TABLE OF CONTENTS

CHAPTER 1 – WELCOME TO STATE GOVERNMENT 1

1.1 INTRODUCTION 1

1.2 STATEMENT OF EQUAL OPPORTUNITY EMPLOYMENT 1

1.3 THE STATEWIDE PERSONNEL SYSTEM 1

The Mississippi State Personnel Board 2
MSPB Executive Director 2
Personnel Advisory Council 2
Employee Appeals Board 3
Personal Service Contract Review Board 3

CHAPTER 2 – STATE EMPLOYMENT STATUS 1

2.1 STATE SERVICE EMPLOYMENT 1

2.2 NON-STATE SERVICE EMPLOYMENT 1

2.3 NOTIFICATION OF STATUS FOR NON-STATE SERVICE EMPLOYMENT 1

2.4 PROBATIONARY PERIOD AND TERMINATION AT WILL 1

2.5 PROMOTIONAL OPPORTUNITIES FOR PROBATIONARY EMPLOYEES 2

2.6 GRIEVANCE AND APPEAL RIGHTS 2

2.7 TRANSFER 2

CHAPTER 3 – HOLIDAYS AND LEAVE 1

3.1 HOLIDAYS 1

3.2 LEAVE 2

Transfer of Leave Between State Agencies 2
Personal Leave 2
Major Medical Leave 3
Compensatory Leave 5
Administrative Leave 6
Accumulated Leave Upon Retirement 6
Leave Record Keeping 7
Donated Leave for Catastrophic Injury or Illness 7
Family and Medical Leave Act Leave 9
Leave of Absence 15
Leave Without Pay 15
Use of Leave During Pregnancy 15
Military Leave 16
Educational Leave 16
Mississippi Living Organ Donor Leave 17

3.3 INFLUENZA PANDEMIC POLICY 17

CHAPTER 4 – EMPLOYEE BENEFITS 1
4.1 DEFERRED COMPENSATION PLAN 1
4.2 WORKERS' COMPENSATION 1
4.3 TRAVEL AND EXPENSES 2
4.4 SOCIAL SECURITY 2
4.5 RETIREMENT 2
Contributions 3
Vesting Period 3
Retirement Eligibility 3
4.6 INSURANCE 3
4.7 CAFETERIA PLAN 4
4.8 STATE CREDIT UNIONS 4
4.9 UNEMPLOYMENT COMPENSATION 4

CHAPTER 5 – STANDARDS OF EMPLOYEE CONDUCT 1
5.1 EMPLOYEE WORK SCHEDULES 1
5.2 ATTENDANCE 1
5.3 DILIGENCE DURING WORK PERIOD 1
5.4 WORK PERFORMANCE 1
5.5 RESIGNATION 2
5.6 WORKPLACE HARASSMENT 2
5.7 CONFLICT OF INTEREST 2
5.8 POLITICAL ACTIVITY 3
Political Contributions and Services 3
Use of Official Authority or Influence to Coerce Political Action 3
Fair Treatment of Applicants and Employees 3
Freedom From Political Coercion 3
Informing Employees of Political Activities Laws 3
Violation of Provisions 3
Grievance and Appeals 3
Prohibited Political Activity 3
5.9 WORKPLACE VIOLENCE 5
5.10 DRUG-FREE WORK PLACE ACT OF 1988 5
5.11 DRUG AND ALCOHOL TESTING 5
5.12 EMPLOYEE USE OF STATE PROPERTY 6
Wireless Communication Devices and Electronic Communications 6
Storage of Information 6
Expectation of Privacy 6

Right to Search 7
Personal Property 7
5.13 DISCOURAGED RELATIONSHIPS 7
5.14 OUTSIDE EMPLOYMENT 8
5.15 SOCIAL MEDIA 8

CHAPTER 6 – PERFORMANCE REVIEW SYSTEM 1

CHAPTER 7 – DISCIPLINE, CORRECTIVE ACTION AND SEPARATION OF EMPLOYMENT 1
7.1 SCHEDULE OF OFFENSES AND AUTHORIZED DISCIPLINARY ACTION 1
Group One Offenses 2
Group Two Offenses 2
Group Three Offenses 3
7.2 FORMS OF DISCIPLINE 4
Documentation of Corrective and Disciplinary Actions 5
Suspension 5
Disciplinary Demotion 6
Dismissal 6
7.3 DUE PROCESS 6

CHAPTER 8 – GRIEVANCES AND APPEALS 1
8.1 WHO MAY FILE A GRIEVANCE 1
8.2 GRIEVABLE ISSUES 1
8.3 NON-GRIEVABLE ISSUES 1
8.4 GENERAL INFORMATION 2
8.5 GRIEVANCE PROCEDURAL STEPS 3
Step I 3
Step II 3
Step III 3
Special Procedure for Claims of Harassment or Discrimination 4
Time Limit 4
8.6 AMERICANS WITH DISABILITIES ACT GRIEVANCE PROCEDURE 4

CHAPTER 9 – APPEALS 1
9.1 NOTICE OF APPELLANTS' RIGHTS 1
9.2 WHO MAY APPEAL; ACTIONS WHICH MAY BE APPEALED 1
9.3 EXHAUSTION OF REMEDIES 1
9.4 PERFECTION OF APPEAL BY TIMELY FILING 2

9.5 RULES OF THE EMPLOYEE APPEALS BOARD 2

APPENDICES 1

GRIEVANCE FORM 1

ADA GRIEVANCE FORM..... 3

NOTICE OF APPEAL BEFORE THE MISSISSIPPI EMPLOYEE APPEALS BOARD..... 5

CHAPTER 1 – WELCOME TO STATE GOVERNMENT

1.1 INTRODUCTION

This Handbook is designed to serve as a general guide for State employees under the purview of the Mississippi State Personnel Board. It is not intended to take the place of the ***Mississippi State Personnel Board Policy and Procedures Manual*** or other official documents from which information contained herein has been obtained. **In the case of a discrepancy between this Handbook and the *Mississippi State Personnel Board Policy and Procedures Manual* or other official documents, the manual or the official document shall be the final authority.** The information contained in this Handbook is not intended to and does not grant to any State employee any additional rights or privileges of employment not otherwise expressly provided in State or Federal law. The rules of the Mississippi State Personnel Board are periodically revised. A complete set of these rules, as amended, is available (for the employee's reference and inspection) in each agency personnel office. The ***Mississippi State Employee Handbook*** is available through each agency's personnel office as well as on the Mississippi State Personnel Board website at http://www.mspb.ms.gov.

All previous editions of the ***Mississippi State Employee Handbook***, published by the Mississippi State Personnel Board, are hereby canceled and superseded.

Each agency makes personnel decisions within the context of Legislative intent and the rules promulgated by the Mississippi State Personnel Board and may have specific rules and regulations, which govern employment within the agency. These rules may vary between agencies.

1.2 STATEMENT OF EQUAL OPPORTUNITY EMPLOYMENT

The State of Mississippi is an equal opportunity employer and assures equal employment opportunities to all persons regardless of political affiliation, race, color, handicap, genetic information, religion, national origin, sex, religious creed, age, or disability. 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.

Equal employment opportunity does not guarantee an employee any rights not otherwise provided by law.

1.3 THE STATEWIDE PERSONNEL SYSTEM

In 1980, the Mississippi State Legislature created the Statewide Personnel System, which governs the establishment of employment positions, classification of positions, employment conduct, movement and separation of employees and provides a system of personnel management for State government. The Legislature also created the Mississippi State Personnel

Board (hereinafter referred to as "MSPB") as the governing authority to administer the Statewide Personnel System. In 1981, the Legislature further established the "Colonel Guy Groff State Variable Compensation Plan" or the VCP and authorized MSPB to implement the plan and review the plan annually. Mississippi Code Annotated § 25-9-147.

The Mississippi State Personnel Board

MSPB is composed of five members appointed by the Governor with the advice and consent of the Senate. One Board member is appointed from each of the three Supreme Court Districts, and two members are appointed from the State at large. Each Board member serves a five-year term, with the terms staggered such that one member's appointment expires at the end of each fiscal year. In addition to the Board members, the Lieutenant Governor may designate two Senators and the Speaker of the House may designate two Representatives to attend Board meetings, acting in the capacity of advisors, but with no vote on any matter within the jurisdiction of the Board. Mississippi Code Annotated § 25-9-109.

Duties of the Mississippi State Personnel Board

The duties of MSPB are two-fold: (1) to support State government by providing a system of personnel management that enhances efficiency and effectiveness with regard to the use of personnel resources and (2) to provide the Executive and Legislative branches data necessary for budgetary and planning purposes. MSPB has a strong and continuing commitment to equal employment opportunity, employee development, performance review, uniform administration of leave benefits, open communication, and equitable and adequate compensation. The framework of personnel management provided by MSPB is designed to be fair to all, based on state-of-art theory and practice, and in compliance with Federal and State laws and regulations. Mississippi Code Annotated §§ 25-9-101, *et seq*.

MSPB Executive Director

The Board sets the general policies by which its assigned duties and responsibilities may be accomplished and has tasked its Executive Director with the daily administration of the system. His or her role is "to administer the operations of the State Personnel System and to otherwise act in the capacity of chief executive officer to the Mississippi State Personnel Board." Mississippi Code Annotated § 25-9-119.

Personnel Advisory Council

The Personnel Advisory Council is composed of personnel directors of five major State agencies. These members, appointed by and serving a term concurrent with that of the Governor, advise MSPB in the development of comprehensive policies, programs, rules and regulations that will improve public employment in the State. The Council also assists in the promotion of public understanding of the purposes, policies and practices of the Statewide Personnel System. Mississippi Code Annotated § 25-9-117.

Employee Appeals Board

The Employee Appeals Board (hereinafter referred to as "EAB") consists of three hearing officers appointed from each of the Supreme Court Districts by MSPB for the purpose of holding hearings, reviewing evidence and rendering decisions on appeals of State agency action adversely affecting the employment status or compensation of any employee in State Service or any applicant, probationary State Service employee, permanent State Service employee or Non-State Service employee who claims that he or she has been discriminated against because of political affiliation, race, color, handicap, genetic information, religion, national origin, sex, religious creed, age, or disability in any personnel employment practice. Mississippi Code Annotated § 25-9-129.

Personal Service Contract Review Board

The Personal Service Contract Review Board (hereinafter referred to as "PSCRB") was created by the State Legislature to promulgate rules and regulations governing the solicitation and selection of contractual services personnel. The PSCRB is composed of the MSPB Executive Director; two individuals appointed by the Governor with the advice and consent of the Senate; two individuals appointed by the Lieutenant Governor with the advice and consent of the Senate; and the Executive Director of the Department of Finance and Administration, serving as an ex officio member. The MSPB Executive Director serves as Chair of the PSCRB. MSPB provides support staff for the PSCRB, but the PSCRB functions independently of MSPB. The ***PSCRB Personal Service Contract Procurement Regulations*** contain rules and regulations governing personal service contracts. The PSCRB is also required by State law to approve all personal and professional contracts, which involve expenditure of funds in excess of seventy-five thousand dollars ($75,000.00). Mississippi Code Annotated § 25-9-120(3).

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CHAPTER 2 – STATE EMPLOYMENT STATUS

2.1 STATE SERVICE EMPLOYMENT

MSPB identifies employees of State agencies as either State Service employees or Non-State Service employees. The Legislature has defined by statute those employees that are considered Non-State Service employees. *See* Mississippi Code Annotated § 25-9-107(c). Employees of State departments, agencies and institutions who are not listed within that statute are defined as State Service employees.

State Service employees fall under the purview of MSPB rules and regulations. However, a State Service employee does not enjoy a property right to his or her job until he or she has successfully completed at least a twelve-month probationary period and has attained permanent State Service status. Once an employee achieves State Service status, he or she retains that status upon transfer (intra- and inter-agency), promotion, demotion, reallocation, or reclassification as long as he or she remains in a State Service position and does not have a break in service. A break in service is defined as either (1) lump sum payment for accrued personal leave, (2) failure to return upon expiration of a leave of absence, (3) lapse of one eight hour work day between employment with the original State Service status agency and the new State Service status agency, or (4) retirement.

2.2 NON-STATE SERVICE EMPLOYMENT

Non-State Service employees cannot attain permanent State Service status while employed in a Non-State Service position. A Non-State Service employee has no property right to his or her job and may be terminated with or without cause and without due process by his or her employer. MSPB has salary setting authority for several categories of Non-State Service employees. In addition, MSPB has the authority to set minimum qualifications for Non-State Service positions such as time-limited and part-time employees as well as verify the statutory qualifications of certain physicians, dentists, veterinarians, nurse practitioners, and attorneys.

2.3 NOTIFICATION OF STATUS FOR NON-STATE SERVICE EMPLOYMENT

Each applicant, including State Service employees who have attained permanent status, shall be given written notice, prior to his or her 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 the Non-State Service position.

2.4 PROBATIONARY PERIOD AND TERMINATION AT WILL

Every employee, upon original entry into a State Service status position, must successfully serve a twelve-month probationary period before that employee is granted permanent State Service status. During the probationary period, the employee's work and conduct are carefully observed. During this twelve-month probationary period, the employee does not have a property right to his or her job and may be terminated with or without cause and without due process by the employer.

2.5 PROMOTIONAL OPPORTUNITIES FOR PROBATIONARY EMPLOYEES

After an employee has served the first six months of the twelve month probationary period, the employee may apply for promotional opportunities and, if found eligible, be referred to State agencies with a vacancy on a promotional/referred list of eligible applicants. If the employee transfers to another State Service status position in the same agency or in a different State Service status agency, the employee shall continue to serve the remainder of the twelve-month probationary period without penalty, provided there is no break in service.

2.6 GRIEVANCE AND APPEAL RIGHTS

A permanent State Service employee may file a grievance on any grievable action and an appeal to the Employee Appeals Board.

A probationary State Service employee or a Non-State Service employee in, or applicant for, an authorized employment position in an agency which employs State Service employees may grieve and appeal only alleged acts of discrimination in any personnel action or employment practice based on political affiliation, race, color, handicap, genetic information, religion, national origin, sex, religious creed, age, or disability.

State law specifically prohibits any and all retaliatory acts or statements against persons who utilize their grievance and appeal rights.

2.7 TRANSFER

Employees may transfer from an employment position in one agency to a vacant employment position in another agency. The transfer of a permanent State Service employee into another State Service position at another agency is accomplished through the use of an Referred List, except in the case of a demotional transfer or a lateral transfer into the same job class currently occupied by the employee. Employees may transfer through a lateral transfer into a position with the same salary range, a promotional transfer into a position with a higher salary range or a demotional transfer into a position with a lower salary range.

CHAPTER 3 – HOLIDAYS AND LEAVE

Although MSPB 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. Agency Human Resources Offices, payroll offices or immediate supervisors may provide employees with information regarding procedures unique to a specific agency.

3.1 HOLIDAYS

State employees receive regular pay for ten legal holidays and for any other day proclaimed as a holiday by the Governor of the State of Mississippi 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.

The State of Mississippi observes the following legal holidays:

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	National Memorial Day and Jefferson Davis' Birthday
July 4	Independence Day
The First Monday of September	Labor Day
November 11	Armistice or Veterans' Day
A day fixed by proclamation by the Governor of Mississippi as a day of Thanksgiving, which shall be fixed to correspond to the date proclaimed by the United States President	Thanksgiving Day
December 25	Christmas Day

In the event any of these holidays fall on a 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 will 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.

3.2 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 military leave as provided by statute. The appointing authority cannot increase the amount of personal leave or Major Medical 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.

Transfer of Leave Between State Agencies

Both major medical and personal leave earned by employees are 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 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.

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
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. There is no limit to the accumulation of personal leave. Upon termination of employment, each employee may be paid for not more than thirty days of accumulated personal leave. Unused personal leave in excess of thirty days and all unused Major Medical Leave will be counted as creditable service for the purposes of the retirement system.

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 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, 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.

A state law enforcement officer who is injured by wound or accident in the line of duty is not required to use earned personal leave during the period of recovery from such injury.

For the purpose of computing credit for personal leave, each appointed officer or employee is considered to work no more than five days each week. For purposes of calculating the leave accrual rate for employees, leaves of absence granted by the appointing authority for one 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.

Source: Mississippi Code Annotated § 25-3-93.

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. 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, 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. 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 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 use of personal or compensatory leave will be required prior to the use of Major Medical Leave for this purpose. The immediate family is defined as only a 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 or stood in loco parentis.

An employee may use up to six weeks of earned major medical leave for the placement with the employee of a child for adoption or foster care and to care for the newly placed child within one year of placement.

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 in the Family and Medical Leave Act Leave Section herein.

A state law enforcement officer who is injured by wound or accident in the line of duty is not required to use earned major medical leave during the period of recovery from such injury.

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.

Source: Mississippi Code Annotated § 25-3-95.

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").

FLSA Compensatory Leave

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 non-exempt employee may continue to accrue compensatory time. The limit of earned compensatory time under the FLSA for most non-exempt 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 state compensatory time. Further, the appointing authority may require a non-exempt 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, as stated above.

State Compensatory Leave:

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 will 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.

Upon termination of employment, an employee may not be paid for accumulated state compensatory leave. Should an employee retire having accumulated state 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 state compensatory leave in the event of an employee's death.

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.

- 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.

- 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. Any employee on a previously approved leave shall be eligible for such administrative leave granted by the Governor or appointing authority, and shall not be charged for his or her previously approved leave.

- 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.

Accumulated Leave Upon 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 as follows:

Conversion of Accumulated Unused Uncompensated Leave			
Combined Personal and Sick Leave	**Credit Equivalent**	**Combined Personal and Sick Leave**	**Credit Equivalent**
15 to 77 days	.25 year	393 to 455 days	1.75 years
78 to 140 days	.50 year	456 to 518 days	2.00 years
141 to 203 days	.75 year	519 to 581 days	2.25 years
204 to 266 days	1.00 year	582 to 644 days	2.50 years
267 to 329 days	1.25 years	645 to 707 days	2.75 years
330 to 392 days	1.50 years	708 to 770 days	3.00 years

Contact the agency Human Resources Office, payroll officer and/or PERS (http://www.pers.ms.gov) for answers to specific questions regarding the crediting of unused leave.

Leave Record Keeping

All State agencies whose payroll is processed through SPAHRS offer the same leave record reporting method. Time and leave record reporting should be entered into SPAHRS in a timely manner to ensure that records accurately reflect the State's liabilities and obligations. 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.

Donated Leave for Catastrophic Injury or Illness

"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, step-parent, 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:

- 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.

- 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.

- 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.

- 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.

- 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.

- 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 in this subsection.

- 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.

- 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.

- 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 MSPB. Any person found to have violated this paragraph will be subject

to removal from office or termination of employment.

- No employee can donate leave after tendering notice of separation for any reason or after termination of his or her employment.
- 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.
- 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 twelvemonth period from the date on which the leave is donated.
- Donated leave may not be used in lieu of disability retirement.
- 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.

Family and Medical Leave Act Leave

In keeping with the requirements of the Family and 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 1,250 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.

➢ ***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 fifteen days to spend with a military member who is on short-term, temporary rest and recuperation leave; 7) attending post-deployment reintegration briefings; 8) parental care leave, when a military member's parent is incapable of self-care when the care is necessitated by the member's covered active duty; or 9) 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. Upon request, eligible employees must provide documentation to support any request for leave.

- Eligible employees may take up to twenty-six weeks of leave during a single twelve-month period to care for a "military member" who is the employee's spouse, son, daughter, parent or next of kin (nearest blood relative or designated as such). A military 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 was discharged or released under conditions other than dishonorable, 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, as set forth in the FMLA regulations. 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.

➢ ***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 (i.e., an overnight stay);
- 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 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 military member in the line of duty on covered active duty in the Armed Forces (or existed before the beginning of the service 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 service member medically unfit to perform the duties of the service 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 service 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 service member became a veteran, and is:

- A continuation of a serious injury or illness that was incurred or aggravated when the covered veteran was a member of the Armed Forces and rendered the service member medically unfit to perform the duties of the service member's office, grade, rank, or rating; or

- A physical or mental condition for which the covered veteran has received a U.S. Department of Veterans Affairs Service-Related Disability Rating (VASRD) of 50 percent or greater, and such VASRD rating is based, in whole or in part, on the condition precipitating the need for caregiver leave; or

- A physical or mental condition that substantially impairs the veteran's ability to secure or follow a substantially gainful occupation by reason of a disability or disabilities related to military service, or would do so absent treatment; or

- An injury, including a psychological injury, on the basis of which the covered veteran has been enrolled in the Department of Veterans Affairs Program of Comprehensive Assistance for Family Caregivers.

➢ ***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 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.

- ***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 any State 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 any State 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***

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. Medical certifications must be submitted on the appropriate form which may be obtained in the agency's human resources department. 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. 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 employee's 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.

- ***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.

- ***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 dependent coverage at its own expense and recoup payments from the employee upon the employee's return to active employment. Personal and medical leave benefits will not accrue during unpaid 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.

- ***Return from Leave***

Employees returning from FMLA leave will be restored to their prior positions 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 position 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.

- ***Unlawful Acts***

The FMLA makes it unlawful for any employer to interfere with, restrain, or deny the exercise of or the attempt to exercise 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.

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.

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.

Use of Leave During Pregnancy

Women affected by pregnancy, childbirth or related medical conditions will 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. All types of leave will be granted to pregnant women on the same terms as leave is granted to other employees. 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.

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.

Educational Leave

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.**

- ***Eligibility***

  - 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.

  - 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.

  - 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.

Mississippi Living Organ Donor Leave

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 local government entities 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:

- Up to thirty days (240 hours) of organ donor leave in any twelve month period to serve as a bone marrow donor;
- Up to thirty days (240 hours) of organ donor leave in any twelve month period to serve as an organ donor;
- Up to one hour to donate blood every fifty-six days; and
- 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.

3.3 INFLUENZA PANDEMIC POLICY

Preventing the Spread of the Flu in the Workplace

State employees are encouraged to cooperate in taking steps to reduce the transmission of both seasonal and novel strains of influenza in the workplace. The best strategy for reducing the transmission of the flu is frequent hand washing with warm, soapy water, covering mouths with tissues whenever you sneeze, discarding tissues used when sneezing. Agencies are also encouraged to install alcohol-based hand sanitizers throughout the workplace and in common areas.

Staying Home When Ill

Many times, with the best of intentions, employees report to work even though they feel ill. State employees are provided with paid medical leave to compensate employees who are unable to work due to illness. During flu season and/or an influenza pandemic, it is critical that employees do not report to work while they are ill and/or experiencing the following symptoms: fever, cough, sore throat, runny or stuffy nose, body aches, headache, chills and fatigue. A significant number of people who have been infected with this virus also have reported diarrhea and vomiting. Currently, the Centers for Disease Control and Prevention recommends that people with influenza-like illness remain at home until at least 24 hours after they are free of fever (100 degrees F or 37.8 degrees C) or signs of a fever without the use of fever-reducing medications. Employees who report to work ill will be sent home in accordance with these health guidelines. Employees who are sent home under this policy will be required to utilize leave in accordance with Section 3.2 Leave.

Reporting to Work When Not Ill

An influenza pandemic could result in a significant level of absenteeism. State employees may be unable to work if they become ill due to the virus while others may need to remain home to care for ill family members or simply to provide care for children during school closings. During this time, unless otherwise notified, attendance and leave policies will remain in place. Individuals who believe they may face particular challenges reporting to work during a severe influenza pandemic should take steps to develop any necessary contingency plans.

CHAPTER 4 – EMPLOYEE BENEFITS

4.1 DEFERRED COMPENSATION PLAN

Deferred Compensation is a supplemental, voluntary savings plan administered by the Public Employees' Retirement System Board of Trustees offering tax advantages to participants. Employees who choose to participate in this plan may set aside part of their salary each year. Income tax liability is postponed on that part of their salary until the year in which the employee actually receives the deferred amount. Interest and/or earnings also are tax deferred until withdrawal. Interested employees may contact their Human Resources Office, payroll office, or PERS.

4.2 WORKERS' COMPENSATION

Workers' compensation is administered by the Mississippi Workers' Compensation Commission, and all State employees are covered under the provisions of the Mississippi Workers' Compensation Law. The basic purpose of workers' compensation is to provide fixed benefits to employees in the event an employee is injured in the course of employment. An employee who is injured on the job is entitled to certain benefits at no cost to the employee, including compensation for reasonable and necessary medical expenses, partial compensation for income lost because of the injury or illness, retraining for new skills, if necessary, and certain other related benefits.

Workers' compensation is unavailable when an injury was caused by an employee's use of illegal drugs, abuse of prescription medication or intoxication due to the use of alcohol. An employee may be requested to submit to a drug and alcohol test if injured while at work.

Workers' compensation wage loss benefits are not payable for the first through the fifth days of disability unless the disability extends to fourteen days or more. The workers' compensation benefit is payable at 2/3 the average weekly wage or, in some cases, to a weekly maximum set by law.

Wage benefits are payable in addition to any accrued leave the employee may be entitled to use. It is the employee's responsibility to ensure that payment of accrued Personal Leave and/or Major Medical Leave and the receipt of workers' compensation benefits simultaneously do not result in the employee being paid a total amount that exceeds 100 percent of his wages earned in State employment at the time of injury.

A State employee who is absent due to a work-related injury for which the employee is receiving temporary disability benefits is limited in his or her use of accrued Personal Leave and/or Major Medical Leave and the receipt of workers' compensation benefits simultaneously if the combined receipt of both benefits results in the employee being paid a total amount that exceeds 100 percent of his wages earned in State employment at the time of injury.

It is the employee's responsibility to cooperate with the agency to determine if he or she has received excess wages and, if so, to notify the agency's Human Resources Office of how such excess wages should be recovered from the employee. Recovery could be:

- Through direct repayment (by endorsing the temporary disability benefit check over to the agency or remitting a personal check/money order);
- Through a payroll deduction;
- Through a payroll adjustment by which the Personal Leave and/or Major Medical Leave taken during the affected pay period is reclassified to Leave Without Pay; or
- By a combination of direct repayment, payroll deduction and/or reclassification of paid leave to Leave Without Pay.

Should the employee elect to be placed on Leave Without Pay rather than use accrued Personal Leave and/or Major Medical Leave, employment benefits (i.e., employer-paid life and/or health insurance, leave accrual, FICA and PERS contributions) may be adversely affected.

Any excess wages that are not remitted to the agency will be deemed to be a debt owed to the State of Mississippi and are subject to collection as allowed by Mississippi law.

Any injury or illness which is work related should be reported as soon as possible to the supervisor or agency's workers' compensation representative so that appropriate medical treatment can be arranged and a report of the injury can be sent to the Workers' Compensation Commission. Timely reporting also ensures that any wage loss benefits, which are due, will be paid without undue delay. For assistance in the event of injury or for questions concerning workers' compensation, contact the agency Human Resources Office or the agency's workers' compensation representative.

4.3 TRAVEL AND EXPENSES

If a State employee is required to travel in the performance of an official duty, reasonable expenses will be paid by the State. Prior approval may be required for travel reimbursement. Employees should request information regarding their agency's travel reimbursement policy from their human resources director. Rules and regulations governing official travel are established by the Department of Finance and Administration.

4.4 SOCIAL SECURITY

Every employee of the State of Mississippi is required to participate in the federal Social Security program. For further information you may call Social Security at 1-800-772-1213.

4.5 RETIREMENT

Employees and officials of the State become members of the Public Employees' Retirement System as a condition of employment. PERS participation and coverage is provided to employees in positions requiring employees to work and receive compensation for **not** less than twenty hours per week OR **not** less than eighty hours per month. Participation is restricted to employees whose wages are subject to payroll taxes and are reported on IRS Form W-2.

When a State employee is first employed, the agency will furnish the employee with a member information form to establish a membership account. The employee's social security number will serve as a membership number. A fiscal year membership statement will be sent to the employee

each year containing information regarding contributions paid into PERS. Additional information is contained in the ***PERS Member Handbook*** which the agency will provide. You may also contact PERS by calling 1-800-444-7377 or (601) 359-3589 or visit the website at http://www.pers.ms.gov.

Contributions

An employee's monthly contribution is equal to a percentage of the employee's Gross Reportable Earnings, and this amount is refundable. The employer's monthly contribution of a percentage of the employee's Gross Reported Earnings is not refundable.

Vesting Period

If an employee was employed by the State of Mississippi at any point prior to July 1, 2007, the employee may receive monthly benefits once the employee becomes eligible for retirement after the employee contributes to the retirement system for at least four years. For those employees first employed by the State of Mississippi after July 1, 2007, the employee must contribute to the retirement system for eight years prior to being able to receive monthly benefits upon eligibility for retirement.

Retirement Eligibility

Any employee hired before June 30, 2011, with twenty-five years of participation in PERS, is eligible to retire and draw monthly benefits at any age. Any employee hired on July 1, 2011 or later, with thirty years of participation in PERS is eligible for retirement and benefits at any age. Alternatively, employees with less than twenty-five years of participation in the retirement system who became members of the retirement system before July 1, 2007 and have at least four years of membership in the system are eligible to retire at age sixty and receive a retirement allowance. Employees who became members of the retirement system after July 1, 2007 and have at least eight years of membership in the system are eligible to retire at age sixty and receive a retirement allowance.

4.6 INSURANCE

As a benefit to its employees, the State of Mississippi provides a life and health insurance plan to assist its employees with the cost of such insurance. The State and School Employees' Life and Health Insurance Plan (hereinafter referred to as "the Plan") provides State employees and their dependents with many options for health and life insurance coverage. All new employees are provided with a Summary Plan Description (hereinafter referred to as "SPD") that describes in more detail the Plan's benefits, eligibility and how to use the Plan. New SPDs are sent to enrolled employees every year when changes occur in the Plan. Also, all enrolled employees receive the ***Health Plan Update***, a newsletter that is distributed throughout the year to give more information about Plan benefits.

All new employees must enroll in the Plan or waive coverage. Enrollment in the Plan is effective on an employee's first day of employment; however, an employee must complete his or her enrollment paperwork within thirty-one days of his or her hire date. Additionally, there is an

annual Open Enrollment period for coverage effective the following plan year.

Depending on the employee's specific employment status, the State of Mississippi pays some portion of the health insurance premium and life insurance premium for the employee. The Plan also allows employees to cover their dependents under the Plan by paying the premiums for their dependents through payroll deductions. Eligible dependents include a lawful spouse, as well as the enrollee's child up to age 26. Dependent children who meet eligibility requirements at the time of enrollment may remain covered regardless of age if permanently physically disabled or mentally disabled, are incapable of self-sustaining employment, and depend upon the enrollee for 50% or more of their support. The disabling condition must have occurred prior to the dependent's 26th birthday.

For additional information, you may contact your Human Resources Office, the Department of Finance and Administration's ("DFA") Office of Insurance, or visit the DFA website at http://www.dfa.state.ms.us.

4.7 CAFETERIA PLAN

An employee of the State of Mississippi may choose to participate in a Section 125 plan, also known as a "Cafeteria Plan." A Cafeteria Plan allows employees' payments for health, life, dental and vision care, prescription drugs, disability contributions, and deposits to flexible spending accounts to be deducted pre-tax from an employee's earnings.

Please contact your agency Human Resources Office or payroll office for information on how to participate in your agency's Cafeteria Plan.

4.8 STATE CREDIT UNIONS

All State employees are eligible to join the Public Employees' Credit Union as well as applicable agency specific credit unions. Credit Unions are non-profit financial organizations serving the savings and borrowing needs of members. Services such as financial counseling, money orders and free notarizing may also be provided. Credit Unions return all earnings exceeding operating expenses to its members in the form of dividends, interest, reserves, and services. The Public Employees' Credit Union may be contacted at (601) 948-8191.

4.9 UNEMPLOYMENT COMPENSATION

If a State employee becomes separated from a job for reasons beyond the employee's control, that employee may be eligible for unemployment compensation. Inquiries may be directed to the Mississippi Department of Employment Security or visit the web site at http://www.mdes.ms.gov.

CHAPTER 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. The following guidelines should be followed by State employees:

5.1 EMPLOYEE WORK SCHEDULES

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.

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.

Each part-time employee will be provided a schedule of working hours.

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.

5.2 ATTENDANCE

Regular attendance is a basic condition of employment with the State of Mississippi and shall be considered among the essential elements for all permanent position classifications. 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.

5.3 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.

5.4 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.

5.5 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.

5.6 WORKPLACE HARASSMENT

Each appointing authority must provide a workplace free from harassment with regard to political affiliation, race, color, handicap, genetic information, religion, national origin, sex, religious creed, age, or disability. 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. Harassment not based upon a protected class is not workplace harassment under these policies.

The 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.

5.7 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.

5.8 POLITICAL ACTIVITY

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 removed 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 not to vote and from either discharging or threatening to discharge, changing the salary of, 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 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. Additional information about the Hatch Act can be found at http://www.osc.gov/Pages/HatchAct.aspx. An employee may obtain more information regarding the Hatch Act at http://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.

5.9 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.

5.10 DRUG-FREE WORK PLACE ACT OF 1988

The Drug-Free Workplace Act of 1988 requires grantees of federal agencies to certify that they will provide a drug-free workplace. State agencies which are federal grantees must comply fully with the provisions of this law.

5.11 DRUG AND ALCOHOL TESTING

State law governing drug and alcohol testing of employees and job applicants 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. If an agency chooses to implement a drug and alcohol testing policy, it must comply with State law. However, Mississippi's statutory law regarding drug and alcohol testing 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. Refusal to submit to a drug or alcohol test when requested to do so by an employer with a written drug and alcohol testing policy pursuant to statute is a Group III offense under the Schedule of Offenses and Authorized Disciplinary Action (§ 7.1).

5.12 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.

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.

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.

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.

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.

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.

5.13 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.

5.14 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" as previously defined herein.

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.

5.15 SOCIAL MEDIA

Social media includes, but is not limited to, personal websites, blogs, chat rooms and bulletin boards; social networks, such as Facebook, Flickr, Google Plus, LinkedIn, MySpace, Pinterest and Twitter; video sharing sites such as YouTube; and email.

Any personal social media sites used by State employees may not be represented as official State sites. State email addresses should not be used to register for personal social media. State employees should not pressure or coerce other employees to "friend" or otherwise connect with them via social media.

State employees are prohibited from sharing information or rumors that are false about the State, entities of the State, other employees or people working on behalf of the State. If information is shared related to employment with the State of Mississippi, it must be clear that the views expressed are a State employee's personal opinions alone and do not reflect the views of the State or any entities of the State. Any comments or posts may only express personal opinions and not those of the State, unless an employee is authorized to do so.

State employees must ensure that personal comments or postings are consistent with these policies. Comments, statements, photographs, video or audio that are discriminatory, harassing, threatening, or that demonstrate other unlawful conduct should not be made toward other State employees and clients or customers with legitimate business interests with the State of Mississippi. Some examples include, but are not limited to, messages that could contribute to a hostile work environment on the basis of political affiliation, race, color, handicap, genetic information, religion, national origin, sex, religious creed, age or disability, or any other status protected by law. The application of this policy should not be construed to infringe on any person's rights of expression which are guaranteed by law. However, violations of this policy are subject to disciplinary action as set forth in Chapter 7.

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CHAPTER 6 – PERFORMANCE REVIEW SYSTEM

Mississippi State law requires MSPB and the MSPB 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 1985 to~~ In 1985, the Legislature mandated that all agencies under MSPB's purview participate in ~~the~~ MSPB's performance review system.

In addition to providing a basis for awarding productivity funds, a performance review system serves a number of distinct purposes and functions: aligns, develops, and leverages the potential of each employee; allows managers to make effective decisions regarding workforce issues; and improves the quality and quantity of services. The performance of each employee whose position is under the salary setting authority of MSPB shall be reviewed at least annually.

Performance reviews will be administered in a fair manner without unlawful discrimination as to political affiliation, race, color, handicap, genetic information, religion, national origin, sex, religious creed, age, or disability.

6.1 SCOPE

The Performance Development System (hereinafter referred to as a "PDS") assesses an employee's performance at either the Outstanding (4.0) Performance Level, the Successful (3.0) Performance Level, the Improvement Needed (2.0) Performance Level, or the Not Demonstrated (1.0) Performance Level and provides employees with an Individual Development Plan (hereinafter referred to as an "IDP") that fosters performance growth and includes specific goals to be accomplished during the review period.

6.2 APPLICABILITY

Every employee whose position is under the salary setting authority of MSPB must have their job performance assessed at least once annually. Assessments should be based only on the employee's performance of his or her assigned duties compared against the competencies/ behavioral anchors for those duties. IDPs are a continuous process and should be in place for all employees.

6.3 DEFINITIONS

PERFORMANCE DEVELOPMENT SYSTEM (PDS): A system which assesses an employee's performance and provides employees with a plan that fosters individual employee development.

NOT DEMONSTRATED (1.0): Employee does not show competency.

IMPROVEMENT NEEDED (2.0): Employee shows frequent, but not consistent competency.

SUCCESSFUL (3.0): Employee consistently shows competency.

OUTSTANDING (4.0): Employee is above the level of expected competency.

INDIVIDUAL DEVELOPMENT PLAN (IDP): A written action plan, jointly developed by the employee and the reviewing supervisor, to foster individual performance growth.

REVIEW PERIOD: A time period of at least ninety days and not more than 365 days for which an employee's performance is reviewed.

FINAL ASSESSMENT: The last assessment of the review period which results in a determination of employee's overall performance.

VALID ASSESSMENT: An assessment completed as a result of an employee's job performance for at least ninety days and no more than 365 days.

PERFORMANCE IMPROVEMENT PLAN (PIP): A written action plan, jointly developed by the employee and the reviewing supervisor, to outline actions required to bring a final assessment to a Successful (3.0) Performance assessment level.

REVIEWING SUPERVISOR: The last person to have supervised the employee for a minimum of a ninety day period at the time the Final Assessment is due.

FIRST LEVEL REVIEWER: The Reviewing Supervisor's immediate supervisor.

SECOND LEVEL REVIEWER: The immediate supervisor of the First Level Reviewer.

6.4 PROCESS

6.4.1 The Beginning of the Review Period

During the first fourteen days of the Review Period, the Reviewing Supervisor and employee are to determine the job duties and competencies/behavioral anchors of the position and to identify what constitutes a Successful (3.0) Performance level.

The Reviewing Supervisor and the employee are also to determine specific competencies to be developed through completion of associated learning activities by creating the employee's IDP that will be utilized throughout the Review Period. Examples of learning activities contained in an employee's IDP include, but are not limited to, relevant classes to attend and books to read. Duties and competencies/behavioral anchors established as criteria for an employee's assessment are management decisions that are NOT subject to the grievance process set forth in Chapter 10 of the MSPB Policy and Procedures Manual.

6.4.2 Review Sessions

The purposes of the review sessions during the Review Period are:

A. To provide feedback to the employee concerning the overall assessment of performance during the Review Period.

B. To review and update duties and competencies/behavioral anchors 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.

D. To update the employee's IDP.

Review sessions may be held at any time. However, the Reviewing Supervisor must conduct a mid-point review session with the employee during the Review Period. The Reviewing Supervisor must give reasonable advance notice to the employee of the date and time for any review session.

6.4.3 Informal Efforts

When the result of the final assessment of an employee's overall job performance is determined to be at least Improvement is Needed (2.0) Performance level but lower than the Successful (3.0) Performance level, the Reviewing Supervisor must discuss with the employee specific action/steps to be taken by both the Reviewing Supervisor and the employee to improve performance. The Reviewing 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- and/or off-site training. At the agency's discretion, if 180 days into the new rating period the employee's performance is assessed as continuing in this range, the Reviewing Supervisor may initiate a formal Performance Improvement Plan (hereinafter referred to as a "PIP").

6.4.4 Performance Improvement Plan

A. Formal Performance Improvement Plan

When the result of the final assessment of an employee's overall job performance is determined to be at the Not Demonstrated (1.0) Performance Level but lower than the Improvement is Needed (2.0) Performance Level, the Reviewing Supervisor must initiate a PIP.

The employee's overall performance must be improved to the level of Successful (3.0) Performance by the end of a ninety day performance observation period following the initiation of a PIP. Failure by the employee to improve job performance to the level of Successful (3.0) Performance by the conclusion of the ninety day PIP period may constitute cause for dismissal, demotion, or transfer.

B. Improvement in Performance

At the conclusion of the ninety day PIP period and after a Final Assessment, if the employee's performance has improved to the Successful (3.0) Performance Level, the Reviewing Supervisor will begin a new Review Period as outlined in this Chapter.

C. Continued Not Demonstrated (1.0) and Improvement is Needed (2.0) Performance

At the conclusion of the ninety day PIP period and after a Final Assessment, if the employee's performance has not improved to the Successful (3.0) Performance Level, the Reviewing Supervisor must submit the recommended action to be taken as a result of the employee's failure to improve performance. Recommended actions may include the initiation of a second formal PIP, demotion, transfer, or termination.

6.4.5 The End of the Review Period

Within fourteen days prior to the end of the Review Period, a Final Assessment interview must be held. Refusal by the employee to sign the assessment form does not affect or negate the Final Assessment. An employee's refusal to sign the assessment form at the end of the Review Period acknowledging that the Final Assessment has been discussed with him or her may be, following a warning, considered an act of insubordination.

6.4.6 Grievance/Appeals Process

State service employees who disagree with an assessment (excluding the contents of duties and competencies/behavioral anchors) may seek review by appeal to the Employee Appeals Board after exhausting agency grievance procedures.

CHAPTER 7 – DISCIPLINE, CORRECTIVE ACTION AND SEPARATION OF EMPLOYMENT

State law provides that no employee of any department, agency or institution under the Statewide Personnel System who is subject to the policies and procedures prescribed by MSPB may be dismissed or have adverse action affecting their compensation or employment status taken against them 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 the policies and procedures promulgated by MSPB. This provision does not apply to persons separated from employment due to: 1) a curtailment of funds or a reduction in force approved by MSPB; 2) during the initial twelve (12) month probationary period in State Service; or 3) as an executive officer or other Non-State Service employee 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, MSPB requires that all State employees who are subject to the policies and procedures of MSPB 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:

- establish and adhere to fair and objective procedures for correcting or treating unacceptable conduct and performance in accordance with the guidelines herein; and
- distinguish between less serious and more serious actions of misconduct and provide disciplinary action accordingly and consistently.

7.1 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 and procedures. 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 offenses and disciplinary actions added by the agency shall apply only to that agency and shall be submitted to 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.

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. Accumulation of four (4) Group One written reprimands within a six (6) 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.

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 (5) working days. Accumulation of two (2) Group Two written 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. 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.

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 the agency with a written reprimand and/or may result in suspension without pay for 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 required notification and satisfactory explanation to the supervisor or the appointing authority in a timely manner;

2. chronic absenteeism which is defined as three (3) or more incidents of unauthorized absence without required notification and satisfactory explanation to the supervisor or the appointing authority in a timely manner within any ninety (90) day period;

3. 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;

4. 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;

5. refusal to take a drug or alcohol test when requested to do so by an employer with a written drug and alcohol testing policy pursuant to Mississippi Code Annotated, § 71-7-3.

6. falsification of records, such as, but not limited to, vouchers, reports, time records, leave records, employment applications, or other official State documents;

7. 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;

8. acts of physical violence;

9. violation of safety rules causing a threat to life or human safety;

10. unauthorized possession or use of firearms, dangerous weapons or explosives;

11. threatening or coercing employees, supervisors, or business invitees of a State agency or office, including stalking;

12. unauthorized use or misuse of State property or records;

13. 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;

14. 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;

15. engaging in prohibited political activity;

16. leaving the work site without permission causing a threat to life or human safety;

17. theft on the job;

18. a breach of agency security or confidentiality;

19. willful violation of MSPB policies and procedures, including, but not limited to: creating or participating in discrimination in the workplace or a hostile work environment; refusing to cooperate and/or giving a false statement in an investigation of possible violation of MSPB policies and procedures;

20. operation of a state-owned motor vehicle without a valid driver's license from the State of Mississippi or a contiguous state;

21. 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.

7.2 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.

Documentation of Corrective and Disciplinary Actions

1. 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.

2. When an employee has been issued a written reprimand, a copy of the reprimand must 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 committed. The written reprimand must also inform the employee of his/her right to grieve the reprimand in accordance with MSPB grievance procedure.

3. Documentation of corrective actions and disciplinary measures, including written reprimands, may be kept indefinitely in the employee's personnel file for the purpose of showing a pattern of employee conduct.

4. Before any written documentation of corrective action or disciplinary measure is placed in an employee's personnel file, the employee shall be given:

    a. a copy of the material to be placed in his or her file; and

    b. 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.

5. 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.

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 (30) work days during any twelve (12) month period. The twelve (12) month period shall begin with the first day of the first 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 (20) 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 (20) 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.

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 procedures regarding demotion.

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.

7.3 DUE PROCESS

All permanent State Service employees, (i.e., all State government employees who have successfully served twelve (12)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 seven (7) 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 conference 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. 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 conference to be held within twenty (20) working days from the first day of suspension. This period of suspension without pay pending a post suspension conference 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 conference, the appointing authority or designated representative may make a final decision after the waiver. The waiver of the conference 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 will notify the employee of his/her decision within a reasonable period of time after the conference.

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CHAPTER 8 – GRIEVANCES AND APPEALS

8.1 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 political affiliation, race, color, handicap, genetic information, religion, national origin, sex, religious creed, age, or disability in any personnel action or employment practice.

8.2 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 political affiliation, race, color, handicap, genetic information, religion, national origin, sex, religious creed, age, or disability;

E. any matter of concern or dissatisfaction to an employee if the matter is subject to the control of agency management and adversely affects an employee's employment status or compensation, 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; and

H. dismissal or adverse action taken against an employee who reports an alleged improper governmental action to a State investigative body as defined in Mississippi Code Annotated § 25-9-171.

8.3 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/competencies/behavioral anchors/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 MSPB 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; and

M. employee benefits.

8.4 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.

8.5 GRIEVANCE PROCEDURAL STEPS

Step I

1. An employee who has a grievable complaint may submit in writing (on the Grievance Form located at http://www.mspb.ms.gov and in Appendix A to this Handbook) a description of the grievance with all other required information to his or her immediate supervisor within seven (7) working days of becoming aware of the cause of the complaint.

2. The 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.

3. The supervisor is required to give the employee a written response within three (3) working days after the meeting.

4. 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

1. If not satisfied with the Step I written decision, the employee may indicate (on the same form) 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.

2. 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.

3. The Step II supervisor is required to give the employee a written response within three (3) working days after the meeting.

Step III

1. If the second step does not resolve the grievance, the employee should use the same form to advance the grievance to the third step and forward the grievance to the agency head within three (3) working days after receipt of the Step II response.

2. The Step III agency head or designated representative is required to review the grievance and relevant information and meet with the employee within seven (7) working days after receipt of the Grievance Form.

3. The Step III agency head or designated representative is required to give the employee the final agency decision concerning the grievance within seven (7) working days after the meeting.

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 discriminating or harassing supervisor's supervisor. If the alleged source of the discrimination or harassment is the employee's agency head, then the employee may contact the MSPB Executive Director in writing to request use of the special procedure and submit a completed Grievance Form. The employee may be advised to file an appeal directly with the Employee Appeals Board without exhausting agency level remedies. All deadlines as set forth in Section 8.5 must be met when using this special procedure.

Time Limit

If a grievance is not presented within the time limits 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.

8.6 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. A copy of the ADA Grievance Form can be found at http://www.mspb.ms.gov and in Appendix B of this Handbook. Implementation of this separate Americans with Disabilities Act (ADA) 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. (*See* Appendix B for a sample form.)

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) working days of when 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 (3) 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 (15)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.

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CHAPTER 9 – 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.

9.1 NOTICE OF APPELLANTS' RIGHTS

Each agency must give notice to all applicants and employees of their rights regarding appeals and must make available copies of the administrative rules of the Employee Appeals Board.

9.2 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.

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 or in an agency whose employees have been classified as non-State Service for a specified duration of time, may appeal alleged acts of discrimination based on political affiliation, race, color, handicap, genetic information, religion, national origin, sex, religious creed, age, or disability 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's 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.

9.3 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 MSPB policies and procedures.

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 has been filed by the Administrative Office of the EAB.

9.4 PERFECTION OF APPEAL BY TIMELY FILING

A. All appeals to the EAB shall be initiated by filing a written Notice of Appeal with the Administrative Office. Notice of Appeal forms will be made available by the Administrative Office to all State agencies and employees. (*See* Appendix C.)

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, whichever occurs first.

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" must be filed by the appealing party with each Notice of Appeal. Cash or personal checks will not be accepted.

1. **Content of Notice of Appeal**

The Notice of Appeal must contain:

a. the names and mailing addresses of all parties and, if known, the names and mailing addresses of their attorneys, if any;

b. 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;

c. 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;

d. 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; and,

e. a statement of the relief requested.

The Notice of Appeal must 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.

9.5 RULES OF THE EMPLOYEE APPEALS BOARD

A complete list of procedural rules for appeals to the Mississippi Employee Appeals Board can be obtained by contacting the EAB or by visiting the MSPB website at http://www.mspb.ms.gov.

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:	

STEP ONE: 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.

STEP TWO: 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.
STEP THREE: Agency Decision		
Signature		
Date		

MISSISSIPPI STATE PERSONNEL BOARD ADA GRIEVANCE FORM	
Agency	**Date**
Name	**Job Classification (if applicable)**
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):	
Date:	

Agency Acknowledgment:	
Signature of Individual Investigating Grievance:	
Date:	
Agency: **Title:**	

Left blank intentionally.

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 Employee Appeals Board, 210 East Capitol Street, Suite 800, 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 Employee Appeals Board must be filed by the Appealing Party with the Notice of Appeal. Cash or personal checks will not be accepted. See Mississippi Code Annotated §§ 25-9-101 through 25-9-151 and §§ 25-9-301 through 25-9-305.

TABLE OF CONTENTS

CHAPTER 1 – WELCOME TO STATE GOVERNMENT 1

1.1 INTRODUCTION 1

1.2 STATEMENT OF EQUAL OPPORTUNITY EMPLOYMENT 1

1.3 THE STATEWIDE PERSONNEL SYSTEM 1

The Mississippi State Personnel Board 2
MSPB Executive Director 2
Personnel Advisory Council 2
Employee Appeals Board 3
Personal Service Contract Review Board 3

CHAPTER 2 – STATE EMPLOYMENT STATUS 1

2.1 STATE SERVICE EMPLOYMENT 1

2.2 NON-STATE SERVICE EMPLOYMENT 1

2.3 NOTIFICATION OF STATUS FOR NON-STATE SERVICE EMPLOYMENT 1

2.4 PROBATIONARY PERIOD AND TERMINATION AT WILL 1

2.5 PROMOTIONAL OPPORTUNITIES FOR PROBATIONARY EMPLOYEES 2

2.6 GRIEVANCE AND APPEAL RIGHTS 2

2.7 TRANSFER 2

CHAPTER 3 – HOLIDAYS AND LEAVE 1

3.1 HOLIDAYS 1

3.2 LEAVE 2

Transfer of Leave Between State Agencies 2
Personal Leave 2
Major Medical Leave 3
Compensatory Leave 5
Administrative Leave 6
Accumulated Leave Upon Retirement 6
Leave Record Keeping 7
Donated Leave for Catastrophic Injury or Illness 7
Family and Medical Leave Act Leave 9
Leave of Absence 15
Leave Without Pay 15
Use of Leave During Pregnancy 15
Military Leave 16
Educational Leave 16
Mississippi Living Organ Donor Leave 17

3.3 INFLUENZA PANDEMIC POLICY 17

CHAPTER 4 – EMPLOYEE BENEFITS 1
4.1 DEFERRED COMPENSATION PLAN 1
4.2 WORKERS' COMPENSATION 1
4.3 TRAVEL AND EXPENSES 2
4.4 SOCIAL SECURITY 2
4.5 RETIREMENT 2
Contributions 3
Vesting Period 3
Retirement Eligibility 3
4.6 INSURANCE 3
4.7 CAFETERIA PLAN 4
4.8 STATE CREDIT UNIONS 4
4.9 UNEMPLOYMENT COMPENSATION 4

CHAPTER 5 – STANDARDS OF EMPLOYEE CONDUCT 1
5.1 EMPLOYEE WORK SCHEDULES 1
5.2 ATTENDANCE 1
5.3 DILIGENCE DURING WORK PERIOD 1
5.4 WORK PERFORMANCE 1
5.5 RESIGNATION 2
5.6 WORKPLACE HARASSMENT 2
5.7 CONFLICT OF INTEREST 2
5.8 POLITICAL ACTIVITY 3
Political Contributions and Services 3
Use of Official Authority or Influence to Coerce Political Action 3
Fair Treatment of Applicants and Employees 3
Freedom From Political Coercion 3
Informing Employees of Political Activities Laws 3
Violation of Provisions 3
Grievance and Appeals 3
Prohibited Political Activity 3
5.9 WORKPLACE VIOLENCE 5
5.10 DRUG-FREE WORK PLACE ACT OF 1988 5
5.11 DRUG AND ALCOHOL TESTING 5
5.12 EMPLOYEE USE OF STATE PROPERTY 6
Wireless Communication Devices and Electronic Communications 6
Storage of Information 6
Expectation of Privacy 6

Right to Search 7
Personal Property 7
5.13 DISCOURAGED RELATIONSHIPS 7
5.14 OUTSIDE EMPLOYMENT 8
5.15 SOCIAL MEDIA 8

CHAPTER 6 – PERFORMANCE REVIEW SYSTEM 1

CHAPTER 7 – DISCIPLINE, CORRECTIVE ACTION AND SEPARATION OF EMPLOYMENT 1
7.1 SCHEDULE OF OFFENSES AND AUTHORIZED DISCIPLINARY ACTION 1
Group One Offenses 2
Group Two Offenses 2
Group Three Offenses 3
7.2 FORMS OF DISCIPLINE 4
Documentation of Corrective and Disciplinary Actions 5
Suspension 5
Disciplinary Demotion 6
Dismissal 6
7.3 DUE PROCESS 6

CHAPTER 8 – GRIEVANCES AND APPEALS 1
8.1 WHO MAY FILE A GRIEVANCE 1
8.2 GRIEVABLE ISSUES 1
8.3 NON-GRIEVABLE ISSUES 1
8.4 GENERAL INFORMATION 2
8.5 GRIEVANCE PROCEDURAL STEPS 3
Step I 3
Step II 3
Step III 3
Special Procedure for Claims of Harassment or Discrimination 4
Time Limit 4
8.6 AMERICANS WITH DISABILITIES ACT GRIEVANCE PROCEDURE 4

CHAPTER 9 – APPEALS 1
9.1 NOTICE OF APPELLANTS' RIGHTS 1
9.2 WHO MAY APPEAL; ACTIONS WHICH MAY BE APPEALED 1
9.3 EXHAUSTION OF REMEDIES 1
9.4 PERFECTION OF APPEAL BY TIMELY FILING 2

9.5 RULES OF THE EMPLOYEE APPEALS BOARD 2

APPENDICES 1

GRIEVANCE FORM 1

ADA GRIEVANCE FORM..... 3

NOTICE OF APPEAL BEFORE THE MISSISSIPPI EMPLOYEE APPEALS BOARD..... 5

CHAPTER 1 – WELCOME TO STATE GOVERNMENT

1.1 INTRODUCTION

This Handbook is designed to serve as a general guide for State employees under the purview of the Mississippi State Personnel Board. It is not intended to take the place of the ***Mississippi State Personnel Board Policy and Procedures Manual*** or other official documents from which information contained herein has been obtained. **In the case of a discrepancy between this Handbook and the *Mississippi State Personnel Board Policy and Procedures Manual* or other official documents, the manual or the official document shall be the final authority.** The information contained in this Handbook is not intended to and does not grant to any State employee any additional rights or privileges of employment not otherwise expressly provided in State or Federal law. The rules of the Mississippi State Personnel Board are periodically revised. A complete set of these rules, as amended, is available (for the employee's reference and inspection) in each agency personnel office. The ***Mississippi State Employee Handbook*** is available through each agency's personnel office as well as on the Mississippi State Personnel Board website at http://www.mspb.ms.gov.

All previous editions of the ***Mississippi State Employee Handbook***, published by the Mississippi State Personnel Board, are hereby canceled and superseded.

Each agency makes personnel decisions within the context of Legislative intent and the rules promulgated by the Mississippi State Personnel Board and may have specific rules and regulations, which govern employment within the agency. These rules may vary between agencies.

1.2 STATEMENT OF EQUAL OPPORTUNITY EMPLOYMENT

The State of Mississippi is an equal opportunity employer and assures equal employment opportunities to all persons regardless of political affiliation, race, color, handicap, genetic information, religion, national origin, sex, religious creed, age, or disability. 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.

Equal employment opportunity does not guarantee an employee any rights not otherwise provided by law.

1.3 THE STATEWIDE PERSONNEL SYSTEM

In 1980, the Mississippi State Legislature created the Statewide Personnel System, which governs the establishment of employment positions, classification of positions, employment conduct, movement and separation of employees and provides a system of personnel management for State government. The Legislature also created the Mississippi State Personnel

Board (hereinafter referred to as "MSPB") as the governing authority to administer the Statewide Personnel System. In 1981, the Legislature further established the "Colonel Guy Groff State Variable Compensation Plan" or the VCP and authorized MSPB to implement the plan and review the plan annually. Mississippi Code Annotated § 25-9-147.

The Mississippi State Personnel Board

MSPB is composed of five members appointed by the Governor with the advice and consent of the Senate. One Board member is appointed from each of the three Supreme Court Districts, and two members are appointed from the State at large. Each Board member serves a five-year term, with the terms staggered such that one member's appointment expires at the end of each fiscal year. In addition to the Board members, the Lieutenant Governor may designate two Senators and the Speaker of the House may designate two Representatives to attend Board meetings, acting in the capacity of advisors, but with no vote on any matter within the jurisdiction of the Board. Mississippi Code Annotated § 25-9-109.

Duties of the Mississippi State Personnel Board

The duties of MSPB are two-fold: (1) to support State government by providing a system of personnel management that enhances efficiency and effectiveness with regard to the use of personnel resources and (2) to provide the Executive and Legislative branches data necessary for budgetary and planning purposes. MSPB has a strong and continuing commitment to equal employment opportunity, employee development, performance review, uniform administration of leave benefits, open communication, and equitable and adequate compensation. The framework of personnel management provided by MSPB is designed to be fair to all, based on state-of-art theory and practice, and in compliance with Federal and State laws and regulations. Mississippi Code Annotated §§ 25-9-101, *et seq*.

MSPB Executive Director

The Board sets the general policies by which its assigned duties and responsibilities may be accomplished and has tasked its Executive Director with the daily administration of the system. His or her role is "to administer the operations of the State Personnel System and to otherwise act in the capacity of chief executive officer to the Mississippi State Personnel Board." Mississippi Code Annotated § 25-9-119.

Personnel Advisory Council

The Personnel Advisory Council is composed of personnel directors of five major State agencies. These members, appointed by and serving a term concurrent with that of the Governor, advise MSPB in the development of comprehensive policies, programs, rules and regulations that will improve public employment in the State. The Council also assists in the promotion of public understanding of the purposes, policies and practices of the Statewide Personnel System. Mississippi Code Annotated § 25-9-117.

Employee Appeals Board

The Employee Appeals Board (hereinafter referred to as "EAB") consists of three hearing officers appointed from each of the Supreme Court Districts by MSPB for the purpose of holding hearings, reviewing evidence and rendering decisions on appeals of State agency action adversely affecting the employment status or compensation of any employee in State Service or any applicant, probationary State Service employee, permanent State Service employee or Non-State Service employee who claims that he or she has been discriminated against because of political affiliation, race, color, handicap, genetic information, religion, national origin, sex, religious creed, age, or disability in any personnel employment practice. Mississippi Code Annotated § 25-9-129.

Personal Service Contract Review Board

The Personal Service Contract Review Board (hereinafter referred to as "PSCRB") was created by the State Legislature to promulgate rules and regulations governing the solicitation and selection of contractual services personnel. The PSCRB is composed of the MSPB Executive Director; two individuals appointed by the Governor with the advice and consent of the Senate; two individuals appointed by the Lieutenant Governor with the advice and consent of the Senate; and the Executive Director of the Department of Finance and Administration, serving as an ex officio member. The MSPB Executive Director serves as Chair of the PSCRB. MSPB provides support staff for the PSCRB, but the PSCRB functions independently of MSPB. The ***PSCRB Personal Service Contract Procurement Regulations*** contain rules and regulations governing personal service contracts. The PSCRB is also required by State law to approve all personal and professional contracts, which involve expenditure of funds in excess of seventy-five thousand dollars ($75,000.00). Mississippi Code Annotated § 25-9-120(3).

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CHAPTER 2 – STATE EMPLOYMENT STATUS

2.1 STATE SERVICE EMPLOYMENT

MSPB identifies employees of State agencies as either State Service employees or Non-State Service employees. The Legislature has defined by statute those employees that are considered Non-State Service employees. *See* Mississippi Code Annotated § 25-9-107(c). Employees of State departments, agencies and institutions who are not listed within that statute are defined as State Service employees.

State Service employees fall under the purview of MSPB rules and regulations. However, a State Service employee does not enjoy a property right to his or her job until he or she has successfully completed at least a twelve-month probationary period and has attained permanent State Service status. Once an employee achieves State Service status, he or she retains that status upon transfer (intra- and inter-agency), promotion, demotion, reallocation, or reclassification as long as he or she remains in a State Service position and does not have a break in service. A break in service is defined as either (1) lump sum payment for accrued personal leave, (2) failure to return upon expiration of a leave of absence, (3) lapse of one eight hour work day between employment with the original State Service status agency and the new State Service status agency, or (4) retirement.

2.2 NON-STATE SERVICE EMPLOYMENT

Non-State Service employees cannot attain permanent State Service status while employed in a Non-State Service position. A Non-State Service employee has no property right to his or her job and may be terminated with or without cause and without due process by his or her employer. MSPB has salary setting authority for several categories of Non-State Service employees. In addition, MSPB has the authority to set minimum qualifications for Non-State Service positions such as time-limited and part-time employees as well as verify the statutory qualifications of certain physicians, dentists, veterinarians, nurse practitioners, and attorneys.

2.3 NOTIFICATION OF STATUS FOR NON-STATE SERVICE EMPLOYMENT

Each applicant, including State Service employees who have attained permanent status, shall be given written notice, prior to his or her 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 the Non-State Service position.

2.4 PROBATIONARY PERIOD AND TERMINATION AT WILL

Every employee, upon original entry into a State Service status position, must successfully serve a twelve-month probationary period before that employee is granted permanent State Service status. During the probationary period, the employee's work and conduct are carefully observed. During this twelve-month probationary period, the employee does not have a property right to his or her job and may be terminated with or without cause and without due process by the employer.

2.5 PROMOTIONAL OPPORTUNITIES FOR PROBATIONARY EMPLOYEES

After an employee has served the first six months of the twelve month probationary period, the employee may apply for promotional opportunities and, if found eligible, be referred to State agencies with a vacancy on a promotional/referred list of eligible applicants. If the employee transfers to another State Service status position in the same agency or in a different State Service status agency, the employee shall continue to serve the remainder of the twelve-month probationary period without penalty, provided there is no break in service.

2.6 GRIEVANCE AND APPEAL RIGHTS

A permanent State Service employee may file a grievance on any grievable action and an appeal to the Employee Appeals Board.

A probationary State Service employee or a Non-State Service employee in, or applicant for, an authorized employment position in an agency which employs State Service employees may grieve and appeal only alleged acts of discrimination in any personnel action or employment practice based on political affiliation, race, color, handicap, genetic information, religion, national origin, sex, religious creed, age, or disability.

State law specifically prohibits any and all retaliatory acts or statements against persons who utilize their grievance and appeal rights.

2.7 TRANSFER

Employees may transfer from an employment position in one agency to a vacant employment position in another agency. The transfer of a permanent State Service employee into another State Service position at another agency is accomplished through the use of an Referred List, except in the case of a demotional transfer or a lateral transfer into the same job class currently occupied by the employee. Employees may transfer through a lateral transfer into a position with the same salary range, a promotional transfer into a position with a higher salary range or a demotional transfer into a position with a lower salary range.

CHAPTER 3 – HOLIDAYS AND LEAVE

Although MSPB 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. Agency Human Resources Offices, payroll offices or immediate supervisors may provide employees with information regarding procedures unique to a specific agency.

3.1 HOLIDAYS

State employees receive regular pay for ten legal holidays and for any other day proclaimed as a holiday by the Governor of the State of Mississippi 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.

The State of Mississippi observes the following legal holidays:

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	National Memorial Day and Jefferson Davis' Birthday
July 4	Independence Day
The First Monday of September	Labor Day
November 11	Armistice or Veterans' Day
A day fixed by proclamation by the Governor of Mississippi as a day of Thanksgiving, which shall be fixed to correspond to the date proclaimed by the United States President	Thanksgiving Day
December 25	Christmas Day

In the event any of these holidays fall on a 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 will 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.

3.2 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 military leave as provided by statute. The appointing authority cannot increase the amount of personal leave or Major Medical 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.

Transfer of Leave Between State Agencies

Both major medical and personal leave earned by employees are 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 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.

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
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. There is no limit to the accumulation of personal leave. Upon termination of employment, each employee may be paid for not more than thirty days of accumulated personal leave. Unused personal leave in excess of thirty days and all unused Major Medical Leave will be counted as creditable service for the purposes of the retirement system.

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 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, 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.

A state law enforcement officer who is injured by wound or accident in the line of duty is not required to use earned personal leave during the period of recovery from such injury.

For the purpose of computing credit for personal leave, each appointed officer or employee is considered to work no more than five days each week. For purposes of calculating the leave accrual rate for employees, leaves of absence granted by the appointing authority for one 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.

Source: Mississippi Code Annotated § 25-3-93.

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. 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, 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. 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 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 use of personal or compensatory leave will be required prior to the use of Major Medical Leave for this purpose. The immediate family is defined as only a 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 or stood in loco parentis.

An employee may use up to six weeks of earned major medical leave for the placement with the employee of a child for adoption or foster care and to care for the newly placed child within one year of placement.

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 in the Family and Medical Leave Act Leave Section herein.

A state law enforcement officer who is injured by wound or accident in the line of duty is not required to use earned major medical leave during the period of recovery from such injury.

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.

Source: Mississippi Code Annotated § 25-3-95.

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").

FLSA Compensatory Leave

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 non-exempt employee may continue to accrue compensatory time. The limit of earned compensatory time under the FLSA for most non-exempt 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 state compensatory time. Further, the appointing authority may require a non-exempt 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, as stated above.

State Compensatory Leave:

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 will 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.

Upon termination of employment, an employee may not be paid for accumulated state compensatory leave. Should an employee retire having accumulated state 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 state compensatory leave in the event of an employee's death.

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.

- 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.

- 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. Any employee on a previously approved leave shall be eligible for such administrative leave granted by the Governor or appointing authority, and shall not be charged for his or her previously approved leave.

- 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.

Accumulated Leave Upon 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 as follows:

Conversion of Accumulated Unused Uncompensated Leave			
Combined Personal and Sick Leave	**Credit Equivalent**	**Combined Personal and Sick Leave**	**Credit Equivalent**
15 to 77 days	.25 year	393 to 455 days	1.75 years
78 to 140 days	.50 year	456 to 518 days	2.00 years
141 to 203 days	.75 year	519 to 581 days	2.25 years
204 to 266 days	1.00 year	582 to 644 days	2.50 years
267 to 329 days	1.25 years	645 to 707 days	2.75 years
330 to 392 days	1.50 years	708 to 770 days	3.00 years

Contact the agency Human Resources Office, payroll officer and/or PERS (http://www.pers.ms.gov) for answers to specific questions regarding the crediting of unused leave.

Leave Record Keeping

All State agencies whose payroll is processed through SPAHRS offer the same leave record reporting method. Time and leave record reporting should be entered into SPAHRS in a timely manner to ensure that records accurately reflect the State's liabilities and obligations. 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.

Donated Leave for Catastrophic Injury or Illness

"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, step-parent, 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:

- 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.

- 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.

- 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.

- 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.

- 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.

- 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 in this subsection.

- 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.

- 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.

- 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 MSPB. Any person found to have violated this paragraph will be subject

to removal from office or termination of employment.

- No employee can donate leave after tendering notice of separation for any reason or after termination of his or her employment.

- 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.

- 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 twelvemonth period from the date on which the leave is donated.

- Donated leave may not be used in lieu of disability retirement.

- 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.

Family and Medical Leave Act Leave

In keeping with the requirements of the Family and 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 1,250 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.

➢ ***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 fifteen days to spend with a military member who is on short-term, temporary rest and recuperation leave; 7) attending post-deployment reintegration briefings; 8) parental care leave, when a military member's parent is incapable of self-care when the care is necessitated by the member's covered active duty; or 9) 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. Upon request, eligible employees must provide documentation to support any request for leave.

- Eligible employees may take up to twenty-six weeks of leave during a single twelve-month period to care for a "military member" who is the employee's spouse, son, daughter, parent or next of kin (nearest blood relative or designated as such). A military 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 was discharged or released under conditions other than dishonorable, 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, as set forth in the FMLA regulations. 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.

➢ ***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 (i.e., an overnight stay);
- 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 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 military member in the line of duty on covered active duty in the Armed Forces (or existed before the beginning of the service 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 service member medically unfit to perform the duties of the service 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 service 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 service member became a veteran, and is:

- A continuation of a serious injury or illness that was incurred or aggravated when the covered veteran was a member of the Armed Forces and rendered the service member medically unfit to perform the duties of the service member's office, grade, rank, or rating; or

- A physical or mental condition for which the covered veteran has received a U.S. Department of Veterans Affairs Service-Related Disability Rating (VASRD) of 50 percent or greater, and such VASRD rating is based, in whole or in part, on the condition precipitating the need for caregiver leave; or

- A physical or mental condition that substantially impairs the veteran's ability to secure or follow a substantially gainful occupation by reason of a disability or disabilities related to military service, or would do so absent treatment; or

- An injury, including a psychological injury, on the basis of which the covered veteran has been enrolled in the Department of Veterans Affairs Program of Comprehensive Assistance for Family Caregivers.

➢ ***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 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.

- ***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 any State 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 any State 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***

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. Medical certifications must be submitted on the appropriate form which may be obtained in the agency's human resources department. 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. 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 employee's 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.

- ***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.

- ***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 dependent coverage at its own expense and recoup payments from the employee upon the employee's return to active employment. Personal and medical leave benefits will not accrue during unpaid 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.

- ***Return from Leave***

Employees returning from FMLA leave will be restored to their prior positions 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 position 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.

- ***Unlawful Acts***

The FMLA makes it unlawful for any employer to interfere with, restrain, or deny the exercise of or the attempt to exercise 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.

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.

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.

Use of Leave During Pregnancy

Women affected by pregnancy, childbirth or related medical conditions will 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. All types of leave will be granted to pregnant women on the same terms as leave is granted to other employees. 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.

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.

Educational Leave

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.**

- ***Eligibility***

  - 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.

  - 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.

  - 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.

Mississippi Living Organ Donor Leave

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 local government entities 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:

- Up to thirty days (240 hours) of organ donor leave in any twelve month period to serve as a bone marrow donor;
- Up to thirty days (240 hours) of organ donor leave in any twelve month period to serve as an organ donor;
- Up to one hour to donate blood every fifty-six days; and
- 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.

3.3 INFLUENZA PANDEMIC POLICY

Preventing the Spread of the Flu in the Workplace

State employees are encouraged to cooperate in taking steps to reduce the transmission of both seasonal and novel strains of influenza in the workplace. The best strategy for reducing the transmission of the flu is frequent hand washing with warm, soapy water, covering mouths with tissues whenever you sneeze, discarding tissues used when sneezing. Agencies are also encouraged to install alcohol-based hand sanitizers throughout the workplace and in common areas.

Staying Home When Ill

Many times, with the best of intentions, employees report to work even though they feel ill. State employees are provided with paid medical leave to compensate employees who are unable to work due to illness. During flu season and/or an influenza pandemic, it is critical that employees do not report to work while they are ill and/or experiencing the following symptoms: fever, cough, sore throat, runny or stuffy nose, body aches, headache, chills and fatigue. A significant number of people who have been infected with this virus also have reported diarrhea and vomiting. Currently, the Centers for Disease Control and Prevention recommends that people with influenza-like illness remain at home until at least 24 hours after they are free of fever (100 degrees F or 37.8 degrees C) or signs of a fever without the use of fever-reducing medications. Employees who report to work ill will be sent home in accordance with these health guidelines. Employees who are sent home under this policy will be required to utilize leave in accordance with Section 3.2 Leave.

Reporting to Work When Not Ill

An influenza pandemic could result in a significant level of absenteeism. State employees may be unable to work if they become ill due to the virus while others may need to remain home to care for ill family members or simply to provide care for children during school closings. During this time, unless otherwise notified, attendance and leave policies will remain in place. Individuals who believe they may face particular challenges reporting to work during a severe influenza pandemic should take steps to develop any necessary contingency plans.

CHAPTER 4 – EMPLOYEE BENEFITS

4.1 DEFERRED COMPENSATION PLAN

Deferred Compensation is a supplemental, voluntary savings plan administered by the Public Employees' Retirement System Board of Trustees offering tax advantages to participants. Employees who choose to participate in this plan may set aside part of their salary each year. Income tax liability is postponed on that part of their salary until the year in which the employee actually receives the deferred amount. Interest and/or earnings also are tax deferred until withdrawal. Interested employees may contact their Human Resources Office, payroll office, or PERS.

4.2 WORKERS' COMPENSATION

Workers' compensation is administered by the Mississippi Workers' Compensation Commission, and all State employees are covered under the provisions of the Mississippi Workers' Compensation Law. The basic purpose of workers' compensation is to provide fixed benefits to employees in the event an employee is injured in the course of employment. An employee who is injured on the job is entitled to certain benefits at no cost to the employee, including compensation for reasonable and necessary medical expenses, partial compensation for income lost because of the injury or illness, retraining for new skills, if necessary, and certain other related benefits.

Workers' compensation is unavailable when an injury was caused by an employee's use of illegal drugs, abuse of prescription medication or intoxication due to the use of alcohol. An employee may be requested to submit to a drug and alcohol test if injured while at work.

Workers' compensation wage loss benefits are not payable for the first through the fifth days of disability unless the disability extends to fourteen days or more. The workers' compensation benefit is payable at 2/3 the average weekly wage or, in some cases, to a weekly maximum set by law.

Wage benefits are payable in addition to any accrued leave the employee may be entitled to use. It is the employee's responsibility to ensure that payment of accrued Personal Leave and/or Major Medical Leave and the receipt of workers' compensation benefits simultaneously do not result in the employee being paid a total amount that exceeds 100 percent of his wages earned in State employment at the time of injury.

A State employee who is absent due to a work-related injury for which the employee is receiving temporary disability benefits is limited in his or her use of accrued Personal Leave and/or Major Medical Leave and the receipt of workers' compensation benefits simultaneously if the combined receipt of both benefits results in the employee being paid a total amount that exceeds 100 percent of his wages earned in State employment at the time of injury.

It is the employee's responsibility to cooperate with the agency to determine if he or she has received excess wages and, if so, to notify the agency's Human Resources Office of how such excess wages should be recovered from the employee. Recovery could be:

- Through direct repayment (by endorsing the temporary disability benefit check over to the agency or remitting a personal check/money order);
- Through a payroll deduction;
- Through a payroll adjustment by which the Personal Leave and/or Major Medical Leave taken during the affected pay period is reclassified to Leave Without Pay; or
- By a combination of direct repayment, payroll deduction and/or reclassification of paid leave to Leave Without Pay.

Should the employee elect to be placed on Leave Without Pay rather than use accrued Personal Leave and/or Major Medical Leave, employment benefits (i.e., employer-paid life and/or health insurance, leave accrual, FICA and PERS contributions) may be adversely affected.

Any excess wages that are not remitted to the agency will be deemed to be a debt owed to the State of Mississippi and are subject to collection as allowed by Mississippi law.

Any injury or illness which is work related should be reported as soon as possible to the supervisor or agency's workers' compensation representative so that appropriate medical treatment can be arranged and a report of the injury can be sent to the Workers' Compensation Commission. Timely reporting also ensures that any wage loss benefits, which are due, will be paid without undue delay. For assistance in the event of injury or for questions concerning workers' compensation, contact the agency Human Resources Office or the agency's workers' compensation representative.

4.3 TRAVEL AND EXPENSES

If a State employee is required to travel in the performance of an official duty, reasonable expenses will be paid by the State. Prior approval may be required for travel reimbursement. Employees should request information regarding their agency's travel reimbursement policy from their human resources director. Rules and regulations governing official travel are established by the Department of Finance and Administration.

4.4 SOCIAL SECURITY

Every employee of the State of Mississippi is required to participate in the federal Social Security program. For further information you may call Social Security at 1-800-772-1213.

4.5 RETIREMENT

Employees and officials of the State become members of the Public Employees' Retirement System as a condition of employment. PERS participation and coverage is provided to employees in positions requiring employees to work and receive compensation for **not** less than twenty hours per week OR **not** less than eighty hours per month. Participation is restricted to employees whose wages are subject to payroll taxes and are reported on IRS Form W-2.

When a State employee is first employed, the agency will furnish the employee with a member information form to establish a membership account. The employee's social security number will serve as a membership number. A fiscal year membership statement will be sent to the employee

each year containing information regarding contributions paid into PERS. Additional information is contained in the ***PERS Member Handbook*** which the agency will provide. You may also contact PERS by calling 1-800-444-7377 or (601) 359-3589 or visit the website at http://www.pers.ms.gov.

Contributions

An employee's monthly contribution is equal to a percentage of the employee's Gross Reportable Earnings, and this amount is refundable. The employer's monthly contribution of a percentage of the employee's Gross Reported Earnings is not refundable.

Vesting Period

If an employee was employed by the State of Mississippi at any point prior to July 1, 2007, the employee may receive monthly benefits once the employee becomes eligible for retirement after the employee contributes to the retirement system for at least four years. For those employees first employed by the State of Mississippi after July 1, 2007, the employee must contribute to the retirement system for eight years prior to being able to receive monthly benefits upon eligibility for retirement.

Retirement Eligibility

Any employee hired before June 30, 2011, with twenty-five years of participation in PERS, is eligible to retire and draw monthly benefits at any age. Any employee hired on July 1, 2011 or later, with thirty years of participation in PERS is eligible for retirement and benefits at any age. Alternatively, employees with less than twenty-five years of participation in the retirement system who became members of the retirement system before July 1, 2007 and have at least four years of membership in the system are eligible to retire at age sixty and receive a retirement allowance. Employees who became members of the retirement system after July 1, 2007 and have at least eight years of membership in the system are eligible to retire at age sixty and receive a retirement allowance.

4.6 INSURANCE

As a benefit to its employees, the State of Mississippi provides a life and health insurance plan to assist its employees with the cost of such insurance. The State and School Employees' Life and Health Insurance Plan (hereinafter referred to as "the Plan") provides State employees and their dependents with many options for health and life insurance coverage. All new employees are provided with a Summary Plan Description (hereinafter referred to as "SPD") that describes in more detail the Plan's benefits, eligibility and how to use the Plan. New SPDs are sent to enrolled employees every year when changes occur in the Plan. Also, all enrolled employees receive the ***Health Plan Update***, a newsletter that is distributed throughout the year to give more information about Plan benefits.

All new employees must enroll in the Plan or waive coverage. Enrollment in the Plan is effective on an employee's first day of employment; however, an employee must complete his or her enrollment paperwork within thirty-one days of his or her hire date. Additionally, there is an

annual Open Enrollment period for coverage effective the following plan year.

Depending on the employee's specific employment status, the State of Mississippi pays some portion of the health insurance premium and life insurance premium for the employee. The Plan also allows employees to cover their dependents under the Plan by paying the premiums for their dependents through payroll deductions. Eligible dependents include a lawful spouse, as well as the enrollee's child up to age 26. Dependent children who meet eligibility requirements at the time of enrollment may remain covered regardless of age if permanently physically disabled or mentally disabled, are incapable of self-sustaining employment, and depend upon the enrollee for 50% or more of their support. The disabling condition must have occurred prior to the dependent's 26th birthday.

For additional information, you may contact your Human Resources Office, the Department of Finance and Administration's ("DFA") Office of Insurance, or visit the DFA website at http://www.dfa.state.ms.us.

4.7 CAFETERIA PLAN

An employee of the State of Mississippi may choose to participate in a Section 125 plan, also known as a "Cafeteria Plan." A Cafeteria Plan allows employees' payments for health, life, dental and vision care, prescription drugs, disability contributions, and deposits to flexible spending accounts to be deducted pre-tax from an employee's earnings.

Please contact your agency Human Resources Office or payroll office for information on how to participate in your agency's Cafeteria Plan.

4.8 STATE CREDIT UNIONS

All State employees are eligible to join the Public Employees' Credit Union as well as applicable agency specific credit unions. Credit Unions are non-profit financial organizations serving the savings and borrowing needs of members. Services such as financial counseling, money orders and free notarizing may also be provided. Credit Unions return all earnings exceeding operating expenses to its members in the form of dividends, interest, reserves, and services. The Public Employees' Credit Union may be contacted at (601) 948-8191.

4.9 UNEMPLOYMENT COMPENSATION

If a State employee becomes separated from a job for reasons beyond the employee's control, that employee may be eligible for unemployment compensation. Inquiries may be directed to the Mississippi Department of Employment Security or visit the web site at http://www.mdes.ms.gov.

CHAPTER 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. The following guidelines should be followed by State employees:

5.1 EMPLOYEE WORK SCHEDULES

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.

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.

Each part-time employee will be provided a schedule of working hours.

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.

5.2 ATTENDANCE

Regular attendance is a basic condition of employment with the State of Mississippi and shall be considered among the essential elements for all permanent position classifications. 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.

5.3 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.

5.4 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.

5.5 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.

5.6 WORKPLACE HARASSMENT

Each appointing authority must provide a workplace free from harassment with regard to political affiliation, race, color, handicap, genetic information, religion, national origin, sex, religious creed, age, or disability. 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. Harassment not based upon a protected class is not workplace harassment under these policies.

The 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.

5.7 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.

5.8 POLITICAL ACTIVITY

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 removed 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 not to vote and from either discharging or threatening to discharge, changing the salary of, 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 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. Additional information about the Hatch Act can be found at http://www.osc.gov/Pages/HatchAct.aspx. An employee may obtain more information regarding the Hatch Act at http://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.

5.9 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.

5.10 DRUG-FREE WORK PLACE ACT OF 1988

The Drug-Free Workplace Act of 1988 requires grantees of federal agencies to certify that they will provide a drug-free workplace. State agencies which are federal grantees must comply fully with the provisions of this law.

5.11 DRUG AND ALCOHOL TESTING

State law governing drug and alcohol testing of employees and job applicants 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. If an agency chooses to implement a drug and alcohol testing policy, it must comply with State law. However, Mississippi's statutory law regarding drug and alcohol testing 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. Refusal to submit to a drug or alcohol test when requested to do so by an employer with a written drug and alcohol testing policy pursuant to statute is a Group III offense under the Schedule of Offenses and Authorized Disciplinary Action (§ 7.1).

5.12 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.

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.

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.

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.

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.

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.

5.13 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.

5.14 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" as previously defined herein.

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.

5.15 SOCIAL MEDIA

Social media includes, but is not limited to, personal websites, blogs, chat rooms and bulletin boards; social networks, such as Facebook, Flickr, Google Plus, LinkedIn, MySpace, Pinterest and Twitter; video sharing sites such as YouTube; and email.

Any personal social media sites used by State employees may not be represented as official State sites. State email addresses should not be used to register for personal social media. State employees should not pressure or coerce other employees to "friend" or otherwise connect with them via social media.

State employees are prohibited from sharing information or rumors that are false about the State, entities of the State, other employees or people working on behalf of the State. If information is shared related to employment with the State of Mississippi, it must be clear that the views expressed are a State employee's personal opinions alone and do not reflect the views of the State or any entities of the State. Any comments or posts may only express personal opinions and not those of the State, unless an employee is authorized to do so.

State employees must ensure that personal comments or postings are consistent with these policies. Comments, statements, photographs, video or audio that are discriminatory, harassing, threatening, or that demonstrate other unlawful conduct should not be made toward other State employees and clients or customers with legitimate business interests with the State of Mississippi. Some examples include, but are not limited to, messages that could contribute to a hostile work environment on the basis of political affiliation, race, color, handicap, genetic information, religion, national origin, sex, religious creed, age or disability, or any other status protected by law. The application of this policy should not be construed to infringe on any person's rights of expression which are guaranteed by law. However, violations of this policy are subject to disciplinary action as set forth in Chapter 7.

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CHAPTER 6 – PERFORMANCE REVIEW SYSTEM

Mississippi State law requires MSPB and the MSPB 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 1985 to~~ In 1985, the Legislature mandated that all agencies under MSPB's purview participate in ~~the~~ MSPB's performance review system.

In addition to providing a basis for awarding productivity funds, a performance review system serves a number of distinct purposes and functions: aligns, develops, and leverages the potential of each employee; allows managers to make effective decisions regarding workforce issues; and improves the quality and quantity of services. The performance of each employee whose position is under the salary setting authority of MSPB shall be reviewed at least annually.

Performance reviews will be administered in a fair manner without unlawful discrimination as to political affiliation, race, color, handicap, genetic information, religion, national origin, sex, religious creed, age, or disability. ~~For more information regarding the design and implementation of the MSPB's performance review system, contact MSPB.~~

6.1 SCOPE

The Performance Development System (hereinafter referred to as a "PDS") assesses an employee's performance at either the Outstanding (4.0) Performance Level, the Successful (3.0) Performance Level, the Improvement Needed (2.0) Performance Level, or the Not Demonstrated (1.0) Performance Level and provides employees with an Individual Development Plan (hereinafter referred to as an "IDP") that fosters performance growth and includes specific goals to be accomplished during the review period.

6.2 APPLICABILITY

Every employee whose position is under the salary setting authority of MSPB must have their job performance assessed at least once annually. Assessments should be based only on the employee's performance of his or her assigned duties compared against the competencies/ behavioral anchors for those duties. IDPs are a continuous process and should be in place for all employees.

6.3 DEFINITIONS

PERFORMANCE DEVELOPMENT SYSTEM (PDS): A system which assesses an employee's performance and provides employees with a plan that fosters individual employee development.

NOT DEMONSTRATED (1.0): Employee does not show competency.

IMPROVEMENT NEEDED (2.0): Employee shows frequent, but not consistent competency.

SUCCESSFUL (3.0): Employee consistently shows competency.

OUTSTANDING (4.0): Employee is above the level of expected competency.

INDIVIDUAL DEVELOPMENT PLAN (IDP): A written action plan, jointly developed by the employee and the reviewing supervisor, to foster individual performance growth.

REVIEW PERIOD: A time period of at least ninety days and not more than 365 days for which an employee's performance is reviewed.

FINAL ASSESSMENT: The last assessment of the review period which results in a determination of employee's overall performance.

VALID ASSESSMENT: An assessment completed as a result of an employee's job performance for at least ninety days and no more than 365 days.

PERFORMANCE IMPROVEMENT PLAN (PIP): A written action plan, jointly developed by the employee and the reviewing supervisor, to outline actions required to bring a final assessment to a Successful (3.0) Performance assessment level.

REVIEWING SUPERVISOR: The last person to have supervised the employee for a minimum of a ninety day period at the time the Final Assessment is due.

FIRST LEVEL REVIEWER: The Reviewing Supervisor's immediate supervisor.

SECOND LEVEL REVIEWER: The immediate supervisor of the First Level Reviewer.

6.4 PROCESS

6.4.1 The Beginning of the Review Period

During the first fourteen days of the Review Period, the Reviewing Supervisor and employee are to determine the job duties and competencies/behavioral anchors of the position and to identify what constitutes a Successful (3.0) Performance level.

The Reviewing Supervisor and the employee are also to determine specific competencies to be developed through completion of associated learning activities by creating the employee's IDP that will be utilized throughout the Review Period. Examples of learning activities contained in an employee's IDP include, but are not limited to, relevant classes to attend and books to read. Duties and competencies/behavioral anchors established as criteria for an employee's assessment are management decisions that are NOT subject to the grievance process set forth in Chapter 10 of the MSPB Policy and Procedures Manual.

6.4.2 Review Sessions

The purposes of the review sessions during the Review Period are:

A. To provide feedback to the employee concerning the overall assessment of performance during the Review Period.

B. To review and update duties and competencies/behavioral anchors 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.

D. To update the employee's IDP.

Review sessions may be held at any time. However, the Reviewing Supervisor must conduct a mid-point review session with the employee during the Review Period. The Reviewing Supervisor must give reasonable advance notice to the employee of the date and time for any review session.

6.4.3 Informal Efforts

When the result of the final assessment of an employee's overall job performance is determined to be at least Improvement is Needed (2.0) Performance level but lower than the Successful (3.0) Performance level, the Reviewing Supervisor must discuss with the employee specific action/steps to be taken by both the Reviewing Supervisor and the employee to improve performance. The Reviewing 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- and/or off-site training. At the agency's discretion, if 180 days into the new rating period the employee's performance is assessed as continuing in this range, the Reviewing Supervisor may initiate a formal Performance Improvement Plan (hereinafter referred to as a "PIP").

6.4.4 Performance Improvement Plan

A. Formal Performance Improvement Plan

When the result of the final assessment of an employee's overall job performance is determined to be at the Not Demonstrated (1.0) Performance Level but lower than the Improvement is Needed (2.0) Performance Level, the Reviewing Supervisor must initiate a PIP.

The employee's overall performance must be improved to the level of Successful (3.0) Performance by the end of a ninety day performance observation period following the initiation of a PIP. Failure by the employee to improve job performance to the level of Successful (3.0) Performance by the conclusion of the ninety day PIP period may constitute cause for dismissal, demotion, or transfer.

B. Improvement in Performance

At the conclusion of the ninety day PIP period and after a Final Assessment, if the employee's performance has improved to the Successful (3.0) Performance Level, the Reviewing Supervisor will begin a new Review Period as outlined in this Chapter.

C. Continued Not Demonstrated (1.0) and Improvement is Needed (2.0) Performance

At the conclusion of the ninety day PIP period and after a Final Assessment, if the employee's performance has not improved to the Successful (3.0) Performance Level, the Reviewing Supervisor must submit the recommended action to be taken as a result of the employee's failure to improve performance. Recommended actions may include the initiation of a second formal PIP, demotion, transfer, or termination.

6.4.5 The End of the Review Period

Within fourteen days prior to the end of the Review Period, a Final Assessment interview must be held. Refusal by the employee to sign the assessment form does not affect or negate the Final Assessment. An employee's refusal to sign the assessment form at the end of the Review Period acknowledging that the Final Assessment has been discussed with him or her may be, following a warning, considered an act of insubordination.

6.4.6 Grievance/Appeals Process

State service employees who disagree with an assessment (excluding the contents of duties and competencies/behavioral anchors) may seek review by appeal to the Employee Appeals Board after exhausting agency grievance procedures.

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CHAPTER 7 – DISCIPLINE, CORRECTIVE ACTION AND SEPARATION OF EMPLOYMENT

State law provides that no employee of any department, agency or institution under the Statewide Personnel System who is subject to the policies and procedures prescribed by MSPB may be dismissed or have adverse action affecting their compensation or employment status taken against them 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 the policies and procedures promulgated by MSPB. This provision does not apply to persons separated from employment due to: 1) a curtailment of funds or a reduction in force approved by MSPB; 2) during the initial twelve (12) month probationary period in State Service; or 3) as an executive officer or other Non-State Service employee 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, MSPB requires that all State employees who are subject to the policies and procedures of MSPB 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:

- establish and adhere to fair and objective procedures for correcting or treating unacceptable conduct and performance in accordance with the guidelines herein; and
- distinguish between less serious and more serious actions of misconduct and provide disciplinary action accordingly and consistently.

7.1 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 and procedures. 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 offenses and disciplinary actions added by the agency shall apply only to that agency and shall be submitted to 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.

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. Accumulation of four (4) Group One written reprimands within a six (6) 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.

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 (5) working days. Accumulation of two (2) Group Two written 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. 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.

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 the agency with a written reprimand and/or may result in suspension without pay for 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 required notification and satisfactory explanation to the supervisor or the appointing authority in a timely manner;

2. chronic absenteeism which is defined as three (3) or more incidents of unauthorized absence without required notification and satisfactory explanation to the supervisor or the appointing authority in a timely manner within any ninety (90) day period;

3. 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;

4. 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;

5. refusal to take a drug or alcohol test when requested to do so by an employer with a written drug and alcohol testing policy pursuant to Mississippi Code Annotated, § 71-7-3.

6. falsification of records, such as, but not limited to, vouchers, reports, time records, leave records, employment applications, or other official State documents;

7. 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;

8. acts of physical violence;

9. violation of safety rules causing a threat to life or human safety;

10. unauthorized possession or use of firearms, dangerous weapons or explosives;

11. threatening or coercing employees, supervisors, or business invitees of a State agency or office, including stalking;

12. unauthorized use or misuse of State property or records;

13. 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;

14. 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;

15. engaging in prohibited political activity;

16. leaving the work site without permission causing a threat to life or human safety;

17. theft on the job;

18. a breach of agency security or confidentiality;

19. willful violation of MSPB policies and procedures, including, but not limited to: creating or participating in discrimination in the workplace or a hostile work environment; refusing to cooperate and/or giving a false statement in an investigation of possible violation of MSPB policies and procedures;

20. operation of a state-owned motor vehicle without a valid driver's license from the State of Mississippi or a contiguous state;

21. 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.

7.2 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.

Documentation of Corrective and Disciplinary Actions

1. 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.

2. When an employee has been issued a written reprimand, a copy of the reprimand must 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 committed. The written reprimand must also inform the employee of his/her right to grieve the reprimand in accordance with MSPB grievance procedure.

3. Documentation of corrective actions and disciplinary measures, including written reprimands, may be kept indefinitely in the employee's personnel file for the purpose of showing a pattern of employee conduct.

4. Before any written documentation of corrective action or disciplinary measure is placed in an employee's personnel file, the employee shall be given:

    a. a copy of the material to be placed in his or her file; and

    b. 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.

5. 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.

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 (30) work days during any twelve (12) month period. The twelve (12) month period shall begin with the first day of the first 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 (20) 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 (20) 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.

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 procedures regarding demotion.

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.

7.3 DUE PROCESS

All permanent State Service employees, (i.e., all State government employees who have successfully served twelve (12)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 seven (7) 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 conference 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. 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 conference to be held within twenty (20) working days from the first day of suspension. This period of suspension without pay pending a post suspension conference 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 conference, the appointing authority or designated representative may make a final decision after the waiver. The waiver of the conference 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 will notify the employee of his/her decision within a reasonable period of time after the conference.

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CHAPTER 8 – GRIEVANCES AND APPEALS

8.1 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 political affiliation, race, color, handicap, genetic information, religion, national origin, sex, religious creed, age, or disability in any personnel action or employment practice.

8.2 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 political affiliation, race, color, handicap, genetic information, religion, national origin, sex, religious creed, age, or disability;

E. any matter of concern or dissatisfaction to an employee if the matter is subject to the control of agency management and adversely affects an employee's employment status or compensation, 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; and

H. dismissal or adverse action taken against an employee who reports an alleged improper governmental action to a State investigative body as defined in Mississippi Code Annotated § 25-9-171.

8.3 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/competencies/behavioral anchors/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 MSPB 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; and

M. employee benefits.

8.4 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.

8.5 GRIEVANCE PROCEDURAL STEPS

Step I

1. An employee who has a grievable complaint may submit in writing (on the Grievance Form located at http://www.mspb.ms.gov and in Appendix A to this Handbook) a description of the grievance with all other required information to his or her immediate supervisor within seven (7) working days of becoming aware of the cause of the complaint.

2. The 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.

3. The supervisor is required to give the employee a written response within three (3) working days after the meeting.

4. 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

1. If not satisfied with the Step I written decision, the employee may indicate (on the same form) 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.

2. 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.

3. The Step II supervisor is required to give the employee a written response within three (3) working days after the meeting.

Step III

1. If the second step does not resolve the grievance, the employee should use the same form to advance the grievance to the third step and forward the grievance to the agency head within three (3) working days after receipt of the Step II response.

2. The Step III agency head or designated representative is required to review the grievance and relevant information and meet with the employee within seven (7) working days after receipt of the Grievance Form.

3. The Step III agency head or designated representative is required to give the employee the final agency decision concerning the grievance within seven (7) working days after the meeting.

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 discriminating or harassing supervisor's supervisor. If the alleged source of the discrimination or harassment is the employee's agency head, then the employee may contact the MSPB Executive Director in writing to request use of the special procedure and submit a completed Grievance Form. ~~for assistance and~~The employee may be advised to file an appeal directly with the Employee Appeals Board without exhausting agency level remedies. All deadlines as set forth in Section 8.5 must be met when using this special procedure.

Time Limit

If a grievance is not presented within the time limits 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.

8.6 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. A copy of the ADA Grievance Form can be found at http://www.mspb.ms.gov and in Appendix B of this Handbook. Implementation of this separate Americans with Disabilities Act (ADA) 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. (*See* Appendix B for a sample form.)

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) working days of when 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 (3) 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 (15)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.

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CHAPTER 9 – 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.

9.1 NOTICE OF APPELLANTS' RIGHTS

Each agency must give notice to all applicants and employees of their rights regarding appeals and must make available copies of the administrative rules of the Employee Appeals Board.

9.2 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.

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 or in an agency whose employees have been classified as non-State Service for a specified duration of time, may appeal alleged acts of discrimination based on political affiliation, race, color, handicap, genetic information, religion, national origin, sex, religious creed, age, or disability 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's 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.

9.3 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 MSPB policies and procedures.

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 has been filed by the Administrative Office of the EAB.

9.4 PERFECTION OF APPEAL BY TIMELY FILING

A. All appeals to the EAB shall be initiated by filing a written Notice of Appeal with the Administrative Office. Notice of Appeal forms will be made available by the Administrative Office to all State agencies and employees. (*See* Appendix C.)

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, whichever occurs first.

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" must be filed by the appealing party with each Notice of Appeal. Cash or personal checks will not be accepted.

1. **Content of Notice of Appeal**

The Notice of Appeal must contain:

a. the names and mailing addresses of all parties and, if known, the names and mailing addresses of their attorneys, if any;

b. 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;

c. 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;

d. 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; and,

e. a statement of the relief requested.

The Notice of Appeal must 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.

9.5 RULES OF THE EMPLOYEE APPEALS BOARD

A complete list of procedural rules for appeals to the Mississippi Employee Appeals Board can be obtained by contacting the EAB or by visiting the MSPB website at http://www.mspb.ms.gov.

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:	

STEP ONE: 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.

STEP TWO: 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.
STEP THREE: Agency Decision		
Signature		
Date		

MISSISSIPPI STATE PERSONNEL BOARD ADA GRIEVANCE FORM	
Agency	**Date**
Name	**Job Classification (if applicable)**
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):	
Date:	

Agency Acknowledgment:	
Signature of Individual Investigating Grievance:	
Date:	
Agency: **Title:**	

Left blank intentionally.

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 Employee Appeals Board, 210 East Capitol Street, Suite 800, 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 Employee Appeals Board must be filed by the Appealing Party with the Notice of Appeal. Cash or personal checks will not be accepted. See Mississippi Code Annotated §§ 25-9-101 through 25-9-151 and §§ 25-9-301 through 25-9-305.