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 Annotated § 25-9-127 provides for a Reduction-in-Force policy.

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 MSPB 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 MSPB for approval sixty calendar days before the MSPB will act upon a reduction in force request. Further, a reduction in force shall be effective no earlier than sixty calendar days from the MSPB approval date.

Upon emergency request by an agency, the MSPB may waive the sixty day calendar requirement to allow an agency to request approval to implement a reduction-in-force pursuant to the Expedited Implementation Procedure outlined in subsection (B) under circumstances otherwise not qualifying for such a procedure. 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. Expedited Implementation Procedure

During periods of severe shortfalls of state revenue, an appointing authority may request approval on an expedited basis to implement a reduction-in-force. Before implementing a reduction-in-force, the agency must provide a written explanation or justification to the MSPB for the reduction-in-force because of a shortage of funds to the agency. The agency also must submit a proposed organization chart and a proposed staffing plan to the MSPB for approval, in the form required by the MSPB, at least ten (10) calendar days before the MSPB will act on a reduction-in-force request. If an agency requests expedited consideration of its request in compliance with this procedure, the MSPB will review such a request and make its determination regarding the request within ten (10) calendar days after receipt of the required proposed organization chart and proposed staffing plan. A reduction-in-force approved by the MSPB pursuant to this subsection will be effective no earlier than ten (10) calendar days after the date of approval by the MSPB.

~~B.~~C. 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 MSPB 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 MSPB 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 MSPB 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 MSPB for purpose of establishing a record. Afterward, Section E herein is applied.

~~C.~~D. 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.~~E. 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 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 of a point is credited to employees with service equal to fifteen days in the month. No credit is given for service of less than fifteen days of the month.

2. Performance Appraisal - Each agency shall use the three most recent performance appraisal ratings in the last three 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 performance ratings shall be added together and divided by three to obtain an average Adjusted Appraisal Score (AAS). The resulting average score should be rounded to the hundredth decimal place.

    ii. If an employee has received less than three performance evaluations, then the employee receives a presumptive "Meets Expectations" for each missing evaluation. An appraisal rating rendered more than three 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 point, and disabled veterans shall be awarded two points.

EXAMPLE FOR COMPUTATION OF TOTAL RETENTION POINTS:
Employee A profile:

(1) Continuous state service of 5 years - Employee A would receive five retention points based on seniority. (Refer to D.1. above.)

(2) Employee A's performance appraisal ratings are 2.3, 2.4, and 2.7 - The *average* Adjusted Appraisal Score would be 2.4666 and would therefore be rounded up to 2.47. (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 7.47:

[Seniority (5) + AAS (2.47) + Veteran's Preference (0).]

~~E.~~F. 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 reduction-in-force. The written notification shall cite the reasons for the layoff. The appointing authority and the MSPB shall attempt to place affected employees in other positions for which they are qualified. (See Chapter 4 of this manual.)

~~F.~~G. 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 that a 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 year following the reduction-in-force.

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