salary award up to ten percent (10%) above the detailed employee's current salary may be awarded when justified and approved by the Director of the Office of Human Capital Core Processes. The position to which the employee is being detailed must be vacant or filled by an incumbent who is not available for duty due to an authorized leave.

C. In unusual circumstances, a detail beyond 180 days may be authorized by the Director of the Office of Human Capital Core Processes upon written request by the appointing authority.

D. If an employee is being detailed to a filled position, the incumbent of the filled position must have been absent for at least thirty (30) days prior to the request for detail. In extraordinary circumstances, the agency may request Director of the Office of Human Capital Core Processes approval of actions, which do not meet this 30-day requirement.

E. Any salary increase certified for special duty shall be withdrawn upon completion of special duty.

F. No more than one (1) employee may be awarded Detail to Special Duty Pay for assuming the responsibilities and functions of a single position.

G. The following documentation is to be submitted to the agency's Human Capital Core Processes Consultant with a Request for Detail to Special Duty:

    1. Detailed justification which indicates the position to which the employee is being detailed and the duties to be assigned while performing in the detail capacity;

    2. A statement from the employee acknowledging the temporary salary increase and the subsequent salary withdrawal upon completion of special duty; and

3. Organizational chart pages, signed by the appointing authority, depicting both the employee's position and the position to which the employee will be detailed.

4. If an employee is being detailed to a filled position, the date on which the absent employee is expected to return.

H. Please reference the SPAHRS User Training Workbook at http://www.mmrs.state.ms.us or your Human Capital Core Processes Consultants for more detailed information regarding the submission of Detail to Special Duty Pay requests.

5.6.1 Governor's Chief of Security and DFA Pilots

A. The Department of Public Safety position assigned as Chief of Security to the Governor's Office shall be paid a salary as set by the Commissioner of Public Safety equal to or lower than the highest paid incumbent currently holding the rank of Captain at the Department of Public Safety and approved by the Mississippi State Personnel Board. However, in no case shall a salary increase awarded as a result of such an assignment be used as a benchmark for salary equity adjustments. The salary of an employee following the termination of assignment as Chief of Security to the Governor's Office shall be determined in accordance with the policies and procedures outlined in policy Memorandum No. 2, *Administration of the Variable Compensation Plan*, for the current fiscal year.

B. The Executive Director of the Department of Finance and Administration has authority to set the salaries of all licensed jet pilots assigned to the Office of Air Transportation within the salary range set by the Mississippi State Personnel Board. Such pilots are not eligible for Pilot's Pay Additional Compensation. Further, all licensed jet pilots assigned to the Office of Air Transportation Services shall serve at the will and pleasure of the Executive Director of the Department of Finance and Administration.

5.7 ADMINISTRATION OF ADDITIONAL COMPENSATION SCHEDULES

The Mississippi State Personnel Board shall establish and administer additional compensation schedules to accommodate the full and efficient operation of an agency in the delivery of essential services within or outside of the standard work schedule or the standard work place.

5.7.1 Application of Additional Compensation

In accordance with Policy Memorandum No. 2, *Administration of the Variable Compensation Plan*, for the current fiscal year, the Executive Director of the Mississippi State Personnel Board

may recommend to the Board those occupational classes certified for payment under provisions governing additional compensation. The Executive Director of the Mississippi State Personnel Board, with the approval of the Board, shall amend additional compensation schedules based upon evaluation of labor market conditions and the economic value of comparable services within relevant public sectors and the relevant private labor market, if any.

5.7.2 Agency Authorization for Additional Compensation

A. To request authorization of additional compensation, the appointing authority shall submit a letter to the Executive Director of the Mississippi State Personnel Board fully explaining and justifying the request.

B. Determination as to agency authorization for additional compensation shall be subject to approval by the Mississippi State Personnel Board.

5.7.3 Certification of Employees for Additional Compensation

The appointing authority shall indicate in SPAHRS those positions to be certified payment of additional compensation and of the need to decertify employees no longer working under the conditions set forth in the provisions governing additional compensation.

5.7.4 Occupational Class Authorization or Rescindment of Additional Compensation

A. The appointing authority shall indicate in SPAHRS which occupational classes are necessary to accommodate the full and efficient operation of the agency in the delivery of essential services within or outside the confines of the standard work period and the standard work schedule as defined below:

- Standard work period: an eight (8) hour workday, a forty (40) hour workweek, a 173.929 hour work month, and a 2087.143 hour work year.

- Standard work schedule: the hours of work established by an appointing authority for individuals employed within the agency, which typically begin at 8:00 a.m. and end at 5:00 p.m. each day with a one (1) hour interval for a lunch period.

B. Any position change affecting the classification of a position certified for additional compensation will cause the certification to be automatically removed from the position.

C. Where certification is required as a prerequisite for authorization of additional compensation for an occupational class, the agency is responsible for verifying receipt of certification by the individual for which additional compensation is requested and

indicating in the SPAHRS payroll segment the hours worked which qualify for additional compensation.

D. An individual shall not be certified to receive more than three (3) types of additional compensation during a single pay period.

5.8 SPECIAL COMPENSATION PLANS

The Mississippi State Personnel Board may establish, maintain, and amend special compensation plans within the Variable Compensation Plan to compensate employees within selected occupational classes based on a demonstrated inability to compete satisfactorily for employees in terms of pay or availability. Only special compensation plans reviewed prior to the start of the fiscal year and approved by the Mississippi State Personnel Board for implementation or continuation during the fiscal year shall be certified.

When requesting a salary increase under a special compensation plan, the following shall be in effect:

A. The requested effective date of a salary increase shall be the first day of the requested month.

B. The new salary after award of an increase through a special compensation plan should correspond to the plan's salary scale and the incumbent's experience level.

C. Please reference the SPAHRS User Training Workbook at http://www.mmrs.state.ms.us or your Human Capital Core Processes Consultants for more detailed information regarding salary increases through special compensation plans.

5.9 COOPERATIVE EDUCATION COMPENSATION PLANS

Upon requests by appointing authorities, the Mississippi State Personnel Board may establish and maintain compensation plans to remunerate individuals enrolled in designated fields of study at institutions of higher learning, junior colleges, community colleges, or technical schools who alternate between intervals of state service or non-state service employment followed by unpaid intervals during training for the designated occupational class.

5.10 EDUCATIONAL BENCHMARKS

The Executive Director of the State Personnel Board is authorized to approve requests to award educational benchmark increases on a case-by-case basis, in accordance with policies and

procedures outlined in Policy Memorandum No. 2, *Administration of the Variable Compensation Plan*, for the current fiscal year.

5.11 PAY RANGE REALIGNMENT

The Mississippi State Personnel Board shall recommend to the Legislature the realignment of pay ranges in recognition of economic changes in the prevailing pricing of manpower for a job category within the relevant labor market. The purpose of realignment is to determine a competitive salary range for each occupational class.

5.11.1 Appropriated Realignment

The Executive Director of the Mississippi State Personnel Board shall determine and recommend the appropriate realignment of pay ranges for an occupational class to the Mississippi State Personnel Board. The Mississippi State Personnel Board shall make recommendations to the Legislative Budget Office and the Department of Finance and Administration regarding pay range realignment [See Mississippi Code Annotated § 25-9-133(1).] The Legislative Budget Office and the Department of Finance and Administration forward the recommendations to the Legislature and the Governor as a part of the annual appropriations process.

Realignment of pay ranges must be appropriated within the legislative budget process. Realignment shall be awarded in accordance with the policies provided in the Promotional Formula outlined in Policy Memorandum No. 2, *Administration of the Variable Compensation Plan*, for the current fiscal year.

5.11.2 Non-Appropriated Realignment

Each agency head shall have the opportunity to document the need for non-appropriated realignment by demonstrating that a bona fide staffing need exists, which cannot be adequately addressed through the normal budget procedures. The Mississippi State Personnel Board may authorize realignments necessary to fill the staffing need only upon certification by the agency director that adequate funds are available. 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. Where more than one agency utilizes a job class proposed for non-appropriated realignment, all affected agencies must certify their acceptance of the realignment. Implementation of salary increases authorized under this section is at the discretion of the appointing authority. Realignment shall be awarded in accordance with the policies provided in the Promotional Formula outlined in Policy Memorandum No. 2, *Administration of the Variable Compensation Plan*, for the current fiscal year.

5.12 PRODUCTIVITY

Productivity increases are performance based salary increases awarded at the discretion of the agency director and management. Productivity allows an agency director to reward excellence among agency employees. Productivity awards must be thoroughly documented by current performance evaluations and are awarded in accordance with policies and procedures outlined in Policy Memorandum No. 2, *Administration of the Variable Compensation Plan*, for the current fiscal year, if the Legislature appropriates specified funds for this purpose.

Please reference the SPAHRS User Training Workbook at http://www.mmrs.state.ms.us or your Human Capital Core Processes Consultants for more detailed information regarding requests for productivity increases.

5.13 LONGEVITY

Longevity awards are lump sum payments awarded to employees who have reached the maximum salary (end salary) for their respective job classes. Longevity payments are awarded in accordance with policies and procedures outlined in Policy Memorandum No. 2, *Administration of the Variable Compensation Plan*, for the current fiscal year, if the Legislature appropriates specified funds for this purpose.

5.14 EMPLOYER REQUIREMENTS UNDER THE FAIR LABOR STANDARDS ACT OF 1938, AS AMENDED (FLSA)

The Fair Labor Standards Act of 1938, as amended, 29 U.S.C. § 201 and following (FLSA), is a federal law which is applicable to all state agency employers. The FLSA provides that all covered, or non-exempt, employees must be paid at least a minimum wage, and must be paid at the rate of 1-1/2 times, or time-and-a-half, their regular rate of pay for each hour over forty (40) worked during a single workweek. State agency employers may, in lieu of cash payment for overtime, pay their non-exempt employees in compensatory time at the rate of 1-1/2 hours for each hour over forty (40) worked during a single workweek. Police and firefighters, emergency response personnel, and employees engaged in seasonal activities may accrue up to 480 hours of compensatory time. Other non-exempt employees may only accrue up to 240 hours of compensatory time. After a non-exempt employee has accrued the maximum amount of compensatory time, the employer is required to pay the employee overtime for the additional overtime hours worked in cash.

A public employer may require a non-exempt employee requesting leave to exhaust an FLSA compensatory leave balance prior to use of annual leave, and a public employer may compel a

non-exempt employee to use compensatory time and take time off work to reduce a compensatory time balance below the 480- or 240-hour thresholds.

The U. S. Department of Labor (DOL) is responsible for the enforcement of the FLSA, and may investigate and gather data concerning wages, hours, and other employment practices. For assistance in complying with the FLSA, state agency employers may contact the area office of the Wage and Hour Division of the DOL.

The federal regulations governing FLSA applicable to state agency employers in the area of compensatory time are contained in the Appendix. All other FLSA regulations may be found in the Code of Federal Regulations, 29 C.F.R. § 500.

When requesting authorization under FLSA for payment of overtime compensation to non-exempt employees, the following shall be in effect:

A. Each agency must petition the Mississippi State Personnel Board and be approved to receive overtime compensation.

B. Each occupational class to receive overtime compensation must receive prior approval by the Mississippi State Personnel Board.

C. Positions must be determined to be non-exempt from FLSA provisions, and so marked in SPAHRS, before overtime compensation can be paid.

5.15 EMPLOYEE DATA CHANGES

When requesting changes to employee data, the following shall be in effect:

A. Employee data changes include changes in social security number, last name, first name, middle name, date of birth, race, sex, years of education, agency hire date, pin entry date or status date.

B. Supporting documentation may be required in changing date of hire, PIN entry date, status date, social security number, and performance appraisal rating.

5.16 SEPARATIONS

The effective date of separation shall be the last day the employee worked or utilized authorized leave. For a complete list of the Separation Reason Codes to enter into SPAHRS, reference the SPAHRS User Training Workbook at http://www.mmrs.state.ms.us or contact your Human Capital Core Processes Consultants.

5.17 DELEGATION OF REALLOCATION AND REORGANIZATION AUTHORITY

5.17.1 Purpose and Authority

In accordance with Mississippi Code Annotated §§ 25-9-101, *et seq.*, the Mississippi State Personnel Board, as the governing authority for the statewide personnel system authorizes the Executive Director of the Mississippi State Personnel Board to enter into formal agreements with department executive directors and agency directors in which employment positions within their agencies may be reallocated and organization charts amended without prior Mississippi State Personnel Board approval; provided, however, that such agreements shall be revocable by the Mississippi State Personnel Board, and continuation shall be contingent upon the reallocations and reorganizations being conducted in accordance with rules and regulations promulgated by the Mississippi State Personnel Board. In the event the Mississippi State Personnel Board has delegated reallocation authority to an agency, this delegation does not remove the requirement that agencies submit personal services budget requests each fiscal year for the purpose of preparing personal services continuation budget projections. Such budget requests shall be prepared in accordance with the policies, rules, and regulations promulgated by the Department of Finance and Administration, the Legislative Budget Office and the Mississippi State Personnel Board. Prior to making any reallocation or reorganization effective, each appointing authority who has entered into an agreement as provided herein shall certify to the Mississippi State Personnel Board that the total annualized cost of any reallocation, or reorganization, shall be equal to or less than the cost savings generated through downward reallocation or position abolishment of vacant positions.

The Mississippi State Personnel Board will maintain a record of every personnel transaction executed pursuant to any agreement as provided herein and will annually report the total cost of these transactions, by agency, to the Legislative Budget Office and the Department of Finance and Administration.

The Executive Director of the Mississippi State Personnel Board shall perform, or cause to be performed, a compliance audit and evaluation of personnel transactions executed under the authority delegated pursuant to said agreement, and to publish a report of the audit listing exceptions taken by the Executive Director not later than the first of October each year. In the event the Mississippi State Personnel Board determines that an agency has misclassified an employee or position as a result of this delegated authority, MSPB will correct such misclassification regardless of the state service status of the employee holding such position. Authority to correct such misclassifications of filled positions shall be limited to one (1) year from the date which the Mississippi State Personnel Board receives written notice of the reallocation.

5.17.2 Overview

The authority to reallocate employment positions carries with it the demand that rigid professional standards be applied to maintain and administer an equitable statewide job classification plan. Reallocations are valid only when the duties and responsibilities of an employment position have sufficiently changed such that its current job classification is no longer accurate and another job classification more accurately depicts the duties and responsibilities of the position. Reallocations are not substitutes for promotions or tools to secure salary increases for selected individuals. They are to be performed only when supported by objective job analysis.

The criteria for delegated reallocation agreements set forth below are designed to encourage consistent management of the reallocation delegation program while promoting an efficient, effective, and uniform statewide job classification system.

5.17.3 Formal Agreements

Upon authorization from the Mississippi State Personnel Board, the Executive Director of the Mississippi State Personnel Board may enter into formal reallocation and reorganization delegation agreements with state agency directors. These agreements shall be in writing and shall be signed by the Executive Director and the agency director requesting the delegated authority. They shall contain such terms and conditions deemed appropriate by the Executive Director.

The agreements may include authorization for the delegation of reallocation authority alone, or delegation of reallocation authority along with the authority to amend organizational charts. To ensure correct organizational placement of job classifications and to ensure the validity of Mississippi State Personnel Board budget recommendations made to the Legislature, delegation of the authority to amend organizational charts shall be approved only for those agencies in which reallocation authority has been delegated.

Authorization by the Mississippi State Personnel Board for its director to enter into delegated reallocation or delegated reorganization agreements shall also carry with it the authority for the Executive Director of the Mississippi State Personnel Board to modify, suspend, or terminate reallocations or reorganization delegation agreements.

Delegation agreements may be revoked upon a finding that the delegate agency failed to uphold its responsibility in the formal agreement or failed to comply with Mississippi State Personnel Board policies, procedures, and guidelines. All salary setting provisions as outlined in Policy

Memorandum No. 2, *Administration of the Variable Compensation Plan*, for the current fiscal year, shall remain in effect for delegate agencies.

5.17.4 Staff Requirements and Training

Agencies desiring delegated reallocation authority must designate among their human capital staff one primary job analyst and one alternate job analyst. Prior to assuming delegated reallocation authority, these designated job analysts shall receive training by the Mississippi State Personnel Board in job analysis, job classification, and organizational development concepts as well as MSPB policies and procedures.

All delegated reallocations must be recommended and endorsed by the primary job analyst based on a thorough and independent review of all relevant data.

A. The primary job analysts must be available to devote their full time and effort to their job analysis duties. They may be assigned other duties collateral to their primary job analysis responsibilities; however, whenever they are to be engaged in their job analysis duties they shall not be assigned other duties outside the scope of job analysis.

B. The primary and alternate designated job analysts must attend initial training and follow-up training conducted by the Mississippi State Personnel Board staff. If for any reason the primary analyst cannot attend follow-up training, the alternate must attend the scheduled training. In such case, the primary analyst must schedule a make-up training session with the Mississippi State Personnel Board Office of Human Capital Core Processes within thirty (30) days of the regularly scheduled training that was missed.

C. Failure to attend job analysis training or to make up missed training as specified above shall result in the suspension or cancellation of the delegation agreement. Failure to pass any written examinations may result in the disqualification of the designated job analyst and suspension of the delegation agreement.

D. The primary job analyst shall be a Personnel Officer I-V with at least two (2) years of human capital experience. In agencies without Personnel Officers, the Mississippi State Personnel Board may permit other related job classes to perform job analysis work, but there shall be no substitution for the experience requirement.

E. The alternate job analyst may be in any human capital job classification or professional administrative job class, subject to Mississippi State Personnel Board approval. However, if in the judgment of the Executive Director of MSPB an agency has insufficient human capital support staff and job classification expertise to conduct valid

job analysis, the Executive Director may refrain from entering into a delegation agreement.

F. In agency human capital offices with a Human Resources Director and at least one Personnel Officer, the subordinate Personnel Officer may be designated as the primary job analyst. No supervisor of the Human Resources Director, or supervisors, shall be designated as a job analyst.

G. The agency Human Resources Director and management must agree not to influence the judgment of the designated job analyst and must provide assurance to the job analyst and the Mississippi State Personnel Board that absolutely no retaliation, direct or indirect, shall result if the job analyst's judgment in a reallocation action is contrary to management's preferences.

H. Upon transfer or termination of the primary job analyst, delegated reallocation authority shall be suspended until his/her replacement completes initial training.

I. If an agency has been delegated authority to amend organizational charts, the agency-designated job analyst(s) shall advise the Human Resources Director and agency management on Mississippi State Personnel Board rules, regulations, guidelines, and procedures concerning organizational issues.

5.17.5 Job Classifications Authorized for Delegated Reallocations

Delegate agencies shall be authorized to reallocate employment positions to those classes in the current Mississippi State Personnel Board job inventory, with the exception of classes which are denoted in their title or the class specification as being unique to particular agencies. The Executive Director of the Mississippi State Personnel Board may also require that reallocations be suspended in particular job classifications if those job classifications are undergoing revision.

5.17.6 Documentation and Record Keeping

A. Only those reallocations which are fully justified by an objective job analysis and fully documented according to these procedures shall be considered valid.

B. Delegate agencies shall establish a central PIN reallocation file for each PIN~~,~~ which is reallocated pursuant to delegation authority. Refer to “Checklist and Analysis Tool for Agencies Delegated Reallocation Authority,” Section 5.17.9 of this manual, for a description of the documentation required to be completed and retained by the agency in their PIN reallocation file.

C. All documentation associated with a delegated reallocation shall be filed and retained by the delegate agency for a period of five (5) years from the effective date of the reallocation. This requirement shall apply whether the reallocation is ultimately approved or not.

D. The Mississippi State Personnel Board Job Content Questionnaire (JCQ) or Role Description Questionnaire (RDQ) shall be the primary instrument for recording the job analysis data in support of a reallocation. The JCQ or RDQ must be complete and legible. No other form shall substitute for the JCQ or RDQ.

E. If a filled position is to be reallocated, an original State of Mississippi Application must be submitted to the agency's Human Capital Core Processes Consultants for evaluation to ensure the incumbent meets the minimum qualifications of the job **prior to submitting the transaction for processing.**

F. For those agencies who have been granted authority to amend organizational charts, the delegate agency's most current, complete, and valid organizational chart shall be on file and readily available to designated agency job analysts and Mississippi State Personnel Board auditors.

5.17.7 Audits

A. The Mississippi State Personnel Board staff shall perform audits of delegate agencies to ensure that only fully justified reallocations are performed. The audit team may also conduct desk audits of reallocated positions, and shall be alert to any practice or action, which is contrary to sound public personnel management or job analysis practice.

B. Those agencies which have been delegated authority to amend their organizational chart shall have the most recent, complete, and valid organizational chart available for inspection by Mississippi State Personnel Board auditors. In addition, delegate agency employees shall be available for desk audits, and performance appraisal documentation shall be available to verify organizational placement.

C. Failure to comply with Mississippi State Personnel Board policies, procedures, and guidelines shall result in corrective action, including the reversal of erroneous reallocations, and may result in suspension, termination, or modification of the delegation agreement by the MSPB Executive Director. Whenever possible, the MSPB Executive Director shall take informal remedial steps with delegate agencies to resolve minor classification problems. However, all audit exceptions shall be reported to the Legislature by October 1 of each year.

D. Delegate agencies shall receive no less than twenty-four (24) hours notice prior to the audit. The delegate agency's primary job analyst and the agency Human Resources Director shall be available to answer questions from the Mississippi State Personnel Board auditors. Incumbents of positions reallocated and reclassified within twelve (12) months prior to the audit should be available for desk audits of their positions.

5.17.8 Notice to Employees in Reallocated Positions

Delegate agencies shall give written notice to an employee whose employment position is reallocated pursuant to delegation agreements that the job classification may be changed and the salary adjusted to reflect the correct job classification should the Mississippi State Personnel Board determine that the delegate agency misclassified the position. This written acknowledgment must be obtained prior to submitting the reallocation to the Mississippi State Personnel Board. Incumbents of these positions shall acknowledge in writing that for a period of one (1) year, the Mississippi State Personnel Board has statutory authority to review any delegated reallocation, to correct any erroneous delegated reallocation and, if warranted, to reduce their salary to the level it was prior to the erroneous reallocation**.** This shall apply to filled positions that are reallocated, as well as vacant positions that are reallocated and subsequently filled. Authority to correct such misclassifications shall be limited to one (1) year from the date the Mississippi State Personnel Board receives written notice of the reallocation. Agency heads shall document said acknowledgment in agency files and forward a copy to the Mississippi State Personnel Board Office of Human Capital Core Processes.

5.17.9 Checklist and Analysis Tool for Agencies Delegated Reallocation Authority

I. Inventory:

A. Justification of reallocation must include the following:

____ 1. Position Identification Number (PIN);
____ 2. Current occupational title;
____ 3. Proposed occupational title;
____ 4. Status of the position (filled or vacant);
____ 5. Reason(s) for reallocation;
____ 6. Justification must state whether federal or state case law, regulations, guidelines or statutes impact upon action;
____ 7. If reallocation requires change from state service to non-state service, justification must be provided. Alternatively, a change from non-state service to state service must be adequately justified. In both cases, statutory authority must be cited;
____ 8. Incumbents of downwardly reallocated positions shall in all cases be notified of their reduction in salary range and a copy of the employee's written acknowledgment of salary range reduction shall be attached;

B. Organizational Chart(s):

____ 1. All organizational charts must be for the current Fiscal Year (FY);
____ 2. Organizational chart page(s) for current placement of PIN(s);
____ 3. Organizational chart page(s) for proposed placement of PIN(s);
____ 4. All organizational chart pages related to the position must be attached;
____ 5. Current/proposed organizational charts must be signed by Agency Head for reorganizations and agency authorized signatory for reallocations;

C. Job Content Questionnaire (JCQ) and Role Description Questionnaire (RDQ). JCQ's or RDQ's and structured desk audits are the primary means by which job analyses are documented:

____ 1. JCQ or RDQ is current (e.g., must be less than twelve (12) months);
____ 2. All sections are complete;
____ 3. Duty and task statements contain sufficient information for analysis;
____ 4. The largest percentage or 40%, whichever is greater of the duties of the position as described in the JCQ, reflect the duties described in the proposed classification;

____ 5. Signed by incumbent (if filled);
____ 6. Signed by supervisor;

D. Reallocations requiring change from state service to non-state service status require a letter signed by incumbent acknowledging same and is to be attached. (Statutory limitations apply.)

II. Analysis of Reallocation:

A. Review history of PIN:

When was the last time the PIN was reallocated? If the position was reallocated within the last six (6) to twelve (12) months, denote reasons for change.

_____
_____

B. Review agency vacancies for positions in proposed class:

____ 1. No vacancies in required class;
____ 2. Vacancy in requested class PIN(s): _____;
____ 3. If there is a vacancy in proposed class, explain why such position(s) could not be utilized in lieu of a reallocation:
Comments: _____

C. Ensure proposed salary range is less than supervisor's;

D. Ensure proposed salary range is greater than all subordinates;

E. Ensure proposed salary range does not exceed agency head's or Governor's (See statutes and current legislation.);

F. Review the following statutes and published material and denote impact on reallocation:

____ 1. Agency's Statutes (Check supplements also). At a minimum;
____ (a) Statutory qualifications of employees;
____ (b) Statutory organizational structure;
Comments: _____

____ 2. Mississippi State Personnel Board Statutes (Check supplement also).
Comments: _____

____ 3. Mississippi State Personnel Board Policies and Procedures.
Comments: _____

____ 4. Current FY Variable Compensation Plan (VCP).
Comments: _____

____ 5. Laws and appropriation bills not yet codified from a current Legislative Session.
Comments: _____

____ 6. Federal laws, regulations, or guidelines, which impact the subject classes or positions;
Comments: _____

G. Send applications for filled positions to MSPB Office of Human Capital Core Processes to determine if incumbents are qualified for the proposed classification. If an incumbent is not qualified, the reallocation cannot be performed except as provided by law. Date sent to
MSPB: _____ MSPB Determination: _____

H. Determine if PIN is presently classified as state service or non-state service:

____ 1. State service;
____ 2. Non-state service;
____ 3. Check to see if there is a job classification;
____ 4. Check to see if incumbent was appointed from a certificate (Y/N);

I. Agency shall retain copies of all relevant documentation in PIN file;

Note: To determine the proper classification of a position, a desk audit is recommended when there are questions arising from the Personnel Officer's analysis of the JCQ. When a desk audit is performed, a copy of the audit form and any additional information should be retained in the position file.

III. Agency Personnel Office Recommendation

The Primary Job Analyst will make a recommendation as to the appropriateness of the reallocation to the Agency Head for final approval/disapproval.

A. Primary analyst's recommendation (initials):

____ a. Approval Effective date: _____;
____ b. Disapproval;

B. Agency Head's Action:

____ a. Concur with staff recommendation;
____ b. Do not concur with staff recommendation;

IV. Disposition of Reallocation

Reallocation approved

____ A. Forward position employee data to Mississippi State Personnel Board date action is finalized in accordance with the *Mississippi State Personnel Board Policy and Procedures Manual*;

____ B. Agency shall retain a copy of the checklist.

_____
Human Resources Director's Signature/Date

5.18 SELECTIVE SERVICE REGISTRATION

Mississippi Code Annotated § 25-9-351 provides that every male between the ages of eighteen (18) and twenty-six (26) who is required to register under the Federal Military Selective Service Act, 50, USCS App. 453, and seeking employment with the State of Mississippi, shall submit to the person, commission, board or agency to which his application is submitted, satisfactory documentation of his compliance with the draft registration requirements of the Military Selective Service Act prior to appointment.

In accordance with Mississippi Code Annotated § 25-9-127, every male between the ages of eighteen (18) and twenty-six (26) who is required to register under the Federal Military Selective Service Act, 50 USCS App. 453, and who is an employee of the State, shall not be **promoted** to any higher position of employment with the state until he submits to the person, commission, board or agency by which he is employed, satisfactory documentation of his compliance with the draft registration requirements of the Military Selective Service Act prior to promotion.

To verify a registration or for information regarding who is and is not required to register, see the Selective Service System's website at http://www.sss.gov.

AGENCY SALARY SURVEY DATA SHEET

Salary survey page goes here.

CHAPTER 6 – STAFFING MANAGEMENT POLICIES

6.0 INTRODUCTION

The Staff Management Program is authorized by Mississippi Code Annotated § 25-9-101, *et seq*., and applies to all agencies and positions within agencies under the purview of the Mississippi State Personnel Board [See Mississippi Code Annotated § 25-9-107(d)].

6.0.1 Purpose

The Staff Management Program authorizes the Mississippi State Personnel Board to monitor, control, and implement short and/or long-range organizational planning to achieve the most efficient and economical use of staffing positions within agencies. In support of the stated purposes, the Staff Management Program provides for the following:

A. The establishment, consolidation, or abolishment of agencies and employment positions;

B. The submission, approval, and determination of compliance of agency organizational and staffing plans, payroll, program budget data, and other essential personnel data; and

C. The provision of timely reports or recommendations on agency organizations and staffing cost projections to the Department of Finance and Administration and the Legislative Budget Office during the budget process regarding the status of employment positions within agencies.

6.1 AGENCY'S ROLE IN THE STAFFING MANAGEMENT PROGRAM

Each agency director is responsible for the continual evaluation of the agency's mission and workload to ensure that staffing resources are consistent with legal authority, mission priority, and sound staffing management principles. Actions taken to ensure the maximum utilization of staffing positions include, but are not limited to, the following:

A. Conducting long-range agency organizational planning in which organizational changes, additions or deletions of positions, or similar actions affecting budgetary requirements are anticipated and/or recommended for future fiscal years;

B. Recommending elimination of non-essential agencies or positions;

C. Recommending consolidation of agencies, positions, and activities when duplication of functions is indicated; and

D. Establishing and maintaining a system of agency staffing management documentation and collection and retention of data (See Mississippi Code Annotated § 25-9-133).

6.1.1 Reporting Data

The director of each agency shall submit to the Mississippi State Personnel Board all information deemed necessary by the Mississippi State Personnel Board for the provision of required reports to the Governor, Legislature, Federal Government and general public [See Mississippi Code Annotated § 25-9-135(2)].

6.2 ESTABLISHMENT AND ABOLISHMENT OF AGENCIES

Legislative appropriation of funds, Executive Order, Department of Finance and Administrative budget escalation, the receipt of federal funds, or loss of funding or authorization shall require the submission of documentation to the Mississippi State Personnel Board for the establishment and/or abolishment of agencies and/or master agencies prior to requesting additions, deletions or changes in employment positions resulting there from. All agencies established or abolished in accordance with the provisions herein shall be based on legislative intent and authorization, appropriation or escalation of funds or loss thereof, and current fiscal policy.

6.2.1 Establishment of a New Agency

When legislative appropriation or other authority provides for the creation of a new agency, the agency director shall submit the following to the Mississippi State Personnel Board:

A. A copy of the enabling legislation or other authority that created the new agency and/or master agency; and

B. A copy of the appropriation bill or other authority that funds the new agency and/or master agency.

The Office of Human Capital Core Processes employees will perform all functions in SPAHRS related to the creation, maintenance, inactivation, and reactivation of an agency.

Once the agency records have been created in SPAHRS (to include the fiscal year records), the agency shall create a Program Budget record for each new agency to be reviewed and approved by the Office of Human Capital Core Processes.

Please reference the SPAHRS User Training Workbook at http://www.mmrs.state.ms.us or your Human Capital Core Processes Consultant for more detailed information regarding the establishment of new agencies.

6.2.2 Consolidation of Existing Agencies

Agencies directed by appropriation acts or other legislative authority to consolidate existing agencies shall submit the following to the Mississippi State Personnel Board:

A. A letter of request to the Executive Director of the Mississippi State Personnel Board, describing by name and agency code number, which agencies are expanding and which agencies are being abolished. The letter shall also address the disposition of former agency directors, bureau directors and division directors along with possible duplication of functions such as clerical support, print shops, computer centers, etc.;

B. A copy of the enabling legislation or other authority that directed the consolidation to be accomplished;

C. A copy of the appropriation bill or other authority that funded the consolidation of the agencies;

D. A revised organizational chart identifying the precise location, after consolidation, of all authorized positions prepared in accordance with established procedures;

E. Any updates to the expanded agency's Program Budget record should be submitted in SPAHRS to the Office of Human Capital Core Processes for review and approval; and

F. Any other relevant supporting documentation.

NOTE: Once all positions have been transferred to the expanded agency, the relevant agencies shall be inactivated by the Office of Human Capital Core Processes.

6.2.3 Inactivation of Agencies

Agency inactivation becomes necessary when the Legislature does not pass an appropriation act to continue or fund any positions within an agency. Petitions for inactivation of an agency shall be submitted a minimum of sixty (60) days prior to the proposed effective date. Note that all positions must be abolished before the agency may be inactivated.

6.2.4 Agency Program Budget Data

The agency program budget data is submitted to the Office of Human Capital Core Processes in SPAHRS for each agency. This information must be submitted to the Office of Human Capital Core Processes at the following times:

A. During conversion from the current fiscal year to the newly appropriated fiscal year;

B. As part of the annual Personal Services Budget Request for the next fiscal year;

C. When adding an agency or program during the operating fiscal year; and/or

D. When changing the workers' compensation rate during the operating fiscal year.

General Instructions for submitting agency program budget data:

A. Fiscal Year

   1. For FY Conversion - Use appropriated fiscal year;

   2. For Budget Request - Use fiscal year for which Budget Request is made;

   3. For Addition of Agency or Program and/or Change in Workers' Compensation Rate - Use Operating Fiscal Year.

B. Program Number and Description - Program Numbers and Names as assigned by the Legislative Budget Office and the Department of Finance and Administration. Change, deletion, or addition of a program during the operating fiscal year or for the budgeted fiscal year will require documentation of Legislative Budget Office and Department of Finance and Administration concurrence.

C. General Fund, Federal Fund, Other Fund

   1. For FY Conversion or Change in Workers' Compensation Rate - Indicate amount of total appropriated personal services dollars assigned to each fund within each program;

   2. For Budget Request - Indicate amount of total personal services dollars necessary to fully fund existing positions and requested actions assigned to each fund within each program;

   3. For Addition of Agency or Program - Indicate amount of total personal services dollars authorized by the Department of Finance and Administration assigned to each fund within each program.

D. Current Workers' Compensation Rate - The numerical rate, expressed in a four (4) digit decimal form, used to compute the total amount needed to cover the operating or budgeted fiscal year's Workers' Compensation Insurance.

E. Requested to Cover Cost

   1. For FY Conversion, Addition of Agency or Program, and/or Change in Workers' Compensation Rate - Use total amount needed to cover Workers' Compensation for operating fiscal year;

   2. For Budget Request - Use total amount needed to cover Workers' Compensation for the fiscal year for which the budget request is made.

Please reference the SPAHRS User Training Workbook at http://www.mmrs.state.ms.us or your Human Capital Core Processes Consultant for more detailed information regarding adding/modifying agency program budget information.

6.3 ORGANIZATIONAL PLANNING AND POSITION MANAGEMENT

The Mississippi State Personnel Board shall recommend policies and procedures for the efficient and economical use of each employment position. The appointing authority of each agency shall be responsible for directing organizational planning and position management intended to manage the number and distribution of staffing resources through:

A. Efficient and effective organization and staffing plans to accomplish the agency mission and program requirements;

B. Effective utilization of all personnel resources, considering such factors as available staffing, positions, supervisory spans of control, lines of supervision, supervisor/employee ratios, functional responsibility and delegation of authority; and

C. Continuing review of organizational structure, staffing plans and position utilization.

See Mississippi Code Annotated § 25-9-101, *et seq*.

6.3.1 The Staffing Planning Cycle

The staffing planning cycle is a continuous process reflecting the current, ongoing planning phase and the advanced planning phase required to be in concert with the personal services budget and appropriation cycles. The staffing planning cycle is divided into three units of time:

A. Current fiscal year encompasses the present appropriation acts under which agencies are operating;

B. Next fiscal year is the fiscal year immediately following the current fiscal year and for which the appropriation acts are approved by the current year's legislative session for implementation and use after the current fiscal year;

C. Future fiscal year means the fiscal year(s) immediately following the next fiscal year for which agencies prepare budget requests to effect advanced planning for position(s), organizational changes and future appropriations.

6.3.2 Budgeting for Staffing Positions

All agency requests and justification for additional staffing positions shall be submitted in SPAHRS to the Office of Human Capital Core Processes for recommendation to the Department

of Finance and Administration and the Legislative Budget Office as part of the annual budget process. Budget requests for the future fiscal year must be submitted in accordance with the Department of Finance and Administration/Legislative Budget Office Budget Instructions and Mississippi State Personnel Board Staff Management Planning Instructions. These instructions are issued annually. Requests for additional positions shall not be recommended for authorization when there are existing long-term vacancies within the organization of the same, similar or related classes. The Mississippi State Personnel Board shall annually monitor each agency's budget request and appropriation bill through the legislative appropriations process [See Mississippi Code Annotated § 25-9-133(1)].

6.3.3 Organizational Planning

The Staffing Management Program of each agency shall incorporate existing and proposed agency and position data into organizational charts indicating each position authorized. All current or proposed organizational charts shall be reviewed by the agency for completeness and accuracy of data to ensure inclusion of actions approved for next fiscal year implementation and conformance to the agency's next fiscal year appropriation act. The following shall be in effect with respect to agency organizational charts:

A. Agencies shall submit an original and one (1) file copy of the organizational chart in the format indicated in the examples at the end of this chapter for approval by the Office of Human Capital Core Processes prior to the start of each fiscal year. Upon approval by the Office of Human Capital Core Processes, the organizational structure and codes shall become the official organizational structure of the agency for current and/or succeeding fiscal years and the basis for all requested position and organizational changes;

B. Constant internal review of any agency organizational structure is an agency responsibility. Agencies may make minor alterations or movement of individual positions, including county code changes, in their organizational charts for efficiency or to balance staffing workload (generally singular moves below the division level) during the fiscal year. When requesting organizational chart revisions, the Agency shall submit the request for organizational code or county code change online through SPAHRS on the Position Screen. The following information shall be forwarded to the Mississippi State Personnel Board in support of the organizational change:

    1. Organizational chart pages signed by the appointing authority, or his or her designee, depicting both current and proposed structures; and

    2. Additional documentation as may be specified by the Executive Director of the Mississippi State Personnel Board.

C. Agencies shall request the Mississippi State Personnel Board to review major changes or movement of positions within the organizational structure. Major alterations, movements, or changes within the agency organizational structure must be approved by the Mississippi State Personnel Board prior to implementation by the agency. Contact your Human Capital Core Processes Consultant to determine the format in which to submit your proposed reorganization for formal presentation before the Mississippi State Personnel Board.

6.3.4 Organizational Coding

The organizational location code is usually a five (5) to ten (10) digit code used in conjunction with the PIN, occupational class title, FLSA Code, Service Status Code (if non-state service) and start salary of the occupational class to depict the exact location of every authorized position within the agency organizational hierarchy.

The agency head typically shall be designated by six zeros. However, because the size of the agency dictates the number of supervisory levels required, some agencies will need to utilize more than six or less than six zeros. Please contact your Mississippi State Personnel Board Human Capital Core Processes Consultant for assistance. All members of the agency head's immediate and personal staff shall begin with a zero digit on the left and appear as number 000001 through 099999.

Where larger agencies have a complicated organization and span of control, the Office level is the level beneath the agency head. Office Directors shall be numbered 100000, 200000, 300000, through 900000. The limit is nine offices. Each Office Director has an organizational code with the requisite number of zeros on the right to designate the number of levels supervised.

Where authorized, or required, the bureau level is the level beneath the office level. Bureaus are normally authorized in the larger agencies or in those agencies where applicable statutes stipulate the agency shall have bureaus. Bureau Directors shall be numbered 110000, 210000, 310000, etc., through 990000. The limit is nine bureaus per office. Each Bureau Director has an organizational code with the requisite number of zeros on the right to designate the number of levels supervised.

Where authorized, the division level is directly beneath the bureau level. Division Directors are number 111000, 211000, 311000, etc., through 911000. The limit is nine divisions per bureau. Each Division Director has an organizational code with the requisite number of zeros on the right to designate the number of levels supervised.

The Branch level is the level under the division level. Where agencies are not authorized bureaus or divisions, branches may be directly beneath the agency head. Branch Directors shall be number 111100, 211100, 311100, etc., through 911100. The limit is nine branches per

division. The Branch Director has an organizational code with the requisite number of zeros on the right to designate the number of levels supervised.

The section level is under the branch. Section Chiefs are number 111110, 211110, 311110, etc., through 999990. The limit is nine sections per branch. The Section Chief has an organizational code with the requisite number of zeros on the right to designate the number of levels supervised. Section Chiefs have no personal staff. Sections Chiefs exercise supervision over work units.

Unit is the worker level of the agency organization. These individuals have no supervisory responsibility and receive their supervision from the Section Chief. The last digit of the unit organizational code can be number one through nine. (See the charts at the end of this chapter.)

6.3.5 Agency Organizational Chart

A. The overview page of an organizational chart is applicable to the larger agencies that require several pages of organizational charts to depict all authorized positions. Items to be included on the overview page include:

   1. Agency Head;
   2. Agency Head's immediate staff; and
   3. Program functions depicted by separate squares using lines to indicate related functions by supervision.

B. Mandatory items that shall be included on the agency organizational chart:

   1. All authorized positions;
   2. Each square shall include the following data as depicted in the examples at the end of this chapter:

      i. The official occupational class title of the position at the top of the square;

      ii. The functional title for the position at the bottom of the square (optional);

      iii. The start salary (rounded to the nearest hundred dollars) of the occupational class in the lower left side of the position box (i.e., $37,856.48=37.9 and $37,829.74=37.8);

      iv. The position identification number (PIN) in the lower right side of the position box (agency code numbers may also be indicated for agencies utilizing multiple agency codes.);

v. The organizational code number;

vi. The FLSA classification in the bottom center of the position box. FLSA Codes are identified below:

Classification	Code
Exempt	E
Non-Exempt/Hospitals	H
Non-Exempt/Other	O
Non-Exempt/Public Safety	P

vii. The page number where each PIN can be found when there are follow-up pages;

viii. The service status code (if the position is non-state service, i.e. x-16).

C. In the example at the end of this chapter, the chart only goes down through bureau level, indicating precisely those individuals directly supervised by, or reporting directly to, the agency head. Agencies not authorized offices or bureaus shall use divisions directly under the agency head.

D. All organizational charts shall show the lines of supervision within the agency hierarchy. Lines of supervision reveal a supervisor's span of control and clarify the raters and reviewers in the agency's performance appraisal system.

E. The information in the upper right corner of the organizational chart example shall be placed on each page. However, the director need only sign the first page.

6.3.6 Staffing Guides/Plans/Standards

Each agency director, in conjunction with the Mississippi State Personnel Board, shall be responsible for development of staffing guides, plans and standards to justify and substantiate staffing position requirements. Agency staffing plans shall be utilized to formulate uniform staffing standards applicable to designated employment positions and classes within agencies. [See Mississippi Code Annotated § 25-9-133(1)].

6.3.7 Agency Reorganization

Agency requests for reorganization shall be accomplished:

A. In accordance with the provisions of Mississippi State Personnel Board rules, regulations and procedures;

B. According to authorization of positions in appropriation acts or budgetary escalations;

C. In accordance with current fiscal policy and legislative intent; and

D. Through submission of a detailed letter of compelling justification from the agency director to the Executive Director of the Mississippi State Personnel Board. Attachments to this letter shall include:

   1. Current and proposed organizational charts;

   2. All required documentation for requested downward, lateral, and upward reallocations. (See Section 5.3.);

   3. All required documentation for any requested class establishments. (See Section 5.1.2.); and/or

   4. All required documentation for any requested realignments. (See Section 5.12.)

6.3.8 Establishment of Positions

The establishment of positions occurs either at the start of the fiscal year at conversion for newly appropriated positions or during the operating fiscal year when mandated by special circumstances such as budget escalation authorized by the Department of Finance and Administration or deficit appropriation.

A. The following documentation shall be submitted in support of all requests to establish new positions:

   1. A copy of the appropriation bill or Department of Finance and Administration escalation authority authorizing the position establishment;

   2. An organizational chart depicting the precise location of all authorized positions, including ones to be established;

   3. A Job Content Questionnaire (JCQ) or Role Description Questionnaire (RDQ) for each position requested. A representative JCQ may be submitted when all positions are to be allocated to the same job class and will be assigned substantially the same work;

B. Requests for new positions in a new job class shall also include documentation required for a class establishment. (See Section 5.1.2.)

C. Each new position's Position Identification Number (PIN) may be assigned by the requesting agency, or SPAHRS will assign the next available number.

D. Please reference the SPAHRS User Training Workbook at http://www.mmrs.state.ms.us or your Human Capital Core Processes Consultant for more detailed information regarding position establishments.

6.3.9 Abolishment of Positions

Each agency shall enter vacant position abolishments online in SPAHRS when the number of actual positions is in excess of the number of positions authorized by the agency's appropriation act for the next fiscal year. [See Mississippi Code Annotated §§ 25-9-119(i) and 25-9-133(i).]

Routine position abolishments shall be submitted online in SPAHRS as soon as practical prior to the proposed effective date unless such abolishment would result in agency reorganization. Agencies effecting reductions in positions resulting in reorganization shall submit required forms and revised organizational charts to the Mississippi State Personnel Board at least sixty (60) days prior to deleting the positions.

Petitions for position abolishment to effect a reduction in force shall be submitted to the Mississippi State Personnel Board for review. (See Section 7.60.) Reductions in agency staffing shall be proportionate among positions within the hierarchal structure so as not to adversely affect supervisory or non-supervisory classes of positions.

Agencies shall apply a study of the essential needs of the organization, including the need for supervisory positions, when planning a reduction in employment positions. Changes in agency program shall be constantly analyzed with the intent of effecting maximum efficiency with minimum staffing. Agencies should note the possibility of changes in the Job Content Questionnaires for other continued positions impacted by reductions. Agencies effecting reductions in employment positions shall submit required documents on Mississippi State Personnel Board approved forms in accordance with the instructions and examples contained herein.

NOTE: Individuals cannot receive payment for accrued annual leave unless SPAHRS reflects termination from the requesting agency.

Please reference the SPAHRS User Training Workbook at http://www.mmrs.state.ms.us or your Human Capital Core Processes Consultant for more detailed information regarding Position Abolishments.

6.3.10 Swap or Transfer of Positions within Legislative Authority

A Position Transfer is the movement of an authorized position from one agency to another agency. A full-time/part-time swap is the change in the part-time/full-time status of two (2) positions accomplished within legislative authority. The swapping or transferring of positions may occur either at the start of the fiscal year as a part of conversion or during the operating fiscal year as follows:

A. Agencies may be mandated by legislative action to transfer positions from one master agency to another master agency, or from one agency to another agency within the same master agency at the start of the fiscal year, or as a part of conversion. Position transfers from one agency to another agency within the same master agency should be requested through SPAHRS using the Intra-Agency Position Transfer screen. At the same time position transfers are requested for approval, the following documents must be submitted in support of all such requests:

    1. A copy of the bill authorizing position transfers; and

    2. Pages of the appropriate organizational chart depicting the proposed placement of the position(s) to be transferred.

B. Certain agencies are given authority each fiscal year in their appropriation bill to transfer positions between authorized agencies. Authority to transfer positions between agencies is granted by the legislature to specified agencies in the annual appropriation to the agency. Position transfers from one agency to another agency within the same master agency should be requested through SPAHRS using the Intra-Agency Position Transfer screen. Approval to implement transfers during the current fiscal year must be requested and received from the Department of Finance and Administration prior to submitting online in SPAHRS submission to the Mississippi State Personnel Board. The following attachments must be included with all such requests:

    1. A copy of the letter of authorization from the Department of Finance and Administration; and

    2. Appropriate organizational chart pages depicting the placement of the positions before and after the swap.

C. Any agency authorized both part-time and full-time positions may change the status of a position from part-time to full-time at any time during the operating fiscal year. In such instances, the agency must provide a companion action changing the status of a full-time position to part-time to maintain its appropriated position count. A Full-time/Part-time

swap should be requested using the Full-Time/Part-Time Swap screen within the Position Segment of SPAHRS.

D. Please reference the SPAHRS User Training Workbook at http://www.mmrs.state.ms.us or your Human Capital Core Processes Consultant for more detailed information regarding Intra-Agency Position Transfers or Full-time/Part-time Position Swaps.

6.3.11 Annual Registration of Authorized Positions

A. Registration of authorized positions shall apply to the following agencies and employment positions:

1. State service agencies and positions; and
2. Non-state service agencies and positions excluded from the state service by Mississippi Code Annotated § 25-9-107 (c)
3. agencies voluntarily operating under limited provisions of the Mississippi State Personnel Board; and/or
4. time-limited positions. [See Mississippi Code Annotated § 25-9-107(c)(xiv).]

Registration shall be completed by the close of business on the last day of the fiscal year. All inconsistencies between next fiscal year authorization and current Mississippi State Personnel Board agency, position and employee data shall be resolved by this date, including the completion of any plan to adjust positions (adjustments; reauthorizations; establishments; abolishments; transfers; consolidations; changes of status from part-time to full-time or full-time to part-time; or changes of status from permanent to time-limited or time-limited to permanent), execute a reduction in force or implement a legislatively mandated reorganization. There shall be no exceptions to this policy. [See Mississippi Code Annotated §§ 25-9-103 (g) and 25-9-135 (1)]

B. All agencies and employment positions authorized in each agency's appropriation act shall be updated to reflect actual next fiscal year program budget data by program and fund source by the date specified in Policy Memorandum No. 1, Administrative Policies and Procedures for the Registration of Authorized Agencies, Positions, and Program Budget Data. This policy memorandum is updated at the beginning of each fiscal year.

C. Organizational charts shall be revised to reflect position adjustments required to conform to the next fiscal year authorization and submitted to the Mississippi State Personnel Board by June 1 of each fiscal year. A legislatively mandated reorganization shall be monitored by the Mississippi State Personnel Board to ensure compliance with

legislative intent. A reorganization initiated by the agency or necessitated to conform to the agency's next fiscal year position authorization, or an adjustment to an existing staffing plan, shall require prior Mississippi State Personnel Board approval.

6.3.12 Continuation of Position(s)

A. Documentation will not be required to continue established permanent positions within the agency where no change has occurred.

B. Time-limited positions should be marked for continuation in the next fiscal year using the FY Time-Limited Position Re-Authorization screen within the Position Segment of SPAHRS.

Please reference the SPAHRS User Training Workbook at http://www.mmrs.state.ms.us or your Human Capital Core Processes Consultant for more detailed information regarding the reauthorization of time-limited positions.

6.3.13 Change in Position Status

Authority to change the status of an established position from part-time to full-time (or full-time to part-time) will require an online revision of the months and/or hours fields as well as revising the service type of the position on the Maintain Position Information screen within SPAHRS.

Please reference the SPAHRS User Training Workbook at http://www.mmrs.state.ms.us or your Human Capital Core Processes Consultant for more detailed information regarding position status changes.

6.3.14 Position Program Budget Data Change

Changes to the program budget data of positions during the operating fiscal year shall be submitted online using the Position Program Budget Information screen within SPAHRS.

Please reference the SPAHRS User Training Workbook at http://www.mmrs.state.ms.us or your Human Capital Core Processes Consultant for more detailed information regarding changes to position program budget.

6.4 POSITION COST PROJECTION AND POSITION VALIDATION

Agencies cannot view or print position cost projections using the Maintain Budget Projection Parameters screen within SPAHRS. Information found in any projection provided by the Office of Human Capital Core Processes should be reviewed by the agency for accuracy and be looked upon as the basis for any future position additions, changes, or abolishments.

NOTE: The authorized appropriated position data in the Mississippi State Personnel Board database must be kept up-to-date at all times.

6.5 CONTRACTS FOR PERSONAL SERVICES

6.5.1 Policy Statements

A. No person shall be employed by any agency for any period for any purpose except in an employment position authorized by legislative appropriation or by the body authorized by law to escalate budgets and approve employment positions under the guidelines established by the Legislature except those authorized to be employed under the provisions of Mississippi Code Annotated § 25-9-107(c)(x) as contract personnel for personal and professional services. [See Mississippi Code Annotated § 25-9-133(2).]

B. Any agency which employs state employees may enter into contracts for personal and professional services only if such contracts are approved in compliance with the rules and regulations promulgated by the Personal Service Contract Review Board under Mississippi Code Annotated § 25-9-120(3). [See Mississippi Code Annotated § 25-9-107(c)(x).]

C. Prior to paying any warrant for contractual services in excess of one hundred thousand dollars ($100,000.00), the auditor of public accounts shall determine whether the contract involved was for personal or professional services, and, if so, shall determine whether it was approved by the State Personal Service Contract Review Board; provided, however, that any personal service contracts entered into for computer or information technology-related services governed by the Mississippi Department of Information Technology Services, any personal service contracts entered into by the Mississippi Department of Transportation, and any contract for attorney, accountant, auditor, physician, dentist, architect, engineer, veterinarian, and utility rate expert services are exempt. [See Mississippi Code Annotated § 25-9-107(c)(x).]

Note: Mississippi Code Annotated § 27-104-105 states that the Department of Finance and Administration shall not process any warrant requested by any state agency for payment for legal services without first determining that the services and contract were approved by the Attorney General and the Mississippi State Personnel Board; contracts for legal services performed for the State Highway Department in eminent domain cases shall not require approval by the Mississippi State Personnel Board.

6.5.2 Coverage and Scope of the Policies

A. These policies shall govern personal and professional contract services which cannot reasonably be expected to be performed by current or future employees in authorized

employment positions within state service agencies. Non-state service agencies are not required to comply with these policies unless they are contracting with a state service agency.

B. Except as provided for in Mississippi Code Annotated § 27-104-105, any personal service contracts entered into for computer or information technology-related services governed by the Mississippi Department of Information Technology Services, any personal service contracts entered into by the Mississippi Department of Transportation, and any contract for attorney, accountant, auditor, physician, dentist, architect, engineer, veterinarian, and utility rate expert services shall be excluded from the provisions of this policy.

C. Contracts between agencies under the Mississippi State Personnel Board system are excluded.

D. Mississippi Code Annotated § 25-4-105(3)(a) prohibits an employee from rendering personal and professional services on a contractual basis to the agency by which he or she is employed:

"No public servant shall: (a) be a contractor, subcontractor, or vendor with the governmental entity of which he is a member, officer, employee, or agent other than in his contract of employment, or have a material financial interest in any business which is a contractor, subcontractor or vendor with the governmental entity of which he is a member, officer, employee, or agent."

E. The Executive Director of the Mississippi State Personnel Board and the State Personal Service Contract Review Board authority under Mississippi Code Annotated §§ 25-9-133 and 25-9-107(c)(x) does not negate the bid, purchase, review or approval of policies and procedures established by statutory authority of any other regulatory agency.

F. For detailed information about administrative procedures regarding personal services contracts, please refer to the Personal Service Contract Procurement Regulations and Policy and Procedures Memorandum.

6.6 LEGAL SERVICES CONTRACTS

This section sets forth uniform policy guidelines on legal services contracts entered into by State agencies. These guidelines incorporate a single set of procedures, which are designed to assist State agencies to comply with requirements of State law prescribing the process for payment of legal services performed by attorneys and their assistants.

For the timely, effective, and efficient implementation of the State Personnel System, the Mississippi State Personnel Board hereby delegates to the Executive Director of the Mississippi State Personnel Board the authority to review and approve or disapprove legal services contracts in an amount not to exceed $100,000 per contract, including modifications thereto within the fiscal year. Legal services contracts in an amount exceeding $100,000 per contract, including modifications thereto within the fiscal year, must be presented to the Mississippi State Personnel Board for approval or disapproval.

6.6.1 State Statutes

Mississippi Code Annotated § 27-104-105 provides:

> The Department of Finance and Administration shall not process any warrant requested by any state agency for payment for legal services without first determining that the services and contract were approved by the Attorney General and the Mississippi State Personnel Board. The State Auditor shall test for compliance with this section.

6.6.2 Scope and Application of Policies

A. These policies will be applied by the Mississippi State Personnel Board in the enforcement of Mississippi Code Annotated § 27-104-105. The policies are intended to be consistent with existing law.

B. These policies apply to personal and professional agreements made between State agencies and persons for legal services. The term "agreements" means written or oral contracts which involve process of payment for legal services by the Department of Finance and Administration. The term "persons" means attorneys, law firms, and other individuals who would perform legal services such as paralegal professionals.

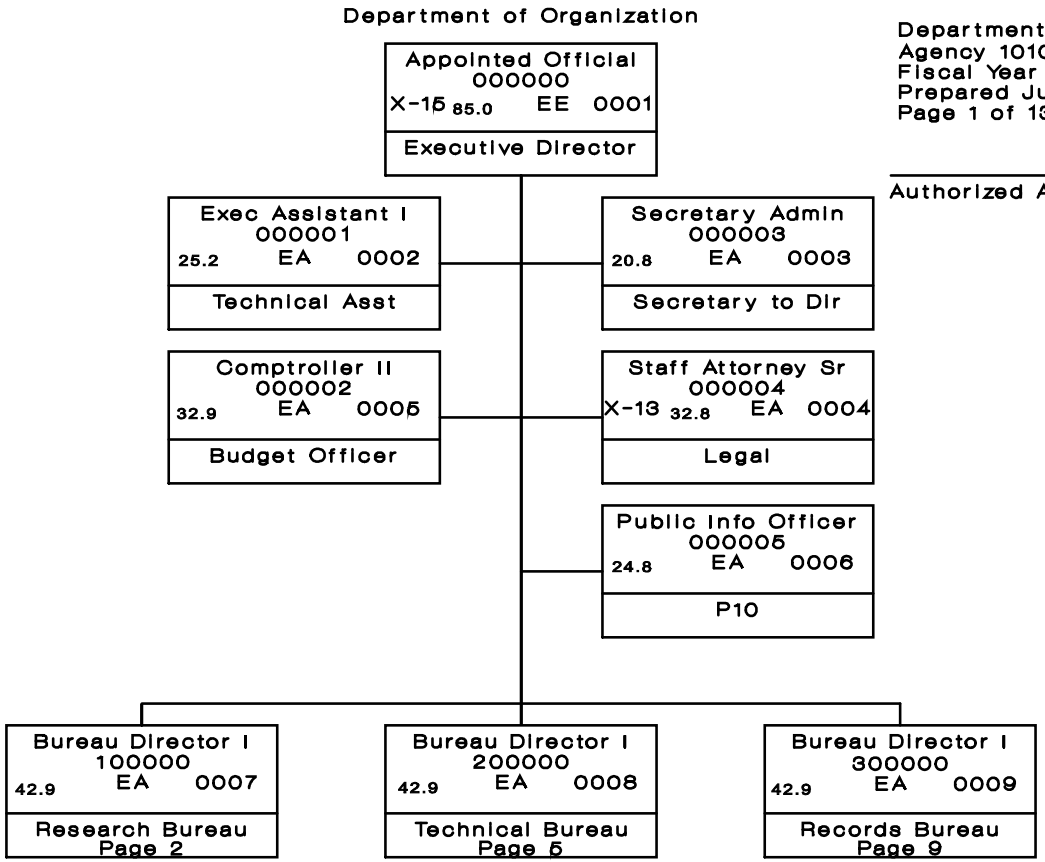
C. Legal services contracts entered into by the Mississippi State Department of Transportation and approved by the State Attorney General involving eminent domain activities are not affected by these policies.

D. Legal services contracts entered into by the Office of the Attorney General and state agencies for special assistant attorneys general are not affected by these policies.

6.6.3 Administrative Procedures

Requests to enter into contracts for legal services for each Fiscal Year shall be submitted to the State Attorney General prior to submission to the Mississippi State Personnel Board in accordance with policies and procedures outlined in Policy Memorandum No. 3, *Personnel and Legal Services Contract Policies and Administrative Procedures* for the current fiscal year.

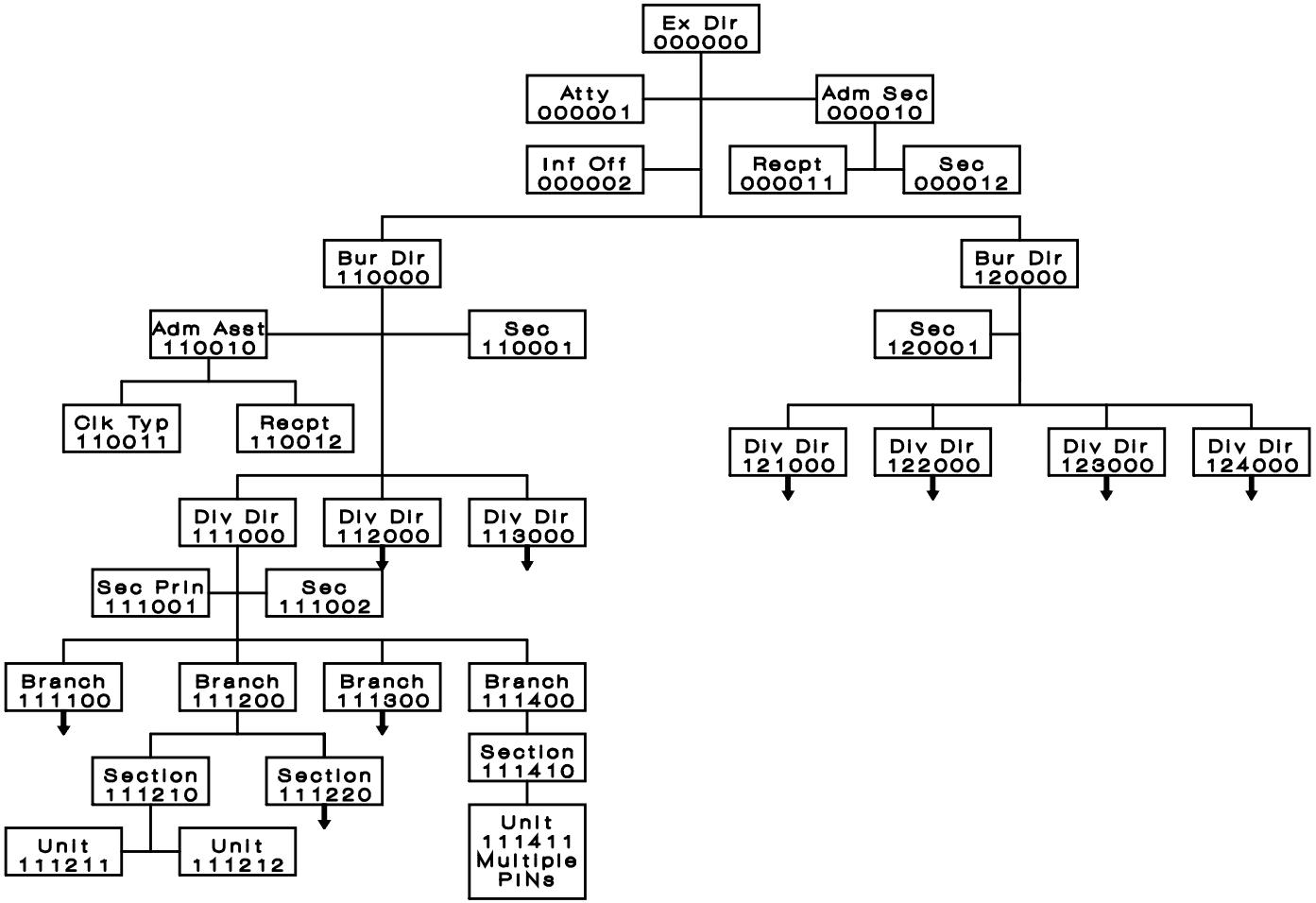
SAMPLE ORGANIZATION CHART



Department of Organization
Agency 1010
Fiscal Year 2001
Prepared July 1, 2000
Page 1 of 13 pages

Authorized Agency Signature

EXAMPLE OF ORGANIZATIONAL CODING



CHAPTER 7 – EMPLOYEE RELATIONS

7.1 WORKFORCE PLANNING

The Mississippi State Personnel Board assists appointing authorities in planning for the agency's future workforce needs by offering assistance in the review of organizational design, talent management, and career development.

The primary emphasis of workforce planning is to improve state government services. Under Mississippi Code Annotated § 25-9-103 (c), the Mississippi State Personnel Board shall administer a state personnel system to train employees, as needed, to ensure high quality performance. The appointing authority may contact the Office of Workforce Planning of the Mississippi State Personnel Board to request career development activities for his/her employees. Such activities may be conducted either in the Mississippi State Personnel Board training facility, on-site, or in other designated facilities.

7.1.1 Training Needs

The Executive Director of the Mississippi State Personnel Board shall assess the workforce planning needs of the state service and take necessary steps to meet those needs consistent with funding and resources. An appointing authority shall respond to the workforce planning needs assessments sent by the Mississippi State Personnel Board Workforce Planning Staff to the agencies.

7.1.2 Development and Coordination

The Executive Director of the Mississippi State Personnel Board shall provide or coordinate career development programs integral to the administration of the statewide personnel system and career development needs generic to all state agencies, such as supervisory/management skills, interpersonal skills, clerical skills, and professional development skills.

Registration for career development courses is done through the State's Mississippi Enterprise Learning Management System (MELMS), a link to which is at http://www.spb.ms.gov. Employees and agencies may also register for career development courses by completing a registration form, which is also located at http://www.spb.ms.gov under the Office of Workforce Planning.

7.1.3 Interagency Partnerships

The Executive Director of the Mississippi State Personnel Board shall encourage and, when feasible, coordinate inter-agency partnerships in sharing employee workforce planning and career development activities, resources, materials, and programs.

7.1.4 Career Development Costs

The Executive Director of the Mississippi State Personnel Board may assess Mississippi State Personnel Board-sponsored career development course costs to agencies on a per-course basis or a pro-rata share of the cost of career development course basis depending on the number of an agency's employees who participate or are scheduled by the agency to participate.

7.1.5 Guidelines for Development of Agency Career Development Programs

The appointing authority should:

A. Assess the workforce needs of the agency workforce;

B. Develop an agency-wide workforce planning policy using available internal resources, capabilities, facilities, and staff to meet assessed career development needs when appropriate; and

C. Provide specialized career development activities to agency personnel as required to ensure high quality performance and to meet agency objectives.

7.1.6 Training Data

The appointing authority shall provide, upon request from the Executive Director of the Mississippi State Personnel Board, any career development activity data necessary for comprehensive, statewide planning purposes.

7.1.7 Out-Service Career Development

Out-service career development activities include~~s~~ formal course work offered by educational institutions, workshops, conferences, correspondence courses, and seminars conducted by professional, private, or public organizations. Agencies may use facilities and resources of educational institutions and other sources outside state government if such out-service career development is used in the appointing authority's discretion and only to assist employees in acquiring the knowledge and skills necessary to perform their tasks more efficiently or to conform to regulatory or professional development requirements. For career development activities which involve~~s~~ college or graduate credit, refer to Section 7.90.

7.1.8 Liaison with Educational Institutions and State Service Agencies

The Executive Director of the Mississippi State Personnel Board may establish a liaison with public and private institutions of higher learning, the community college system, the Mississippi Co-op and Placement Association, and state government agencies to maintain a point-of-contact for partnering efforts.

7.1.9 Graduate Internship Programs

The Executive Director of the Mississippi State Personnel Board may provide personnel resources to the Board of Trustees of the Institutions of Higher Learning and to state service agencies, and may provide other assistance in establishing internship programs.

7.2 BENEFITS

Although the Mississippi State Personnel Board develops rules governing the administration of leave benefits, the appointing authority of each agency may develop internal administrative procedures governing the application of these leave rules. The agency human resources office, payroll office or immediate supervisors may provide employees with information regarding procedures unique to a specific agency.

7.2.1 Work Attendance

Mississippi Code Annotated § 25-1-98 defines “workday” and authorizes the appointing authority to establish work schedules, which ensure that each full-time employee works a full workday.

7.2.2 Holidays

State employees receive regular pay for ten (10) legal holidays and for any other day proclaimed as a holiday by the Governor or the President of the United States. Employees who are not in an active pay status on a legal holiday will not be compensated for the holiday. Active pay status is defined as either physically working or on paid leave the day of a legal holiday, the day immediately preceding a legal holiday, or the day immediately following a legal holiday. Compensation for legal holidays for part-time employees will be computed on a pro-rata basis according to hours regularly scheduled to work.

January 1	New Year's Day
The Third Monday of January	Robert E. Lee's Birthday and Dr. Martin Luther King, Jr.'s Birthday
The Third Monday of February	Washington's Birthday
The Last Monday of April	Confederate Memorial Day

The Last Monday of May	Jefferson Davis' Birthday and National Memorial Day
July 4	Independence Day
The First Monday of September	Labor Day
November 11	Armistice or Veterans' Day
A day fixed by proclamation of the Governor of Mississippi as a day of Thanksgiving, which shall be fixed to correspond to the date proclaimed by the President of the United States	Thanksgiving Day
December 25	Christmas Day

However, in the event any of these holidays fall on Saturday or Sunday, then the legal holiday will be observed the following Monday.

Except as may be provided in specific agency appropriations bills, when, in the opinion of the agency, it is essential that a State employee work during an official State holiday, the employee shall receive credit for the number of hours actually worked. In addition and in accordance with specific provisions of an agency's appropriation bill, an agency may require employees in specific job classes to work on an official State holiday and be paid call-back pay in lieu of receiving compensatory time credit.

7.2.3 Employee Work Schedules

A. State law requires that all State offices be available to the public for Services from 8:00 a.m. until 5:00 p.m., Monday through Friday.

B. The MSPB defines a normal work schedule as eight hours per day, forty hours per week, 173.929 hours per month and 2,087 hours per year.

C. Each part-time employee will be provided a schedule of working hours.

D. To provide for maximum flexibility in scheduling employees, the appointing authority may develop modified work schedules providing for flextime or compressed work schedules. “Flextime” is a schedule which offers agency management a choice to vary

employee arrival and departure times from work. A "compressed work schedule" allows agency management to schedule the general forty hour workweek requirement in less than the usual five workdays per week.

7.3 LEAVE

Each month State employees earn two types of leave, personal leave and major medical (sick) leave. Employees, including part-time employees, will be granted leaves of absence for non-State Service and for military leave as provided by statute.

Employees begin to earn and accumulate personal and major medical leave on the first working day of each month the employee works or receives paid leave. The personal leave is available for the employee's use the first day of the month after the leave is earned. The appointing authority cannot increase the amount of personal leave to an employee's credit, and it is unlawful for an appointing authority to grant personal and major medical leave in an amount greater than was earned and accumulated by the employee. Part-time employees are granted leave only during periods when they are scheduled to work.

7.3.1 Transfer of Leave Between State Agencies

Both major medical and personal leave earned by employees is transferable between any and all State agencies, junior colleges and senior colleges. However, compensatory leave is not transferable. Each appointing authority will be furnished a Statement of accrued leave when an employee transfers between agencies.

Upon transfer, leave accrual rates at the receiving agency will reflect total continuous Service. An employee transferring with a break in Service must begin accruing at the rate established for the new employees. Lump sum payment for accrued personal leave and/or the lapse of one eight-hour workday between the termination date with the original agency and the effective date with the new agency denote a break in Service.

7.3.2 Personal Leave

All full-time employees and appointed officers of the State of Mississippi earn personal leave as follows:

Continuous Service	Accrual Rate (Monthly)	Accrual Rate (Annually)
1 month to 3 years	**12 hours**	**18 days**

Continuous Service	Accrual Rate (Monthly)	Accrual Rate (Annually)
37 months to 8 years	**14 hours**	**21 days**
97 months to 15 years	**16 hours**	**24 days**
Over 15 years	**18 hours**	**27 days**

Employees begin to earn and accumulate personal leave on the first working day of each month the employee works or receives paid leave. Personal leave is available for the employee's use on the first day of the month after the leave is earned. Part-time and temporary employees accrue personal leave on a pro rata basis. Full-time employees and appointed officers who are hired after the first of a month, who terminate before the end of a month, or who are placed on leave without pay for a portion of the month shall be credited with personal leave for that month on a pro-rata basis.

For the purpose of Mississippi Code Annotated §§ 25-3-91 through 25-3-99, the earned personal leave of each employee shall be credited monthly after the completion of each calendar month of service, and the appointing authority shall not increase the amount of personal leave to an employee's credit. It shall be unlawful for an appointing authority to grant personal leave in an amount greater than was earned and accumulated by the officer or employee.

Employees are encouraged to use earned personal leave for vacations and personal business. However, all requests for personal leave, except when taken due to an illness, are approved at the agency's discretion. Personal or compensatory leave must be used for illnesses of the employee requiring absences of one day or less. In addition, accrued personal or compensatory leave must be used for the first day of an employee's illness requiring his or her absence of more than one day. A workday is defined as eight (8) working hours. Accrued personal, major medical, or compensatory leave may also be used for an illness in the employee's immediate family, including only a spouse, parent, step-parent, sibling, child, step-child, grandchild, grandparent, son-in-law, daughter-in-law, mother-in-law, father-in-law, brother-in-law or sister-in-law.

There is no limit to the accumulation of personal leave. Upon termination of employment, each employee may be paid for not more than thirty (30) days of accumulated personal leave. Unused personal leave in excess of thirty (30) days and all unused major medical leave will be counted as creditable Service for the purposes of the retirement system.

For the purpose of computing credit for personal leave, each appointed officer or employee is not considered to work more than five (5) days each week. For purposes of calculating the leave

accrual rate for employees, leaves of absence granted by the appointing authority for one (1) year or less are permitted without forfeiting previously accumulated continuous Service. The provisions of this section do not apply to military leaves of absence.

The beneficiary of an employee who dies with unused personal leave will receive payment for all personal leave accumulated but not used by the employee. The beneficiary designated with PERS will receive these benefits unless another beneficiary has been designated.

7.3.3 Major Medical Leave

All full-time employees and appointed officers of the State of Mississippi accrue major medical leave as follows:

Continuous Service	Accrual Rate (Monthly)	Accrual Rate (Annually)
1 month to 3 years	**8 hours**	**12 days**
37 months to 8 years	**7 hours**	**10.5 days**
97 months to 15 years	**6 hours**	**9 days**
Over 15 years	**5 hours**	**7.5 days**

Employees begin to earn and accumulate major medical leave on the first working day of each month the employee works or receives paid leave. The leave is available for the employee's use the first day of the month after the leave is earned. The appointing authority cannot increase the amount of major medical leave to an employee's credit, and it is unlawful for an appointing authority to grant major medical leave in an amount greater than was earned and accumulated by the officer or employee. Part-time and temporary employees accrue major medical leave on a pro rata basis. Full-time employees and appointed officers who are hired after the first of a month, who terminate before the end of a month, or who are placed on leave without pay for a portion of the month shall be credited with major medical leave for that month on a pro-rata basis. There is no maximum limit to major medical leave accumulation. All unused major medical leave will be counted as creditable Service for the purposes of the retirement system.

Major medical leave may be used for the illness or injury of an employee or member of the employee's immediate family, including only a spouse, parent, step-parent, sibling, child, step-child, grandchild, grandparent, son-in-law, daughter-in-law, mother-in-law, father-in-law, brother-in-law or sister-in-law. The employee should remember that major medical leave can be

used in this manner only after the employee has used one day of accrued personal or compensatory leave. In the event that an employee has no accrued personal or compensatory leave, the first day of leave must be taken as leave without pay. This is a requirement for each absence due to illness.

Major medical leave may be used, without prior use of personal or compensatory leave, to cover regularly scheduled visits to a doctor’s office or a hospital for the continuing treatment of a chronic disease, as certified in advance by a physician. "Physician" means a doctor of medicine, osteopathy, dental medicine, podiatry or chiropractic. Employees must remember that the initial eight (8) hours (one day) of leave relating to the condition must be personal leave, compensatory leave or leave without pay.

For each absence due to illness that requires the employee be absent from work for thirty-two consecutive working hours (combined personal, major medical, and compensatory leave), major medical leave can be authorized only when certified in writing by the attending physician.

An employee may use up to three days of earned major medical leave for each occurrence of death in the immediate family requiring the employee's absence from work. No qualifying time or use of personal or compensatory leave will be required prior to use of major medical leave for this purpose. The immediate family is defined as a spouse, parent, step-parent, sibling, child, step-child, grandchild, grandparent, son-in-law, daughter-in-law, mother-in-law, father-in-law, brother-in-law, or sister-in-law. Child means a biological, adopted or foster child, or a child for whom the individual stands or stood in loco parentis.

With appropriate documentation, an employee is entitled to use all accrued major medical leave for recuperation from illness. In cases of illness or disability exhausting available major medical leave, the employee may be allowed to charge the excess days against accumulated personal leave or compensatory time earned by the employee. If all accumulated major medical, personal leave and compensatory time have been used, employees are subject to a pro rata deduction from their salaries for the length of time or number of days in excess of accumulated leave. Family Medical Leave is also available for qualifying State employees and is described in detail on the following pages.

Should an employee die having accumulated major medical leave, such leave will be counted as creditable Service. Employers have no authority to pay an employee's beneficiary for unused major medical leave in the event of an employee's death.

7.3.4 Donated Leave for Catastrophic Injury or Illness

Donated leave for catastrophic injury or illness shall be administered as provided in Mississippi Code Annotated §§ Sections 25-3-91, 25-3-93 and 25-3-95. Those employees who received

donated leave and continued to be eligible to use it as of July 1, 2000, shall be allowed to use that leave, which was donated to them before July 1, 2000.

"Catastrophic injury or illness" means a life-threatening injury or illness of an employee or a member of an employee's immediate family, including only a spouse, parent, stepparent, sibling, child or stepchild, which totally incapacitates the employee from work, as verified by a licensed physician, and forces the employee to exhaust all leave time earned by that employee, resulting in the loss of compensation for the employee. Conditions that are short-term in nature, including, but not limited to, common illnesses such as influenza and the measles, and common injuries are not catastrophic. Chronic illnesses or injuries, such as cancer or major surgery, which result in intermittent absences from work and which are long-term in nature and require long recuperation periods, may be considered catastrophic.

Any employee may donate a portion of his or her earned personal leave or major medical leave to another employee who is either suffering from a catastrophic injury or illness or who has a member of his or her immediate family that is suffering from a catastrophic injury or illness, as follows:

A. The employee donating the leave (the "donor employee") must designate the employee who is to receive the leave (the "recipient employee") and the amount of earned personal leave and major medical leave that is to be donated and must notify the donor employee's supervisor of his or her designation. The donor employee's supervisor will then notify the recipient employee's supervisor of the amount of leave that has been donated by the donor employee to the recipient employee.

B. The maximum amount of earned personal leave that an employee may donate to any other employee may not exceed the number of days that would leave the donor employee with fewer than seven days of personal leave, and the maximum amount of earned major medical leave that an employee may donate to any other employee may not exceed fifty percent of the earned major medical leave of the donor employee. All donated leave shall be in increments of at least twenty-four hours.

C. An employee must have exhausted all of his or her earned personal leave and major medical leave before he or she will be eligible to receive any leave donated by another employee.

D. Before an employee may receive donated leave, he or she must provide his or her or supervisor with a physician's Statement that States the beginning date of the catastrophic injury or illness, a description of the injury or illness, a prognosis for recovery and the anticipated date that the recipient employee will be able to return to work.

E. If an employee is aggrieved by the decision of his or her appointing authority that the employee is not eligible to receive donated leave because the injury or illness of the employee or member of the employee's immediate family is not, in the appointing authority's determination, a catastrophic injury or illness, the employee may appeal the decision to the Employee Appeals Board.

F. The maximum period of time that an employee may use donated leave without resuming work at his or her place of employment is ninety days, beginning on the first day that the recipient employee uses donated leave. Donated leave that is not used because a recipient employee has used the maximum amount of donated leave authorized under this paragraph must be returned to the donor employees in the manner provided under paragraph (G) of this subsection.

G. If the total amount of leave that is donated to any employee is not used by the recipient employee, the donated leave must be returned to the donor employees on a pro rata basis, based on the ratio of the number of days of leave donated by each donor employee to the total number of days of leave donated by all donor employees. In no case will any donor employee receive more leave in return than the employee donated.

H. The failure of any appointing authority or supervisor of any employee to properly deduct an employee's donation of leave to another employee from the donor employee's earned personal leave or major medical leave shall constitute just cause for the dismissal of the appointing authority or supervisor.

I. No person, through the use of coercion, threats or intimidation shall require or attempt to require any employee to donate his or her leave to another employee. Any person who alleges a violation of this paragraph must report the violation to the executive director of the agency by whom he or she is employed or, if the alleged violator is the executive director of the agency, then the employee must report the violation to the MSPB. Any person found to have violated this paragraph will be subject to removal from office or termination of employment.

J. No employee can donate leave after tendering notice of separation for any reason or after termination of his or her employment.

K. Recipient employees of agencies with more than five hundred (500) employees as of March 25, 2003 may receive donated leave only from donor employees within the same agency. A recipient employee in an agency with five hundred (500) or fewer employees as of March 25, 2003 may receive donated leave from any donor employee.

L. In order for an employee to be eligible to receive donated leave, the employee must have been employed for a total of at least twelve months by the employer on the date on

which the leave is donated and have been employed for at least 1,250 hours of Service with such employer during the previous twelve-month period from the date on which the leave is donated.

M. Donated leave may not be used in lieu of disability retirement.

N. Those employees who received donated leave and continued to be eligible to use it as of July 1, 2000 will be allowed to use that leave which was donated to them before July 1, 2000.

7.3.5 Compensatory Leave

Compensatory leave is administered in accordance with State law and in compliance with the Fair Labor Standards Act and the regulations promulgated by the U. S. Department of Labor (hereinafter referred to as "DOL").

State law provides that when, in the opinion of the appointing authority, it is essential that a State employee work after normal working hours, the employee may receive credit for compensatory leave. Further, except as otherwise provided by statute, when in the opinion of the appointing authority, it is essential that a State employee work during an official State holiday, the employee shall receive credit for compensatory leave. Compensatory time earned under State law is credited at a rate of an hour for an hour for all employees.

State employees in positions which have been classified "non-exempt," as defined in the federal regulations promulgated by DOL pursuant to the Fair Labor Standards Act (hereinafter referred to as "FLSA"), may receive compensatory time at a rate of not less than one and one-half hours for each hour worked over forty hours in a workweek as defined in DOL regulations, instead of cash overtime pay. State employees in positions that have been classified as "exempt" under DOL regulations may receive compensatory time earned under FLSA only when they perform duties of a "non-exempt" position on an emergency and temporary basis. There are limits on the extent to which the appointing authority may continue to accrue compensatory time instead of paying overtime. The limit of earned compensatory time under the FLSA for most employees is 240 hours. Law enforcement, fire fighters, emergency response personnel, and employees engaged in seasonal activities may accrue up to 480 hours of compensatory time under the FLSA. State employees should consult their agency human resources office to confirm the status of their position under the FLSA, when their DOL workweek begins and ends, and to determine the limit of compensatory time which may be earned for their position under the FLSA.

The appointing authority may require a State employee to use compensatory time earned pursuant to the FLSA prior to the use of accrued personal or compensatory time. Further, the appointing authority may require an employee to take FLSA compensatory time off when the

employee's compensatory time earned under the FLSA has reached the limit allowed under the regulations.

Upon termination of employment, an employee may not be paid for accumulated compensatory leave. Should an employee die having accumulated compensatory leave, such leave may not be counted as creditable Service for retirement purposes. Employers also have no authority to pay an employee's beneficiary for unused compensatory leave in the event of an employee's death.

7.3.6 Administrative Leave

State employees may be granted administrative leave with pay. For the purposes of this section, "administrative leave" means discretionary leave with pay, other than personal leave or major medical leave.

A. The appointing authority may grant administrative leave to any employee serving as a witness or juror or party litigant, as verified by the clerk of the court, in addition to any fees paid for such Services, and such Services or necessary appearance in any court shall not be counted as personal leave.

B. The Governor or the appointing authority may grant administrative leave with pay to State employees on a local or statewide basis in the event of extreme weather conditions or in the event of a manmade, technological or natural disaster or emergency.

C. The appointing authority may grant administrative leave with pay to any employee who is a certified disaster Service volunteer of the American Red Cross (hereinafter referred to as "ARC") and who participates in specialized disaster relief Services for the ARC in this State and in States contiguous to this State when the ARC requests the employee's participation. Administrative leave granted under this paragraph cannot exceed twenty days in any twelve-month period. An employee on leave under this paragraph is not considered to be an employee of the State for the purposes of workers' compensation or for purposes of claims against the State. As used in this paragraph, the term "disaster" includes disasters designated at level II and above in the ARC national regulations and procedures.

7.3.7 Leave of Absence

An employee can, upon written application to and in the discretion of the appointing authority, be granted a leave of absence without pay not to exceed twelve months, without forfeiting previously accumulated continuous Service.

A State Service employee, with the consent of the head of the department, agency or institution and the concurrence of the MSPB Executive Director, may be placed on a leave of absence for purposes of accepting an assignment in the non-State Service for a period not to exceed one year.

Leaves of absence should not be confused with leave without pay. A leave of absence is for the purpose of accepting another position in non-State Service. Leave without pay is leave granted to the employee, at the discretion of the appointing authority, in the absence of paid leave.

7.3.8 Use of Leave during Pregnancy

Women affected by pregnancy, childbirth or related medical conditions shall be treated the same for all employment-related purposes, including receipt of benefits under fringe benefit programs, as other persons not so affected but similar in their ability or inability to work.

A. All types of leave shall be granted to pregnant women on the same terms as leave is granted to other employees.

B. The appointing authority shall not terminate the employment of any employee in the state service because of pregnancy or require that such employee take a mandatory leave.

C. When certified in advance by a medical doctor, pregnant women can use major medical leave for regularly scheduled prenatal care by a medical doctor without the requirement that personal leave be used for the first eight hours of each absence for subsequent visits. Just as with major medical leave, the first day (or the first eight hours) of leave taken for pregnancy must be personal or compensatory leave or leave without pay if the employee has no accrued personal or compensatory leave.

7.3.9 Military Leave

Employees who are members of the military reserves or former members of the military are entitled to fifteen days of paid leave of absence when ordered to duty to participate in training or military exercises. Such employees are further entitled to unpaid leaves of absence from their respective duties in excess of the previously outlined fifteen days without loss of time, annual leave or efficiency rating until relieved from duty when ordered to duty as above.

The Uniformed Services Employment and Re-employment Act of 1994, a federal law, requires employers to allow up to five years of unpaid leave to a soldier who leaves employment to perform military duty, performs that duty satisfactorily, and requests his or her job back within the statutory time limits. The soldier must be re-employed without regard to whether the military duty was voluntary or involuntary.

7.3.10 Leave Accumulation and Retirement

Unused personal and major medical leave for which an employee is not compensated upon termination or retirement will be transferred by the employee's agency to the Public Employees' Retirement System (hereinafter referred to as "PERS") and be counted by PERS as creditable service for the purpose of the retirement system. In computing unused leave for creditable service, in no case shall credit be allowed for any period of unused leave of less than fifteen days. In order to receive creditable Service for unused leave, PERS must receive certification of such leave balances from the employee's agency.

The amount of unused leave will determine the number of quarter-years of creditable service in accordance with Mississippi Code Annotated § 25-11-109 (2009).

Conversion of Accumulated Unused Uncompensated Leave			
Combined Personal and Sick Leave	**Credit Equivalent**	**Combined Personal and Sick Leave**	***Credit Equivalent***
15 to 77 days (120 to 623 hours)	0.25 year	393 to 455 days (3144 to 3640 hours)	1.75 years
78 to 140 days (624 to 1127 hours)	0.50 year	456 to 518 days (3641 to 4655 hours)	2.00 years
141 to 203 days (1128 to 1631 hours)	0.75 year	519 to 581 days (4152 to 4655 hours)	2.25 years
204 to 266 days (1632 to 2135 hours)	1.00 year	582 to 644 days (4656 to 5159 hours)	2.50 years
267 to 329 days (2136 to 2639 hours)	1.25 years	645 to 707 days (5160 to 5663 hours)	2.75 years
330 to 392 days (2640 to 3143 hours)	1.50 years	708 to 770 days (5664 to 6167 hours)	3.00 years

For members of the system who are elected officers and who retire on or after July 1, 1987, the following shall govern:

A. For service prior to July 1, 1984, the members shall receive credit for leave (combined personal and major medical) for service as an elected official prior to that date at the rate of thirty (30) days per year.

B. For service on and after July 1, 1984, the member shall receive credit for personal and major medical leave beginning July 1, 1984, at the rates authorized in Mississippi Code Annotated §§ 25-3-93 and 25-3-95, computed as a full-time employee.

Contact the agency human resources office, payroll officer and/or PERS (www.pers.state.ms.us) for answers to specific questions regarding the crediting of unused leave.

7.3.11 Resignation

An employee who desires to terminate Service with the State should submit a written resignation to the appointing authority at least ten working days before the final working day.

7.3.12 Record Keeping

All State agencies whose payroll is processed through SPAHRS offer the same leave record reporting method. The balances of both personal and major medical leave are reported on each pay stub. Employees should verify leave balances on a monthly basis for accuracy.

7.3.13 Accrual and Use of Leave by Part-time Employees

Mississippi Code Annotated § 25-9-107(xi) provides that part-time employees shall only be hired into authorized employment positions classified by the Mississippi State Personnel Board, shall meet minimum qualifications as set by the Mississippi State Personnel Board, and shall be paid in accordance with the Variable Compensation Plan as certified by the Mississippi State Personnel Board. Part-time employees shall only be granted leave during periods when they were otherwise scheduled to work.

7.3.14 Mississippi Living Organ Donor Leave

The Mississippi Living Organ Donor Leave policy was promulgated by the Department of Finance and Administration, as authorized in Mississippi Code Annotated § 25-3-103. It is provided here for informational purposes only.

All permanent full-time or part-time employees who have been employed by any agency of State government for a period of six months or more and who donate an organ, bone marrow, blood or

blood platelets are eligible for organ donor leave. Those individuals employed by units of local government or school districts are not eligible for leave under this policy.

Employees may use organ donor leave only upon receipt of prior approval from the donor employee's agency but are not required to use accumulated major medical leave or personal leave before using organ donor leave. Certification by the employee's attending physician for an employee participating as a bone marrow or organ donor will be required prior to using organ donor leave.

Employees requesting placement on organ donor leave for the purpose of donating blood or blood platelets must provide verification from the blood service organization of the donation of blood and/or blood platelets to their supervisor upon returning to work to be approved for organ donor leave.

An employee may use:

A. Up to thirty days (240 hours) of organ donor leave in any twelve-month period to serve as a bone marrow donor;

B. Up to thirty days (240 hours) of organ donor leave in any twelve-month period to serve as an organ donor;

C. Up to one hour to donate blood every fifty-six days; and

D. Up to two hours to donate blood platelets no more than twenty-four times in a twelve-month period in accordance with appropriate medical standards established by the ARC or other nationally recognized standards.

7.4 EQUAL EMPLOYMENT OPPORTUNITY

The State of Mississippi is an equal opportunity employer and assures equal employment opportunities to all persons regardless of race, color, creed, sex, religion, national origin, age, physical handicap, disability, or political affiliation. In order to implement the State's equal employment policy and to assure non-discriminatory personnel administration, the Mississippi State Personnel Board promotes non-discriminatory practices and procedures in all phases of State Service personnel administration and prohibits any form of unlawful discrimination. Equal employment opportunity can only be attained through State agency commitment to complying with all applicable laws affording equal employment opportunities to individuals. Accordingly, it is imperative that State agencies make all personnel decisions in accordance with Mississippi State Personnel Board policies, practices, and procedures.

The selection process and criteria must ensure fair and equitable treatment of all applicants and employees and not disqualify them if they have disabilities, which prohibit or limit their ability to perform nonessential or marginal job functions. The Americans with Disabilities Act of 1990 requires state agencies to make reasonable accommodations for the known physical and mental limitations of otherwise qualified individuals with disabilities who are applicants or employees, provided such accommodations do not cause undue hardships to state agency operations. Qualified individuals with disabilities are persons with disabilities who meet the job-related requirements of an employment position and who can perform the essential functions of the position with or without reasonable accommodations. A person with a disability is considered an individual with a physical or mental impairment that substantially limits one or more major life activities, has a record of such impairment, or is regarded as having such impairment.

Equal employment opportunity does not guarantee an employee any rights not otherwise provided by law.

7.5 STANDARDS OF EMPLOYEE CONDUCT

The maintenance of high standards of honesty, integrity, impartiality and conduct by employees of the State of Mississippi is essential to earning and retaining the confidence of the citizens of Mississippi. The avoidance of misconduct and conflicts of interests on the part of employees through informed judgment is indispensable to quality of performance as well as to the maintenance of these high standards.

7.5.1 Attendance

All employees must report to and leave work at the time designated by their employer. Anticipated absence from work is to be arranged with the employee's supervisor in advance, and unexpected absences are to be reported promptly to the employee’s supervisor prior to the beginning of the employee's work period.

7.5.2 Diligence during Work Period

All employees must apply themselves to their assigned duties during the full schedule for which compensation is being received, except for reasonable time provided to take care of personal needs.

7.5.3 Work Performance

All employees must meet established performance standards. Any conditions or circumstances in the work environment which prevent an employee from performing effectively are to be reported to the supervisor.

Many departments and agencies maintain more specific rules for employees. The employee's supervisor or the agency human resources office may provide additional information.

7.5.4 Workplace Harassment

Each appointing authority must provide a workplace free from harassment with regard to race, color, age, religious creed, sex, national origin, disability or political affiliation or activity. This prohibition includes, but is not limited to remarks, gestures, physical contact, display or circulation of written or electronic materials, pictures or objects derogatory to any person based on the characteristics listed above. Such behavior is strictly forbidden and will not be tolerated at any organizational level.

Following is a non-exhaustive list of actions that may be inappropriate: epithets; derogatory or suggestive comments, slurs or gestures; unwelcome or offensive physical touching; and offensive posters, e-mail, cartoons, pictures or drawings aimed at a protected classification. No employee may imply, suggest or threaten that an applicant's or employee's cooperation in any form of harassment or refusal to so cooperate will have any effect on the individual's employment status, including but not limited to assignment, compensation, advancement or any other condition of employment.

Harassment by someone not within the same protected class, as well as harassment or discrimination by someone of another protected class, is prohibited. For example, harassing conduct by a male toward a female because of her sex as well as harassing conduct by a male toward another male because of his sex is prohibited. Likewise, racially harassing conduct by someone of a particular race toward a member of another race or a member of the same race, if the conduct is based on race, is prohibited.

No employee or applicant should endure workplace harassment. Any person believing he or she has been illegally harassed should immediately report the incident to management. The appointing authority shall take timely and appropriate corrective action.

7.5.5 Workplace Violence

Each appointing authority shall provide a workplace environment for employees that is free from violence. No employee shall be allowed to harass any other employee or a member of the general public by exhibiting behavior including, but not limited to the following: harassment, intimidation, threats, physical attacks, domestic related violence, stalking or property damage.

Harassment is engaging in actions that include but are not limited to abusive conduct, verbal abuse and/or behavior intended to frighten, coerce, or induce duress. Intimidation is behavior or communication designed or intended to intimidate, menace, or frighten another person. A threat is the expression of an intent to cause physical or mental harm. An expression constitutes a

threat without regard to whether the party communicating the threat has the present ability to carry it out and without regard to whether the expression is contingent, conditional, future or verbal. A physical attack is hostile physical contact or attempted physical contact such as hitting, fighting, pushing, shoving or throwing objects. Domestic related violence is the use of abusive or violent behavior, including threats and intimidation, between people who have an ongoing or prior intimate relationship. This could include people who are married, live together or date or who have been married, lived together or dated. Stalking is conduct that places a person in fear for his or her safety and includes any unwanted contact or action which directly or indirectly communicates a threat or places the individual in fear for his or her safety. Property damage is intentional damage to property and includes property owned by the State, employees, visitors or vendors. The workplace environment consists of the building(s), grounds, lighting, and other considerations. It also includes the attitude the employees have about their belief that they will be safe at work.

7.5.6 Political Activity

Personnel administration must be conducted in an atmosphere free from political influence or coercion.

7.5.7 Political Contributions and Services

No State Service employee may be obliged, by reason of his or her employment, to contribute to a political fund or to render political Service, and he or she may not be removed or otherwise prejudiced for refusal to do so.

7.5.8 Use of Official Authority Or Influence To Coerce Political Action

No State Service employee may use his or her official authority or influence to coerce the political action of a person or body.

7.5.9 Fair Treatment of Applicants and Employees

Each appointing authority will assure fair treatment of applicants and employees in all aspects of personnel administration without regard to political affiliation.

7.5.10 Freedom From Political Coercion

Each appointing authority will assure that employees are free from coercion for partisan or political purposes.

7.5.11 Informing Employees of Political Activities Laws

Each appointing authority will inform all employees of which political activities are permitted or prohibited by law.

7.5.12 Violation of Provisions

Any employee in the State Service who violates any of the provisions of this section may be subject to appropriate disciplinary action.

7.5.13 Grievance and Appeals

Any applicant or employee who believes he or she has been discriminated against on the basis of political affiliation or unlawful political activity affecting State employment may grieve and appeal.

7.5.14 Prohibited Political Activity

Mississippi law prohibits any agency or appointing authority from attempting to direct or coerce any state employee to vote or not to vote and from either discharging or threatening to discharge, changing the salary or, or promoting or demoting any State employee because of the employee's vote or failure to vote for any particular candidate or group of candidates. State law further prohibits any agency or employee of any agency with the authority to employ or discharge other employees from giving out or circulating any statement or report that is calculated to intimidate, coerce, or otherwise influence any employee as to the employee's vote. If any such statement or report is circulated, the agency must publicly repudiate it or will be deemed to have circulated the statement. Agencies are also prohibited from requesting, directing or allowing any employee to canvas for or otherwise render any services for or against any candidate or group of candidates during working hours or while an employee is on vacation or other leave of absence at the expense of the agency. No State employee, at the expense, in whole or part, of his or her employer, may take any part whatsoever in any election campaign except the time necessary to cast his or her vote.

No one who has any control over, directly or indirectly, the expenditure of any public funds in the State of Mississippi may suggest or intimate either publicly or privately that any such expenditure will in any way depend on or be influenced by the vote of any person or groups of persons.

No person may, in order to promote his or her own candidacy or that of any other person for public office in Mississippi, directly or indirectly promise to appoint or secure or assist in securing the appointment, nomination or election of another person to any public position or employment or the employment of any person under any public contract or the expenditure of

any public funds in the personal behalf of any particular person or group. However, a candidate for election may publicly announce his position in relation to an election in which he may be called on to take part if elected. This prohibition is further inapplicable to a sheriff, chancery clerk, circuit clerk or any other person of the State or county when it comes to his or her office force.

The Hatch Act

The federal "Hatch Act," 5 U.S.C. § 1501 and following, covers individuals employed by State or local agencies receiving federal loans or grants whose principal employment is in connection with an activity which is financed in whole or in part by loans or grants made by the United States or a federal agency, but does not include (a) an individual who exercises no function in connection with that activity; or (b) an individual employed by an educational or research institution, establishment, agency, or system which is supported in whole or in part by a State or political subdivision thereof, or by a recognized religious, philanthropic, or cultural organization.

The Hatch Act regulations which are applicable to State and local employees are contained in the Appendix of the *Mississippi State Personnel Board Policy and Procedures Manual* and may be found in the Code of Federal Regulations at 5 C.F.R. § 151.101 and following. In cases where the Hatch Act is applicable, the State of Mississippi may additionally place more strict prohibitions on the political activity of its employees. Also, in the Appendix of the policy and procedures manual is a booklet entitled "Political Activity and the State and Local Employee," which explains the provisions of the Hatch Act. An employee may obtain more information regarding the Hatch Act at www.dol.gov.

Agency Specific Prohibitions

Several State agencies have specific laws which relate to the political activity of its employees. Those agencies are responsible for informing all employees of which political activities are permitted or prohibited pursuant to the law applicable to that agency's employees.

7.5.15 Drug-Free Workplace Act of 1988

The Drug-Free Workplace Act of 1988, found at Title 5, Subtitle D, Anti-Drug Abuse Act of 1988, Public Law No. 100-690 (DFWA) requires grantees of federal agencies to certify that they will provide a drug-free workplace. Making the required certification is a precondition of receiving a federal grant beginning March 18, 1989.

The certification statement, which grantees are required to make under the DFWA, includes several provisions that grantees must comply with to provide a drug-free workplace, including:

A. Publishing a statement notifying employees that the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance is prohibited in the grantee's workplace and specifying the actions that will be taken against employees for violation of such prohibition; and

B. Establishing a drug-free awareness program to inform employees about the dangers of drug abuse in the workplace; the grantee's policy of maintaining a drug-free workplace; any available drug counseling, rehabilitation, and employee assistance programs; and the penalties that may be imposed upon employees for drug abuse violations occurring in the workplace.

The DFWA also provides that sanctions may be imposed against grantees for non-compliance with the law. To comply with the DFWA, state agencies that are federal grantees should refer to the federal regulations governing this law. A copy of the regulations is contained in the Appendix and may be found in the Federal Register, Vol. 54, No. 19, Tuesday, January 31, 1989.

State law governing drug and alcohol testing of employees and job applicants is set forth in the Mississippi Code of 1972 § 71-7-1, et. seq. This statute provides procedures and guidelines for appointing authorities who wish to formulate a drug and alcohol testing policy. Except as provided by federal law, agencies are not required to administer drug or alcohol tests. This statute must be complied with if such tests are given. However, the statute does not apply to agencies subject to any federal law or regulations, which govern the administering of drug and alcohol tests. Agencies are also required to be cognizant of the proscriptions of the Americans with Disabilities Act regarding pre-employment medical tests.

7.5.16 Agency Record Keeping Requirements

Agencies are required to maintain certain information in each employee's personnel file. A complete list of these requirements can be found at:

http://records.mdah.state.ms.us/genschedules1.php?recordtype=Personnel+Records&sortby=scheduleno

7.5.17 Conflict of Interest

State employees should be especially careful to avoid using, or appearing to use, an official position for personal gain, giving unjustified preferences, or losing sight of the need for efficient and impartial decision making in the State's method of operation. No act should be committed which could result in questioning the integrity of State government.

Employees are not to engage in any activity in either a private or official capacity where a conflict of interest may exist. A State employee's first loyalty should be to the public's interest. Associations, dealings or interests that could affect an employee's objectivity in performing the employee's job or in making the decisions required of the employee's position should be avoided. However, employees are encouraged to participate in professional and civic organizations if such participation does not adversely affect the employee's role as a public employee.

7.5.18 Employee Use of State Property

State employees have no ownership rights in or control of State property, which is defined to include all office space, space adjacent to the workplace controlled by the State or State agency, furniture, fixtures, equipment, and inventory including without limitation, all computer software, databases, servers, computer hardware, discs, and information of any kind contained in or recorded on physical or electronic data sources of any kind. Employees are prohibited from using State property for personal use.

7.5.19 Wireless Communication Devices and Electronic Communications

State employees may not directly or indirectly use or allow the use of agency property of any kind, including property leased to an agency, for other than officially approved activities. In addition, employees shall protect and conserve agency property, including wireless communications equipment. Wireless communications equipment includes cellular phones, personal digital assistant devices, and standard and two-way pagers, as well as any similar devices that perform some or all of these functions. Employees are hereby notified that the agency will enforce this policy through a variety of methods and may monitor use of wireless communications equipment to assure compliance.

- Wireless communication devices shall be used for legitimate State business only. Use of an agency-provided cellular phone for personal calls may result in appropriate disciplinary action and/or the loss of the use of the phone.

- The agency may not reimburse employees for any charges on personal wireless communication devices.

- Employees should be aware that cellular phone transmissions are not secure transmissions. Confidential information regarding official business should be transmitted from a secure environment.

7.5.20 Storage of Information

All information, in any form, including written materials that pertain to work at a State agency, should be stored on the computer or in an employee's desk in accordance with dictated procedures so that other employees or an employee's supervisor has access to it. Agency Information Technology employees and agency supervisors may have passwords or other information necessary to access an employee's voice mail and email, and duplicate keys, if any, to all desks and file cabinets. Employees are prohibited from locking desks or cabinets unless permitted by management or altering equipment or programs to prohibit access.

7.5.21 Expectation of Privacy

State employees have no expectation of privacy in their work premises. All State property, including an employee's workstation, all physical storage areas and all electronic storage areas, including all software and data on all computers, voicemail and email, are subject to access and inspection at any time by management, other employees or third parties designated by management.

Because agency management may access or inspect an employee's work area at any time to find materials or obtain information, employees should not store any personal documents or materials on or in State property where they can be seen or read by others.

7.5.22 Right to Search

The State reserves the right to conduct reasonable searches on, in or of State property and on State premises including, at any time, locked and unlocked areas, for any reason related to the operation of State business. Consent by the employee is implied and lack of cooperation or refusal to permit a search can result in immediate discipline, including termination.

The State or an agency may conduct inspections or searches for illegal drugs, weapons, explosives, contraband or other prohibited materials on, around or in State property, at any time, without notice, whenever there is a reasonable basis to believe that an employee may be in the possession of such materials in violation of policy.

Inspections or searches for prohibited materials may be conducted by any member of management, an independent person appointed by management, law enforcement representatives, or by the State or an agency with its own personnel.

The right to conduct routine searches of agency premises is in addition to the right of an agency to access all State property without requiring consent of the employee.

7.5.23 Personal Property

Employment or continued employment with the State constitutes acknowledgement by employees that routine searches of State property might result in the discovery of an employee's personal possessions or personal information. Because the State or third parties will have access to all areas of State property, employees are encouraged not to store or bring to the workplace any personal property or to transmit or obtain the transmission of personal information or messages using State-owned equipment.

7.5.25 Discouraged Relationships

The State of Mississippi requires that all employees behave at all times in a professional manner that avoids any unlawful discrimination, including harassment, conflict of interest, or risk of a claim or loss to the State of Mississippi. These requirements include maintenance of a work environment in which the State discourages romantic, dating or sexual relationships between:

- employees working in a common sphere of influence, meaning a relationship between a supervisor and subordinate, or any relationship in which one employee supervises or manages, directly or indirectly, another employee or makes decisions concerning another employee's terms, conditions or privileges of employment, and/or

- an employee and a contractor, subcontractor, potential employees or vendor when the employee has the capacity to influence, directly or indirectly, the business relationship or potential employment.

Such relationships can cause conflict and adversely affect morale, operations and productivity because of the perception of impropriety or unfairness and the possibility of accusations that one's position is being used to obtain or grant sexual favors, and of inappropriate influence on others, favoritism, bias or unfair treatment. Additional problems can occur in the workplace should the relationships cease.

7.6 OUTSIDE EMPLOYMENT

All employees must be available for and devote their full attention to their assigned duties and responsibilities during scheduled working hours. Further, employees having emergency response responsibilities must be reasonably available during non-scheduled hours. Each employee must ensure that his or her off-the-job activities do not adversely affect job performance with and are not contrary to the interests of the State. For this reason, the following guidelines and rules are established for all employees:

- Employment with the State will be the employee's primary job responsibility and obligation – any other employment will be deemed secondary.

- An employee should not seek or accept outside or secondary employment that may negatively impact or affect the employee's punctual and consistent attendance, ability to satisfactorily and efficiently perform his or her duties or that creates a conflict of interest.

- The demands or requirements of outside or secondary employment may not be considered as excusable reasons for absences, tardiness, poor performance or other areas of concern from a personnel perspective.

- Prior to seeking or accepting outside employment, full-time regular employees must discuss a secondary job with management to determine whether or not the job is considered a "conflict of interest" a previously defined in this handbook.

Outside employment refers to a job or task performed for which any form of compensation is received. This includes the receipt of a benefit as opposed to monetary compensation; for example, performing a Service and receiving goods for the task performed instead of receiving a salary or wage. Outside employment does not refer to being a member of a reserve component of the military.

Employees engaging in any outside employment must submit a request for approval to the individual or individuals designated by the agency prior to employment. This request must be completed if an outside activity exists at the time the employee is hired by the State; when an outside employment activity previously approved is being discontinued or the nature or scope of the activity is being changed; or, when the employee plans to enter into any outside employment. If the outside employment constitutes a conflict of interest, detracts from the employee's responsibilities, or has an appearance of a conflict of interest, the request will be denied.

7.7 REDUCTION IN FORCE

Except as otherwise provided in these rules, the tenure of an employee with permanent state service status shall be continued during good behavior and the satisfactory (Meets Expectations) performance of assigned duties. Mississippi Code of 1972 § 25-9-127 provides for a Reduction-in-Force.

A. Reduction-in-Force - An appointing authority may reduce the number of employees in a state service agency whenever deemed necessary for the following reasons:

    1. Shortage of funds or work;

2. Material change in duties or organization; or

3. Merger of agencies.

Prior to implementing the reduction-in-force, the agency must provide a written explanation or justification to the Mississippi State Personnel Board citing one or more of the above reasons for the reduction-in-force. In addition, the agency **must submit a proposed organization chart and a proposed staffing plan** to the Mississippi State Personnel Board for approval sixty (60) calendar days before the Mississippi State Personnel Board will act upon a reduction in force request. Further, a reduction in force shall be effective no earlier than sixty (60) calendar days from the Board approval date.

Upon emergency request by an agency, the Mississippi State Personnel Board may waive the sixty (60) day calendar requirement. In considering whether to grant the waiver, it shall consider the emergency nature of the request and whether there has been sufficient time to review the agency's written justification, proposed organization chart, and proposed staffing plan.

B. Method of Reduction in Force

1. A reduction-in-force because of shortage of funds or work or because of material change in duties or organization may be administered by the following method(s):

   i. By functional area (e.g., Office, Bureau, Division, Branch, Section, Unit);

   ii. By location (e.g., counties, districts, state office, agency-wide);

   iii. By job class; or

   iv. By a combination of the preceding factors.

An agency may exempt a program area or a certain number of positions in a program area from a reduction in force when such an exemption is required by federal law or grant requirements.

Once the method of reduction in force is determined and prior to implementation, each agency shall submit to the Mississippi State Personnel Board a written statement of the method of the reduction in force to be administered and the proposed effective date. Such statement is required to establish a record. Then Sections C and D herein are applied. The result of applying the order for reduction in force formula (Section C) and the retention point formula (Section D) must be submitted to the Mississippi State Personnel Board for purpose of establishing a record. Afterward, Section E herein is applied.

2. The method of reduction-in-force because of the merger of agencies shall be administered as follows:

    i. First - by functional area and/or funding source

    ii. Second - by location, (e.g., counties, districts, state office, agency-wide)

    iii. Third - by job class or job class series

Prior to implementing a reduction in force by merger of agencies, each agency shall submit to the Mississippi State Personnel Board a written statement of the functional area(s) and/or funding source(s), locations(s) and job class(es), which are targeted for reduction in force and the proposed effective date. Such statement is required for the purpose of establishing a record. Then Sections C and D herein are applied. The result of applying the order for reduction in force formula (Section C) and the retention point formula (Section D) must be submitted to the Mississippi State Personnel Board for purpose of establishing a record. Afterward, Section E herein is applied.

C. Order for Reduction in Force - The reduction in force formula shall be in the order that follows:

1. Those with emergency appointments;

2. Those with probationary or indefinite probationary appointments;

3. Permanent State service employees.

D. Retention Point Formula for Reduction in Force - Permanent state service status employees shall be the last group of employees to be separated in a reduction-in-force. When permanent state service employees must be separated, employees with the lowest number of retention points based on seniority, performance appraisal ratings, and veterans' preference shall be dismissed first. The retention point formula shall be as follows:

1. Seniority - An employee shall be credited with one (1) point for each year or portion thereof of continuous state service as a state service employee. In calculating retention points for a partial month of service, one-twelfth (1/12) of a point is credited to employees with service equal to fifteen (15) days in the month. No credit is given for service of less than fifteen (15) days of the month.

2. Performance Appraisal - Each agency shall use the three (3) most recent performance appraisal ratings in the last three (3) years, as recorded in agency files, and assign retention points to calculate the average Adjusted Appraisal

Score (AAS), as of the date the agency submits the organizational chart and staffing plan.

i. The retention points for each of the three (3) performance ratings shall be added together and divided by three (3) to obtain an average Adjusted Appraisal Score (AAS). If the division results in a fraction of .5 or greater, the result is rounded to the next higher whole number. If the division results in a fraction of less than .5, the result is rounded to the next lower whole number.

ii. If an employee has received less than three (3) performance evaluations, then the employee receives a presumptive "Meets Expectations", for each missing evaluation. An appraisal rating rendered more than three (3) years before the date the agency submits the organizational chart and staffing plan for reduction-in-force will not be used to calculate an employee's average Adjusted Appraisal Score.

iii. Employee ratings are very critical whenever an agency has to implement a reduction-in-force. Ratings not completed and recorded pursuant to policy and procedures will not be used in the computation of the average Adjusted Appraisal Score and a presumptive rating of "Meets Expectations (2.0)" will be used.

3. Veterans' Preference - Veterans shall be awarded one (1) point, and disabled veterans shall be awarded two (2) points.

EXAMPLE FOR COMPUTATION OF TOTAL RETENTION POINTS: Employee A profile:

(1) Continuous state service of 5 years - Employee A would receive five (5) retention points based on seniority. (Refer to D.1. above.)

(2) The last three performance appraisal ratings are 2.3, 2.4, and 2.7 - Employee A would receive retention points of six (6), nine (9), and twelve (12), respectively, based on performance appraisal. The *average* Adjusted Appraisal Score would be nine (9) since 6 + 9 + 12 = 27 and 27 ÷ 3 = 9. (Refer to D.2.i., above)

(3) Non-veteran – Employee A would receive no retention points for veteran's service. (Refer to D.3.)

Employee A's total retention points equal fourteen (14):

[Seniority (5) + AAS (9) + Veteran's Preference (0).]

E. Employees who will be terminated by a reduction-in-force shall be notified in writing of the effective date of the reduction-in-force termination at least ten (10) working days prior to the effective date of the layoff. The written notification shall cite the reasons for the layoff. The appointing authority and the Mississippi State Personnel Board shall attempt to place affected employees in other positions for which they are qualified. (See Chapter 4 of this manual.)

F. When requesting a separation in SPAHRS of an employee due to a Reduction-in-Force, the following shall be in effect:

1. The effective date of the separation shall be the last day the employee worked.
2. An individual cannot receive payment for accrued personal leave unless records reflect termination date has been entered in SPAHRS by the requesting agency.
3. Online submission of the separation of the employee using the appropriate separation and Reduction-in-Force reason is required.
4. Positions affected by a Reduction-in-Force cannot be filled, reallocated, or abolished and reestablished for a period of one (1) year following the reduction-in-force.

7.7.1 Furlough

A furlough, or an involuntary leave without pay, may be implemented when such action is necessary to temporarily reduce expenditures to avoid a deficit of funds.

A. Provisions for Implementation of Furlough (Involuntary Leave without Pay)

The Mississippi State Personnel Board furlough policy shall apply uniformly to all executive and subordinate employees within an agency, regardless of job class. The Mississippi State Personnel Board shall review furlough plans only upon written certification of a general funds shortage from the Department of Finance and Administration or written certification of a special funds shortage from the agency. The Mississippi State Personnel Board shall ensure that any furlough plan complies with all applicable policies, rules, and regulations of the Mississippi State Personnel Board.

Such furlough leave for the purpose of reducing expenditures shall be based on the agency head's determination that:

1. Funds on hand or funds to be received during the current fiscal period will be inadequate to effectively discharge the agency's responsibilities without recourse to reductions-in-force; or

2. It is necessary to accrue funds by reducing current payroll expenses so that reductions-in-force or more extensive furloughs may be minimized or avoided.

B. When instituting a furlough, the agency head shall abide by the following rules and regulations:

1. Before instituting furlough leave, an agency head shall develop an equitable and systematic plan for implementation of an agency-wide furlough stating the reasons that require this action. Such plan and subsequent furlough action must be submitted to the Mississippi State Personnel Board for review and approval prior to implementing such leave.

2. Such a plan shall apply uniformly to all employees in the agency, regardless of status or funding source unless prohibited by law, loss of federal funds, or inability to continue a federally mandated program; however, agency heads may request the Mississippi State Personnel Board for an exemption from the loss of federal funds provision. All employees, including those on paid leave, shall be placed on an equivalent number of hours of leave without pay. A proportionate number of hours shall be applied to part-time employees. However, an agency head may, with the approval of the Executive Director of the Mississippi State Personnel Board, make such leave subject to early cancellation or periodic call-back on a case-by-case basis to protect public health, safety, or property or to ensure operations of critical agency functions. The plan and the employees' notice of leave shall describe the reasons for and conditions of the provision. Agency heads who are elected and whose salary is set in Mississippi Code Annotated § 25-3-31 are not subject to an agency furlough.

3. Employees placed on furlough leave shall be given prior written notice, advising the employee of the particulars regarding the action, including the dates and times furlough leave is to begin and end.

4. While on furlough leave, an employee shall not accrue personal and major medical leave for that portion of the employee's salary funded by the restricted funds. Additionally, personal, major medical, and compensatory leave shall not be taken in lieu of furlough leave.

5. During furlough leave, group health and life insurance benefits funded by the State will continue for employees who remain qualified in accordance with the

eligibility criteria as set forth in the group health and life insurance plan approved by the Health Insurance Management Board. An employee will continue to pay for dependent insurance coverage as well as other insurance premiums paid by the employee.

6. During furlough leave, employees classified as Exempt employees, in accordance with U.S. Department of Labor regulations promulgated pursuant to the Fair Labor Standards Act of 1938, as amended, lose their exemption for the workweek in which the furlough occurs. See Section 541.5d (3)(b), Title 29, Part 541 of the Code of Federal Regulations.

7. Once the funds have been restored, the agency head shall implement, on an equitable and systematic basis, the recall of furloughed employees. Failure on the part of an employee to return from furlough leave to his/her previous work status as directed in writing shall be cause for discharge.

8. Involuntary leave without pay conducted under this policy shall not be grievable.

9. For provisions regarding implementation of furlough of federally funded employees due to the restricting or limiting of federal funds, see Section B. below.

C. Provisions for Implementation of Furlough of Federally Funded Employees (Involuntary Leave Without Pay)

Mississippi Code Annotated § 25-9-126 authorizes furloughs of federally funded employees as follows:

> In the event that federal funds for the funding of programs of any state agency shall be restricted or limited, the administrative board of such agency or agency administrative head shall have the authority to furlough rather than dismiss employees in accordance with rules and regulations established by the Mississippi State Personnel Board.

When instituting such a furlough, the administrative board or agency administrative head shall abide by the following rules and regulations:

1. The restriction or limiting of federal funds must be certified in writing by an agency of the federal government, or be an indisputable fact (as in the failure of the United States Congress to pass funding legislation for the federal fiscal year.)

2. The administrative board or agency administrative head shall develop an equitable and systematic plan of furlough and shall administer it uniformly to all executive

and subordinate employees, without regard to status, whose positions are funded by the federal funds being restricted or limited. Employees whose positions are funded only in part by federal funds may be placed on part-time duty to exclude the obligation and expenditure of federal funds.

3. Within forty-eight (48) hours of implementation of the furlough plan, the administrative board or agency administrative head shall notify the Executive Director of the Mississippi State Personnel Board in writing of the furlough, and shall include the reasons and the plan for implementation.

4. Employees placed on such furlough leave shall be given prior written notice, advising the employee of the particulars regarding the action, including the dates and time furlough leave is to begin and end.

5. While on furlough leave, an employee shall not accrue personal and major medical leave for that portion of the employee's salary funded by federal funds. Additionally, personal, major medical, and compensatory leave shall not be taken in lieu of furlough leave.

6. During furlough leave, group health and life insurance benefits funded by the State will continue for employees who remain qualified in accordance with the eligibility criteria as set forth in the group health and life insurance plan approved by the Health Insurance Management Board. An employee will continue to pay for dependent insurance coverage as well as other insurance premiums paid by the employee.

7. Once the restrictions have been lifted and/or the funds restored, the administrative board or agency administrative head shall implement, on an equitable and systematic basis, the recall of furloughed employees. Failure on the part of an employee to return from such leave to his/her previous work status as directed in writing shall be cause for discharge.

8. The administrative board or agency administrative head may make such furlough leave subject to early cancellation or periodic call-back on a case-by-case basis to protect public health, safety, or property, or to ensure operations of critical agency functions only upon approval by the federal agency of the obligation and expenditure of federal funds.

9. Involuntary leave without pay conducted under this policy shall not be grievable.

7.8 EDUCATIONAL LEAVE

7.8.1 General Professional Development

State agencies are authorized to grant paid educational leave on a part-time or full-time basis and/or reimburse employees for educational leave expenses in order for employees to develop job-related skills and to develop employees for higher-level professional and management positions; to prescribe eligibility for such educational leave and expense reimbursement; and for related purposes. **Employees should note that not all State agencies offer educational leave.**

This statute stipulates that the State Personnel Board approve the form of the contract prepared by the Attorney General of this state and establish a maximum salary amount at which any employee may be paid full compensation while on educational leave and establish a deduction ratio or reduced percentage rate of compensation to be paid to all employees compensated at a salary level above such maximum salary amount. The law also stipulates that each agency granting paid educational leave or reimbursing expenses or both shall file an annual report with the Legislature detailing for each recipient's position the cost of educational assistance, the degree program, and the school attended. This report, covering the previous fiscal year, shall also be filed with the State Personnel Board on or before January 1 of each year.

A. Procedures Outline

Agencies should:

1. Develop internal policies and procedures governing educational leave;
2. Identify the job classifications in which they are experiencing demonstrated critical shortages;
3. Have educational leave recipients sign a contract, the form of which has been approved by the Attorney General and the State Personnel Board;
4. Forward to the State Personnel Board and to the Legislature prior to January 1 of each year a copy of the annual report on the Educational Leave program as required by the statute.

B. Eligibility

1. Candidates for Educational Leave must have worked at a State agency for three years at the time of application or be working at a State agency at the time of application for part-time graduate level education in a particular profession deemed by the administrative head of the State agency to meet a critical need within the State agency.

2. Candidates must agree to enter into a contract with the requesting State agency, which must contain the statutory provisions and regulatory terms and conditions upon which the paid Educational Leave will be granted to the candidate.

3. Candidates must attend a college or university located in the State of Mississippi and approved by the head of the agency unless such course of study is not available at a Mississippi college or school.

C. Salaries of Employees on Educational Leave

1. Educational Leave Contract Salary

   i. The Educational Leave contract shall specify the salary by, which Educational Leave recipients shall be compensated.

   ii. The State Personnel Board prescribes the maximum salary levels permitted employees on Educational Leave.

2. Determination of Maximum Educational Leave Salary

   i. Employees whose salaries at the time of application are $24,941.40 or less may have their salaries established at the discretion of the appointing authority at any salary up to the current salary at the time of application. The salary established shall be the maximum salary permitted while on Educational Leave.

   ii. Employees whose salaries at the time of application are greater than $24,941.40 may have their salaries established by the appointing authority at any salary up to $24,941.40. Appointing authorities may additionally grant 50% of the difference between $24,941.40 and the current salary. This formula shall establish the maximum salary permitted while on Educational Leave. See the following example:

Current Salary:	$35,711.04
Educational Leave Salary:	$24,941.40
Difference:	$10,769.64

$10,769.64 x 50% = $5,384.82
$5,384.82 + $24,941.40 = $30,326.22 (max salary on Educational Leave)

iii. If any part of a month is spent on Educational Leave, the employee shall be compensated at the Educational Leave salary for that entire month.

iv. Employees shall be informed of their Educational Leave salary prior to signing the Educational Leave Contract.

3. Legislative and Variable Compensation Plan Salary Increases

Employees shall be ineligible for salary increases for the time they are on Educational Leave. However, upon the completion of Educational Leave, recipients of Educational Leave shall have their salaries restored by appointing authorities to the level the salary would have been after the addition of any salary increases guaranteed by the Legislature during the period of Educational Leave. No back pay or back award of pay shall be authorized for the time spent on Educational Leave.

D. Educational Programs, which Qualify for Educational Leave

Educational Leave shall be granted only to pursue undergraduate and graduate level education. Undergraduate and graduate-level education shall be defined as an educational program:

1. Conducted by a college, university, or school; and

2. That awards academic credit upon successful completion of each course.

E. Educational Opportunities, which Do Not Qualify for Educational Leave

Educational Leave does not apply to educational programs other than those identified above. Educational Leave shall not apply to training conducted, sponsored, or co-sponsored by the requesting agency, the State Personnel Board, or other state or federal agencies, which offer job-related training of short duration.

F. Equal Educational Opportunity

Appointing authorities shall ensure that Educational Leave and training opportunities are accorded all qualified agency employees without unlawful discrimination as to race, color, religion, sex, national origin, age, handicap, or disability. Refer to Mississippi Code Annotated §§ 25-9-103 and 25-9-149.

G. Duration of Educational Leave

Unless otherwise terminated, the duration of Educational Leave may be the length of the semester, quarter, or term in which the employee is actually enrolled pursuing his/her designated professional course work; or at the option of the appointing authority, the duration may extend across successive semesters, quarters, or terms, as long as the employee is enrolled and pursuing his/her designated professional course work in each intervening semester, quarter, or term. Agencies shall maintain contemporaneous leave records, which detail those periods an employee uses Educational Leave.

H. Conditions Requiring Termination of Educational Leave

Educational Leave may be terminated by the administrative head of the agency based on a variety of reasons, including, but not limited to:

1. Any condition listed in the Educational Leave contract,
2. Agency funds constraints,
3. Agency reorganization or change in agency mission,
4. Agency program changes,
5. Agency workload increases or staffing crises,
6. Reductions-in-force,
7. Disciplinary action, or
8. Failure to make adequate academic progress.

   Unless otherwise specified in the Educational Leave contract, adequate academic progress shall be defined as maintaining a "B" or better cumulative average. Failure to make adequate academic progress in one term may result in the employee being ineligible for further Educational Leave.

I. Administrative Provisions

If an Educational Leave candidate will be having his or her salary decreased as a result of Educational Leave, the requesting agency shall submit the action into SPAHRS. Please reference the SPAHRS User Training Workbook located at http://www.mmrs.state.ms.us or your Human Capital Core Processes Consultant. Employment Segment, for more detailed information regarding educational leave. The

employee's current salary plus any legislative guarantees will continue on the PIN to ensure proper salary projections.

J. Refer to the Educational Leave statute for other requirements. These include specific employment obligations in exchange for Educational Leave benefits, repayment obligations and liquidated damages with interest for failure to fulfill the terms of the contract, other legal rights and remedies, and the requirement for annual agency reports to the Legislature on Educational Leave.

K. The administrative head of the employing agency shall be responsible for stipulating any other needed contractual provisions, including but not limited to repayment obligations should the employee be separated for cause, failure to make adequate academic progress, disciplinary action, retirement, or other conditions, which may result in the failure to meet Educational Leave contractual obligations. If the administrative head of the agency wishes to require the applicant to be employed at the conclusion of their Educational Leave in a specific geographic location, office, or location, then such terms should be addressed in the contract.

L. In accordance with the Educational Leave law, Educational Leave recipients shall attend colleges or schools located in Mississippi. However, if the administrative head of the employing agency determines that the course of study is not available at a Mississippi college or school, the applicant may attend an out-of-state college or school.

7.8.2 Mississippi Code Annotated § 37-101-293

1. Within the limits of the funds available to any state agency for such purpose, the administrative head of such state agency may grant paid educational leave on a part-time or full-time basis and reimburse employees for educational expenses such as tuition, books and related fees to pursue undergraduate or graduate level education to those applicants deemed qualified.

   It is the intent of the Legislature that such educational leave program shall be used as an incentive for employees to develop job-related skills and to develop employees for higher-level professional and management positions.

2. To be eligible for paid educational leave, reimbursement for educational expenses or both, an applicant must:

   a. Be working at a state agency for at least three (3) years at the time of application or be working at a state agency at the time of application for part-time graduate level education in a particular profession deemed by the

administrative head of the state agency to meet a critical need within the state agency;

b. Attend any college or school located in the State of Mississippi and approved by the administrative head of such agency, unless such course of study is not available at a Mississippi college or school, in, which case the applicant may attend an out-of-state college or school;

c. Agree to work as an employee in the same state agency for at least three (3) full years after completion of the course of study or, in the case of employees on educational leave on a part-time basis or receiving reimbursement for educational expenses only, to work for a time prorated based upon the total amount of expenses, including leave, paid for by the agency.

3. a. Before being granted paid educational leave, or being approved for reimbursement of educational expense or both, each applicant shall enter into a contract with the state agency, which shall be deemed a contract with the State of Mississippi, agreeing to the terms and conditions upon, which the paid educational leave will be granted to him. The contract shall include such terms and provisions necessary to implement the purpose and intent of this section. The form of such contract shall be prepared by the Attorney General of this state and approved by the State Personnel Board, and shall be signed by the administrative head of the state agency and signed by the recipient. If the recipient is a minor, his minority disabilities shall be removed by a chancery court of competent jurisdiction before the con tract is signed.

b. Educational expenses for tuition, books, and associated fees shall be reimbursed to the employee only after the employee has submitted documentation that the approved course has been successfully completed.

c. If the recipient does not work as an employee in that state agency for the period of employment specified in the contract, the recipient shall be liable for repayment on demand of the remaining portion of the compensation that he or she was paid while on paid educational leave and educational expenses paid, with interest accruing at ten percent (10%) per annum from the recipient's date of graduation, or the date the recipient last worked at that state agency, whichever is the later date. In addition, there shall be included in any contract for paid educational leave a provision for liqui

dated damages equal to Two Thousand Dollars ($2,000.00) per year for each year remaining to be served under such contract.

d. If any recipient fails or withdraws from school at any time before completing his/her education, the recipient shall be liable for repayment on demand of the amount of the total compensation that he or she was paid while on paid educational leave, with interest accruing at ten percent (10%) per annum from the date the recipient failed or withdrew from school. However, if the recipient remains or returns to work in the same position he or she held in the same state agency prior to accepting educational leave, he or she shall not be liable for payment of any interest on the amount owed.

e. The state agency shall have the authority to cancel any contract made between it and any recipient for paid educational leave or educational expenses or both upon such cause being deemed sufficient by the administrative head of the agency.

f. The state agency is vested with full and complete authority and power to sue in its own name any recipient for any balance due to the state on any such uncompleted contract, which suit shall be conducted and handled by the Attorney General of the state.

g. Persons who default on contracts entered into under this section shall have the default determined and lose their professional health care license under the procedures provided in Section 37-101-291.

4. At the discretion of the administrative head of the state agency, any recipient who is granted paid educational leave by the state agency, including nurses, shall be compensated by such agency as prescribed by the State Personnel Board during the time he or she is in school. For employees who are on educational leave on a full-time basis, the State Personnel Board shall establish a maximum salary amount at which any employee may be paid full compensation while on educational leave and shall establish a deduction ratio or reduced percentage rate of compensation to be paid to all employees compensated at a salary level above such maximum salary amount. No recipient of full-time educational leave shall accrue personal or major medical leave while he or she is on paid educational leave.

5. Each state agency granting paid educational leave to employees or reimbursing educational expense or both shall file an annual report with the Legislature, which

shall detail for each recipient of paid educational leave the position of the employee, the cost of the educational assistance and the degree program and school attended.

6. Within the limits of funds available to the Mississippi Department of Mental Health, the Executive Director of the Department of Mental Health may grant educational leave to medical residents of the University of Mississippi and pay a stipend in an amount not to exceed the salary of a medical resident. To be eligible for paid educational leave under this subsection, the applicant must be approved by the Department of Mental Health Educational Leave Committee and meet all obligations established under agreements between the Department of Mental Health and the University of Mississippi and regulations promulgated by the Board of Mental Health. The recipient shall fulfill his/her obligation under this program on an annual pro rata basis for each year on paid education leave.

7.8.3 Professional Development Programs

Certain paid educational leave and paid internship programs have been authorized to develop professional skills and to prepare employees for higher-level professional and management positions. Those employees deemed qualified for paid educational leave or paid internship shall receive funds that may be used to pay for tuition, books, and related fees to pursue their degrees. (See Mississippi Code Annotated §§ 37-101-291 and 37-101-292; and House Bills 1016 and 1617, passed during the 2008 Regular Session.)

Employees may contact their agency human resources office for more information on the availability of educational leave benefits and agency specific policies pertaining to educational leave.

7.8.4 Leave Without Pay

Leave without pay (hereinafter referred to as "LWOP") is employee leave taken in the absence of paid leave. LWOP must be authorized by the appointing authority. When a State government employee is on LWOP, it is the employee's responsibility to pay the employee and employer portion, if any, of all insurance premiums the employee wishes to continue. In order to continue insurance coverage while out on LWOP, the employee should contact his or her human resources director.

7.9 EMPLOYER REQUIREMENTS UNDER THE FAMILY AND MEDICAL LEAVE ACT OF 1993

All information provided below and more detailed information and instructions regarding the implementation and application of FMLA can be found at http://www.dol.gov/WHD/fmla.

7.9.1 General Provisions

In keeping with the requirements of the Family Medical Leave Act of 1993 (hereinafter referred to as "FMLA") and the State of Mississippi's policies, an employee must have worked for the State for a total of twelve months and the employee must have worked for the State for 1250 hours in the twelve month period immediately preceding the commencement of the leave to be eligible for FMLA leave. An employee meeting these requirements is referred to an "eligible employee for purposes of this policy.

Availability of Family Medical Leave

An eligible employee may take up to the equivalent of twelve workweeks of unpaid family and/or medical leave (FMLA leave) during any twelve month period for one or more of the following purposes:

- For incapacity due to pregnancy, prenatal medical care, or childbirth;
- To care for a newborn son or daughter, a recently adopted child, or a recently placed foster child through formal placement by a State agency;
- To care for a legal spouse, parent (not including in-laws) or son or daughter (under the age of eighteen or over the age of eighteen and incapable of self care because of a physical or mental disability), who has a serious health condition; or
- Because of a serious health condition that makes the employee unable to perform the functions of his or her job.

Leave to care for a new child must be taken within the first twelve months of birth or placement by adoption or foster care, and leave may be taken by the father and/or the mother of the child.

Federal regulations allow an employer to choose from several different methods in determining the twelve month period in which the twelve weeks of leave entitlement occurs.

7.9.2 Agency Posting Requirements

Each appointing authority shall post and keep posted, in conspicuous places where notices to employees and applicants are customarily posted, a notice summarizing the entitlement to family leave and providing information concerning the procedures for filing complaints of violations of the Act.

7.9.3 Military Leave Entitlements

Eligible employees are entitled to two different kinds of leave as a result of either being in the military or having family members in the military:

- Eligible employees are entitled to up to twelve weeks of FMLA leave because of any qualifying exigency arising out of the fact that the spouse, son, daughter, or parent of the employee is a member of any Armed Forces and/or a reserve component of the Armed Forces on covered active duty, or has been notified of an impending call to covered active duty status. Qualifying exigencies may include any one or more of the following: 1) attending to issues arising from a short notice (seven days or less) of deployment, with FMLA leave entitlement lasting up to seven days from the notice; 2) attending certain military events; 3) attending certain childcare and school activities related to the military duty; 4) addressing certain financial and legal arrangements; 5) attending certain counseling sessions; 6) taking up to five days to spend with a covered Service member who is on short-term, temporary rest and recuperation leave; 7) attending post-deployment reintegration briefings; or 8) other activities agreed to by the agency and the employee. Eligible employees must provide notice of the need for such leave as soon as reasonable and practicable. This kind of leave may be taken intermittently or on a reduced schedule.

- Eligible employees may take up to twenty-six weeks of leave during a single twelve month period to care for a "covered Service member" who is the employee's spouse, son, daughter, parent or next of kin (nearest blood relative or designated as such). A covered Service member is a member of the Armed Forces (including a member of the National Guard or Reserves) who is undergoing medical treatment, recuperation, or therapy, is otherwise in outpatient status, or is otherwise on the temporary disability retired list, for a serious injury or illness; or a veteran who is undergoing medical treatment, recuperation, or therapy, for a serious injury or illness and who was a member of the Armed Forces (including a member of the National Guard or Reserves) at any time during the period of five years preceding the date on which the veteran undergoes that medical treatment, recuperation, or therapy. Eligible employees may take this kind of leave intermittently, or on a reduced schedule, where medically necessary. This twenty six week leave entitlement will include all other permissible FMLA leave.

7.9.4 Serious Health Condition

A "serious health condition" is defined as an illness, injury, or physical or mental condition that involves:

- *In-patient care* in a hospital, hospice, or residential care facility, including a period of incapacity or treatment related to the inpatient care;
- *A period of incapacity* of more than three consecutive calendar days, with *two or*

more visits to a health care provider, one occurring within seven days of the onset of incapacity, and the second within thirty days of the onset (unless extenuating circumstances exist);

- *A period of incapacity* of more than three consecutive calendar days, with one or more visits to a health care provider, the first occurring within seven days of the onset of the incapacity, and *which results in a regimen of continuing treatment* under the supervision of the health care provider (example: four day absence, one doctor's visit, and prescription medication);
- Any period of incapacity due to *pregnancy, for prenatal care, or childbirth*;
- Treatment for or incapacity because of a *chronic serious health condition* (examples: diabetes or epilepsy), which requires periodic visits (at least two per year) for treatment by a health care provider;
- *Incapacity which is permanent or long term* for which treatment may be ineffective, and the individual is under the continuing supervision of a healthcare provider (example: Alzheimer's Disease); or
- Any absence to receive *multiple treatment by a health care provider* either for restorative surgery after an injury, or for a condition that would likely result in a period of incapacity of more than three consecutive calendar days in the absence of treatment (example: chemotherapy treatments for cancer).

The serious health condition must prevent the employee from performing the functions of his or her job or prevent the qualified family member from participating in school or other daily functions.

A "serious injury or illness" in the case of a member of the Armed Forces (including a member of the National Guard or Reserves), means an injury or illness that was incurred by the covered Service member in the line of duty on covered active duty in the Armed Forces (or existed before the beginning of the member's covered active duty and was aggravated by Service in the line of duty on covered active duty in the Armed Forces) and that may render the member medically unfit to perform the duties of the member's office, grade, rank, or rating; and in the case of a veteran who was a member of the Armed Forces (including a member of the National Guard or Reserves) at any time during a period of covered active duty, means a qualifying (as defined by the Secretary of Labor) injury or illness that was incurred by the covered Service member in the line of duty on covered active duty in the Armed Forces (or existed before the beginning of the member's covered active duty and was aggravated by Service in the line of duty on covered active duty in the Armed Forces) and that manifested itself before or after the member became a veteran.

7.9.5 Intermittent or Reduced Schedule Leave

An eligible employee generally does not need to use FMLA leave entitlement in one block. Eligible employees who, because of a serious health condition of their own or a qualifying relative, need to take FMLA leave on an intermittent basis or to stretch their leave out by working a reduced schedule, must provide certification of the medical necessity for such leave. Eligible employees must make reasonable efforts to schedule planned medical treatment so as not to unduly disrupt the agency's operations. When eligible employees request intermittent or reduced schedule leave because of a birth or placement of a child with them for adoption or foster care, the agency director and/or management will consider such things as how the request for intermittent leave or reduced hours will affect the work output of the employee's positions, and the request will be granted only at the agency's discretion. Under certain circumstances, the agency may require an employee on intermittent leave or reduced schedule leave to transfer temporarily to an alternative job for which he or she is qualified and that better accommodates the leave.

7.9.6 Married Couples

The twelve week maximum per eligible employee per year applies to married couples, rather than individual employees, if both members of the couple work for the same agency and the leave is for the purpose of caring for a new child by birth, adoption or foster care placement or to care for the employee's parent. Leave requested because of an eligible employee's own serious health condition is not subject to this limitation, nor is leave to care for the eligible employee's sick spouse or child. Husbands and wives who are both employed by the agency are limited to a combined twenty-six workweeks of leave during the twelve month period to care for a covered Service member.

7.9.7 Notice Requirements

EMPLOYEES: Employees must provide sufficient information to the agency's human resources department to determine if the leave qualifies for FMLA protection, and they must also provide the anticipated timing and duration of the leave. Sufficient information may include that the employee is unable to perform job functions, the family member is unable to perform daily activities, the need for hospitalization or continuing treatment by a health care provider, or circumstances supporting the need for military family leave. Employees also must inform the employer if the requested leave is for a reason for which FMLA leave was previously taken or certified.

When leave is foreseeable, employees are required to give thirty days advance notice of their expected need for FMLA leave. If they fail to provide such notice, the agency may deny the leave until a thirty day notice period has expired. When thirty days notice is not possible,

employees are required to give as much notice as is practicable, and they generally must comply with the agency's call-in procedures. Medical certification for most FMLA leave is required and must be submitted within no more than fifteen days of an employee's initial request for leave. It is the employee's obligation to return this form as required. If the certification indicates that the employee does not qualify for FMLA leave, or if the employee fails to return the form in a timely manner, the employee will be subject to the agency's normal attendance and discipline policies. Medical certifications must be submitted on the appropriate form which may be obtained in the agency's human resources department.

Employees on leave must call the agency periodically (but at least every thirty days) to report on their status and intent to return to work.

THE AGENCY: The agency will inform employees if they are eligible under FMLA, if their requested leave will be designated as FMLA-protected, and the amount of leave counted against the employee's leave entitlement. The notice will also specify any additional information required, as well as the eligible employees' rights and responsibilities. If the agency determines that the leave is not FMLA protected, the agency will notify the employee and supply the reason for the ineligibility.

7.9.8 Use of Accrued Leave

Employees may choose or employers may require use of accrued paid leave while taking FMLA leave, if they otherwise satisfy all of the procedural requirements for the use of that accrued leave.

Leave for a worker's compensation injury that involves a serious health condition, as defined by this policy, will run concurrently with FMLA leave up through the permissible twelve weeks of FMLA leave.

7.9.9 Benefits During Leave

Health insurance benefits will be continued during FMLA leave, and the State of Mississippi will continue to cover the applicable premium amount for the employee. An employee may continue dependent coverage during leave, but he or she will be responsible for paying for the coverage on a timely basis. If the employee ceases paying the premium, the State may cancel the dependent coverage. However, the State may also continue the dependant coverage at its own expense and recoup payments from the employee upon the employee's return to active employment. Vacation, sick and personal leave benefits will not accrue during FMLA leave.

An employee who fails to return to work at the end of the FMLA leave and who cannot excuse the failure as due to reasons beyond his or her control, or because of the continuance, recurrence or onset of a serious health condition, is potentially liable for reimbursing the State for its

payment of any or all of the health insurance premiums or other non-health premiums it paid during the employee's FMLA leave, except for premiums paid by the State while the employee was concurrently on paid leave. The amounts paid can be deducted from any moneys owed by the State to the employee, including unpaid wages or accrued leave, to the extent permitted by law. Employees are considered to have "returned to work" if they come back to work for at least thirty days after the conclusion of the FMLA leave.

If an employee desires to continue life insurance, disability insurance, or other types of benefits for, which he or she typically pays during unpaid FMLA leave, the agency is required to follow established policies or practices for continuing such benefits for other instances of leave without pay. If the agency has no established policy, the employee and the agency are encouraged to agree upon arrangements before FMLA leave begins. With respect to pension and other retirement plans, any period of FMLA leave will be treated as continued service (i.e., no break in service) for purposes of vesting and eligibility to participate.

7.9.10 Return from Leave

Employees returning from FMLA leave will be restored to their prior jobs and pay wherever practicable. Such employees will receive all benefits accrued prior to the beginning of leave, and they will be provided continuation of, or reinstatement to, health insurance benefits. If the employee's prior job is not available, the employee will be restored to an equivalent position with equivalent pay and terms and conditions of employment.

Employees must report on their intention to return to work as requested by the agency. So that their work may be properly scheduled, employees must provide reasonable notice (within two business days) of any foreseeable changed circumstances requiring either longer or shorter FMLA leave periods than originally requested.

7.9.11 Notice to Agencies

The agency may require that the employee provide written notice setting forth the reasons for the requested leave, the anticipated duration of the leave, and the anticipated start of the leave in accordance with the agency's established policy. Failure to follow established agency policy may result in disciplinary action, but will not permit the agency to disallow or delay an employee's taking of FMLA leave, if the employee gives timely verbal or other notice.

Any time the necessity for leave is foreseeable based on an expected birth or placement, the employee shall provide the agency with no less than thirty (30) days notice, before the date the leave is to begin, of the employee's intention to take such leave. If the date of the birth or placement requires leave to begin in less than thirty (30) days, the employee shall provide such notice as is practicable.

Any time the necessity for leave is foreseeable based on planned medical treatment, the employee:

A. Shall make a reasonable effort to schedule the treatment so as not to unduly disrupt the operations of the agency, subject to the approval of the health care provider of the employee or the health care provider of the son, daughter, spouse, or parent of the employee, as appropriate; and

B. Shall provide the agency with no less than 30 days' notice, before the date the leave is to begin, of the employee's intention to take leave, under FMLA, except if the treatment is to begin in less than 30 days, the employee is to provide such notice as is practicable.

If the employee has actual notice of the FMLA leave requirements and he/she fails to give thirty (30) days notice for foreseeable leave with no reasonable excuse for the delay, the agency may deny taking FMLA leave until at least thirty (30) days after the date the employee provides notice to the agency of the need for FMLA leave.

An agency may require periodic reports from an employee on FMLA leave regarding the employee's status and intent to return to work. If the employee provides a statement of intent to return to work, even if the statement is qualified, entitlement to leave and maintenance of health benefits continue. However, if the employee gives an unequivocal notice of intent not to return to work, the agency's obligations to provide health benefits (except pursuant to COBRA requirements) and to restore the employee end.

Should the employee discover after beginning leave that the circumstances have changed and the amount of leave needed is shorter than originally anticipated, the employee may not be required to take more FMLA leave than necessary. If the employee desires to return to work earlier than anticipated, the agency may require the employee to provide notice of at least two (2) business days.

7.9.12 Designation of Leave as FMLA Leave and Notification to Employee

The agency is responsible for designating leave that is FMLA qualifying and for giving notice of the designation to the employee.

A. If the agency knows the reason for leave is an FMLA reason at the time leave begins, the leave must be designated by the agency in writing at that time. If the agency knows the leave is for an FMLA reason at the time leave begins and *fails* to designate, the leave may not be counted against the employee's FMLA entitlement, and the employee continues to be subject to FMLA protection. Once the agency designates, the leave may be counted against the FMLA entitlement only from that time forward, and not retroactively.

B. When the agency learns that leave is for an FMLA purpose after leave has begun, but before the employee returns to work, the entire or some part of the leave period may be retroactively counted as FMLA leave.

C. Leave may be designated as FMLA after the employee has returned to work in only two (2) circumstances:

   1. The leave is short-term and the agency is awaiting medical certification, or

   2. The agency does not know the reason for the leave, but learns upon the employee's return to work. The designation must be made within two (2) business days of the employee's return to work. If the agency has not made a designation, but the employee wants the absence to be treated as FMLA leave, the employee must notify the agency within two (2) business days of his/her return to work. If such notification is not made, the employee may not subsequently assert FMLA protection.

D. If an employee takes paid or unpaid leave and the agency does not designate the leave as FMLA leave, it may not be counted against the employee's FMLA entitlement.

E. The agency must provide written notice detailing the specific expectations and obligations of the employee and explaining any consequence of failure to meet these obligations. Such specific notice must be provided to the employee within a reasonable time after notice of the need for leave is given, and must include, as appropriate:

   1. That the leave will be counted against the employee's annual FMLA leave entitlement;

   2. Any requirements for the employee to furnish medical certification of a serious health condition and the consequences of failing to do so;

   3. The employee's right to substitute paid leave and whether the agency will require the substitution of paid leave and the conditions related to any substitution;

   4. Any requirement for the employee to make any premium payments to maintain health benefits, the arrangements for making such payments, and the consequences of failure to make such payments on a timely basis;

   5. Any requirement for the employee to present a fitness-for-duty certificate to be restored to employment;

6. The employee's status as a “key employee,” the potential consequence that restoration may be denied following FMLA leave, and the conditions required for such denial;

7. The employee's right to restoration to the same or an equivalent job upon return from leave; and

8. The employee's potential liability for payment of health insurance premiums paid by the agency during the employee's unpaid FMLA leave if the employee fails to return to work after taking FMLA leave.

7.9.13 Medical Certification

The agency may require that an employee's leave to care for his/her seriously-ill immediate family member, or due to the employee's own serious health condition that makes the employee unable to perform one or more of the essential functions of his/her position, be supported by a certification issued by the health care provider of the employee or the employee's ill family member.

When the leave is foreseeable and at least thirty (30) days notice has been provided, the employee should provide the medical certification before the leave begins. When this is not possible, the employee must provide the requested verification to the agency within the timeframe requested (which must allow at least fifteen (15) calendar days after the agency's request) unless it is not practicable under the particular circumstances despite the employee's diligent, good faith efforts.

The Department of Labor has developed an optional form (Form WH-380, as revised found at http://www.dol.gov/WHD/fmla/ or http://www.dol.gov/whd/forms/WH-380-F.pdf) for employees or their family members to use in obtaining medical certification from health care providers that meet FMLA's certification requirements. This form or another form containing the same basic information may be used by the agency; however, no additional information may be required. The form contains required entries for:

A. A certification as to, which part of the definition of serious health condition, if any, applies to the patient's condition and the medical facts, which support the certification, including a brief statement as to how the medical facts meet the criteria or definition.

B. The approximate date the serious health condition commenced, and its probable duration.

C. Whether it will be necessary for the employee to take leave intermittently or to work on a reduced leave schedule basis.

D. If the condition is pregnancy or a chronic condition, whether the employee is presently incapacitated, and the likely duration and frequency of episodes of incapacity.

E. If additional treatments will be required for the condition, an estimate of the probable number of such treatments.

F. If the patient's incapacity will be intermittent, or will require a reduced leave schedule, an estimate of the probable number and interval between such treatments, actual or estimated dates of treatment if known, and the period required for recovery.

G. If medical leave is required for the employee's absence from work because of the employee's own condition, whether the employee:

   1. Is unable to perform work of any kind;

   2. Is unable to perform any one or more of the essential functions of the employee's position, including a statement of the essential functions that the employee is unable to perform based on either information provided on a statement from the agency of the essential functions of the position, or if not provided, discussion with the employee about the employee's job functions; or

   3. Must be absent from work for treatment.

H. If leave is required to care for a family member of the employee with a serious health condition, whether the patient requires assistance for basic medical or personal needs or safety or for transportation; or if not, whether the employee's presence to provide psychological comfort would be beneficial to the patient or assist in the patient's recovery.

If an employee submits a complete certification signed by the health care provider, the agency may not request additional information from the employee's health care provider.

If the agency has reason to doubt the validity of the certification, it may require, at agency expense that the employee obtain the opinion of a second health care provider designated or approved by the agency. Any such health care provider designated or approved shall not be employed on a regular basis by the state.

If the second opinion differs from the original certification, the agency may require, at its own expense, that the employee obtain the opinion of a third health care provider designated or approved jointly by the agency and the employee concerning the information previously certified. The opinion of the third health care provider concerning the information previously certified shall be considered final and shall be binding on the agency and the employee.

The agency may require, at the employee's expense, that the employee obtain subsequent recertification on a reasonable basis. No second or third opinion on recertification may be required.

7.9.14 Unlawful Acts

The FMLA makes it unlawful for any employer to:

- Interfere with, restrain, or deny the exercise of any right provided under the FMLA; or
- Discharge or discriminate against any person for opposing any practice made unlawful by the FMLA or for involvement in any proceeding under, or relating to, the FMLA.

Please notify the agency's executive director immediately if any of these actions occur. Employees may also file a complaint with the United States Department of Labor or bring a private lawsuit against the agency.

7.91.14 Enforcement

The U. S. Department of Labor (DOL) is responsible for the enforcement of the FMLA and may investigate and resolve complaints and violations under the Act in the same manner as under the Fair Labor Standards Act (FLSA). For assistance in complying with the FMLA, state agency employers may contact the area office of the Wage and Hour Division of the DOL at http://www.dol.gov/WHD/ or call (601) 965-4347 or 1-866-4-USWAGE. Additionally, federal regulations governing FMLA will be added to the Appendix of the Mississippi State Personnel Board Policy and Procedures Manual.

EDUCATIONAL ASSISTANCE AGREEMENT

Pursuant to the authority provided in Mississippi Code Annotated § 37-101-293, as amended, this agreement is entered into by and between the _____ (hereinafter referred to as "Agency"), an agency of the State of Mississippi and_____, (hereinafter referred to as "Recipient") who is currently employed and has been employed with a state agency for a period of at least three (3) years immediately prior to the date of application, or is working at a state agency at the time of application for part-time graduate level education in a particular profession deemed by the administrative head of the state agency to meet a critical need within the state agency.

In consideration of the mutual promises contained herein, the parties agree to the following terms and conditions:

1. Recipient agrees to attend_____ for the period beginning and ending_____, to pursue a course of study in _____, and has been accepted for such course of study.

2. Agency agrees to reimburse tuition and fees of approximately_____ and book fees of approximately _____ and/or to authorize educational leave of approximately_____. These provisions apply only in the case of successfully completed courses as defined in paragraph nine (9).

3. Recipient agrees to work as an employee within the Agency for a period of year(s) beginning _____and ending _____, after completion of the course of study.

4. The time periods and dollar figures set forth in paragraphs one (1) through three (3) are subject to change depending on actual course work completed, length of time needed to complete course work, whether the student is full or part-time, and the like. Consequently, Recipient's progress will be evaluated at least yearly, and the figures in paragraphs one (1) through three (3) adjusted accordingly, if needed.

5. If Recipient does not work as an employee of the Agency for the period of time specified herein, Recipient shall be liable for repayment on demand of the

remaining portion of the compensation that he or she was paid while on paid educational leave and educational expenses paid, with interest accruing at ten percent (10%) per annum from the Recipient's date of completion of the approved course of study, or the date the Recipient last worked at the Agency, whichever is the later date. In addition, Recipient agrees to pay liquidated damages equal to Two Thousand Dollars ($2,000.00) per year for each year remaining to be served under this agreement.

6. If Recipient fails to successfully complete the approved course work or withdraws from school at any time before completing the course of study, Recipient agrees to repay on demand the amount of the total compensation paid while on paid educational leave, with interest accruing at ten percent (10%) per annum from the date Recipient failed or withdrew from school. However, if Recipient fails to successfully complete the approved course work or withdraws from school prior to completing the course of study and remains or returns to work in the same position Recipient held in the Agency prior to accepting educational assistance and remains employed in such position for a period equal to the period of time that Recipient received such leave, Recipient shall not be liable for payment of any interest on the amount owed, but shall remain liable for the total compensation paid while on educational leave.

7. The administrative head of the Agency may cancel and terminate this contract upon such cause as he or she deems sufficient. Notification will be given Recipient by forwarding first class mail, postage prepaid to the following address_____
.

8. If educational leave is granted, the Agency agrees to compensate Recipient at a salary of _____per month during the period of leave specified herein.

9. The Agency will reimburse Recipient for approved educational expenses only after Recipient submits documentation that the approved course(s) have been successfully completed. Successful completion is defined as: _____.

10. The award and administration of educational assistance shall be in accordance with the policies and procedures of the Mississippi State Personnel Board and the Agency, which are incorporated herein and are made a part of this agreement.

11. Additional terms and conditions, if any, are contained in Exhibit "A" attached hereto.

12. Any modification or amendment to this agreement shall only be made in writing and approved by the parties hereto.

Agreed to this the _____day of _____, 20___.

_____

Employee Recipient

Subscribed and sworn to before me this the _____ day of _____, 20___.

_____

Notary Public

This agreement is acknowledged and accepted by me this the _____ day of _____, 20___.

_____

Administrative Head

ATTEST:

_____

Name and Title

EDUCATIONAL LEAVE REPORT			
Agency		Fiscal Year	
Individual Responsible for this Report		Phone Number	

Name	Position	Degree/ Course Work	School	Cost to Agency					
				Leave	Tuition	Fees	Books	Travel	Total

This report or any variation of this report, which contains the same information, is to be submitted on or before January 1 of each year to the Legislature and to the Mississippi State Personnel Board. The reporting period covers the previous fiscal year. Additional sheets may be attached if needed.

Mississippi State Personnel Board

Training Registration Form

Please complete a separate form for each participant

Participant's Name:	**Social Security Number:**
Title:	**Participant's Telephone Number:**
Name of Agency & Address:	**Special Services Needed:**
Participant's Supervisor's Signature	**Supervisor' Telephone Number:**
Agency Director's Signature (or)	**Agency Training Coordinator**

Workshop Titles(s)	Date Requested	Cost

Billing Information

Payment Attached for $_____ made payable to Mississippi State Personnel Board #3610

OR

Bill Agency:_____

Attention of:_____

Address:_____
All registrations should be made as far in advance of the course start date as possible, as each course is filled on a first-come, first-serve basis. Agencies will be billed for registrants unless cancellation is received ten (10) days prior to the course start date. Substitutions are allowed up to the start of the course (*advance notice requested*). Written confirmation will be sent to all students seven (7) to ten (10) days prior to course date. If you do not receive a confirmation/cancellation notice, please call 601-359-2758.
Mail all registrations and/or requests for information to: **Mississippi State Personnel Board Office of Workforce Planning** **301 North Lamar Street, Suite 203** **Jackson, Mississippi 39201**

CHAPTER 8 – PERFORMANCEAPPRAISAL REVIEW

8.1 AUTHORITY AND SCOPE

Mississippi Code Annotated § 25-9-119(2)(c)(ii)(B), as amended, requires the Mississippi State Personnel Board and the Executive Director to provide a system of rules and regulations for salary increases for outstanding performance based upon documented employee productivity and exceptional performance in assigned duties. The Performance Appraisal Review (PAR) is hereby established. All agencies under the purview of the Mississippi State Personnel Board were mandated by the legislature in 1985 to participate in the Mississippi State Personnel Board's performance appraisal review system.

8.2 PURPOSE

In addition to providing a basis for awarding productivity funds, a performance appraisal system serves a number of distinct purposes/functions: improves quality/quantity of services; develops employee skills; motivates better performance; and increases communication between the supervisor and the employee concerning performance, overall objectives of the work unit and specific work products.

Evaluating employees is a continuous process. The annual appraisals provide agency management a factual basis to identify employees for productivity increases, promotion, retention on the basis of performance, correction of inadequate performance, separation when inadequate performance cannot be corrected, used in the retention point formula for Reduction in Force (see Section 7.6), job development and training or other job related personnel management actions.

8.3 APPRAISAL COVERAGE

Every employee whose position is under the salary setting authority of the Mississippi State Personnel Board shall be appraised for job performance at least once annually. Evaluations shall be based only on the performance of the duties of the employee's position compared against the performance standards for those duties. Only work outcome shall be evaluated. No factors handled by established disciplinary procedures (tardiness, physical violence, etc.) should be allowed as part of the evaluation process. Performance appraisals shall be administered in a fair manner without unlawful discrimination as to age, race, sex, religion, political affiliation, national origin, or disability.

8.4 GENERAL RULES FOR THE PERFORMANCE APPRAISAL REVIEW SYSTEM

A. For *probationary employees/new hires*, the first narrative performance appraisal and rating shall be made within the fourteen (14) days prior to the end of the sixth month

from date of hire. In cases where completion of required job training results in reclassification, the first performance appraisal may be conducted earlier than six (6) months from date of hire.

For probationary employees/new hires, the second narrative performance appraisal and rating shall be completed within the fourteen (14) days prior to the end of the twelfth month from date of hire.

B. After an employee has been employed for twelve (12) continuous months and has attained *state service status*, a narrative appraisal and rating shall be required annually for each employee by the immediate supervisor.

A valid appraisal rating is a rating completed as a result of an employee's job performance within the last 365 days.

For positions under the salary setting authority of the Mississippi State Personnel Board, all personnel transactions requested will result in the performance appraisal period resetting to begin with the date the employee enters the position, or the effective date of a reclassification/reallocation and end one year from that date (except for employees in the probationary period of twelve (12) months).

Personnel transactions (promotion, transfer, reclassification, reallocation, and demotion) require an appraisal rating within ninety (90) days prior to the effective date of the personnel transaction.

If the last appraisal rating is more than 90 days prior to the effective date of the personnel transaction, the personnel transaction will not be processed until an appraisal rating is completed for the employee (current position), recorded, and approved. Then, the pending personnel transaction request will be completed. When the request is approved, the next appraisal period will begin with the effective date of the personnel transaction and ending at 365 days.

C. For *non-state service* employees under the salary setting authority of the Mississippi State Personnel Board, appraisals shall be administered within the same time frames as outlined for employees in state service positions in A and B above.

D. An employee who is detailed or temporarily assigned to a different position for a period expected to be at least 180 calendar days shall be provided with the duties/performance standards of the detailed or temporarily assigned position. Development and communication of these duties/performance standards shall follow the guidelines established by these regulations. Upon completion of the detail or temporary

assignment, the employee shall receive a written narrative appraisal and rating by the rating supervisor in charge of the employee while on detail or temporary assignment.

E. An employee shall have been in a position for a period of ninety (90) days before being eligible to receive an appraisal rating. If the employee is in the position less than ninety (90) days, it is assumed that the employee has performed at the Meets Expectations level.

F. The rating supervisor shall be the last person to have supervised the employee for a period greater than ninety (90) days at the time the appraisal is due.

G. A rating supervisor who leaves the supervisory position is responsible for submitting to the first-level reviewer a narrative appraisal and rating for each supervised employee. At the discretion of the first-level reviewer, the appraisal rating can be transferred to the employee's new rating supervisor for combining with additional rating(s) for the annual performance appraisal rating or can be submitted to the agency personnel office and a new annual appraisal period started.

H. If an employee is on detail or temporary assignment for a period less than ninety (90) days at the time of the appraisal due date, the rating supervisor, at the employee's regularly assigned position, is the last person to have supervised the employee prior to the detail or temporary assignment, providing such official meets the requirements in E and F above.

I. Where an employee remains in the same position during an appraisal period (365 days), but has not been supervised by any one rating supervisor for at least ninety (90) days during the appraisal period, the employee will receive an appraisal rating from the person who is identified as the first-level reviewer. This person shall first consult with those who served as temporary supervisors during said period. In such cases, the narrative appraisal and rating shall be reviewed and approved by the second level reviewer.

J. In the event an employee received more than one written performance appraisal rating during the appraisal period, the results of all such appraisals shall be combined. The last rating supervisor, at the end of the 365-day appraisal period, shall be responsible for combining all such appraisal ratings to compute the annual narrative appraisal and rating for subject period.

K. Within the fourteen (14) days prior to the end of the appraisal period, the documented narrative appraisal and rating will be completed by the rating supervisor or the supervisor who has direct line authority over the employee. Then the rating supervisor shall schedule and conduct an appraisal interview with the employee to discuss the

employee's level of performance as documented in writing and evaluated by the rating supervisor.

L. The planning session for the next appraisal period shall be completed no later than fourteen (14) days after the new appraisal period begins; however, failure to comply with these time limits does not invalidate an appraisal rating that complies in other respects to these rules and regulations.

M. Because performance appraisal is maintained on a continuous basis, performance appraisal ratings shall cover all the time an individual is employed in state government in covered positions.

8.5 RESPONSIBILITIES OF AGENCY STAFF

8.5.1 Responsibilities of Agency Head

The Agency Head shall:

A. Ensure that the performance appraisal review is implemented and administered in his/her agency consistent with the Mississippi State Personnel Board's policy requirements;

B. Appoint members of the Agency Review Committee, if this option is elected;

C. Ensure that employees are in a position and notified of duties/performance standards at least ninety (90) days before an evaluation and rating are completed; and

D. Review documents that identify employee differences with rating supervisor on the duties/performance standards. (Although the Agency Head may choose not to intervene, the Agency Head is required to have knowledge of the differences.) (See Section 8.6.3.)

8.5.2 Responsibilities of the Agency Personnel Director/Officer

The Agency Personnel Director/Officer of each state agency is responsible for the overall staff direction of the performance appraisal review, and shall:

A. Provide orientation for employees regarding the objectives and provisions for the performance appraisal review;

B. Develop, or have developed, common/generic duties/performance standards for similar or identical agency positions. The common/generic duties/performance standards will be updated and maintained in the agency personnel office and made available to supervisors upon request;

C. Provide rating supervisors, on a periodic basis, a "List of Performance Appraisals Due"; and

D. Provide necessary training to managers and rating supervisors so that these individuals can effectively carry out the responsibilities for communicating with employees, appraising employees, and relating performance appraisal to other personnel actions.

   The training is to include a thorough explanation that a part of the rating supervisor's job performance will be evaluated based on the documented performance data in each employee's Supplemental Employee Performance Folder (SEPF).

8.5.3 Responsibilities of the Rating Supervisor

The Rating Supervisor is responsible for the following procedures pertaining to the completion of Performance Appraisal Review Forms and shall:

A. Require Job Content Questionnaires be updated annually to accurately reflect the duties and responsibilities assigned to all employees supervised;

B. Within fourteen (14) days from the beginning of the appraisal period, develop and document in writing, with assistance from rated employee, the duties/performance standards for each employee supervised;

C. Establish and maintain a Supplemental Employee Performance Folder (SEPF) for each employee supervised. (See Section 8.6.5, Supplemental Employee Performance Folder (SEPF), Mississippi State Personnel Board Policy and Procedures Manual.);

D. Update duties/performance standards and Job Content Questionnaire, as needed during the appraisal period, to reflect changes in position duties and responsibilities;

E. Advise and update the employee relating to his/her performance throughout the appraisal period. At a minimum, one formal review and feedback session, during the sixth month of the appraisal period must be conducted. Provide the employee with a copy of the completed review;

F. Within fourteen (14) days prior to the end of the appraisal period, review, evaluate and complete the evaluation form. Meet and discuss the narrative appraisal, rating, and documentation with the first-level reviewer for his/her approval, signature, and date. Next, meet and discuss the documentation, narrative appraisal and rating with employee for his/her information and comments. Ask the employee to sign and date. (See Section 8.6.8C) Provide a copy of the completed appraisal to the employee, retain a copy and send the original to the agency personnel office. If the employee receives two or more

appraisal ratings during the appraisal period, the rating supervisor combines all such appraisals to form a narrative appraisal and rating for the appraisal period;

G. During an appraisal period, complete the evaluation process (narrative appraisal and rating) whenever circumstances warrant, i.e., prior to a promotion, transfer, reclassification, reallocation or demotion. (See Section 8.6.8); and

H. Initiate corrective action when performance falls below Meets Expectations and assist employee in improving his/her performance to the "Meets Expectations" level. Complete a performance improvement plan with the employee at the beginning of the Performance Improvement Period, retain the original, provide the employee a copy and send a copy to the agency personnel office.

8.5.4 Responsibilities of the First-level Reviewer

The First-level Reviewer is responsible for the following procedures pertaining to the completion of the Performance Appraisal Review Forms and shall:

A. Review the duties/performance standards and discuss the contents with the rating supervisor. Resolve any differences between the rating supervisor and employee on duties/ performance standards written;

B. Monitor duties/performance standards to provide consistency in the same or similar jobs and among all subordinate rating supervisors;

C. Review and discuss with the rating supervisor the documentation that supports the narrative appraisal and the rating within fourteen (14) days prior to the end of the appraisal period. This will take place prior to the employee and rating supervisor meeting to discuss the narrative appraisal and rating; and

D. Ensure against bias or discrepancies in ratings by the rating supervisor.

8.5.5 Responsibilities of the Second Level Reviewer

Second Level Reviewer (typically the immediate supervisor of the First-level Reviewer) is responsible for the following and shall:

A. Resolve differences that the first-level reviewer was unable to resolve;

B. If unable to resolve the differences that exist between any of the parties (e.g., the employee, the rating supervisor, and/or first-level reviewer), convene the Review Committee (if the agency elects this option) for an advisory opinion; and

C. Issue management's decision on the disputed duties/performance standards. This decision is final unless overruled by the Agency Head. (See Section 8.6.3)

8.5.6 Responsibilities of the Employee

The Employee is responsible for the following and shall:

A. Cooperate with the rating supervisor in the selection and development of duties/performance standards;

B. Notify the rating supervisor of any facts or circumstances which should be considered when selecting or developing duties/performance standards or when appraising performance;

C. Discuss with the rating supervisor current performance, ways to improve performance, and successfully perform the duties of the position at the Meets Expectations level;

D. During the sixth month of the appraisal period meet with the rating supervisor and discuss current performance;

E. Inform the rating supervisor at any time during the appraisal period of circumstances that may impact or deter the employee from the successful performance of duties or the meeting of assigned deadlines; and

F. Within fourteen (14) days prior to the end of the appraisal period, meet with rating supervisor to discuss the documentation, written narrative, and rating. Initial concurrence or non-concurrence of the appraisal rating or acknowledge that the appraisal rating was discussed.

8.5.7 Responsibilities of the Review Committee

The Review Committee (if the Agency accepts this option) is responsible (when convened by the Second Level Reviewer) for and shall:

A. Review unresolved differences between the employee and the rating supervisor and/or the first-level reviewer regarding duties/performance standards and provide a recommendation to the second level reviewer as to the disposition of the matter;

B. Ensure that the duties/performance standards and weights are defined so that equity is maintained within the agency; and

C. Maintain the consistency of duties/performance standards with the goals of the work unit and the mission of the agency.

8.6 APPRAISAL SYSTEM PROCESS

8.6.1 The Beginning of the Appraisal Period

Performance Appraisal Review is designed to be a "no surprises" system. The rating supervisor and employee are to decide the important accomplishments of the job and come to an understanding of what is M*eets Expectations* performance. Job duties and performance standards are determined and communicated at the beginning of the appraisal period. Therefore, the employee has a target to aim for and is not expected to guess what performance is expected.

For the Performance Appraisal Review system to be effective, everyone involved must understand what is expected of him/her. This is true for the employee, rating supervisor, first-level reviewer, and upper management. Rating supervisors should explain the "what, how, why, and when" of the Performance Appraisal Review process and answer all employee questions.

With assistance from the employee, the rating supervisor shall develop the duties/performance standards for the position. This is done through one or more planning sessions which shall be completed within the first fourteen (14) days of the beginning of the appraisal period, i.e., employee hire date, promotion, transfer, reclassification, reallocation, demotion, last reported performance appraisal rating or an agency-established appraisal start date.

8.6.2 Required Review of Duties/Performance Standards

Each agency will develop common/generic duties/performance standards for similar or identical agency positions. Common/generic duties/performance standards may be identified, developed, and issued for certain occupations and types of positions in each agency. The rating supervisor and the employee will review together agency established duties/performance standards and add ones that specifically address the unique duties of the employee that are necessary to goal accomplishment of the work unit.

The rating supervisor has the authority to interpret and adapt these common/generic duties/performance standards and/or to develop additional job related duties/performance standards in order to identify specific expectations for individual positions/employees.

Each agency will provide for at least one higher level, automatic review of the duties/performance standards identified for each position/employee. If there is disagreement after the first level of review, a second level of review is required. The supervisor of the first-level reviewer should conduct the second level review. If differences cannot be resolved, the second level reviewer is required to convene a review committee (if this option is elected by the Agency Head) for its recommendations prior to the second level reviewer's decision.

The purpose of review will be:

A. To ensure consistency, where appropriate, in the duties/performance standards for similar positions in the agency;

B. To review the distribution and priority of work as implied by the duties/performance standards;

C. To ensure consistency between the duties/performance standards and organization function statements as well as class specifications; and

D. To ensure compliance with the provisions of these regulations.

Where the second level reviewer convenes a review committee for the above purposes, the authority of the committee will be limited to making recommendations for the second level reviewer's decision.

8.6.3 Resolving Differences on Duties/Performance Standards

Recognizing that an organization cannot function effectively where there are differences among its employees regarding work assignments, priorities, quality of work, or where there are concerns about equity and fairness, the agency will try to resolve differences, which arise between the rating supervisor and the employee regarding duties/performance standards.

In the event of differences between the rating supervisor and the employee concerning duties/performance standards, the rating supervisor shall ask the employee to provide written comments within four (4) working days from the date of their meeting as to why he or she does not concur with the duties/performance standards. After receipt of the employee's written comments, the rating supervisor shall schedule a meeting with the employee and first-level reviewer and attempt to resolve the differences. If the differences cannot be resolved at this level, the differences shall be referred to the second level reviewer for resolution. **The second level reviewer issues management's decision on the disputed duties/performance standards.** (This decision is final unless overruled by the Agency Head.)

Where differences as to duties/performance standards are not resolved, the Agency Head will be informed as to those differences. The Agency Head's intervention is discretionary, but the Agency Head must have knowledge of the differences. If the Agency Head chooses not to intervene, then the final decision rests with the second level reviewer.

Duties/performance standards established as criteria for performance appraisal are management decisions that are NOT grievable; therefore, Mississippi State Personnel Board grievance policy and procedures DO NOT apply to the resolution of differences regarding duties/performance standards.

After the resolution process has been completed, the employee will complete the "Employee Response" portion of Section 3 of SPB Form 800-1. If the employee continues to object to the duties/performance standards, the employee should initial the "does not concur" option. However, the employee should be advised that the PAR document reflects the expectations of his or her job, that the duties and performance standards are valid even without his/her concurrence, and that he or she will be evaluated accordingly.

8.6.4 Changes to Duties/Performance Standards

Changes in the identified duties and performance standards and weights may be required during the appraisal period if duties, resources, and/or priorities change.

Changes to duties/performance standards and weights made in a Review and Feedback session or after at least a ninety (90) day performance observation period must be signed and dated by the rating supervisor, employee, and first-level reviewer documenting that a meeting was held and the changes discussed. Review procedures apply to these changes.

8.6.5 Supplemental Employee Performance Folder (SEPF)

A Supplemental Employee Performance Folder must be maintained by the rating supervisor on each employee for the current appraisal period. The folder should contain (1) the rating supervisor's copies of the employee's performance appraisal review report; (2) a current (less than twelve (12) months), legible representative Job Content Questionnaire signed by the employee and the rating supervisor; (3) any narrative statements about the performance; (4) examples of work when appropriate; (5) results of each review and feedback session; (6) Performance Improvement Plan, if pertinent; and, (7) any information the employee may want to contribute. Rating supervisors are encouraged to use the SEPF for written descriptions of specific employee performance, both positive and negative, observed by the rating supervisor and related to the employee's duties and performance standards.

Any performance data collected on an employee in the SEPF must be maintained in a secure file by the rating supervisor and not be shared with anyone except the employee who is the subject of the data and the first-level reviewer. All material in the SEPF is available upon request to the employee for review. The rating supervisor will use the contents of the SEPF for the review and feedback session as well as for preparing the narrative performance appraisal statements for each duty/performance standard and in arriving at an appraisal rating.

The type of information to be collected depends upon what is being measured by the performance standard. For example, if the standard is "X" number of cases processed per week, the number of cases must be counted and appropriate notation made in the employee's record; if the standard specifies meeting a deadline, the date the work was given to the rating supervisor should be compared to the deadline date and appropriate notation made to the employee's record;

if the standard is written to indicate that the written product was completed according to standard operating procedures, then appropriate notation should be made as to whether this was the case or not and, if not, in what way was the product incomplete, etc.

If an employee has failed to meet a performance standard for reasons beyond his/her control, then this fact and the reasons should be noted in the employee's SEPF record.

Data can be collected by sampling work products, by observing behavior or work products at certain times, self-reporting by the employee, or any other relevant documentation.

8.6.6 Review and Feedback Sessions

The purposes of the review and feedback sessions during the appraisal period are:

A. To provide feedback to the employee concerning the overall assessment of performance during the rating period.

B. To review and update duties/performance standards in light of changing requirements of the employee's position.

C. To identify areas of performance requiring improvement and to identify methods/training needed to facilitate that improvement.

The rating supervisor shall conduct a review and feedback session with the employee, every three (3) months is recommended, but a minimum of one formal review during the sixth month of the appraisal period is required.

For the rating supervisor to be prepared for the employee review and feedback session, proper documentation of employee performance is very necessary. The rating supervisor must review the contents of the Supplemental Employee Performance Folder (SEPF) against the duties/performance standards in order to note accomplishments and results that have been achieved as well as areas where improvement is needed. Other helpful information or documentation would be the class specification for the employee's position, the Job Content Questionnaire, a list of standard operating procedures, agency regulations, or position or agency goals. Be prepared for any potential questions or reactions from the employee.

After reviewing the employee's SEPF and prior to the review and feedback session, the rating supervisor should review the employee's performance with his/her supervisor (first-level reviewer). This is to gain any additional insight he/she may have regarding the employee's performance, the employee's growth potential, the possibility of promotional opportunity, or organizational changes, which could affect the employee. This session will be of value to the

rating supervisor and the employee in that it gives the rating supervisor and first-level reviewer the opportunity to share information regarding the employee's performance.

The rating supervisor must give advance notice to the employee of the date and time for the review and feedback session.

The employee's role in preparing for the review and feedback session is to review his/her major duties/performance standards; to review his/her last appraisal rating, noting any accomplishments or improvements since that time; to objectively review the quality and quantity of the work performed and/or resources used to get the work done; and to identify any current or potential changes in the duties which might affect the position as it is currently performed. Through the review and feedback session, the employee is given the opportunity to ask questions, make comments and apprise the rating supervisor of additional pertinent facts regarding his/her performance during the current appraisal period.

At the completion of the review and feedback session, SPB Form 801 must be signed and dated by the rating supervisor and employee. In addition, the rating supervisor must date and initial and the employee initial Section 4 of SPB Form 800-1.

8.6.7 Performance Improvement Plan (PIP)

A. Informal Efforts

When the rating supervisor notices that any area of an employee's performance is below Meets Expectations~~,~~ level then the rating supervisor must discuss with the employee specific action/steps to be taken by both rating supervisor and employee to improve performance. The rating supervisor should initiate the following informal actions: (1) counseling on a systematic, job-related basis; (2) regular and careful review of work, and (3) on/off-site training.

B. Formal Performance Improvement Plan

Where informal performance improvement efforts do not result in improved performance, or when the rating supervisor, in conjunction with or following a review or feedback session or an appraisal rating concludes that the overall job performance of an employee is <u>less</u> than the level Meets Expectations, the rating supervisor must initiate a formal performance improvement plan.

A Performance Improvement Plan will be developed with the participation of the affected employee and subject to the approval of agency management.

The improvement plan begins the date the employee signs the document and concludes at the end of the ninety (90) days.

The employee must improve his/her total performance to an overall appraisal rating of Meets Expectations.

The employee is to be told that overall performance must be improved to the level of Meets Expectations by the end of the performance observation period in order to justify retention and must be provided a period of ninety (90) days to demonstrate improved performance.

Records must be maintained to clearly identify the employee's weakness(es) and the corrective action(s) to be taken by the rating supervisor as well as the employee. As part of the record keeping process, a review and feedback session should be held with the employee around the 45th day of the 90-day period.

Failure by the employee to improve job performance by the conclusion of the 90- day PIP period shall constitute cause for dismissal, demotion, or transfer. (See Section 5.5.6)

C. Improvement in Performance

At the conclusion of the ninety (90) day **Performance Improvement Plan**, if the employee's performance has improved to the **Meets Expectations** level, the rating supervisor will:

1. Document performance while on their improvement plan;
2. Discuss the narrative appraisal, rating, and documentation with the first-level reviewer for his/her approval, signature, and date;
3. Schedule and hold an appraisal interview with the employee and obtain any comments;
4. Keep a copy of the completed form, provide a copy to the employee, and send the original to the agency personnel office;
5. Begin a new performance appraisal period according to policy and procedures.

D. Continued Performance Below Meets Expectations

At the conclusion of the ninety (90) day Performance Improvement Plan, if the employee's performance has **not** improved to the Meets Expectations level, the rating supervisor will:

1. Document performance while on their improvement plan;
2. Discuss the narrative appraisal, rating, and documentation with the first-level reviewer for his/her approval, signature, and date;
3. Schedule and hold an appraisal interview with the employee and obtain any comments;
4. Submit through appropriate lines of administration, the recommended action to be taken as a result of the employee's failure to improve performance (demotion, transfer, termination). Supporting documentation shall be submitted along with the recommendation. If the employee has not demonstrated improvement, the rating supervisor, in conjunction with the first and second level reviewers, agency head/designee may take appropriate personnel action or the PIP may be extended for another ninety (90) day period. If the extension is approved, a new ninety (90) day Performance Improvement Plan begins by completing a new form according to instructions; and
5. After the form is completed and all signatures and dates affixed retain a copy, provide a copy to the employee and send the original to the agency personnel office.

8.6.8 At the End of the Appraisal Period

A. Narrative Appraisal

Within fourteen (14) days prior to the end of the appraisal period, the rating supervisor begins reviewing and evaluating the narrative statements about the performance, the documented examples of work products, the results of each review and feedback session, and any information the employee contributes as well as any other material in the Supplemental Employee Performance Folder (SEPF). (See Section 8.6.5)

B. Appraisal Rating

Once the narrative has been written for each duty/performance standard and other significant accomplishments (if any) have been noted, an overall appraisal rating is determined following instructions in the performance appraisal document.

The rating supervisor then discusses the narrative appraisal, rating and documentation with the first-level reviewer for his/her approval, signature and date.

C. Appraisal Interview

The rating supervisor schedules an appraisal interview by selecting a time and a convenient, completely private and comfortable place, and notifies the employee of the scheduled interview. The main purpose of the appraisal interview with the employee is to discuss the documentation, the narrative appraisal, and rating and come to an understanding, if not agreement, on the general level of performance and appraisal rating. Encourage the employee to talk and be a good listener. This provides the rating supervisor an opportunity to observe areas of agreement and to spot important differences. It also gives the employee an opportunity to think through the process, ask questions, and make any comments. When an understanding has been reached, then the employee should sign and date the appraisal document. *Refusal by the employee to sign does not affect or negate the rating. His or her refusal to sign the form acknowledging that the appraisal rating has been discussed with him or her shall be, following a warning, considered an act of insubordination.*

8.6.9 Grievance/Appeals Process

State service employees who disagree with the level of a rating (excluding the contents of duties/performance standards) may seek review by appeal to the Employee Appeals Board of the Mississippi State Personnel Board, after having exhausted the agency grievance procedure. If the employee disagrees and mutual agreement is not possible, then the employee has the right to grieve this end product and the right to be represented by legal counsel if he/she so chooses. Remember that the decision made by management on duties/performance standards is a final decision not subject to the grievance procedure. The final product of the appraisal process is grievable and there is almost a guarantee that an arbitrator will expect fairness and reasonableness in any duties/performance standards, which were not agreed upon by the employee.

8.7 RECORDS MAINTENANCE

Official performance appraisal records will be maintained by each Agency Personnel Director/Officer and will be made available for review by the employee concerned. These records will include, in addition to the narrative appraisal and rating, supplementary or related personnel management documents.

Personnel staff in each agency will retain records that may be evaluated annually by the Mississippi State Personnel Board or its agent. The results of these reviews will be used to revise the system.

The provisions of the appraisal system will be modified to conform to changes in federal and state laws or in appropriate Mississippi State Personnel Board rules and regulations. This system will also be modified based upon approved changes resulting from reviews described above.

8.8 TRAINING

The Human Resources Director/Officer in each agency will be responsible for ensuring that each rating supervisor receives training on the provisions of these regulations, specifically including the development of duties/performance standards, appraising performance, counseling and performance improvement, and use of the performance appraisal as a management tool for workforce planning, controlling work, and its relationship to the making of personnel management determinations at a minimum of once a year.

The training is to include a thorough explanation that a part of the rating supervisor's job performance will be evaluated on the basis of the documented performance data in each employee's Supplemental Employee Performance Folder (SEPF).

Training and technical assistance are available through the Mississippi State Personnel Board.

CHAPTER 9 – DISCIPLINE AND CORRECTIVE ACTION

9.0 INTRODUCTION

State law provides that no employee of any department, agency or institution under the Statewide Personnel System who is subject to the rules and regulations prescribed by the State personnel system may be dismissed or have adverse action affecting their compensation or employment status except for inefficiency or other good cause, and after written notice and opportunity to be heard within the department, agency or institution as provided in rules and regulations promulgated by the MSPB. This provision does not apply to persons separated from employment: due to a curtailment of funds or a reduction in staff approved by the MSPB; during the initial twelve month probationary period in State Service; or as an executive officer of any State agency who serves at the will and pleasure of the Governor, board, commission or other appointing authority.

Adverse action against an employee or separation of employment may occur because the conduct of the employee is an offense as provided in the schedule of offenses listed below or because there is a legal non-conduct basis which meets the statutory requirement of good cause.

In accord with State law, the MSPB requires that all State employees who are subject to the rules and regulations of the board and who have attained a property interest in their job as provided in State law may not be subject to separation of employment or other forms of discipline without due process of law.

Disciplinary action shall be applied in steps of increasing severity whenever practical in order to stimulate a change in the behavior that activated the disciplinary process. The appointing authority or designated representative shall exercise corrective action when a State Service employee violates established rules of conduct or performs below minimum expected standards as prescribed herein. Corrective action shall also be exercised when a State employee fails to comply with agency policy, procedure and/or management directives. Each appointing authority shall:

A. establish and adhere to fair and objective procedures for correcting or treating unacceptable conduct and performance in accordance with the guidelines herein; and

B. distinguish between less serious and more serious actions of misconduct and provide disciplinary action accordingly and consistently.

9.1 SCHEDULE OF OFFENSES AND AUTHORIZED DISCIPLINARY ACTION

The appointing authority or designated representative shall administer discipline in an equitable and consistent manner. The schedule of offenses and disciplinary actions below shall be adhered

to in administering discipline to all employees subject to these policies, rules, and regulations. The appointing authority may add to this schedule of offenses and disciplinary action to reflect the particular mission and work environment of the agency. Any schedule of offenses and disciplinary actions added by the agency shall apply only to that agency and shall be submitted to the MSPB for approval prior to implementation. The approved schedule of offenses and disciplinary actions shall be published and a copy provided to each employee upon implementation.

A. Group One Offenses

Generally these offenses are less severe and may be disciplined by written reprimand. The accumulation of three Group One written reprimands within a three month period may result in suspension without pay not to exceed three working days. Accumulation of four Group One written reprimands within a six month period may result in demotion or dismissal. Multiple reprimands may not be issued for the same occurrence or event. State employees facing disciplinary action for accumulating written reprimands are entitled to due process prior to being suspended, demoted or dismissed.

Group One includes the following offenses:

1. unexcused tardiness;
2. abuse of State time such as unauthorized time away from work area or failure to notify supervisor promptly upon completion of assigned work;
3. obscene or abusive language;
4. conviction of a moving traffic violation, excluding driving under the influence, while operating a State vehicle.

B. Group Two Offenses

Acts and behavior in this group are generally more severe than Group One offenses. Group Two offenses may be disciplined by written reprimand and/or suspension without pay not to exceed five working days. Accumulation of two Group Two written reprimands within a one year period may result in demotion or dismissal. Accumulation of one written reprimand for a Group Two offense and three written reprimands for Group One offenses within a one year period may result in demotion or dismissal. Multiple reprimands may not be issued for the same occurrence or event. State employees facing disciplinary action for accumulating written reprimands are entitled to due process prior to being suspended, demoted, or dismissed.

Group Two includes the following offenses:

1. insubordination, including, but not limited to, resisting management directives through actions and/or verbal exchange, and/or failure or refusal to follow supervisor's instruction, perform assigned work, or otherwise comply with applicable established written policy;
2. violation of safety rules in the absence of a threat to life;
3. failure to report to work without giving required notice to supervisor;
4. leaving the work site without permission during working hours in the absence of a threat to life;

C. Group Three Offenses

Acts and behavior in this group are of the most serious nature. Commission of one Group Three offense may be disciplined by the agency with a written reprimand and/or may result in suspension without pay up to thirty working days, demotion, or dismissal.

Group Three includes the following offenses:

1. unauthorized absence or leave in excess of three consecutive working days without required notification and satisfactory explanation to the supervisor or the appointing authority in a timely manner;
2. use or possession of alcohol while on the job or on the employer’s premises or reporting to work under the influence of alcohol, or when ability is impaired by alcohol.
3. the unlawful manufacture, distribution, possession, or use of controlled substances while on the job or on the employer’s premises or reporting to work under the influence of controlled substances, or when ability is impaired by the unlawful use of controlled substances.
4. falsification of records, such as, but not limited to, vouchers, reports, time records, leave records, employment applications, or other official State documents;
5. willful or negligent defacement of or damage to the records or property of the State, another employee, or business invitee of a State agency or office;
6. acts of physical violence,

7. violation of safety rules causing a threat to life or human safety;
8. unauthorized possession or use of firearms, dangerous weapons or explosives;
9. threatening or coercing employees, supervisors, or business invitees of a State agency or office, including stalking;
10. unauthorized use or misuse of State property or records;
11. an act or acts of conduct, including, but not limited to the arrest or conviction for a felony or misdemeanor, occurring on or off the job which are plainly related to job performance and are of such nature that to continue the employee in the assigned position could constitute negligence in regard to the agency's duties to the public or to other State employees;
12. engaging in prohibited political activity;
13. leaving the work site without permission causing a threat to life or human safety;
14. theft on the job;
15. a breach of agency security or confidentiality;
16. willful violation of Mississippi State Personnel Board policies, rules and regulations, including, but not limited to refusing to cooperate and/or giving a false Statement in an investigation of possible violation of Mississippi State Personnel Board policies, rules and regulations;
17. operation of a state-owned motor vehicle without a valid driver's license from the State of Mississippi or a contiguous state;
18. the failure of any appointing authority or supervisor of any employee to properly deduct an employee's donation of leave to another employee for a catastrophic injury or illness, from the donor employee's earned personal leave or major medical leave.

9.2 FORMS OF DISCIPLINE

The appointing authority or designated representative shall take action to formally discipline an employee who is guilty of an offense. All forms of discipline are grievable and/or appealable. The employee shall be given an opportunity for a conference (due process hearing) with the appointing authority or designated representative and to respond prior to any suspension, demotion or termination. When a conference has been held prior to an employee being issued a

written reprimand, the affected employee may appeal directly to the Employee Appeals Board without exhausting the grievance procedure.

In extraordinary circumstances, the employee may be placed on immediate suspension with pay pending a hearing on the matter.

The appointing authority or a designated representative may attempt to correct unacceptable behavior with a verbal warning and/or counseling and/or other appropriate informal means, whenever practical, prior to taking formal action against an employee.

9.2.1 Documentation of Corrective and Disciplinary Actions

A. When the appointing authority or designated representative has taken corrective action preliminary to a formal disciplinary action, a written account of such action may be placed in the employee's personnel file. Formal disciplinary actions include written reprimand, suspension, demotion, and dismissal.

B. When an employee has been issued a written reprimand, a copy of the reprimand shall be placed in his or her personnel file. All written reprimands must clearly State that it is a written reprimand and state the specific conduct of the employee and the particular offense violated. The written reprimand must also inform the employee of their right to grieve the reprimand in accordance with the MSPB grievance procedure.

C. Documentation of corrective actions, disciplinary measures, and written reprimands may be kept indefinitely in the employee's personnel file for the purpose of showing a pattern of employee conduct.

D. Before any written documentation of corrective action or disciplinary measure is placed in an employee's personnel file, the employee shall be given:

   1. a copy of the material to be placed in his or her file; and

   2. written notice that the material will be placed in his or her personnel file.

   The appointing authority will keep a copy of the notice, which will contain either the employee's acknowledgment that he or she has received the material and the notice, or a Statement signed by the person who delivered the material and the notice that the employee refused to sign such an acknowledgment.

E. The appointing authority will determine what job-related information will be included in each employee's personnel file. However, the inclusion of any information which may adversely affect a permanent State Service employee's compensation or employment is a grievable and appealable issue.

9.2.2 Suspension

The appointing authority may suspend an employee without pay or other compensation as punishment for disciplinary cause. An agency may not suspend an employee without pay as punishment for disciplinary cause for more than thirty workdays during any twelve month period. The twelve month period shall begin with the first day of the suspension.

In extraordinary circumstances, the appointing authority or designated representative may immediately suspend an employee with pay. Such employee must be given an opportunity for a hearing with the appointing authority or designated representative within twenty working days of the suspension, at which time the appointing authority may make a final decision. Further, where the employee has been charged with a felony, the appointing authority or designated representative may suspend an employee without pay pending a post suspension hearing to be held within twenty working days from the first day of suspension. This period of suspension without pay pending a post suspension hearing shall not be considered as punishment for disciplinary cause.

9.2.3 Disciplinary Demotion

A permanent State Service status employee may be demoted from a position in one class to a position in a lower class having a lower salary range and having less discretion or responsibility only for cause. The demotion may be in addition to a suspension without pay for disciplinary cause. The salary will be certified in accordance with policies and rules regarding demotion.

9.2.4 Dismissal

A State employee may be dismissed or his or her employment terminated voluntarily or involuntarily. Voluntary severance of employment occurs when a State employee submits his or her resignation of employment. An involuntary severance of State employment can occur based upon a Reduction in Force, disciplinary action, failure of the employee to continue to meet the eligibility criteria for the position held or an inability to perform the essential functions of the job.

The appointing authority may dismiss a permanent State Service status employee only for good cause. A probationary employee may be dismissed by the appointing authority at any time during the probationary period, with or without cause.

9.3 DUE PROCESS

All permanent State Service employees, i.e., all State government employees who have successfully served twelve months in State-Service designated positions, are entitled to procedural due process of law prior to any employment action to dismiss or otherwise adversely

affect their compensation or employment status. The process which is due to each State Service employee is written notice of a proposed disciplinary action which States with sufficient particularity what charges or allegations are being made concerning the employee, the proposed discipline which may be taken, and the opportunity for a conference with the appointing authority or designated representative allowing the employee to respond and present a defense to the allegations prior to final action by the appointing authority. The written notice shall be presented to the employee at least ten working days prior to the conference. The employee may also respond in writing to the allegations contained in the written notice.

PRIOR TO DISCIPLINARY ACTION BY APPOINTING AUTHORITY:

DUE PROCESS = WRITTEN NOTICE + OPPORTUNITY TO RESPOND

Below are the elements of due process afforded to State Service employees:

A. The written notice presented to an employee prior to a conference must list all of the reason(s) for the appointing authority's consideration of the adverse action, and the written notice of the appointing authority's final decision to take adverse action must restate all of the reason(s) for the action. The reason(s) listed in these notices shall be specific by setting forth the particular group offense(s) violated and the charge(s) or ground(s) upon which the disciplinary action is predicated. The reason(s) listed in these notices will be the only reason(s) to be addressed throughout the appeals process.

B. In extraordinary circumstances an employee may be suspended immediately with pay. Such employee must be given an opportunity for a hearing with the appointing authority or designated representative within twenty working days of the suspension, at which time the appointing authority may make a final decision. Further, where the employee has been charged with a felony, the appointing authority or designated representative may suspend an employee without pay pending a post suspension hearing to be held within twenty working days from the first day of suspension. This period of suspension without pay pending a post suspension hearing shall not be considered as punishment for disciplinary cause.

   Extraordinary circumstances means a situation in which, based on the judgment of the appointing authority or designated representative, retention of an employee could reasonably result in damage to State property, be detrimental to the interests of the State or result in injury to the employee, to a fellow employee, or to the general public, including inmates, patients, and residents of institutions.

C. If the employee waives a hearing, the appointing authority or designated representative may make a final decision after the waiver. The waiver of the hearing shall be determined by an employee's written Statement of waiver or by the employee's failure to

respond in writing or appear at the conference with the appointing authority or designated representative by a pre-established date and time. The appointing authority shall notify the employee of its decision within a reasonable period of time after the hearing.

CHAPTER 10 – GRIEVANCES AND APPEALS

10.1 WHO MAY FILE A GRIEVANCE

A permanent State Service employee may file a grievance on those issues listed below, through the grievance procedure.

A probationary employee in a State Service position, or a non-State Service employee in, or applicant for, an authorized employment position in an agency which employs State Service employees may grieve only alleged acts of discrimination based on race, color, religious creed, national origin, sex, age, disability or political affiliation in any personnel action or employment practice.

10.2 GRIEVABLE ISSUES

The following issues are grievable under the State Service grievance procedure:

A. written reprimands;

B. application of personnel policies, procedures, rules, regulations and statutes;

C. acts of reprisal against an employee for using the grievance procedure;

D. complaints of discrimination on the basis of race, color, creed, sex, religion, national origin, age, disability, or political affiliation;

E. any matter of concern or dissatisfaction to an employee if the matter is subject to the control of agency management, except those listed in the following section as non-grievable;

F. performance review ratings to the extent they affect an employee's employment status or compensation;

G. permanent relocation of an employee as a disciplinary measure, and/or where the employee can present substantive evidence that the management decision to relocate the employee was arbitrary or capricious;

H. dismissal or adverse action taken against an employee who reports an alleged improper governmental action to a State investigative body, as defined Mississippi Code Annotated § 25-9-171 (2009).

10.3 NON-GRIEVABLE ISSUES

The following are non-grievable issues under the State Service grievance procedure:

A. issues which are pending or have been concluded by direct appeal through administrative or judicial procedures;

B. temporary work assignments which do not exceed ninety calendar days;

C. budget and organizational structure, including the number or assignment of employees or positions in any organizational unit;

D. duties/performance standards established as criteria for performance review;

E. the selection of an individual by the appointing authority, department head, or designee to fill a position through promotion, transfer, demotion, or appointment unless it is alleged that selection is in violation of a written agency policy or of a Mississippi State Personnel Board rule on filling vacancies;

F. internal security practices established by the appointing authority, department head, or designee;

G. termination or layoff from duties because of shortage of funds or work, material change in duties or organization, or a merger of agencies;

H. any matter which is not within the jurisdiction or control of the appointing authority;

I. the content of published agency policy;

J. an action by an agency pursuant to federal or State law, directives from the Governor's office, or court order;

K. establishment and revision of the compensation plan, and the policies, procedures, rules and regulations pertaining thereto;

L. position classifications;

M. employee benefits.

10.4 GENERAL INFORMATION

When a conference (due process hearing) has been held prior to an employee being issued a written reprimand, the affected employee may appeal directly to the Employee Appeals Board without exhausting the grievance procedure.

If the employee does not present the grievance within the specified time frame, it is considered waived. If the employee does not advance the grievance to the next step within the specified time frame, the last management decision stands.

If management does not react within the specified time frame, the employee may advance the grievance to the next level unless an extension of time to respond is granted to management by written mutual agreement.

All time limits may be extended by mutual written agreement.

It is the responsibility of the aggrieved employee's supervisor and agency human resources director to make certain that all grievances are handled as quickly as possible and without prejudice.

10.5 GRIEVANCE PROCEDURAL STEPS

10.5.1 Step I

A. An employee who has a grievable complaint may submit in writing (on MSPB Form 1010-81) a description of the grievance with all other required information to his or her immediate supervisor within seven working days of becoming aware of the cause of the complaint.

B. The supervisor is required to conduct an investigation of the grievance and meet with the aggrieved employee within three working days after receipt of the grievance form.

C. The supervisor is required to give the employee a written response within three working days after the meeting.

D. The human resources director or designee may assist in the filing of the grievance or answer any questions the employee may have in connection with filing the grievance.

10.5.2 Step II

A. If not satisfied with the Step I written decision, the employee may indicate (on the same MSPB Form 1010-81) the desire to have the grievance advanced to the next step. The grievance must be submitted to the next level of management within three working days following receipt of the Step I supervisor's response.

B. The Step II supervisor is required to conduct an investigation of the grievance and meet with the aggrieved employee within three working days after receipt of the grievance form.

C. The Step II supervisor is required to give the employee a written response within three working days after the meeting.

10.5.3 Step III

A. If the second step written response is not acceptable to the employee, the employee should specify (on the same MSPB form 1010-81) the desire to advance the grievance to the third step and forward the grievance to the next level of management within three working days after receipt of the Step II response.

B. The Step III supervisor is required to conduct an investigation of the grievance and meet with the aggrieved employee within five working days after receipt of the grievance form.

C. The Step III supervisor is required to give the employee a written response within five working days of the meeting.

10.5.4 Step IV

A. If the third step does not resolve the grievance, the employee should use the same form (MSPB Form 1010-81) to advance the grievance to the fourth step and forward the grievance to the agency head within three working days after receipt of the Step III response.

B. Agencies with no Step III level of management would handle the responsibilities of Step IV after Step II procedures have been exhausted and the Step II supervisor would be required to follow the procedures of Step III(C) in issuance of the requisite written response.

C. The Step IV supervisor or designated representative is required to review the grievance and relevant information and meet with the employee within seven working days after receipt of the grievance form.

D. The Step IV supervisor or designated representative is required to give the employee the final agency decision concerning the grievance within seven working days after the meeting.

10.5.5 Special Procedure for Claims of Harassment or Discrimination

If the employee's grievance is a complaint of unlawful discrimination or harassment and the source of the alleged discrimination or harassment is in the employee's chain of command, the employee may skip the source of the alleged discrimination or harassment's level of management by proceeding to the next step in the process and filing the grievance directly with the harassing supervisor's supervisor. If the alleged source of the harassment is the employee's agency head, then the employee may contact the MSPB Executive Director for assistance and

may be advised to file an appeal directly with the Employee Appeals Board without exhausting agency level remedies.

10.5.6 Time Limit

If a grievance is not presented within the time limit as set forth above, it will be considered waived. If a grievance is not advanced to the next step within the specified time limit or an agreed extension thereof, it will be considered settled on the basis of the supervisor's, appointing authority's, or designee's last answer. If the supervisor, appointing authority, or designee does not answer the grievance within the specified time limit, the employee may elect to treat the relief requested as denied at that step and immediately appeal the grievance to the next step. Time limits on each step may be extended by mutual written agreement of the parties involved.

10.6 AMERICANS WITH DISABILITIES ACT GRIEVANCE PROCEDURE

A. Any applicant for an employment position or employee who has reason to believe that they have been unlawfully discriminated against by a State agency on the basis of disability may file a grievance in accordance with this separate Grievance Procedure. Implementation of this separate Americans with Disabilities Act Grievance Procedure is not intended to prohibit an applicant or State employee from utilizing the existing grievance procedures. Grievants are not required to exhaust this separate ADA Grievance Procedure prior to filing a complaint with an applicable federal agency.

B. The ADA Grievance Procedure begins with the individual who is filing the grievance preparing and submitting a written Statement. The Statement should contain the name, address, and telephone number of the individual or their authorized representative filing the complaint; a brief and specific description of the situation, incident, or condition being grieved and reasons therefore; identity of the grievant; identity of witnesses, if any; the remedy the individual is seeking; and the signature of the individual filing the grievance properly dated by this individual.

C. The grievance should be submitted to the human resources director or ADA coordinator of the agency where the alleged discrimination occurred within seven work days the grievant became aware of the cause of the complaint.

D. The agency's human resources director, ADA coordinator, or a designee will have three working days to provide to the grievant a written acknowledgment of the grievance.

E. The agency human resources director, ADA coordinator, or a designee will promptly conduct a review of the issues involved in the grievance. If a resolution of the grievance is mutually agreeable by the parties involved, the agency human resources director or ADA coordinator will facilitate arrangement of the resolution and make a

record of this agreement. If no resolution is possible, the human resources director, ADA coordinator, or a designee will provide a written response to the grievant outlining all of the relevant issues concerning the grievance. This response shall be approved by the agency head or appointing authority and must be completed no later than fifteen working days from the agency's receipt of the grievance.

F. If a grievance is not presented within the time lines as set forth herein above, it will be considered waived absent an extension by written mutual consent. If the human resources director, ADA coordinator, or designee does not answer or acknowledge receipt of the grievance within the specified time lines, the grievant may elect to treat the grievance as denied at that point and immediately appeal the grievance to the Mississippi Employee Appeals Board unless an extension of time is granted to the human resources director, ADA coordinator, or designee to respond by written mutual agreement.

10.7 APPEALS

The purpose of the Employee Appeals Board is to provide a fair and impartial forum beyond the agency level for a full hearing on employee grievances and/or disciplinary action.

10.7.1 Notice of Appellants' Rights

Each agency shall give notice to all applicants and employees of their rights regarding appeals and shall make available copies of the administrative rules of the Employee Appeals Board.

10.7.2 Who May Appeal; Actions Which May Be Appealed

A. A permanent State Service employee may appeal any action adversely affecting his or her compensation or employment status after exhausting applicable agency grievance procedures.

B. A permanent State Service employee may appeal any grievable action and/or a disciplinary action.

C. No person may appeal a non-grievable action. (See Section 10.3.)

D. A permanent State Service employee, probationary employee in a State Service position, or non-State Service employee in, or applicant for, an authorized employment position in an agency which employs State Service employees, may appeal alleged acts of discrimination based on race, color, religion, national origin, sex, age, disability, or political affiliation in any personnel action or unlawful employment practice.

E. A permanent State Service employee, probationary employee in a State Service position, or non-State Service employee in, or applicant for, an authorized employment position in an agency which employs State Service employees, may appeal alleged acts of retaliation based upon the employee or applicant's reports of alleged improper government action to a State investigative body.

F. An employee may appeal the decision that he or she is not eligible to receive donated leave because the injury or illness of the employee or member of the employee's immediate family is not, in the appointing authority's determination, a catastrophic injury or illness.

10.7.3 Exhaustion of Remedies

A. No person may file an appeal with the EAB until all applicable agency-level grievance procedures have been exhausted in accordance with Mississippi State Personnel Board policies, rules and regulations.

B. Except as authorized under federal law, no aggrieved party may file a petition for judicial review with a court of competent jurisdiction until a final written decision and order on a full board review has been filed by the EAB.

10.7.4 Perfection of Appeal by Timely Filing

A. All appeals to the EAB shall be initiated by filing a written Notice of Appeal. Notice of Appeal forms shall be made available by the EAB to all State agencies and employees.

B. A Notice of Appeal must be filed within fifteen calendar days after the date a person receives written notice of the final decision of an alleged grievable action or within fifteen calendar days of the first attempted delivery date by certified mail, return receipt requested.

C. A non-refundable fee of one hundred dollars ($100.00) In the form of a cashier's check, bona fide attorney's check, or money order made payable to the "Mississippi Employee Appeals Board" shall be filed by the appealing party with each Notice of Appeal. Cash or personal checks will not be accepted.

10.7.5 Content of Notice of Appeal

A. The Notice of Appeal shall contain:

1. The names and mailing addresses of all parties and, if known, the names and mailing addresses of their attorneys, if any;

2. If applicable, the appealing party's (i) employing agency, (ii) assigned work station (town, city, county) and organizational location (office, bureau, division, branch) within employing agency, (iii) immediate supervisor, (iv) job title, (v) date of hire, and (vi) date of termination;

3. A Statement, in sufficient detail, of the facts upon which the appeal is taken, including the effective date of any alleged grievable action, and why such action is in error;

4. A Statement of the final action taken and/or decision made as a result of the agency-level grievance proceedings, including the effective date of such final action;

5. A Statement of the relief requested.

B. The Notice of Appeal shall be accompanied by copies of all documents related to the appeal in the possession of the employee. Such documents, when applicable, shall include, but not be limited to, performance review documents, correspondence between the appealing party and the responding agency, written reprimands, grievance forms, pre-disciplinary notice, and final disciplinary notice.

10.7.6 Jurisdiction

When an appeal is filed, the Employee Appeals Board shall determine whether or not it has jurisdiction. If not, the board shall on its own motion dismiss same and mail or deliver a copy of the order of dismissal to all parties.

10.7.7 Parties

Unless the Notice of Appeal names some other respondent, the appealing party's employing state agency shall be considered the only respondent.

10.7.8 Filing of Pleadings and Other Documents; Copies to Be Made Available

A. When an appeal is filed, the Employee Appeals Board shall assign it a docket number.

B. All pleadings and other documents filed in the appeal shall be entered on a docket to be maintained by the Employee Appeals Board. The board shall make a notation of the filing date on all such pleadings and other documents. Pleadings and documents may be transmitted by facsimile equipment in situations the clerk determines are of an emergency nature or that present compelling circumstances.

C. Copies, including certified copies, of pleadings and other documents filed in the appeal shall be made available to either party at a reasonable fee.

D. Copies of any and all pleadings, briefs and requests filed by any party to an appeal must be served on every other party or his or her attorney and a Certificate of Service pursuant thereto must be filed with the Employee Appeals Board by the filing party.

E. All pleadings, briefs, and requests filed by any party to an appeal must be signed by such party or his or her attorney and must specify the assigned docket number.

10.7.9 Notice to Responding Agency of Filing of Appeal

When an appeal is filed, the Employee Appeals Board shall deliver a copy of the Notice of Appeal to the responding party, or parties, named therein which shall be official notice of same.

10.7.10 Consolidation of Appeals

When two (2) or more pending appeals involve a common question of law or fact, the Employee Appeals Board may on its own motion order that the appeals be consolidated.

10.7.11 Assignment of Hearing Officer; Setting of Hearing

A. When an appeal is filed, the Employee Appeals Board shall assign a Hearing Officer and set a date, time and place for the hearing.

B. When, in the opinion of the Chief Hearing Officer, the issues and circumstances of an appeal warrant that the hearing be conducted before the full board instead of a single Hearing Officer, he or she may issue an order or notice to that effect. A copy of such order or notice shall b mailed or delivered to all parties.

C. A Notice of Hearing shall be sent via Certified U.S. Mail, Return Receipt Requested, to each party or attorney. After receipt of such notice, each party shall acknowledge such receipt by completing and returning an Acknowledgement of Receipt of Notice of Hearing form provided with the Notice of Hearing.

D. No hearing shall be set before thirty (30) calendar days have elapsed after the filing date of the Notice of Appeal.

E. Continuances will not be considered within ten (10) calendar days prior to the hearing for any reason less than good cause, serious illness, or death.

10.7.12 Continuances; Rescheduling of Hearings; Cancellations

A. Continuances or cancellations requested by either party shall be granted within the discretion of the Employee Appeals Board only for good cause. The Employee Appeals Board may assess a reasonable fee against the party requesting the continuance or cancellation, including court reporter fees.

B. When a continuance or cancellation is granted to a party whose request is made less than ten (10) calendar days before the hearing date, the Employee Appeals Board may award reasonable costs incurred in connection with the continuance to any other party.

C. After the Employee Appeals Board has granted the continuance, the moving party shall be responsible for contacting the opposing party and the Hearing Officer in order that they may work out a suitable date for the hearing. When the hearing date has been confirmed, the moving party shall contact the Employee Appeals Board office so they may employ a court reporter and reserve a courtroom.

D. A written Motion and proposed Order, including the new date and time of the hearing must be prepared by the moving party. The original order should be submitted to the Hearing Officer for signature, and the original Motion and copy of the Order should be forwarded to the Employee Appeals Board office.

E. When a continuance is granted or a hearing is rescheduled or relocated for any reason, each party shall be responsible for notifying their witnesses of the date, time, and location of the hearing.

10.7.13 Motions

An application to the Employee Appeals Board for an order shall be by written motion. Motions by any party shall be considered by the Employee Appeals Board under the following conditions:

A. Motions and responses to motions shall be filed in writing unless made during a hearing.

B. Motions shall state with particularity the grounds therefore and shall set forth the relief or order sought.

C. Any motion heard prior to the merits shall be the responsibility of the moving party. The moving party shall be responsible for contacting the opposing party, the Hearing Officer and the Employee Appeals Board to arrange for a date and time for a telephone conference or a hearing on a motion unless by its nature no hearing is required. After the hearing is arranged, the moving party shall confirm the arrangements in writing to the Employee Appeals Board and all other parties.

D. A hearing on a motion may be conducted by telephone conference at the expense of the moving party.

E. The Employee Appeals Board may, in its discretion, limit the time for filing motions in any appeal.

F. The Employee Appeals Board shall issue orders on motions in an expeditious manner.

10.7.14 Witnesses

A. Each party, no later than ten (10) calendar days prior to the hearing date, shall file with the Employee Appeals Board a list of witnesses such party will call to testify at the hearing. The list shall contain for each witness:

   1. Name;

   2. Employer;

   3. Street address of employer; and

   4. Brief summary of testimony to be given.

B. The issuance of subpoenas to compel the attendance of witnesses shall be governed by Section 10.7.14.

C. Notification of witnesses in case of a continuance or rescheduling of a hearing shall be governed by Section 10.7.11.E.

10.7.15 Subpoenas

A. The Employee Appeals Board shall have the authority to issue subpoenas in connection with a hearing.

B. To compel the attendance of a witness, or witnesses, any party to an appeal may file with the Employee Appeals Board a written Request for Issuance of Subpoenas. Each request shall contain for each witness:

   1. Name;

   2. Street address where the witness may be readily found for service of the subpoena (If the only available address is a route number or box number, the party requesting the subpoena must provide complete and accurate directions for locating the witness.); and

3. Brief statement supporting the relevance and materiality of the testimony of the witness to the appeal.

C. To compel the production of documentary evidence, any party to an appeal may file with the Employee Appeals Board a written Request for Issuance of Subpoena Duces Tecum. Each request shall specify:

1. Name of person who is to produce such documentary evidence;

2. Street address where such person may be readily found for service of the subpoena (If the only available address is a route number or box number, the party requesting the subpoena must provide complete and accurate directions for locating the witness.); and

3. Brief statement supporting the relevancy and materiality of the documentary evidence to the appeal.

D. Each request must be filed no later than twenty (20) calendar days prior to the hearing date to ensure timely service. Requests for subpoenas must be served on every other party or his/her attorney. A party shall be given at least ten (10) calendar days to produce documentary evidence pursuant to a subpoena.

E. A subpoena may be served by a sheriff, or by his deputy, or by any other person, who is not a party and is not less than 18 years of age, and his return endorsed thereon shall be prima facie proof of service, or the person served may acknowledge service in writing on the subpoena.

F. If a subpoena is to be served by the sheriff, a fee of thirty-five dollars ($35.00) for each person to be subpoenaed shall accompany the request. The fee shall be in the form of a cashier's check, bona fide attorney's check, or money order made payable the sheriff of the county where the person to be subpoenaed may be found. In the event that additional subpoenas are required at the same address, a fee of one dollar ($1.00) each shall accompany these requests. The request for subpoenas should specify whether the prepared subpoenas are to be forwarded to the sheriff’s office, or returned to the requesting party.

In case of the failure of any person to comply with any subpoena issued by the Board, the requesting party may invoke the aid of any court of this state of general jurisdiction. The court may thereupon order such person to comply with the requirements of the subpoena. Failure to obey the order of the court may be punished by the court as contempt thereof.

G. Notification of witnesses in case of a continuance or rescheduling of a hearing shall be governed by Section 10.7.11.E.

10.7.16 Failure to Appear at Hearing

A. If an appealing party, without good cause, fails to appear at the hearing, such failure may be considered as a withdrawal of the appeal, and the presiding Hearing Officer may dismiss the appeal.

B. If any party fails to appear at the hearing, the Employee Appeals Board may order that such party reimburse the opposing party, or parties, reasonable costs incurred.

10.7.17 Conduct of Hearing

A. A hearing before the Employee Appeals Board shall be *de novo*, and the appealing party shall be afforded all applicable safeguards of procedural due process.

B. The Employee Appeals Board shall have the authority to administer oaths and affirmations.

C. Each party may only be represented by himself or an attorney licensed to practice law in the State of Mississippi.

D. The responding agency may have a representative, in addition to its attorney, remain in the hearing room during the entire course of the hearing, even though the representative may testify. The appealing party may remain in the hearing room throughout the hearing.

E. The presiding Hearing Officer may clear the hearing room of witnesses not under examination.

F. The presiding Hearing Officer shall have the authority to maintain the decorum of the hearing and shall take reasonable steps to do so when necessary, including clearing the hearing room of any person who is disruptive.

10.7.18 Evidence

A. Hearings shall be informal, and technical rules of evidence shall be relaxed.

B. All witnesses shall testify under oath and shall be subject to cross-examination.

C. The presiding Hearing Officer shall have the authority to admit into the record any evidence, which, in his or her judgment, has a reasonable degree of probative value and trustworthiness. The presiding Hearing Officer shall have the authority to exclude evidence which is irrelevant, immaterial, lacking in probative value, untrustworthy, or unduly cumulative.

D. In the appeal of formal disciplinary action, the presiding Hearing Officer shall hear or receive evidence on only those reasons and allegations contained in the responding agency's final disciplinary notice to the employee of such action.

E. Documents received into evidence by the presiding Hearing Officer shall be marked by him or her, or under his or her direction, and filed for the record of the appeal.

F. Rebuttal and surrebuttal evidence may be heard in the discretion of the presiding Hearing Officer.

G. Summations of the evidence and the law may be heard in the discretion of the presiding Hearing Officer.

10.7.19 Preservation of Record of Hearing; Transcription of Record of Hearing

A. In order to preserve the record of the hearing, the Employee Appeals Board shall engage and/or contract with a court reporter to make a stenographic and/or electronic recording thereof. The responding agency, or agencies, shall be assessed a reasonable fee to defray the cost of recording the hearing.

B. It shall be the responsibility of any party desiring to have the recording of the hearing transcribed to:

   1. Arrange, on his or her own initiative, for the court reporter to transcribe the recording of the hearing; and

   2. Pay all fees and expenses for such transcription directly to the court reporter.

C. It shall be the responsibility of any party desiring a copy of the transcript of the hearing to obtain the copy directly from, and pay any fees and expenses involved directly to, the court reporter.

D. Either party that desires to file a transcript of the hearing for the record shall file an original, a copy, and a diskette. Either party may file a written request to check out the transcript for review.

10.7.20 Employee Appeals Board Copy Fees

Regular copies.....$1.00 per page

Orders from Minute Books.....$5.00 minimum

10.7.21 Order of Proof; Burden of Proof

A. At the hearing of an appeal concerning formal disciplinary action, the party administering disciplinary action shall be the first to present all of the evidence on its case in chief. The employee upon whom discipline is sought to be administered shall follow the other party in presenting same. In the event there is a question concerning which party should proceed first, the matter should be heard as directed by the Hearing Officer in his sole and exclusive discretion.

B. The appealing party shall have the burden of proving that the action taken against the employee is arbitrary or capricious, not supported by any substantial evidence or in violation of some statutory or constitutional right and merits the relief requested.

C. An appealing party, who is a permanent state service employee and who has by written notice been dismissed or otherwise adversely affected as to his or her compensation or employment status, shall be required to furnish evidence that the reasons stated in the notice of such action are not true or are not sufficient grounds for the action taken.

10.7.22 Order to be Filed upon Completion of Hearing

Upon conclusion of the appeal hearing, and after all evidence has been presented, the presiding Hearing Officer, within a reasonable time thereafter, shall prepare and file a written decision and order there from. A copy of such decision and order shall be sent by the Board, via Certified U.S. Mail, Return Receipt Requested, to each party or attorney.

10.7.23 Compliance with Order

All parties shall promptly comply with all orders of the Employee Appeals Board, unless a timely appeal of the decision has been filed by the employer.

10.7.24 Relief to be Granted

A. The Employee Appeals Board may reinstate a prevailing party into employment with his or her responding agency and restore all his or her employee rights and benefits including back pay, medical leave, and personal leave. The Board may also restore

retirement benefits provided the integrity of such benefits remains uncompromised in accordance with all applicable laws, policies, rules, and regulations.

B. The Employee Appeals Board may modify an action of a responding agency but may not increase the severity of such action on the appealing party. If the responding agency has acted in accordance with the published policies, rules and regulations of the State Personnel Board, and if the personnel action taken by the responding agency is allowed under said policies, rules and regulations, the Employee Appeals Board shall not alter the action taken by the agency, including, but not limited to, the compensation paid to the employee.

10.7.25 Bill of Exceptions

A. In connection with the hearing of an appeal, any party aggrieved by any matter that does not appear on the record may file a sworn Bill of Exceptions to preserve such matter for appellate review. A Bill of Exceptions must set forth the specific facts upon which prejudice is claimed.

B. Any opposing party may file a sworn statement that the Bill of Exceptions is not correct. Such statement must set forth the specific facts on which error is claimed.

C. The presiding Hearing Officer shall review the Bill of Exceptions and the response filed by the opposing party and if the Bill of Exceptions is determined to be true by the Hearing Officer, he shall sign it.

D. A Bill of Exceptions and any statement in response there to shall be made a part of the record of the appeal.

E. A Bill of Exceptions must be filed no later than five (5) calendar days after the filing date of the final order in connection with the hearing. A statement in response to a Bill of Exceptions must be filed no later than ten (10) calendar days after the filing date of the Bill of Exceptions.

10.7.26 Review by the Full Board

A. Any party aggrieved by the final written decision and order of a presiding Hearing Officer entered on the hearing of an appeal may file a written Request for Review by Full Board.

B. The request must be filed within fifteen (15) calendar days after the date the final order is filed.

C. Any party may file an original transcription of the recording of the hearing, pursuant to Section 10.40.19, to be considered by the full board on review. Such transcription must be filed within thirty (30) calendar days after the filing date of the request for review.

D. Any party may file a written brief to be considered by the full board on review. Such brief must be filed within thirty (30) calendar days after the filing date of the transcript. These are not response briefs; briefs are to be filed simultaneously by due date.

E. The full board shall base its review on:

   1. The pleadings;

   2. Any documentary evidence received and filed for record at the hearing by the presiding Hearing Officer;

   3. The original transcription of the hearing, if filed; and

   4. Briefs of the parties, if filed.

F. The full board shall issue a final written decision and order on the review within a reasonable time after the final date for filing all documents to be considered on review.

10.7.27 Judicial Review

Any party aggrieved by a final written decision and order of the Employee Appeals Board may appeal such order in the manner provided by applicable laws and statutes.

10.7.28 Pleadings and Briefs

In connection with the hearing of an appeal, pleadings and briefs, which the parties may file, shall be limited as follows:

A. The appealing party may file, in addition to a Notice of Appeal, a brief on any issues of law in connection with the appeal. The brief must be filed no later than twenty (20) calendar days before the hearing date.

B. Any responding party may file an Answer to Notice of Appeal and/or a brief on any issues of law in connection with the appeal. The answer and brief must be filed no later than ten (10) calendar days before the hearing date.

10.7.29 Assessment of Fees and Costs

The Employee Appeals Board shall have the authority to establish reasonable fees and assess reasonable costs of conducting appeals.

10.7.30 Computation of Time

In computing any period of time prescribed or allowed under these rules, the Employee Appeals Board shall be guided by the Mississippi Rules of Civil Procedure.

10.7.31 Judicial Conduct

A. The Hearing Officers of the Employee Appeals Board shall be guided by and subject to the canons of ethics of judicial conduct of the Mississippi State Bar.

B. No Hearing Officer shall be removed from office during his or her term except by a finding of misfeasance, malfeasance, or nonfeasance in office.

10.7.32 Amendment of Rules; Validity of Rules; Enforcement of Rules

A. The Mississippi State Personnel Board may amend these rules or promulgate new rules.

B. If any one or more of these rules is found to be invalid by any court of competent jurisdiction, such finding shall not affect the validity of any other of these rules.

C. The Employee Appeals Board shall have the authority, duty, and responsibility to abide by and enforce these rules.