



# POLICY AND PROCEDURES MANUAL

EFFECTIVE DATE 7/1/2022

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## **CHAPTER 1 – INTRODUCTION**

### **1.0 ABOUT THIS MANUAL**

This manual is effective as of July 1, 2022. The most up-to-date version of this manual is always located on the Mississippi State Personnel Board web site at <http://www.mspb.ms.gov>. As an official product of state government, this document is in the public domain and may be copied or redistributed without restriction.

#### **1.0.1 Scope and Intent of the Manual**

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

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

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

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

Principle II: Equitable and adequate compensation shall be provided.

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

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

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

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

#### **1.0.2 Amendments to this Manual**

The Mississippi State Personnel Board may amend the policies, rules, and procedures, which establish and maintain the state human capital system as circumstances and conditions require.

Any appointing authority, agency head, or member of the Personnel Advisory Council operating under the Mississippi State Personnel Board may recommend an amendment to policies and rules when a provision in the state personnel system causes unnecessary hardship or when the efficiency of the system may be improved.

## **1.1 MISSISSIPPI STATE PERSONNEL BOARD**

The Mississippi State Personnel Board (hereinafter referred to as “MSPB”) consists of five members appointed by the Governor for staggered five year terms. MSPB holds its regularly scheduled meeting the third Thursday of every month, at 10:00 a.m., CST, on the Second Floor of the Regions Bank Building at 210 East Capitol Street in Jackson, Mississippi. MSPB holds meetings at least once a month as provided in Mississippi Code Annotated § 25-9-113. All MSPB meetings are open to the public unless an executive session is declared by an affirmative vote of a minimum of 3/5 of all members present. MSPB may make and enforce reasonable rules and regulations for the conduct of persons attending its meetings. Minutes of all meetings are kept, whether the meeting is open or in executive session. The minutes will show members present and any final actions taken by MSPB, and are available to the public during business hours a reasonable time after recess or adjournment.

MSPB, as the governing authority for the statewide human capital system as established in Title 25, Chapter 9 of Mississippi Code Annotated, has delegated much of its authority to the MSPB Executive Director, who may act on behalf of the Board when such action is necessary for the timely, effective, and efficient implementation of the state’s human capital system; the day-to-day business of MSPB is therefore carried out by the state agency also known as MSPB. References to the MSPB Executive Director throughout this Manual may also refer to his or her designee(s).

Following an organizational restructuring in 2009, MSPB is divided into six sections. Agency directors, personnel officers, personnel assistants, and members of the public requiring assistance are urged to direct any inquiry to the MSPB staff section assigned the applicable responsibility. Functional assignments are outlined below. If you are unsure where to direct your inquiry, contact the MSPB switchboard at (601) 359-1406 or your agency’s Classification, Compensation, and Recruitment Consultants.

For a complete listing of MSPB employees, go to <http://www.mspb.ms.gov>.

### **Executive Office – (601) 359-1406**

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

### **Employee Appeals Board – (601) 359-2982**

Appeals Filing ♦ Appeals Scheduling ♦ General Appeals Information

**Office of Classification, Compensation, and Recruitment**– (601) 359-1406

Benchmarks ♦ Compensation Surveys ♦ Role Summaries ♦ Consultative Services ♦ Job Classifications ♦ Job Description Development and Validation ♦ Job Reclassification ♦ Staffing Management ♦ Organizational Charts ♦ Transactions Processing ♦ Program Budget ♦ Salary Certification ♦ Technical Assistance ♦ Application Evaluation ♦ Application Storage ♦ Certification of Referred Applicants to Agencies ♦ Organizational Studies ♦ New Hire Flexibility ♦ Recruitment Flexibility ♦ Agency Head Flexibility ♦ Promotional Flexibility ♦ Recruitment Announcements ♦ Substitution of Education and Experience

**Office of Training and Development** – (601) 359-2757

Agency Sponsored On-Site Training ♦ Career Pathing ♦ Consultative Services ♦ Electronic Training Center ♦ Internship Programs ♦ Management Certification Programs ♦ Organizational Design ♦ Performance Review ♦ Professional Development Courses ♦ Succession Planning ♦ Support Staff Certification Programs ♦ Talent Management ♦ Technical Assistance ♦ Training Certification ♦ Training Evaluation ♦ Training Needs Assessments ♦ Training Programs ♦ Workforce Analysis

**Office of Information Technology** – (601) 359-2759

Data Management ♦ Special Reports ♦ Technical Assistance ♦ Information Systems

**Communications** – (601) 359-1406

Outreach ♦ Public Records Requests ♦ Media Relations ♦ Website Development

**Office of Administrative Services** – (601) 359-1406

MSPB Personnel Office ♦ MSPB Business Office ♦ Performance Measures ♦ Cost Center Budgeting ♦ Business Continuity ♦ Grant Writing

**1.2 PUBLIC RECORDS ACT REQUESTS**

MSPB complies with requests for information under the Mississippi Public Records Act of 1983, Mississippi Code Annotated §§ 25-61-1 *et seq.*, according to the following policies:

- A. Requests for information under the Mississippi Public Records Act of 1983 should be marked “Request for Public Records” and must be submitted in writing by U.S. mail or hand delivery to the MSPB Executive Director, Mississippi State Personnel Board, 210 East Capitol Street, Suite 800, Jackson, MS 39201; submitted via e-mail to MSPB.Communications@mspb.ms.gov; or transmitted by facsimile to (601) 488-2903.
- B. Requests should describe in reasonable detail the records sought, and, if possible, should include a description of the type of records, names, dates, dates of birth, social security numbers, job class and county, title of a publication, and other information which may aid in locating records.

- C. Upon receipt of a request, the MSPB Executive Director shall determine whether the records sought are exempt from production under the Mississippi Public Records Act, and shall either produce or deny production of the records sought within seven (7) working days of the receipt of the request. If the MSPB Executive Director is unable to produce a public record by the seventh working day after the request is made, the MSPB Executive Director shall provide a written explanation to the person making the request. The explanation shall state that the records requested will be produced and will explain with specificity why the records cannot be produced within the seven-day period.

The timeline for production may be extended beyond the seven (7) working days upon mutual agreement of the parties. Unless there is mutual agreement of the parties to extend the timeline, the MSPB Executive Director shall produce the requested records within fourteen (14) working days from the receipt of the original request.

- D. If the MSPB Executive Director determines that the records requested are exempt or privileged under the law, he or she shall deny the request and shall send the person making the request a statement of specific reasons for the denial. Such denials shall be kept on file for inspection by any person for three years.

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

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

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

Employee time . . . . .	Salary rate plus 17 percent for fringe
Photocopies . . . . .	\$0.13 per page
Automated records search . . . .	\$90.00 setup charge, plus computer time and paper cost (Programming time in excess of one hour will be charged at \$40.00 per hour)
Data acquisition . . . . .	Actual cost
Other printed materials . . . . .	Actual cost
Mailing . . . . .	Actual cost

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

### **1.3 STATEWIDE HUMAN RESOURCES INFORMATION SYSTEMS**

- A. The online system of record (hereinafter referred to as “OSR”) is the repository of record for agencies which fall under the purview of MSPB. Any reference in this manual to OSR also means any other state system that replaces OSR, including Mississippi’s Accountability System for Government Information and Collaboration (hereinafter referred to as “MAGIC”). Transactions entered through OSR are considered to be initiated and approved by the head of the submitting agency. Once entered and approved at the submitting agency level, transactions are automatically forwarded to the proper reviewer at MSPB for appropriate action. Transactions which are invalid, incorrect, or incomplete will be returned to the submitter without action, with notes attached indicating items that must be corrected prior to resubmission. OSR is maintained by the Mississippi Management and Reporting System, (hereinafter referred to as “MMRS”) within the Department of Finance and Administration. For more information on OSR, including training and reference materials, contact the MMRS Helpdesk at (601) 359-1343 or see the OSR website at <http://www.mmrs.state.ms.us/>.
- B. NeoGov is the statewide recruitment and selection system for positions under the purview of MSPB. Transactions entered through NeoGov are considered to be initiated and approved by the head of the submitting agency. Once entered, transactions are automatically forwarded to the proper reviewer at MSPB for appropriate action. NeoGov is maintained by MMRS within the Department of Finance and Administration.
- C. Each state agency shall make every effort to ensure the accuracy of all data it enters into these statewide human resources information systems.

### **1.4 DECLARATORY OPINIONS**

This section sets forth the Mississippi State Personnel Board’s rules governing the form, content, and filing of requests for declaratory opinions, the procedural rights of persons in relation to the written requests, and the MSPB’s procedures regarding the disposition of requests as required by Mississippi Code Annotated § 25-43-2.103.

- A. MSPB will issue declaratory opinions regarding the applicability to specified facts of:
  - 1. A statute administered or enforceable by MSPB;
  - 2. A rule promulgated by MSPB; or
  - 3. An order issued by MSPB.
- B. A request must be limited to a single transaction or occurrence.
- C. When a person with substantial interest, as required by Mississippi Code Annotated § 25-43-2.103, requests a declaratory opinion, the requestor must submit a printed, typewritten, or legibly handwritten request.
  - 1. Each request must be submitted on 8-1/2” x 11” white paper.

2. The request may be in the form of a letter addressed to the MSPB Executive Director or in the form of a pleading as if filed with a court.
  3. Each request must include the full name, telephone numbers, and mailing address of the requestor(s).
  4. All requests shall be signed by the person filing the request, unless represented by an attorney, in which case the attorney may sign the request.
  5. Each request must clearly state that it is a request for a declaratory opinion.
- D. Any party who signs the request shall attest that the request complies with the requirements set forth in these rules, including but not limited to a full, complete, and accurate statement of relevant facts and that there are no related proceedings pending before any agency, administrative, or judicial tribunal.
- E. Each request must contain the following:
1. A clear identification of the statute, rule, or order at issue;
  2. The question for the declaratory opinion;
  3. A clear and concise statement of all facts relevant to the question presented;
  4. The identity of all other known persons involved in or impacted by the facts giving rise to the request including their relationship to the facts, and their name, mailing address, and telephone number; and
  5. A statement sufficient to show that the requestor has a substantial interest in the subject matter of the request.
- F. MSPB may, for good cause, refuse to issue a declaratory opinion. The circumstances in which declaratory opinions will not be issued include, but are not necessarily limited to the following:
1. The matter is outside the primary jurisdiction of MSPB;
  2. There is a lack of clarity concerning the question presented;
  3. There is pending or anticipated litigation, administrative action or anticipated administrative action, or other adjudication which may either answer the question presented by the request or otherwise make an answer unnecessary;
  4. The statute, rule, or order on which a declaratory opinion is sought is clear and not in need of interpretation to answer the question presented by the request;
  5. The facts presented in the request are not sufficient to answer the question presented;
  6. The request fails to contain information required by these rules or the requestor failed to follow the procedure set forth in these rules;

7. The request seeks to resolve issues which have become moot or are abstract or hypothetical such that the requestor is not substantially affected by the rule, statute, or order on which a declaratory opinion is sought;
  8. No controversy exists or is certain to arise which raises a question concerning the application of the statute, rule, or order;
  9. The question presented by the request concerns the legal validity of a statute, rule, or order;
  10. The request is not based upon facts calculated to aid in the planning of future conduct, but is, instead, based on past conduct in an effort to establish the effect of that conduct;
  11. No clear answer is determinable;
  12. The question presented by the request involves the application of a criminal statute or sets forth facts which may constitute a crime;
  13. The answer to the question presented would require the disclosure of information which is privileged or otherwise protected by law from disclosure;
  14. The question is currently the subject of an Attorney General's opinion request;
  15. The question has been answered by an Attorney General's opinion;
  16. One or more requestors have standing to seek an Attorney General's opinion on the proffered question;
  17. A similar request is pending before this agency, or any other agency, or a proceeding is pending on the same subject matter before any agency, administrative or judicial tribunal, or where such an opinion would constitute the unauthorized practice of law; or
  18. The question involves eligibility for a license, permit, certificate, or other approval by MSPB or some other agency and there is a statutory or regulatory application process by which eligibility for said license, permit, or certificate or other approval may be determined.
- G. Within forty-five (45) days after the receipt of a request for a declaratory opinion which complies with the requirements of these rules, MSPB shall, in writing:
1. Issue an opinion declaring the applicability of the statute, rule, or order to the specified circumstances;
  2. Agree to issue a declaratory opinion by a specified time but no later than ninety (90) days after receipt of the written request; or
  3. Decline to issue a declaratory opinion, stating the reasons for its action.

The forty-five (45) day period shall begin on the first business day after which the request is received by MSPB.

- H. Declaratory opinions and requests for declaratory opinions shall be available for public inspection and copying at the expense of the viewer during normal business hours. All declaratory opinion and requests shall be indexed by name, subject, and date of issue. Declaratory opinions and requests which contain information which is confidential or exempt from disclosure under the Mississippi Public Records Act or other laws shall be exempt from this requirement and shall remain confidential.

## **1.5 ORAL PROCEEDINGS**

This section applies to all oral proceedings held for the purpose of providing the public with an opportunity to make oral presentations or written input on proposed new rules, amendments to rules, and proposed repeal of existing rules before MSPB pursuant to the Administrative Procedures Act, specifically Mississippi Code Annotated § 25-43-3.104.

- A. When a political subdivision, an agency, or ten (10) persons request an oral proceeding in regards to a proposed rule adoption, the requestor must submit a printed, typewritten, or legibly handwritten request.
  - 1. Each request must be submitted on 8-1/2" x 11" white paper.
  - 2. The request may be in the form of a letter addressed to the MSPB Executive Director or in the form of a pleading as if filed with a court.
  - 3. Each request must include the full name, telephone numbers, and mailing address of the requestor(s).
  - 4. All requests shall be signed by the person filing the request, unless represented by an attorney, in which case the attorney may sign the request.
- B. Notice of the date, time, and place of all oral proceedings shall be filed with the Secretary of State's Office for publication in the Administrative Bulletin. The agency providing the notice shall provide notice of oral proceedings to all persons requesting notification of proposed rule adoptions. The oral proceedings will be scheduled no earlier than twenty (20) days from the filing of the notice with the Secretary of State. The MSPB Executive Director or designee who is familiar with the substance of the proposed rule shall preside at the oral proceeding on a proposed rule.
- C. Public participation shall be permitted at oral proceedings, as follows:
  - 1. At an oral proceeding on a proposed rule, persons may make statements and present documentary and physical submissions concerning the proposed rule.
  - 2. Persons wishing to make oral presentations at such a proceeding shall notify the MSPB Executive Director at least three business days prior to the proceeding and indicate the general subject of their presentations. The presiding officer in his or her discretion may allow individuals to participate that have not contacted MSPB prior to the proceeding.



3. At the proceeding, those who participate shall indicate their names and addresses, identify any persons or organizations they may represent, and provide any other information relating to their participation deemed appropriate by the presiding officer.
  4. The presiding officer may place time limitations on individual presentations when necessary to assure the orderly and expeditious conduct of the oral proceeding. To encourage joint presentations and to avoid repetition, additional time may be provided for persons whose presentations represent the views of other individuals as well as their own views.
  5. Persons making presentations are encouraged to avoid restating matters that have already been submitted in writing. Written materials may be submitted at the oral proceeding.
  6. Where time permits and to facilitate the exchange of information, the presiding officer may open the floor to questions or general discussion. The presiding officer may question participants and permit the questioning of participants by other participants about any matter relating to that rule-making proceeding, including any prior written submissions made by those participants in that proceeding. No participant shall be required to answer any question.
- D. Physical and documentary submissions presented by participants in an oral proceeding shall be submitted to the presiding officer. Such submissions become the property of MSPB, part of the rulemaking record, and are subject to MSPB's public records request procedure. MSPB may record oral proceedings by stenographic or electronic means.

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## **CHAPTER 2 – DEFINITIONS**

### **2.0 INTRODUCTION**

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

### **2.1 STATE SERVICE**

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

- A. OSR shall automatically place all state service employees in a probationary status upon original appointment and reemployment. The probationary period shall be the initial twelve months of service. State service employees who have served a full twelve-month probationary period shall retain permanent status as long as they maintain continuous state service. Mississippi Code Annotated § 25-9-127.
- B. A probationary period shall be required when transferring a current non-state service status employee into a state service position within the same agency or into a different agency. Time spent in a non-state service position of the same classification or of a higher classification within the same job class series may be counted toward the probationary period upon approval by the MSPB Executive Director. Mississippi Code Annotated § 25-9-143.
- C. Extended probationary status shall be assigned only to those employees previously exempted from the selection process as a result of pending litigation. Mississippi Code Annotated §§ 25-9-139; -143.

#### **2.1.1 Conferment of State Service Status**

Employees not otherwise excluded from the state service, with at least twelve months’ continuous state service in an agency and who have not been assigned extended probationary status, shall have state service status. Mississippi Code Annotated §§ 25-9-127; -143. OSR will automatically update the status of employees who have completed the twelve-month probationary period.

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

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

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

## **2.2 NON-STATE SERVICE**

All personnel transactions in the non-state service shall be effected through appointments to authorized employment positions by the appointing authority. The Office of Classification, Compensation, and Recruitment shall be notified of each appointment and may acknowledge the appointment. Mississippi Code Annotated § 25-9-107(c).

To ensure that the Office of Classification, Compensation, and Recruitment is informed of all appointments to authorized vacant non-state service positions under the salary setting authority of MSPB, all human capital transactions pertaining to personnel in these non-state service positions shall be submitted through OSR in accordance with the procedures contained herein. Requests for salary certifications shall be acknowledged, rather than certified, by MSPB for non-state service employees not under the salary setting authority of MSPB.

### **2.2.1 Non-state Service Appointment**

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

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

- (i) Members of the State Legislature, their staffs and other employees of the legislative branch;
- (ii) The Governor and staff members of the immediate office of the Governor;
- (iii) Justices and judges of the judicial branch or members of appeals boards on a per diem basis;
- (iv) The Lieutenant Governor, staff members of the immediate office of the Lieutenant Governor and officers and employees directly appointed by the Lieutenant Governor;
- (v) Officers and officials elected by popular vote and persons appointed to fill vacancies in elective offices;
- (vi) Members of boards and commissioners appointed by the Governor, Lieutenant Governor, or the State Legislature;
- (vii) All academic officials, members of the teaching staffs and employees of the state institutions of higher learning, the Mississippi Community College Board, and community and junior colleges;
- (viii) Officers and enlisted members of the National Guard of the State;
- (ix) Prisoners, inmates, student or patient help working in or about institutions;

- (x) Contract personnel; provided, that any agency which employs state service employees may enter into contracts for personal and professional services only if such contracts are approved in compliance with the rules and regulations promulgated by the State Public Procurement Review Board under Section 27-104-7. Before paying any warrant for such contractual services in excess of One Hundred Thousand Dollars (\$100,000.00), the Auditor of Public Accounts, or the successor to those duties, shall determine whether the contract involved was for personal or professional services, and, if so, was approved by the State Public Procurement Review Board;
- (xi) Part-time employees; provided, however, part-time employees shall only be hired into authorized employment positions classified by the board, shall meet minimum qualifications as set by the board, and shall be paid in accordance with the Variable Compensation Plan as certified by the board;
- (xii) Persons appointed on an emergency basis for the duration of the emergency; the effective date of the emergency appointments shall not be earlier than the date approved by the State Personnel Director and shall be limited to thirty (30) working days. Emergency appointments may be extended to sixty (60) working days by the State Personnel Board;
- (xiii) Physicians, dentists, veterinarians, nurse practitioners and attorneys, while serving in their professional capacities in authorized employment positions who are required by statute to be licensed, registered or otherwise certified as such, provided that the State Personnel Director shall verify that the statutory qualifications are met prior to issuance of a payroll warrant by the auditor;
- (xiv) Personnel who are employed and paid from funds received from a federal grant program, which has been approved by the Legislature or the Department of Finance and Administration whose length of employment has been determined to be time-limited in nature. This paragraph shall apply to personnel employed under the provisions of the Comprehensive Employment and Training Act of 1973, as amended, and other special federal grant programs which are not a part of regular federally funded programs wherein appropriations and employment positions are appropriated by the Legislature. Such employees shall be paid in accordance with the Variable Compensation Plan and shall meet all qualifications required by federal statutes or by the Mississippi Classification Plan;
- (xv) The administrative head who is in charge of any state department, agency, institution, board or commission, wherein the statute specifically authorizes the Governor, board, commission or other authority to appoint said administrative head; provided, however, that the salary of such administrative head shall be determined by the State Personnel Board in accordance with the Variable Compensation Plan unless otherwise fixed by statute;
- (xvi) The State Personnel Board shall exclude top-level positions if the incumbents determine and publicly advocate substantive program policy and report directly to the agency head, or the incumbents are required to maintain a direct confidential

working relationship with a key excluded official. Provided further, a written job classification shall be approved by the board for each such position, and positions so excluded shall be paid in conformity with the Variable Compensation Plan;

- (xvii) Employees whose employment is solely in connection with an agency's contract to produce, store or transport goods, and whose compensation is derived there from;
- (xviii) Repealed;
- (xix) The associate director, deputy directors, and bureau directors within the Department of Agriculture and Commerce;
- (xx) Personnel employed by the Mississippi Industries for the Blind; provided, that any agency may enter into contracts for the personal services of MIB employees without the prior approval of the State Personnel Board or the State Public Procurement Review Board; however, any agency contracting for the personal services of an MIB employee shall provide the MIB employee with not less than the entry level compensation and benefits that the agency would provide to a full-time employee of the agency who performs the same services; and
- (xxi) Personnel employed by the Mississippi Department of Wildlife, Fisheries, and Parks and the Mississippi Department of Marine Resources as law enforcement officer trainees (cadets); such personnel shall be paid in accordance with the Colonel Guy Groff State Variable Compensation Plan.
- (xxii) Administrators and instructional employees under contract or employed by the Mississippi School of the Arts (MSA) established in Sections 37-140-1 *et seq.*
- (xxiii) The President of the Mississippi Lottery Corporation and personnel employed by the Mississippi Lottery Corporation; and
- (xxiv) Employees, excluding administrative employees, of the State Veterans Affairs Board who are employed at a veterans home established by the State Veterans Affairs Board under Section 35-1-19.

Other non-state service employees include:

- (i) Non-state service positions of deputy superintendents, associate superintendents and directors within the State Department of Education (Mississippi Code Annotated § 37-3-13(1));
- (ii) Non-state service positions of associate directors, deputy directors and bureau directors within the Mississippi Development Authority (Mississippi Code Annotated § 57-1-5(3)(c)(xi));
- (iii) All employees whether administrative, licensed instructional, non-licensed instructional staff or otherwise employed at the Mississippi School for the Blind and the Mississippi School for the Deaf (Mississippi Code Annotated §§ 43-5-1 *et seq.*

### **2.2.2 Salary Certification**

Salaries for appointment to non-state service positions shall be certified in accordance with the provisions governing appointments. See Mississippi Code Annotated § 25-9-119(2)(c)(i) and (ii).

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

### **2.2.3 Notification of Non-State Service Status**

Each applicant who accepts appointment to a non-state service position shall be given written notice by the appointing authority prior to the appointment that state service status will not be attained while employed in that position and that the State of Mississippi is under no obligation to continue their employment in such a position.

State service status employees who accept appointment to a non-state service position lose their permanent employment status at the time of the appointment, except under the provisions of Mississippi Code Annotated § 25-9-125 and shall be so notified in writing prior to the appointment.

### **2.2.4 Hiring under Emergency Conditions**

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

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## **CHAPTER 3 – RECRUITMENT**

### **3.0 INTRODUCTION**

The MSPB Executive Director shall administer a recruitment program as referenced in the Mississippi Code Annotated § 25-9-119(2)(c). This program shall ensure the fair and equitable treatment of all applicants without regard to political affiliation, race, color, handicap, genetic information, religion, national origin, sex, religious creed, age, or disability. Mississippi Code Annotated §§ 25-9-103 and 25-9-149; and Intergovernmental Personnel Act Programs: Standards for a Merit System of Personnel Administration, 5 C.F.R. §§ 900.603; 900.604 (1983). Any questions regarding these functions should be addressed to your Classification, Compensation, and Recruitment Consultants.

### **3.1 RECRUITMENT PROGRAMS**

Recruitment shall be tailored to the number and nature of positions to be filled and to labor market conditions. The recruiting efforts of the Office of Classification, Compensation, and Recruitment and agencies will be coordinated and carried out in a timely manner.

#### **3.1.1 Open Consideration of Qualified Candidates**

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

#### **3.1.2 Regular Recruitment**

The MSPB Executive Director shall initiate recruitment efforts in response to current or projected agency staffing requirements. Agencies that anticipate vacancies due to circumstances such as a separation, transfer of an employee, or authorization for additional positions, may request that those positions be placed on recruitment.

Agencies will use MSPB's recruitment and selection software system to request recruitment (called a requisition in the system) for vacancies. Agencies will submit the requisition at least five (5) working days prior to the opening date of the recruitment posting in the system.

#### **3.1.3 Special Recruitment**

The MSPB Executive Director may initiate additional recruitment efforts for certain difficult-to-fill job classifications or upon agency requests. In order for the MSPB Executive Director to coordinate agency recruitment efforts, agencies will advise the MSPB Executive Director three (3) working days in advance, when planning is initiated for any and/or all recruitment efforts and/or advertising. Notification is essential to enable the MSPB Executive Director to ensure that the agency recruitment efforts are in accordance with state policy and procedure.

### **3.1.4 Authority to Take a Position off Recruitment**

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

- A. a vacancy has been filled;
- B. a role summary revision has been initiated; or
- C. there is a written request by the appointing authority.

Positions placed on recruitment for an indefinite period may not be assigned a closing date until a vacancy is filled. The authority to take a position or job classification off recruitment rests with the MSPB Executive Director.

### **3.1.5 Length of Recruitment**

Once a position has been placed on recruitment, it may be recruited continuously in accordance with Sections 3.2 and 3.3 until it is taken off recruitment in accordance with Section 3.1.4. The MSPB Executive Director may elect to take the position off recruitment when deemed appropriate.

### **3.1.65 Non-State Service Recruitment**

The MSPB Executive Director does not determine recruitment programs for non-state service positions. However, recruitment or advertising for these positions must be coordinated with the MSPB Executive Director in accordance with the advertising requirements below.

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

## **3.2 RECRUITMENT ANNOUNCEMENTS**

Recruitment announcements shall, at a minimum, be listed on the MSPB web site. All recruitment announcements shall be advertised for not less than three (3) working days. Job announcements shall not begin or end on weekends or holidays.

## **3.3 CONTENT OF ANNOUNCEMENT**

Recruitment announcements may contain the MSPB role summary of the vacancy or the equivalent of a Mississippi Department of Employment Security job announcement, including the following: title of the position, summary of education and experience requirements, beginning and ending dates of recruitment, salary, geographic location, supplemental information provided by the agency in open form fields, and agency contact information.

### **3.4 ADVERTISING**

For special recruitment purposes, the MSPB Executive Director may utilize advertising to supplement the public notice requirements above.

#### **3.4.1 Agency Advertising Efforts**

Agencies may coordinate their advertising efforts with the MSPB Executive Director. Commercial advertising shall be at the expense of the requesting agency unless MSPB sponsors the advertising and provides the agency with prior written confirmation of sponsorship. Items required by MSPB to be included in the advertising are listed below:

- A. the official MSPB job title;
- B. the education and experience requirements (Minimum Qualifications) as determined by the agency within the parameters of the typical qualifications on the role summary;
- C. any special qualifications requested by the agency and approved by the Office of Classification, Compensation, and Recruitment (when applicable);
- D. the statement “An Equal Opportunity Employer”;
- E. the MSPB website information where the applicant may submit the application if the position is posted on the system; and
- F. the agency address where applications are to be sent if the position is not being posted on the MSPB website.

Agencies may add other job information or agency specific information as deemed necessary. Agencies may coordinate recruitment efforts with MSPB by forwarding a copy of the advertisement to the assigned Office of Classification, Compensation, and Recruitment Consultant via email. This will ensure that MSPB staff is aware of the agency’s intentions and will be able to provide information to applicants regarding the advertisement. If the position being advertised is not exempt from the MSPB selection process, the agency will also be required to comply with section 3.1.2, Regular Recruitment, and should coordinate the posting dates with MSPB to ensure that the position is placed on open recruitment on the MSPB website at the same time it is to be advertised by the agency.

#### **3.4.2 Notice of Advertising**

For those agencies requesting MSPB assistance pursuant to 3.4.1, the appointing authorities will notify the MSPB Executive Director at least five (5) working days prior to all recruitment advertising, whether the advertising is donated, paid for by the agency, or sponsored and paid for by MSPB.

### **3.5 RECRUITMENT AND COUNSELING**

MSPB will provide information and assistance to state agencies and applicants. These services may include, but are not limited to, recruitment efforts; the processing of applications; and counseling/assistance regarding the evaluation and selection processes. The services provided to applicants may include, but are not limited to, assistance with the application process, career counseling, and assistance with the substitution review process.

### **3.6 EXEMPT STATUS RECRUITMENT AND SELECTION**

The MSPB Executive Director does not determine recruitment programs for job classes or positions exempted under Rule 4.2.9. However, recruitment or advertising for these classifications may be coordinated with the MSPB Executive Director in accordance with the requirements above.

Source: Mississippi Code Annotated §§ 25-9-103, -119, -147.

## **CHAPTER 4 – SELECTION**

### **4.0 INTRODUCTION**

This chapter contains information regarding the application and selection process. Any questions regarding these functions should be addressed to your Classification, Compensation, and Recruitment Consultants.

### **4.1 APPLICANT PROCESSING**

MSPB shall set forth standardized procedures for processing applications, uniformly evaluating education/training and experience, and certifying and providing Referred Lists.

### **4.2 THE APPLICATION PROCESS**

#### **4.2.1 Application Form**

- A. All applications for state service positions and the non-state service positions in Section 4.4.1 shall be on the State of Mississippi Application, either electronic or paper.
- B. The MSPB Executive Director shall be responsible for the format and may amend the State of Mississippi Application as needed.
- C. The MSPB Executive Director shall require that only the original State of Mississippi Application be accepted by MSPB for evaluation.

#### **4.2.2 When Applications Shall Be Filed**

- A. The MSPB Executive Director may establish procedures, which allow the following employees and/or applicants to file applications for Promotional Opportunities:
  - 1. current employees with at least six (6) months of continuous service;
  - 2. persons who were terminated from the state service due to a Reduction-in-Force (RIF) within the last twelve (12) months; and
  - 3. former employees who left the state service in good standing within the past twelve (12) months, and who have completed at least six (6) months of continuous employment.
- B. Applicants not meeting the criteria for the above must file an application during a period when the job classification is listed on MSPB's Job Opportunities List.
- C. Applicants for jobs on open recruitment shall file all applications on or prior to the closing date specified in the announcement.

#### **4.2.3 Locations Where Applications May Be Filed**

- A. Applications for state service positions must be completed online on MSPB's website.
- B. For jobs posted on the MSPB website, applications must be filed online. Paper applications are no longer accepted for jobs posted via MSPB's website.

- C. An individual is not considered a bona fide applicant until the application is received by either MSPB or the Mississippi Department of Employment Security. Individuals who file an application directly with a state agency/board, etc. are not considered a bona fide applicant until the application is received by MSPB.
- D. Applications for positions and job classifications falling under Section 4.2.9 shall be exempt from this section.

#### **4.2.4 Who May Apply for State Employment**

- A. An applicant is defined as any individual who files his or her State of Mississippi Application in accordance with Sections 4.2.1, 4.2.2, and 4.2.3.
- B. The truth of the statements contained within the submitted State of Mississippi Application shall be certified and are considered true and correct by the applicant clicking the “Accept” button.
- C. The MSPB Executive Director shall have final authority in determining the validity of the application.
- D. A State of Mississippi Application determined to be invalid shall be returned to the applicant.
- E. A State of Mississippi Application returned as invalid and subsequently resubmitted must meet the validity requirements effective on the last date received.
- F. Agencies may submit a State of Mississippi Application for agency-only non-competitive promotions with a note in OSR delineating the action as non-competitive.

#### **4.2.5 Evaluation of Education/Training and Experience**

- A. All prospective or current state service employees shall have their State of Mississippi Application formally evaluated prior to appointment or promotion except as provided in these rules. MSPB shall uniformly evaluate the qualifications of applicants as stated in their State of Mississippi Application. Applicants shall be evaluated without regard to political affiliation, race, color, handicap, genetic information, religion, national origin, sex, religious creed, age, or disability except as provided by law.
- B. All State of Mississippi Applications received at MSPB are reviewed to assess the applicant's education/training and experience as listed in the application to determine qualifications for the job class for which the applicant is applying. All college education and training related to the position for which application is made shall be assessed at a maximum of 120 semester hours (or the equivalent) for a Bachelor's degree; a maximum of 150 semester hours (or the equivalent) for a Master's degree; a maximum of 180 semester hours (or the equivalent) for a Specialist degree; and 210 semester hours (or the equivalent) for a doctoral degree. Additionally, college hours will be counted for up to 119 semester hours in increments of 30, 60 or 90 hours. All experience entries listed on the application related to the position for which the application is made, including military, paid, and unpaid volunteer work, shall be assessed at a maximum of forty (40) hours per week. This forty (40) hour limit will also apply where a combination of related work is gained through concurrent jobs. The

applicant must meet the minimum requirements outlined in the current active job posting.

#### **4.2.6 Additional Documentation Supplied for Evaluation**

- A. Applicants may be required to submit proof of the possession of any license, certificate, degree, or other evidence of eligibility or qualification required by state law or role summary. Applicants may be disapproved for failure to provide the requested documentation.
- B. Applicant(s) will be notified regarding additional information or documents necessary to complete processing of application(s).

#### **4.2.7 Verification of Education/Training and Experience**

- A. An applicant's educational record and work history may be investigated by the MSPB Executive Director or the hiring agency.
- B. Investigative procedures may include but not necessarily be limited to contacting present and previous employers and/or schools, colleges, or other institutions to verify information contained in the State of Mississippi Application or related documents supplied by the applicant and/or the hiring agency.
- C. The appointing authority may require the applicant to submit proof of the possession of any license, certificate, degree, or other evidence of eligibility or qualification required by state or federal law or role summary.
- D. The hiring agency shall ultimately be held accountable for verifying the correctness of information recorded in the State of Mississippi Application.

#### **4.2.8 Falsification of State of Mississippi Application**

- A. Should an agency, after investigation, discover an applicant's State of Mississippi Application to be falsified, the agency should immediately inform the MSPB Executive Director of such falsification in writing. The State Personnel Director may remove the applicant from consideration as provided for in Section 4.5.2.
- B. When such action is taken, written notification will be mailed to the applicant's last known mailing address.

#### **4.2.9 Non-Competitive Initial Appointment**

##### **Job Classifications (State Service), under Mississippi Code Annotated § 25-9-105**

- A. Non-competitive appointments to job classifications exempted from the selection process by state law or by action of MSPB are not required to be made from a Referred List. The MSPB Executive Director only certifies the candidates referred by the appointing authority who meet the minimum requirements for the job classification.
- B. Exempt classifications may consist of, but are not limited to, the following: (1) skilled or semi-skilled labor, domestic or custodial work; (2) classifications which involve professional or technical skills not normally available in the general applicant population and for which recruiting procedures produce recurring deficiencies; (3)

classifications which include a small number of positions; (4) classifications which are unique to a particular agency; (5) classifications which have high turnover rates, and (6) classifications which require professional licensure and/or certification. In general, for a job to be classified as exempt from competitive recruitment, multiple criteria outlined previous must apply to either the agency and/or classification.

- C. The MSPB Executive Director shall review agency proposed classifications or positions and make recommendations to MSPB to develop a list of job classifications exempt from the use of a Referred List. The list of exempt classifications may be furnished to the agencies.
- D. Agencies may request classifications be reinstated to a competitive appointment basis and may recommend changes to the list of exempt classifications.
- E. Exempt classifications may apply to entire classifications or specific positions assigned to a classification.
- F. The appointing authority shall submit a current State of Mississippi Application to the MSPB Executive Director. The applicant is required to meet the minimum qualifications to be certified for the class or position.
- G. Incumbents in state service positions exempt from the selection process by actions of MSPB have the same rights as any other state-service employee.
- H. Each agency is responsible for ensuring that its workforce complies with all state and federal laws, guidelines, and court orders regarding Equal Opportunity Employment.

### **4.3 EVALUATION OF APPLICANTS BASED ON MINIMUM QUALIFICATIONS**

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

#### **4.3.1 Minimum Qualifications**

The minimum qualifications for a job classification shall consist of the minimum qualifications listed on the role summary plus any special qualifications, known as job specific supplemental questions, for the position applied for as requested by an agency and as approved by the MSPB Executive Director.

- A. An applicant's education/training and experience background, as stated on the State of Mississippi Application, is reviewed in detail to determine qualifications for the position applied for, in line with the approved minimum requirements in the role summary, and any job specific supplemental questions levied by the user agency as approved by the MSPB Executive Director.
- B. The MSPB Executive Director shall determine a formula for the evaluation of the training and experience qualifications of applicants. This formula shall give due regard to relatedness as well as quantity of the training and experience.



### **4.3.2 Notification of Failure to Meet Minimum Qualifications**

- A. A standardized notification approved by the MSPB Executive Director shall be sent to all applicants who do not meet the minimum qualifications of the job classification for which they have made application.
- B. An applicant shall have the right to make a written request for the review of the disapproval by the Director of the Office of Classification, Compensation, and Recruitment or through the substitution process outlined in Section 4.3.3.

### **4.3.3 Substitution of Minimum Qualifications**

An applicant or employee, or an agency (for non-competitive intra-agency transfers only), may request in writing that the MSPB Executive Director substitute the substantial equivalent of education/training and experience for the minimum qualifications required for entry into a job classification, thereby allowing the certification to a Referred List or in-service movement of an individual not otherwise meeting the stated minimum qualifications.

- A. There shall be no consideration given to the substitution of equivalent education/training or experience where relevant licensing, certification, or similar requirements, or where state or federal statutes or regulatory guidelines preclude evaluation on this alternative basis.
- B. The MSPB Executive Director shall appoint a committee of staff members to review all requests.
- C. The review committee shall consider, but not limit its consideration to, the amount of related experience and formal education/training as documented by a State of Mississippi Application.
- D. Decisions of the review committee shall be binding; however, final consideration may be made by the MSPB Executive Director upon written justification submitted by the employee, applicant, and/or agency.
- E. Requests for substitutions of the substantial equivalent of education/training and experience by applicants, employees, or agencies may include:
  - 1. Detailed and current State of Mississippi Application;
  - 2. Letter of request;
  - 3. Transcript of related college credit hours;
  - 4. Certificates of completion of any related training courses where applicable; and
  - 5. Other pertinent documents deemed necessary by the review panel.

#### **4.3.4 Special Qualifications/Job Specific Supplemental Question(s)**

Agencies have the flexibility to fully customize each job posting via the requisition process. With regards to special or preferred qualifications or job specific qualifications, agencies will have the ability to list any preferred qualifications for each posting subject to approval of the State Personnel Director or designee.

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

The MSPB Executive Director shall have the authority to modify and/or deny any request for special qualifications/job specific supplemental questions. Exceptions to this policy will be reviewed on a case-by-case basis by the MSPB Executive Director.

#### **4.4 MISSISSIPPI STATE PERSONNEL BOARD STATUTORY SELECTION AUTHORITY OVER NON-STATE SERVICE PERSONNEL**

##### **4.4.1 Non-State Service Personnel Evaluation**

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

- A. Part-Time Positions – The appointing authority shall submit position-employee data along with a copy of a current State of Mississippi Application and other required documentation to the MSPB Executive Director when appointing to part-time positions. The individual to be appointed must meet the minimum qualifications for the job classification as set by MSPB and be certified as such prior to appointment unless otherwise authorized by the MSPB Executive Director.
- B. Physicians, dentists, veterinarians, nurse practitioners and attorneys, while serving in their professional capacities in authorized employment positions who are required by the State to be licensed, registered, or otherwise certified as such, shall submit State of Mississippi Applications and other documentation as needed to substantiate their professional status. The MSPB Executive Director shall verify such licensure, registration, or certification as being current and valid prior to acknowledging the appointment of such personnel. The appointing authority shall submit position-employee data along with a copy of a current State of Mississippi Application and other required documentation to the MSPB Executive Director when appointing to such positions.
- C. Time-Limited Positions – The appointing authority shall submit position-employee data along with a copy of a current State of Mississippi Application to the MSPB Executive Director when appointing to time-limited positions. The individual to be appointed must meet the minimum qualifications for the job classification as set by MSPB as well as qualifications required by federal laws and regulations and be certified as such prior to appointment unless otherwise authorized by the MSPB Executive Director. Mississippi Code Annotated § 25-9-107(c)(xiv).
- D. Applicants for top-level positions excluded from the state service by Mississippi Code Annotated § 25-9-107(c)(xvi) shall submit a State of Mississippi Application to the

appointing authority. The appointing authority shall submit position-employee data along with a copy of a current State of Mississippi Application to the MSPB Executive Director.

- E. With the exception of those positions stipulated in sections A, B, and C above, the MSPB Executive Director only acknowledges the appointment of non-state service personnel.

#### **4.5 EVALUATIONS OVERVIEW**

- A. Applicants for job classifications must be evaluated and found minimally qualified by the MSPB Executive Director prior to being placed on the Referred List.
- B. The MSPB Executive Director shall maintain uniform standards for evaluating the education/training and experience of minimally qualified applicants for positions.
- C. The established uniform standards shall be applied to all applications without regard to the applicant's political affiliation, race, color, handicap, genetic information, religion, national origin, sex, religious creed, age, or disability except as provided by law.
- D. All State of Mississippi Applications for the same job classification are afforded uniform and equal treatment in all phases of the evaluating process.

##### **4.5.1 Evaluation of Applications**

- A. After applicants are determined to have met the minimum qualifications for a position's allocated job classification, they shall be assigned a passing disposition.
- B. Evaluations shall be determined by the amount of the education/training and experience documented on the applicant's State of Mississippi Application as compared to the minimum qualifications, characteristics of work, description of duties contained in the role summary for which application has been made, and by the job specific supplemental questions, if any.
- C. The MSPB Executive Director shall determine a formula for the evaluation of the education/training and/or experience qualifications of the applicants. This formula shall give due regard to job relatedness as well as quantity of the education/training and/or experience.
- D. Any applicant claiming credit for education/training and/or experience gained through unpaid and/or volunteer activities and/or military service shall receive appropriate credit for such education/training and/or experience when it is related to the duties of the job classification for which application is made.

##### **4.5.2 Disqualification of Applicants**

The MSPB Executive Director may refuse to evaluate an applicant or, after evaluating, may disqualify the applicant, remove the applicant's name from the Referred List, refuse to certify an applicant on a Referred List, or may consult with the appointing authority in taking steps to remove a person already appointed if the individual:

- A. Has provided job-related information which indicates inability to perform the tasks assigned to the job classification for which evaluated;
- B. Has made a false statement of material fact in the State of Mississippi Application;
- C. Has used or attempted to use political pressure or bribery to secure an advantage in the evaluation process;
- D. Has directly or indirectly obtained information regarding the evaluation process to which an applicant is not entitled;
- E. Has failed to submit the State of Mississippi Application correctly or within the prescribed time limits;
- F. Has taken part in the compilation, administration, or correction of the selection procedures applied;
- G. Has otherwise willfully violated the provisions of these rules; and/or
- H. Does not meet any one (1) of the minimum qualifications established for the job classification for which evaluated.

#### **4.5.3 Notification of Evaluation Results**

- A. Applicants will be notified of their evaluation results in a timely manner.
- B.
- B. The MSPB Executive Director may prohibit the disclosure of evaluation results by phone, in person, or by any other means except electronically or by mail.

#### **4.5.4 Adjustment of Errors**

- A. The MSPB Executive Director shall take whatever action deemed necessary to correct a manifest error in the evaluation of an applicant's qualifications for the job classification for which application is made. Due consideration will be given to the circumstances surrounding the cause of the error.
- B. Such corrective action may include, but is not limited to, removing an applicant's name from the Referred List and/or canceling any Referred List deemed flawed due to the manifest error.
- C. Such corrective action shall not invalidate an appointment previously made unless the applicant fails to meet qualifications imposed by federal or state law, or does not possess licensure, registration, or certification required for the job class to which appointed.

#### **4.6 DESIGNATION OF VETERANS' STATUS**

The veteran status of an applicant shall be designated on the Referred List, if the applicant is otherwise qualified to be placed on a Referred List. Veterans' designations shall not be awarded for periods of active duty when duty was for "training purposes only" to meet obligations in the Reserve Forces, National Guard, etc. Terms in this section are as follows:

- A. Veteran: A person who has served in the active Armed Forces of the United States for a period of ninety (90) days during a period of war or armed conflict and was granted an honorable discharge there from; or was discharged there from for a service-connected injury in less than ninety (90) days. Mississippi Code Annotated § 25-9-301(a).
- B. Disabled Veteran: A veteran whom the Veterans Administration has certified to have a service-connected disability rating of at least thirty percent (30%) within the last ninety (90) days, or a veteran who was awarded the Purple Heart for wounds received in combat. Mississippi Code Annotated § 25-9-301(b).
- C. Proof of Eligibility: A certified copy of the veteran's discharge papers and separation record or certification from the Veterans Administration or the Department of Defense will be accepted as proof of veteran status. Applicants requesting disabled veteran status shall submit, on such forms as may be required by the MSPB Executive Director, proof of disability certified by the Veterans Administration.

## **4.7 SELECTION PROCEDURE DEVELOPMENT AND VALIDATION**

### **4.7.1 Development of Selection Procedures**

- A. A comprehensive system of evaluation for all job classifications within the state service is maintained.
- B. The MSPB Executive Director determines the need for technical assistance to supplement staff expertise in the development of valid selection procedures. Subject to approval by MSPB, the MSPB Executive Director may contract for selection procedure services or purchase selection procedure material or may utilize qualified technical consultants. When technical assistance is required to supplement staff expertise, criteria for selecting said assistance shall consist of, but is not limited to, the lowest cost proposal, meeting time requirements set forth by the MSPB Executive Director, methodology to be used, and the amount of time of professional level staff, which is allocated to the project.

### **4.7.2 Validation of Selection Procedures**

- A. It is the intent of MSPB to validate selection procedures used as the basis for making employment decisions with regard to choosing prospective employees for employment or current employees for in-service placement. Selection procedures will be validated by methods and techniques that are feasible, practical, and consistent with federal guidelines and professional standards, as permitted by necessary levels of funding and staff.
- B. Important elements of job content shall be determined through interviews and/or the completion of appropriate questionnaires. Employees and/or supervisors and other subject matter experts shall identify and rate job tasks and related knowledge, skills, and abilities, as necessary.
- C. Employees and/or supervisors and other subject matter experts are required to evaluate potential selection procedure items under strict security provisions.

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

#### **4.8 REFERRAL OF APPLICANTS TO AGENCIES**

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

- A. The MSPB Executive Director may determine to be invalid any appointments not made in conformance with MSPB procedures.
- B. All appointments to the state service shall be from a Referred List and made on a competitive basis, except as provided in 4.2.9.
- C. Names on Referred Lists shall be derived from applicants that have met the selection criteria for a job classification.

#### **4.9 REFERRED LISTS**

It is the policy of MSPB to certify applicants who meet the minimum qualifications to fill vacancies within the state service. Referred Lists shall be maintained in accordance with policies, rules and procedures promulgated by MSPB. Selection and procedural requirements shall be balanced with the interest of economy. It is the applicant's responsibility to review the policies and procedures pertaining to the maintenance of Referred Lists. MSPB shall make such policies and rules accessible to all applicants. MSPB may respond to applicant requests for information or assistance. A separate, original State of Mississippi Application is required for each job opening posting for which application is made. A separate, original State of Mississippi Application is required for each job opening/posting for which application is made.

##### **4.9.1 Establishment and Maintenance of Referred Lists**

The MSPB Executive Director establishes and maintains Referred Lists necessary to provide a list of qualified candidates for positions in state service.

The appointing authorities shall notify the MSPB Executive Director as far in advance as possible, but a minimum of five (5) working days, of a job opening to be posted for recruitment. The MSPB Executive Director is responsible for the establishment and maintenance of appropriate lists for all state service position openings postings except as provided for in Section 4.2.9. Referred Lists are categorized in NeoGov as:

- A. Regular and Promotional – state employees and the general public may apply;
- B. Departmental Promotional Only – agency employees only may apply; and
- C. Transfer – state employees only may apply.

##### **4.9.2 Preparation of Referred Lists**

- A. After the MSPB Executive Director has determined that an applicant has met the evaluation criteria for a job classification, the applicant's name is added to the appropriate Referred List.

- B. The names of referred applicants shall be placed on the list in alphabetical order. Applicants who have a Veterans or Disabled Veterans status will be designated as such on the Referred List.
- C. Promotional lists and Transfer lists shall be for all state service status employees.
- D. Reduction-In-Force (RIF) applicants, who apply within twelve (12) months of their separation date, shall be designated as RIF on the Referred List as provided in Section 4.9.3.

#### **4.9.3 RIF/Reemployment Applicants**

##### **A. Reduction-In-Force (RIF) Applicants**

1. Any employee in a state service position, who has been laid off while in good standing in accordance with the rules governing RIF, may, upon submission of a current State of Mississippi Application within twelve (12) months of the termination date, be designated as RIF on the Referred List established for the job classification for which application is made. It is the responsibility of the terminated employee to notify the MSPB Executive Director of his or her RIF status for each application filed.
2. Reemployment into job classifications exempted from the selection process shall be made in the same manner as original appointments to the job classifications.
3. An applicant's pass/fail disposition for the job classification from which terminated and for lower job classifications in the same job family will be determined by a rating of his/her education/training and experience. If for any reason the employee does not meet the current minimum qualifications for the job classification or lower job classes in the job family from which terminated, he/she may still be placed on the Referred List. However, any requirement set by state or federal laws or guidelines, or any requirement for a license, certification, or certificate of training must be met.
4. Applicants for higher job classes within the class series from which terminated or other job classes must meet the current minimum qualifications.

##### **B. Reemployment Applicants**

1. A former state service status and/or those probationary state service, part-time, time-limited and/or other MSPB purview non-state service employees, who have completed at least six (6) months of continuous employment and who voluntarily terminated in good standing may apply for the Promotional and Transfer openings through submission of a current State of Mississippi Application within twelve (12) months of their termination date.
2. Reemployment into job classifications exempted from the selection process shall be made in the same manner as original appointments to the job classifications.
3. Applicants must meet the current minimum qualifications.

#### **4.9.4 Promotional Referred Lists**

- A. A state service status, probationary state service, part-time, time-limited and/or other MSPB purview non-state service employee, who has been continuously employed for six (6) months in the agency where the opening occurs, may apply for a Promotional opening through submission of a current State of Mississippi Application.
- B. Promotion into job classifications exempted from the selection process (See Section 4.2.9) shall be made in the same manner as original appointments to the job classifications.
- C. Applicants must meet the current minimum qualifications.

#### **4.9.5 Transfer Referred Lists**

- A. A state service status, probationary state service, part-time, time-limited, and/or other MSPB purview non-state service employee who has been continuously employed for six (6) months, may apply for a Transfer opening through submission of a current State of Mississippi Application.
- B. Transfer into job classifications exempted from the selection process (See Section 4.2.9.) shall be made in the same manner as original appointments to the job classifications.
- C. Applicants must meet the current minimum qualifications.

#### **4.9.6 Open Referred Lists**

- A. The applicant must file a valid State of Mississippi Application during an announced job posting.
- B. Applicants must meet the current minimum qualifications.
- C. Applicants are placed on a Referred List after meeting the minimum qualifications.

#### **4.9.7 Agency Only Non-Competitive Promotional Eligibility**

- A. For agency only non-competitive promotions of state service employees to promotional state service positions, agencies may consider only employees who have completed at least six (6) months of continuous service.
- B. For non-competitive promotions into positions classified as non-state service or exempt from selection, the agency may consider any candidate employed by the appointing authority.
- C. Agencies shall submit a current copy of a State of Mississippi Application along with the appropriate position-employee data for those employees to be considered for agency only non-competitive promotion.
- D. Only those employees meeting the applicable selection criteria shall be approved for non-competitive promotion by the MSPB Executive Director.



#### **4.9.8 Duration of Referred List**

- A. The term of an applicant's name on the Referred List begins on the date of placement of the applicant's name on the Referred List and expires once the position is filled.
- B. The applicant's time on a list shall expire automatically at the end of the appropriate validity period, which is one hundred twenty (120) calendar days from the date of issue unless the time is otherwise extended by the MSPB Executive Director in advance of the expiration date of the Referred List.

#### **4.9.9 Request for Referred Lists**

- A. To fill vacancies for positions, which are not exempt from the selection process, the appointing authority shall submit a request (requisition) for recruitment, which will result in the issuance of a Referred List after the closing date of the job announcement.
- B. Initial appointments to full-time, state service positions or job classifications which are not exempt from the selection process shall be accomplished through Referred Lists.
- C. A single request for a Referred List may be made for one (1) or more positions provided each position is for the same classification and in the same county or counties.
- D. A request for a Referred List shall be submitted by an individual duly authorized by the agency.
- E. Part-time appointments and appointments to time-limited positions shall be accomplished by the submission of position-employee data and a current copy of the State of Mississippi Application to the MSPB Executive Director. Candidates for these appointments are to possess the minimum requirements contained in the role summary and are not required to be appointed from a Referred List.
- F. Agencies may request Referred Lists for filling time-limited or part-time vacancies. Final authority for issuing Referred Lists rests with the MSPB Executive Director.
- G. Demotion of state service employees shall be accomplished by the submission of the position-employee data and a current copy of a State of Mississippi Application to the MSPB Executive Director. Candidates for demotion are to possess the minimum qualifications contained in the role summary.
- H. Emergency appointments shall be made in accordance with Mississippi Code Annotated § 25-9-107(c)(xii); and shall be accomplished by the submission of the position-employee data to the MSPB Executive Director. Except where otherwise required by federal or state law, licensure, certification or registration, such appointments are made without regard to minimum requirements contained in the role summary. Emergency appointments shall not exceed sixty (60) working days.
- I. In-service placement of incumbents as a result of a title change shall be accomplished by the submission of position-employee data. Title changes shall not be approved where incumbents do not meet minimum requirements for the new classifications except where an agency request has been approved under Sections 4.2.3 or 4.2.4. All title change requests shall be accompanied by a current copy of a State of Mississippi

Application except when otherwise authorized by the MSPB Executive Director.

- J. A lateral transfer of a state service employee, or a state service employee who has completed six (6) months of his/her probationary period, into the same job class may be accomplished by the submission of the appropriate position-employee data.
- K. Permanent appointments to full-time positions in job classes or positions, which are exempt from the selection process, shall be accomplished in accordance with 4.2.9.

#### **4.9.10 Procedures for Completing a Recruitment Request (Requisition)**

When requesting recruitment to fill a vacancy, the following shall be in effect:

- A. Please reference the Mississippi State Personnel Board's Recruitment and Selection software Training Manual for detailed instructions regarding the procedures to enter a recruitment request (requisition).
- B. The Mississippi State Personnel Board's Recruitment and Selection software will automatically assign the Referred List request number.
- C. Indicate requested recruitment type:
  - Open – To be used when the agency desires to recruit all qualified applicants.
  - Promotional – To be used when the agency desires to recruit qualified applicants employed by the particular master agency and meeting the criteria for placement on the promotional list. See Section 4.9.4.
  - Transfer – To be used when the agency desires to recruit qualified applicants employed by the state and meeting the criteria for placement on the transfer list. See Section 4.9.5.
- D. Special requirements should be noted. All requests for job related supplemental questions must be accompanied by appropriate justification and must be approved by the MSPB Executive Director prior to usage.
- E. Travel Schedule **MUST** be identified as: Some day only; Often day only; Some overnight; Often Overnight; or None.
  - Shift Schedule **MUST** be identified as: Day only; Evening only; Night only.
- F. When employees are hired into vacant positions and will be required to work in multiple counties, all counties must be selected.
- G. The requisition shall be submitted by an individual duly authorized to sign for the agency.
- H. The requisition will be returned without action if not properly submitted.

#### **4.9.11 Selective Certification**

Requests for selective certification of referrals are considered upon adequate justification submitted to the MSPB Executive Director.

- A. The MSPB Executive Director may provide for an individual participating in a MSPB approved agency co-op program, upon completion of the approved co-op program and subsequent graduation, to be selectively certified to fill a position on a non-competitive basis, provided the individual meets the minimum educational and/or experience requirements of the position.
- B. Requests for selective certification shall be made by the appointing authority or his or her designee.
  - 1. The special requirements for selective certification must be clearly stated and justification for the request must be attached.
  - 2. The MSPB Executive Director shall have the authority to modify and/or deny any request for selective certification.

#### **4.9.12 Supplying of Referred Lists**

- A. No Referred List shall be issued unless the agency has a vacancy or an impending vacancy. The receipt by the MSPB Executive Director of a notice of termination with a specific date of termination within 60 days shall signify a vacancy or an impending vacancy.
- B. Upon receipt of a properly filed requisition, a Referred List shall be submitted to the appointing authority within one (1) working day after the closing date of the associated job announcement. The Referred List shall contain the names of all applicants meeting the qualifications of the position and any job-related supplemental questions specified by the agency.

#### **4.9.13 Appointments from Referred Lists**

- A. The appointing authority may appoint any applicant certified to the agency on the Referred List.
- B. Initial appointments to full-time state service positions shall be made from those referred on the Referred List.
- C. The agency shall submit to the MSPB Executive Director notification of intent to appoint from a Referred List. Such notification shall consist of the actioned Referred List and position-employee data.
- D. An appointment from a Referred List shall be made within one hundred twenty (120) calendar days from the date of issue, unless the time is otherwise extended by the MSPB Executive Director in advance of the expiration date of the Referred List. An appointment cannot be made for a future hire date more than fifteen (15) calendar days after the expiration date of the Referred List.
- E. The expiration date is printed on each issue of the Referred List.
- F. The appointing authority may return the Referred List, without any action taken, prior to the one hundred twenty (120) day expiration period. The reason for such cancellation should be noted in the appropriate space provided.

#### **4.9.14 General Instructions for Actioning a Referred List**

When filling vacant positions through open job announcements, a Referred List is issued by the MSPB Executive Director in response to a properly filed requisition. The following shall be in effect:

- A. A Referred List can be used only for positions (PINS) identified on the requisition.
- B. Action taken concerning each referral should be noted in the appropriate space on the Referred List according to the proper codes. Please reference the Training Manual for detailed instructions regarding specific codes.
- C. If selection is not made, a new requisition and posting is required.
- D. The agency is responsible for maintaining documentation for each referral actioned on the Referred List.
- E. The date of appointment may not be earlier than the date the Referred List is issued. The MSPB Executive Director may consider earlier dates when justified by the agency.
- F. The life of a Referred List is one hundred twenty (120) days.

#### **4.9.15 Consideration of Reduction-in-Force and Reemployment Applicants**

- A. Agencies are encouraged to consider any applicant whose name is designated as RIF on the Referred List.
- B. Agencies should give full consideration to any applicant who was terminated from the state in good standing within the past year.

#### **4.9.16 Concurrent Recruitment**

The MSPB Executive Director shall initiate concurrent recruitment procedures when a requisition is received by the MSPB Executive Director for a position for which an active recruitment has been issued for the same geographical location, unless different job specific supplemental questions are requested for either requisition.

#### **4.9.17 Correction of Errors in Certification Process**

- A. When errors are corrected by the MSPB Executive Director, they may not nullify an active Referred List or appointment but may result in the removal of a name from the Referred List.
- B. In the event that a Referred List is flawed through error and the error is discovered before an appointment is made from the Referred List, the erroneous list may be withdrawn and a correct list issued.
- C. In the event that a Referred List is flawed through error and is discovered after an appointment is made from the list, the list shall not be withdrawn, except by the direction of the MSPB Executive Director.

#### **4.9.18 Confirmation of Availability for Appointment**

- A. Agencies may make written, facsimile, electronic, or telephone inquiries to those referrals it chooses to interview.
- B. Agencies are solely responsible for maintaining supporting documentation concerning action taken on individuals whose names appear on a Referred List.
- C. Agencies are required to maintain documentation of compliance with the requirements of Mississippi Code Annotated § 25-9-351 (Selective Service Registration). Males between the ages of 18 and 26 must submit proof of Selective Service Registration as a condition for appointment and/or promotion.

#### **4.10 APPLICANT'S REVIEW PROCEDURE**

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

##### **4.10.1 Review of Action**

Individuals or referrals requesting a review of actions of the Office of Classification, Compensation, and Recruitment shall make a written request to the Director of the Office of Classification, Compensation, and Recruitment. Such written request shall stipulate the reason the review is requested and shall contain documentation supporting the applicant's position.

Should the decision of the Director of the Office of Classification, Compensation, and Recruitment not prove satisfactory to the applicant, the applicant shall make a written request to the MSPB Executive Director for review of the action.

#### **4.11 APPLICANT INTERVIEWS**

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

#### **4.12 EMPLOYMENT AUTHORIZATION**

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

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

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

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

For detailed instructions on completing the Form I-9, refer to the Handbook for Employers published by the INS, which can be found at <http://www.uscis.gov/files/form/m-274.pdf>. All state agency employers must adhere to IRCA and the rules and regulations pertaining thereto.

#### **B. Employment Requirements pursuant to Mississippi Code Annotated § 71-11-3**

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

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

Source: Mississippi Code Annotated §§ 25-9-103, -119.

#### **C. Hiring Prohibition**

State agencies "shall not employ or continue to employ a person who has been convicted or pled guilty in any court of this state, another state, or in federal court of any felony in which public funds were unlawfully taken, obtained or misappropriated in the abuse or misuse of the person's office or employment or money coming into the person's hands by virtue of the person's office or employment."

Source: Mississippi Code Annotated § 25-1-113(2).

## **CHAPTER 5 – CLASSIFICATION AND COMPENSATION**

### **5.0 INTRODUCTION**

Following an organizational restructuring of MSPB in 2009, the functions of classification and compensation have been subsumed into the Office of Classification, Compensation, and Recruitment. Any questions regarding these functions should be addressed to your Classification, Compensation, and Recruitment Consultants.

### **5.1 CLASSIFICATION**

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

The assignment of a position to a job classification shall be based upon job analysis data, to include the Job Content section of the Performance Review Assessment (PRA) or the Role Description Questionnaire (RDQ), professionally accepted principles and guidelines for position classification, and review of role summaries.

MSPB shall have the sole authority to limit, increase, combine, or delete job classifications in the statewide classification plan. Upon recommendation by the Director of the Office of Classification, Compensation, and Recruitment, a job classification may be deleted from the statewide classification plan if another job classification already adequately describes the class, or if there are no employees in that job classification, and a job classification may be inactivated when the job classification is not utilized by any agency. Further, upon evidence that two or more job classifications have substantially the same tasks, duties, responsibilities and minimum qualifications, the Director of the Office of Classification, Compensation, and Recruitment may recommend that job classifications be combined.

#### **5.1.1 Creation of New Job Classifications**

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

A. Class establishment requests must include the following documentation:

1. A detailed letter of justification signed by the agency head and addressed to the MSPB Executive Director, which includes:
  - i. the total number of affected positions;
  - ii. the types of job classification affected, if any;
  - iii. the exact nature by which the job has evolved, and/or internal and external conditions precipitating establishment of the new class;
  - iv. clearly drawn distinctions between the proposed class and the most similar classes in the existing MSPB inventory of job classes;
  - v. the precise consequences of not establishing the new class;
  - vi. why current job classifications do not meet current needs; and
  - vii. an explanation of any discrepancy between the provided salary survey data and the requested salary range for the requested class.
2. The proposed role summary for the requested class.
3. All current regulatory and legal authority materials (including citations) governing performance of job functions or which mandate or require the creation of a new class.
4. Valid salary survey data submitted on a completed Agency Salary Survey Data Sheet which may be found at <http://www.mspb.ms.gov/agency-forms-templates.aspx>.
5. Any other documentation requested by the Classification, Compensation, and Recruitment Consultant.

B. Class establishments shall be effective following approval by MSPB.

### **5.1.2 Role Summaries**

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

No minimum qualification shall be established which excludes individuals based on age, sex, physical requirement, or disability unless such qualification constitutes a bona fide occupational qualification necessary for performance of essential functions.



### **5.1.3 Role Summary Revision**

When revision of an existing classification is requested by a user agency either through a change in the title, characteristics, examples of work, or minimum qualifications, the Director of the Office of Classification, Compensation, and Recruitment shall evaluate the justification for the request. Only those revisions approved by the MSPB Executive Director or designee shall be implemented.

#### **A. Role summary revision requests must include the following documentation:**

1. Detailed letter of justification to the Director of the Office of Classification, Compensation, and Recruitment which indicates:
  - i. the total number of positions and type(s) of job classification affected in the agency;
  - ii. quantitatively documented recruitment difficulties experienced (if any);
  - iii. the exact nature by which the job has evolved, including clearly drawn distinctions between current specifications and proposed changes;
  - iv. the precise consequences of not revising the role summary; and
  - v. why the existing job classification does not meet current needs.
2. The agency must annotate the proposed revisions on the current MSPB role summary.
3. A current (less than twelve months old), Job Content section of the Performance Review Assessment or Role Description Questionnaire signed by the employee (if any) and current or prospective supervisor, for each affected position. A representative PRA or RDQ, appropriately signed, may be submitted when all incumbents perform substantially the same work.
4. All current regulatory and legal authority materials (including citations) governing performance of job functions.
5. Any other documentation requested by the Classification, Compensation, and Recruitment Consultants.

#### **B. Revisions to job classifications currently on recruitment shall not be effective until the class is taken off recruitment.**

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

### **5.1.4 Mandated Changes to Role Summaries and Minimum Qualifications**

It is the responsibility of the user agency to notify MSPB of changes to role summaries or minimum qualifications necessitated by state or federal laws, regulations, guidelines, or other lawful requirements for those respective classes utilized by the agency.

### **5.1.5 Role Summaries of Multiple User Agencies**

When two or more agencies utilize or wish to utilize the same job classification, the MSPB Executive Director shall evaluate the needs of all user agencies in determining the content of the role summary.

## **5.2 COMPENSATION**

The Variable Compensation Plan (VCP) shall be the primary instrument establishing compensation policy. MSPB shall administer appropriate compensation plans and additional compensation schedules in accordance with the policies established by the VCP for each fiscal year, congruent with the intent of the Legislature as expressed in appropriations language and all other pertinent rules, regulations, procedures, and statutes.

It is the intent of the State of Mississippi to compensate its employees at a level sufficient to maintain market competitiveness necessary to recruit and retain a competent workforce as well as encourage excellence of performance. In establishing salaries for state employees, MSPB will ensure that our rates are competitive with rates in the external labor market, consistent with legislative direction, and equitable within each agency and across all state agencies under MSPB purview.

### **5.2.1 Pay Range Assignment**

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

### **5.2.2 General Compensation Rules**

The rate of compensation certified by the MSPB Executive Director under these provisions constitutes total remuneration for services rendered. No supplementary compensation for additional work performed for the state is paid except as authorized under policies governing additional compensation. Mississippi Code Annotated § 25-9-119(2)(c).

- A. All requests for salary certification shall be submitted to the Office of Classification, Compensation, and Recruitment.
- B. The MSPB Executive Director certifies all salaries within the state service and non-state service unless otherwise authorized by MSPB or by statute.
- C. In no case shall a salary increase or other action result in the incumbent exceeding the maximum salary of the job classification, unless specifically provided for in legislation.
- D. In coordination with appointing authorities, MSPB may set the annual salaries of those appointed officials whose salaries are not otherwise set by statute who work on a full-time basis in the capacity of agency head, executive director or administrator of any state department, agency, institution, board or commission under the jurisdiction of MSPB as provided in Mississippi Code Annotated §§ 25-9-101 *et seq.*, in conformity with the MSPB's compensation plan. Salaries of such officials who serve in their professional capacity as a physician, dentist, nurse practitioner, veterinarian, or attorney

shall be set in accordance with Mississippi Code Annotated § 25-9-107(c)(xiii).

- E. Unless authorized by statute, no employee under the salary setting authority of MSPB shall receive an annual salary or compensation greater than 150 percent of the maximum salary fixed in law for the Governor, except for: a) the Executive Director of the Mississippi Development Authority as set by the Governor; b) the Commissioner of Child Protection Services as set by the Governor; and c) the Executive Director and the Chief Investment Officer of the Public Employees' Retirement System. In addition, no employee within an agency shall receive an annual salary greater than the agency head. However, in accordance with Mississippi Code Annotated § 25-3-39(2), MSPB, based upon its findings of fact, may exempt physicians and actuaries when the acquisition of such professional services is precluded based on the prevailing wage in the relevant labor market. Compensation, for the purposes of this section, is defined as the employee's base salary and any additional or special compensation, less paid fringe, authorized by state or federal law or as otherwise provided in MSPB policy. Further, agencies are required to ensure that no employees subject to the overtime provisions of the Fair Labor Standards Act of 1938, as amended, are scheduled to work hours that could cause the employee's total annual compensation to exceed that of the governor or the agency director.
- F. Payment of retroactive pay shall be certified by the MSPB Executive Director for employees in the state service in accordance with the Constitution of Mississippi, Article 4, Section 96 (1890). Generally, an administrative error justifies retroactive pay only when an employee was legally owed money that due to the administrative error was not paid. See MS AG Op. 2014-0059, Mosley (February 21, 2014) and MS AG Op. 2014-0060, Mosley (February 22, 2014).
- G. The pay grade of an employee in a supervisory status should be superior in salary range to that of the employees being supervised. Exceptions will be considered by the Office of Classification, Compensation, and Recruitment on a case-by-case basis. So as not to violate the principle of seniority or time-in-service, a subordinate employee may have an actual salary equal to or greater than the supervisor.
- H. The rate of compensation to be paid an employee or prospective employee shall be certified on the basis of the standard work period for full-time employment and in conformity with the salary range assigned the job class for which employed. Payment for part-time service shall be certified on this basis and in proportion to time actually worked. An employee's starting salary shall be set in accordance with the salary range of the job class to which he or she is assigned. The monthly rate of the corresponding salary is to be used for positions authorized to work forty hours per week and the hourly rate is to be used for positions authorized to work less than forty hours per week.

### **5.2.3 Implementation of Salaries**

An appointing authority shall notify the Director of the Office of Classification, Compensation, and Recruitment of the need to establish a salary or to adjust an existing salary as the result of an approved employment position or personnel transaction in accordance with reporting procedures. Mississippi Code Annotated § 25-9-119(2)(c).

- A. Only those salary increases resulting from approved position and personnel transactions for which provisions have been made during the legislative appropriations shall be implemented during the fiscal year, except where MSPB authorizes implementation outside the condition of this rule.
- B. All salary adjustments shall be effective on the first day of the next pay period. The transaction may be transmitted to MSPB before the requested effective date or in the month of the requested effective date.

### **5.3 ALLOCATION OF EMPLOYMENT POSITIONS**

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

#### **5.3.1 Title Changes**

MSPB provides for the adjustment in classification of a position through the title change process when the Office of Classification, Compensation, and Recruitment determines that significant job content, responsibility, and accountability changes have occurred.

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

#### **5.3.2 Requests for Title Changes (Upward, Downward, Lateral)**

Requests for title changes must be submitted through OSR and supporting documentation sent to the agency's Classification, Compensation, and Recruitment Consultants. In addition, title change requests for filled positions which exercise supervisory responsibilities and meet criteria identified in the policy memorandum, *Administration of the Variable Compensation Plan*, for the current fiscal year, should also be submitted to the MSPB Executive Director in a detailed letter of justification, together with the appropriate documentation, and will be presented to MSPB for its approval. For all other title change requests, the notes as entered into OSR serve as the request's justification; however, when deemed necessary, the agency's Office of Classification, Compensation, and Recruitment Consultants may request additional justification.

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

Title changes at the worker level within the same job family may be approved by the agency's Office of Classification, Compensation, and Recruitment Consultants. Upward title changes of vacant positions at the worker level but changing job families must be approved by the Director of the Office of Classification, Compensation, and Recruitment. Upward title changes of filled positions at the worker level and changing job families must be approved by the MSPB Executive Director.

The justification for title change requests must be entered into OSR with the following information entered either into the OSR Notes Section or in a letter to the MSPB Executive Director:

- A. A description of how the position's duties have substantially changed,
- B. Why the agency believes the proposed classification better describes the new duties, and
- C. A description of the consequences, if any, of disapproval of the request.
- D. A valid Job Content section of the Performance Review Assessment (PRA) or Role Description Questionnaire (RDQ), completed within the last twelve months and signed by the position's incumbent and direct supervisor, or, if vacant, by the direct supervisor only,
- E. Organizational chart pages, signed by the appointing authority or an authorized designee, depicting both the current and the proposed placements for which title change is requested, as well as the placement of any other relevant positions
- F. Copies of any federal or state regulations, case law, or statutes that have bearing on the proposed action
- G. Justification for any change from non-state service to state service, or the reverse. In either case, statutory authority must be cited. Mississippi Code Annotated § 25-9-107(c). Incumbents of filled positions changing from non-state to state service status must be selected from a Referred List, except where the proposed classification is exempt from the initial competitive selection process,
- H. A current (completed within the last twelve months) State of Mississippi Application if filled,
- I. A written acknowledgement signed by the affected employee, if the request is a downward title change,
- J. A written acknowledgement signed by the affected employee indicating agreement with loss of state service status, if applicable, and
- K. Any additional documentation requested by the Classification, Compensation, and Recruitment Consultants

On-site desk audits, conducted by MSPB staff, may be required as a component of the analysis of upward title change requests.

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

The authorized salary for an upward title change of a filled position shall be in accordance with the provisions indicated in the policy memorandum, *Administration of the Variable Compensation Plan*, for the current fiscal year.

## **5.4 APPOINTMENTS**

Vacancies which are not filled by transfer, promotion, or demotion shall be filled by probationary appointment, reemployment, or emergency appointment. Salaries paid upon appointment shall be the minimum that will attract suitably qualified applicants for job openings consistent with the provisions set forth in the policy memorandum, *Administration of the Variable Compensation Plan*, for the current fiscal year. The date which is entered into the statewide human resources information systems as the employee's hire date for any appointment shall be the first date on which the employee reports for work. Requests to change this date once entered and processed by MSPB must be submitted in writing by the agency head providing a justification for the requested change.

### **5.4.1 Original Appointment and Salary Determination**

Original appointments are made competitively from a Referred List or are made non-competitively where exempt from the selection process. See Chapter 4.

### **5.4.2 Standard New Hire Salary**

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

### **5.4.3 Open-Competitive New Hire**

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

- A. The hire date cannot be earlier than the date of issue of the Referred List.
- B. The salary shall be set in accordance with provisions outlined in the policy memorandum, *Administration of the Variable Compensation Plan*, for the current fiscal year.
- C. All competitive new hires shall be probationary and the status code "20" will populate in the "service status" field on the Maintain Employee Agency Info screen in OSR.
- D. For an open-competitive new hire of a probationary employee, the employee shall retain his/her status date and is required to complete the balance of the existing probationary period.
- E. OSR will create a new 365-day performance review period beginning the effective date of the personnel transaction.
- F. The following documentation is to be submitted to the Office of Classification, Compensation, and Recruitment for a competitive new hire request:

1. The Referred List must be actioned; and
2. Detailed justification if the requested salary is above market. (Refer to the policy memorandum, *Administration of the Variable Compensation Plan*, for the current fiscal year.)

Please reference the OSR User Training Workbook at <http://www.mmrs.state.ms.us> or your Classification, Compensation, and Recruitment Consultants for more detailed information regarding the hiring of an employee.

#### **5.4.4 Overlap New Hire and New Hire Flexibility**

In rare circumstances, an agency may elect to hire a replacement up to ninety days prior to the separation of an employee in order that the separating employee may provide specialized training to the new employee.

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

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

- A. The actioned Referred List; and
- B. Detailed justification if the requested salary is above market. (See the policy memorandum, *Administration of the Variable Compensation Plan*, for the current fiscal year.)

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

- A. A completed State of Mississippi Application; and
- B. Detailed justification if the requested salary is above market. (See the policy memorandum, *Administration of the Variable Compensation Plan*, for the current fiscal year.) After the appointment process is complete, display the action and press F5 to add notes describing the extent to which the employee exceeds the minimum education and/or experience requirements for the occupation.

#### **5.4.5 Non-Competitive New Hire and New Hire Above Start**

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

- A. The hire date for a non-competitive/exempt appointment will be the date the individual begins work. Employees hired into those job classifications and positions exempt from the selection process pursuant to MSPB action or by the nature of their service type (part-time and time-limited positions) must meet the selection criteria. The request must be received by MSPB within the same month the individual begins work.
- B. The authorized salary for a non-competitive new hire shall be set in accordance with provisions outlined in the policy memorandum, *Administration of the Variable Compensation Plan*, for the current fiscal year.

- C. Appointments to state-service positions for exempt job classes shall be probationary, and the status code “20” will populate in the “service status” field on the Maintain Employee Agency Info screen.
- D. OSR will create a new 365-day performance review period beginning the effective date of the personnel transaction.
- E. The following documentation is to be submitted for a non-competitive new hire request:
  - 1. A completed State of Mississippi Application; and
  - 2. Detailed justification if the requested salary is above market. (See the policy memorandum, *Administration of the Variable Compensation Plan*, for the current fiscal year.)

#### **5.4.6 Part-Time and Time-Limited New Hire**

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

- A. The hire date is the date the individual begins work. The request must be received by MSPB within the same month the individual begins work.
- B. The authorized salary for a part-time or time-limited new hire shall be in accordance with the provisions outlined in the policy memorandum, *Administration of the Variable Compensation Plan*, for the current fiscal year.
- C. All part-time or time-limited employees must meet selection criteria.
- D. All part-time positions shall be non-state service in accordance with Mississippi Code Annotated § 25-9-107(c)(xi). The status code “11” will populate in the “service status” field on the Maintain Employee Agency Info screen in OSR.
- E. All time-limited positions shall be non-state service in accordance with Mississippi Code Annotated § 25-9-107(c)(xiv). The status code “14” will populate in the “service status” field on the Maintain Employee Agency Info screen in OSR.
- F. OSR will create a new 365-day performance review period beginning the effective date of the personnel transaction.
- G. The following documentation is to be submitted for a part-time or time-limited new hire request:
  - 1. A completed State of Mississippi Application, where required; and
  - 2. Detailed justification if the requested salary is above market. (See the policy memorandum, *Administration of the Variable Compensation Plan*, for the current fiscal year.) After the appointment process is complete, display the action and press F5 to add notes describing the extent to which the employee exceeds the minimum education and/or experience requirements for the occupation.



### **5.4.7 Emergency Appointment**

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

- A. Emergency appointments shall be limited to classes and positions normally filled competitively from a Referred List. The Office of Classification, Compensation, and Recruitment shall evaluate each request for emergency appointment prior to certification based on the following criteria:
  - 1. Justification provided by agency;
  - 2. Patient and/or security support;
  - 3. Number of vacancies in the class within the requesting agency; and
  - 4. The period of time those vacancies have existed.
- B. The effective date cannot be earlier than the date approved by the Office of Classification, Compensation, and Recruitment.
- C. The authorized salary for an emergency hire shall be the start salary of the class to which appointed.
- D. Individuals hired on an emergency basis shall be designated by a status code of “12” in the “service status” field on the Maintain Employee Agency Info screen.
- E. An emergency appointment shall not exceed sixty working days. The appointing authority shall be responsible for initiating appropriate action to preclude any emergency appointment extending beyond the limit of sixty working days.
- F. The following documentation must be submitted with an emergency appointment request:
  - 1. A completed State of Mississippi Application
  - 2. Detailed justification outlining the emergency nature of the appointment; and
  - 3. Proof of valid licensure, registration, or certification when required under state or federal statute for the job class to which appointed.

### **5.4.8 Reappointment (Return from Authorized Leave of Absence)**

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

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

- A. For non-military leaves of absence, eligibility for reappointment is valid for one year from the date of the beginning of leave. For reappointment eligibility for leaves of absence due to military duty, the provisions of the federal Uniformed Services Employment and Reemployment Rights Act (USERRA) of 1994 apply.
- B. Reappointment under these provisions shall be restricted to the same job classification as occupied at the time of separation, except as provided for by USERRA.
- C. Upon reappointment, the employee's status shall be the same as it was at the time of separation and shall be reflected by the status code in the "service status" field and the status date. If the employee was state service at separation, the status date shall not be altered. If the employee had not completed the twelve-month probationary period, a new status date shall be determined by adding the number of days out of state service to the status date at the time of separation to allow the individual to complete twelve months of supervised probation.
- D. The effective date shall be the date requested by the agency. The request must be received by MSPB within the same month the individual returns to work.
- E. The authorized salary for a reappointment shall be no more than the current salary at the time of the separation unless general compensation adjustments were effected since the date of the separation. Such adjustments shall be added to the current salary where applicable.
- F. OSR will create a new 365-day performance review period beginning the effective date of the personnel transaction.

#### **5.4.9 Reemployment into the State Service**

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

- A. Individuals reemployed into a different job class from which separated shall be hired under the provisions for Appointments in this chapter.
- B. The appropriate selection criteria shall apply.
- C. The effective date for the employees shall be:
  - 1. RIF Reemployment List – cannot be earlier than the date the Referred List was issued.
  - 2. Alternative Reemployment List – cannot be earlier than the date the Referred List was issued.
  - 3. The hire date for a non-competitive/exempt reemployment will be the date the individual begins work. Employees hired into those job classifications and positions exempt from the selection process pursuant to MSPB action or by the nature of their service type (part-time and time-limited positions) must meet the selection criteria. The request must be received by MSPB within the same month the individual begins work.

- D. The authorized salary for reemployment shall be no more than the current salary at the time of separation unless salary realignments were effected since the date of the separation. Such adjustments shall be added to the current salary where applicable.
- E. Upon reemployment due to a Reduction-In-Force, the employee's status date and hire date shall be the same as it was at the time of separation. If the employee was permanent at separation, the status date and hire date shall not be altered. If the employee had not fully completed the probationary period, a new status date shall be determined by adding the number of days out of state service to the status date at the time of separation. Reemployment for reasons other than a Reduction-In-Force shall receive a new status date equal to the new hire date.
- F. OSR will create a new 365-day performance review period beginning the effective date of the personnel transaction.
- G. The following documentation must be submitted with a reemployment request:
  - 1. An actioned Referred List, where applicable; and
  - 2. A completed State of Mississippi Application, where applicable.

#### **5.4.10 Retiree Employment**

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

- A. The effective date shall reflect a minimum of ninety (90) days from the date of Retirement. PERS Regulation 34 provides that if the retired member is reemployed by the same or another covered employer in any capacity, including that of an independent contractor as well as service without pay, within ninety (90) days from the effective date of retirement, or is guaranteed such reemployment, the member shall be considered to have continued in the status of an employee and not to have separated from state service.
- B. The authorized salary shall be no more than the salary paid to the individual prior to the employee's retirement, except that the salary shall not exceed the end salary of the pay range of the job class to which appointed.
- C. Upon reemployment of a retired employee, the status and hire date shall reflect the new date of hire and status.
- D. The employer is required to notify PERS of the reemployment of a retiree under one of the above exceptions within five days of reemployment on a Form 4B, Certification/Acknowledgment of Reemployment of Retiree.

- E. OSR will create a new 365-day performance period beginning the effective date of the personnel transaction.
- F. The following documentation must be submitted with reemployment of a retired employee request:
  - 1. An actioned Referred List, where applicable;
  - 2. A completed State of Mississippi Application, where applicable;
  - 3. Detailed justification, which describes the circumstances surrounding the reemployment of a retiree. After the appointment process is complete, display the action and press F5 to add notes.

#### **5.4.11 Dual Employment and Salary Determination**

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

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

### **5.5 IN-SERVICE MOVEMENT**

All in-service movement is subject to the provisions of the policy memorandum, *Administration of the Variable Compensation Plan*, for the current fiscal year. In addition, the following provisions apply.

#### **5.5.1 Promotions**

Promotions may be made in one (1) of three (3) ways subject to approval of the Director of the Office of Classification, Compensation, and Recruitment:

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

See also Chapter 4.

#### **5.5.2 Promotion (Intra-Agency)**

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

- A. A valid performance review rating shall be required prior to processing the transaction.
- B. Promoted employees retain status date and hire date in the new position to which promoted.
- C. OSR will create a new 365-day performance review period beginning the effective date of the personnel transaction.
- D. For an intra-agency promotion request of a non-competitive promotion, an agency must submit a completed State of Mississippi Application.

### **5.5.3 Promotion (Inter-Agency)**

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

- A. The requested effective date must coincide to reflect no break in service and may be as follows:
  - 1. Competitive State Service – effective any time during the month provided it is no earlier than the date the Referred List was issued.
  - 2. The effective date for a non-competitive/exempt promotion will be the date the individual begins work. Employees hired into those job classifications and positions exempt from the selection process pursuant to MSPB action or by the nature of their service type (part-time and time-limited positions) must meet the selection criteria. The request must be received by MSPB within the same month the individual begins work.
- B. Promoted employees retain status date (except as otherwise stated in section 2.1.1) and hire date in the new position to which promoted.
- C. OSR will create a new 365-day performance review period beginning the effective date of the personnel transaction.
- D. The following documentation is to be submitted with a promotion request:
  - 1. A Referred List, if a competitive promotion; and
  - 2. A completed State of Mississippi Application, if a non-competitive promotion.
- E. It is the transferring agency’s responsibility to enter into OSR the separation indicating an employee’s transfer on the correct day.

### **5.5.4 Lateral Transfer (Intra-Agency)**

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

- A. Only lateral transfers in which the employee is changing job classifications will be considered. An agency may request in writing that the MSPB Executive Director, or his or her designee, waive this policy in certain limited circumstances.

- B. A valid performance review rating shall be required prior to processing the personnel transaction.
- C. Laterally transferred employees retain their status date (except as otherwise stated in Section 2.1.1) and hire date in the new position to which transferred.
- D. OSR will create a new 365-day performance review period beginning the effective date of the personnel transaction.
- E. The following documentation is to be submitted with a lateral transfer (intra-agency) request if the transfer is to a different job classification:
  - 1. The actioned Referred List, where applicable; and
  - 2. A completed State of Mississippi Application, where applicable.

### **5.5.5 Lateral Transfer (Inter-Agency)**

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

- A. The requested effective date may be as follows:
  - 1. Competitive State Service – effective any time during the month, provided it is no earlier than the date the Referred List was issued.
  - 2. The effective date for a non-competitive/exempt lateral transfer will be the date the individual begins work. Employees hired into those job classifications and positions exempt from the selection process pursuant to MSPB action or by the nature of their service type (part-time and time-limited positions) must meet the selection criteria. The request must be received by MSPB within the same month the individual begins work.
- B. Laterally transferred employees retain status date (except as otherwise stated in section 2.1.1) and hire date in the new position to which transferred.
- C. OSR will create a new 365-day performance review period beginning the effective date of the personnel transaction.
- D. The following documentation is to be submitted with the lateral transfer (inter-agency) request if the transfer is to a different job classification:
  - 1. The actioned Referred List, where applicable; and
  - 2. A State of Mississippi Application, where applicable.
- E. It is the transferring agency’s responsibility to enter into OSR the separation indicating an employee’s transfer on the correct day.

### **5.5.6 Demotional Transfers**

An employee may be demoted because of inadequate performance, disciplinary reasons, a reduction-in-force, or voluntarily. When the affected employee is a state service status employee,

written notice of intent to affect any demotion and the reason for such action shall be given to the employee at least ten working days prior to the effective date of the demotion. All actions adversely affecting compensation or employment status require that the state service status employee be given an opportunity for a conference with the appointing authority or designated representative and to respond in writing prior to any such action.

### **5.5.7 Demotional Transfer (Intra-Agency)**

When requesting the demotional transfer (intra-agency) of an employee (voluntary or for cause), the following shall be in effect:

- A. A valid performance review rating shall be required prior to processing the transaction as requested from the agency.
- B. Demoted employees retain status date (except as otherwise stated in section 2.1.1) and hire date in the new position to which demoted.
- C. OSR will create a new 365-day performance review period beginning the effective date of the personnel transaction.
- D. The following documentation is to be submitted with a demotional transfer (intra-agency) request:
  1. A completed State of Mississippi Application;
  2. A statement signed by the employee acknowledging the demotion (voluntary only) or a statement from the agency that the demotion is disciplinary (non-voluntary); and
  3. Detailed justification if demotion with extraordinary circumstances is requested. After the demotion process is complete, display the action and press F5 to add notes describing the need to retain the employee's current salary.

### **5.5.8 Demotional Transfer (Inter-Agency)**

When requesting a demotional transfer (inter-agency), the following shall be in effect:

- A. The requested effective date shall be as follows:
  1. Competitive State Service – effective any time during the month provided it is no earlier than the date the Referred List was issued.
  2. The effective date for a non-competitive/exempt demotional transfer (inter-agency) will be the date the individual begins work. Employees hired into those job classifications and positions exempt from the selection process pursuant to MSPB action or by the nature of their service type (part-time and time-limited positions) must meet the selection criteria. The request must be received by MSPB within the same month the individual begins work.
- B. Determination of salary for a demotional (inter-agency) transfer shall be in accordance with the policies and procedures outlined in the policy memorandum, *Administration of the Variable Compensation Plan*, for the current fiscal year.

- C. Transferred and demoted employees retain their status date (except as otherwise stated in section 2.1.1) and hire date in the new position to which transferred and demoted.
- D. OSR will create a new 365-day performance review period beginning the effective date of the personnel transaction.
- E. The following documentation is to be submitted with a demotional transfer (inter-agency):
  - 1. The actioned Referred List, where applicable; and
  - 2. A completed State of Mississippi Application, where applicable.
  - 3. It is the transferring agency's responsibility to enter into OSR the separation indicating an employee's transfer on the correct day.

### **5.5.9 Dual Transfer (Intra-Agency)**

When transferring positions between two current employees, the applicable preceding policies, rules, and procedures governing promotions, lateral transfers, and/or demotions shall apply.

### **5.6 DETAIL TO SPECIAL DUTY**

When the services of an employee are temporarily needed in a position at the supervisory level within the employing agency other than the position to which regularly assigned, the employee may be required, at the discretion of the appointing authority, to perform the tasks of such a position for a period not to exceed 180 days without a change in position title or employee status.

- A. A probationary employee in a state service position assigned to special duty shall not be required to serve an additional probationary period.
- B. When an employee is assigned the duties of a position that is in an equal or higher pay range, a temporary salary award up to 10 percent above the detailed employee's current salary may be awarded when justified and approved by the Director of the Office of Classification, Compensation, and Recruitment. The position to which the employee is being detailed must be vacant or filled by an incumbent who is not available for duty due to an authorized leave.
- C. In unusual circumstances, a detail beyond 180 days may be authorized by the Director of the Office of Classification, Compensation, and Recruitment upon written request by the appointing authority.
- D. If an employee is being detailed to a filled position, the incumbent of the filled position must have been absent for at least thirty days prior to the request for detail. In extraordinary circumstances, the agency may request Director of the Office of Classification, Compensation, and Recruitment approval of actions which do not meet this 30-day requirement.
- E. Any salary increase certified for special duty shall be withdrawn upon completion of special duty.



- F. No more than one employee may be awarded Detail to Special Duty Pay for assuming the responsibilities and functions of a single position.
- G. The following documentation is to be submitted to the agency's Classification, Compensation, and Recruitment with a Request for Detail to Special Duty:
  - 1. Detailed justification which indicates the position to which the employee is being detailed and the duties to be assigned while performing in the detail capacity;
  - 2. A statement from the employee acknowledging the temporary salary increase and the subsequent salary withdrawal upon completion of special duty; and
  - 3. Organizational chart pages, signed by the appointing authority, depicting both the employee's position and the position to which the employee will be detailed.
  - 4. If an employee is being detailed to a filled position, the date on which the absent employee is expected to return.

Please reference the OSR User Training Workbook at <http://www.mmrs.state.ms.us> or your Classification, Compensation, and Recruitment Consultants for more detailed information regarding the submission of Detail to Special Duty Pay requests.

#### **5.6.1 DFA Pilots and Aircraft Maintenance Director**

The Executive Director of the Department of Finance and Administration has authority to set the salaries of all licensed jet pilots and aircraft maintenance director assigned to the Office of Air Transportation within the salary range set by MSPB. Such pilots are not eligible for Pilot's Pay Additional Compensation. Further, all licensed jet pilots assigned to the Office of Air Transportation Services shall serve at the will and pleasure of the Executive Director of the Department of Finance and Administration.

### **5.7 ADMINISTRATION OF ADDITIONAL COMPENSATION SCHEDULES**

MSPB shall establish and administer additional compensation schedules to accommodate the full and efficient operation of an agency in the delivery of essential services within or outside of the standard work schedule or the standard workplace.

#### **5.7.1 Application of Additional Compensation**

In accordance with the policy memorandum, *Administration of the Variable Compensation Plan*, for the current fiscal year, the MSPB Executive Director may recommend to MSPB those job classifications certified for payment under provisions governing additional compensation. The MSPB Executive Director, with the approval of MSPB, shall amend additional compensation schedules based upon evaluation of labor market conditions and the economic value of comparable services within relevant public sectors and the relevant private labor market, if any.

#### **5.7.2 Agency Authorization for Additional Compensation**

- A. To request authorization of additional compensation, the appointing authority shall submit a letter to the MSPB Executive Director fully explaining and justifying the request.

- B. Determination as to agency authorization for additional compensation shall be subject to approval by MSPB.

### **5.7.3 Certification of Employees for Additional Compensation**

The appointing authority shall indicate in OSR those positions to be certified payment of additional compensation and of the need to decertify employees no longer working under the conditions set forth in the provisions governing additional compensation.

### **5.7.4 Job Classification Authorization or Rescindment of Additional Compensation**

- A. The appointing authority shall indicate in OSR which job classifications are necessary to accommodate the full and efficient operation of the agency in the delivery of essential services within or outside the confines of the standard work period and the standard work schedule as defined below:
  - 1. Standard work period: an eight-hour workday, a forty-hour workweek, a 173.929-hour work month, and a 2087.143-hour work year.
  - 2. Standard work schedule: the hours of work established by an appointing authority for individuals employed within the agency, which typically begin at 8:00 a.m. and end at 5:00 p.m. each day with a one-hour interval for a lunch period.
- B. Any position change affecting the classification of a position certified for additional compensation will cause the certification to be automatically removed from the position.
- C. Where certification is required as a prerequisite for authorization of additional compensation for a job classification, the agency is responsible for verifying receipt of certification by the individual for which additional compensation is requested and indicating in the OSR payroll segment the hours worked which qualify for additional compensation.
- D. An individual shall not be certified to receive more than three types of additional compensation during a single pay period.

## **5.8 COOPERATIVE EDUCATION COMPENSATION PLANS**

Upon requests by appointing authorities, MSPB may establish and maintain compensation plans to remunerate individuals enrolled in designated fields of study at institutions of higher learning, junior colleges, community colleges, or technical schools who alternate between intervals of state service or non-state service employment followed by unpaid intervals during training for the designated job classification.

## **5.9 PRODUCTIVITY**

Productivity increases are performance-based salary increases awarded at the discretion of the agency director and management. Productivity allows an agency director to reward excellence among agency employees. Productivity awards must be thoroughly documented by current performance evaluations and are awarded in accordance with policies and procedures outlined in the policy memorandum, *Administration of the Variable Compensation Plan*, for the current fiscal year, if the Legislature appropriates specified funds for this purpose.

Please reference the OSR User Training Workbook at <http://www.mmrs.state.ms.us> or your Classification, Compensation, and Recruitment Consultants for more detailed information regarding requests for productivity increases.

## **5.10 LONGEVITY**

Longevity awards are lump sum payments awarded to employees who have reached the maximum salary (end salary) for their respective job classes. Longevity payments are awarded in accordance with policies and procedures outlined in the policy memorandum, *Administration of the Variable Compensation Plan*, for the current fiscal year, if the Legislature appropriates specified funds for this purpose.

## **5.11 EMPLOYER REQUIREMENTS UNDER FLSA**

The Fair Labor Standards Act of 1938, as codified at 29 U.S.C. § 201 and following (hereinafter referred to as “FLSA”), is a federal law which is applicable to all state agency employers. The FLSA provides that all covered, or non-exempt, employees must be paid at least a minimum wage, and must be paid at the rate of one and one-half times, or time-and-a-half, their regular rate of pay for each hour over forty worked during a single workweek. State agency employers may, in lieu of cash payment for overtime, pay their non-exempt employees in compensatory time at the rate of one and one-half hours for each hour over forty worked during a single workweek. Police and firefighters, emergency response personnel, and employees engaged in seasonal activities may accrue up to 480 hours of compensatory time. Other non-exempt employees may only accrue up to 240 hours of compensatory time. After a non-exempt employee has accrued the maximum amount of compensatory time, the employer is required to pay the employee overtime for the additional overtime hours worked in cash.

A state agency employer may require a non-exempt employee requesting leave to exhaust an FLSA compensatory leave balance prior to use of any personal and/or medical leave, and a state agency employer may compel a non-exempt employee to use FLSA compensatory time and take time off work to reduce a compensatory time balance below the 480 or 240 hour thresholds.

The U. S. Department of Labor (DOL) is responsible for the enforcement of the FLSA, and may investigate and gather data concerning wages, hours, and other employment practices. For assistance in complying with the FLSA, state agency employers may contact the area office of the Wage and Hour Division of the DOL.

The federal regulations governing FLSA applicable to state agency employers in the area of compensatory time and other areas may be found at 29 C.F.R. § 500.

When requesting authorization under FLSA for payment of overtime compensation to non-exempt employees, the following shall be in effect:

- A. Each agency must petition MSPB and be approved to receive overtime compensation.
- B. Each job classification to receive overtime compensation must receive prior approval by MSPB.
- C. Positions must be determined to be non-exempt from FLSA provisions, and so marked in OSR, before overtime compensation can be paid.

## **5.12 EMPLOYEE DATA CHANGES**

When requesting changes to employee data, the following shall be in effect:

- A. Employee data changes include changes in social security number, last name, first name, middle name, date of birth, race, sex, years of education, agency hire date, PIN entry date or status date.
- B. Supporting documentation may be required in changing date of hire, PIN entry date, status date, social security number, and performance development rating.
- C. Requests for hire date changes once entered and processed by MPSB must be submitted in writing by the agency head providing a justification for the requested change.

## **5.13 SEPARATIONS**

The effective date of separation shall be the last day the employee worked or utilized authorized leave. For a complete list of the Separation Reason Codes to enter into OSR, reference the OSR User Training Workbook at <http://www.mmrs.state.ms.us> or contact your Classification, Compensation, and Recruitment Consultants.

## **5.14 SELECTIVE SERVICE REGISTRATION**

Mississippi Code Annotated § 25-9-351 provides that every male between the ages of eighteen and twenty-six who is required to register under the Federal Military Selective Service Act, 50 U.S.C. App. 453 and seeking employment with the State of Mississippi shall submit to the person, commission, board or agency to which his application is submitted satisfactory documentation of his compliance with the draft registration requirements of the Military Selective Service Act prior to appointment.

In accordance with Mississippi Code Annotated § 25-9-127, every male between the ages of eighteen and twenty-six who is required to register under the Federal Military Selective Service Act, 50 U.S.C. App. 453, and who is an employee of the State, shall not be promoted to any higher position of employment with the state until he submits to the person, commission, board, or agency by which he is employed satisfactory documentation of his compliance with the draft registration requirements of the Military Selective Service Act prior to promotion.

To verify a registration or for information regarding who is and is not required to register, see the Selective Service System's website at <http://www.sss.gov>.

## **CHAPTER 6 – STAFFING MANAGEMENT POLICIES**

### **6.0 INTRODUCTION**

The Staff Management Program is authorized by Mississippi Code Annotated §§ 25-9-101 *et seq.* and applies to all agencies and positions within agencies under the purview of MSPB. See Mississippi Code Annotated § 25-9-107(d).

#### **6.0.1 Purpose**

The Staff Management Program authorizes MSPB to monitor, control, and implement short and/or long-range organizational planning to achieve the most efficient and economical use of staffing positions within agencies. In support of the stated purposes, the Staff Management Program provides for the following:

- A. The establishment, consolidation, or abolishment of agencies and employment positions;
- B. The submission, approval, and determination of compliance of agency organizational and staffing plans, payroll, program budget data, and other essential personnel data; and
- C. The provision of timely reports or recommendations on agency organizations and staffing cost projections to the Department of Finance and Administration and the Legislative Budget Office during the budget process regarding the status of employment positions within agencies.

### **6.1 AGENCY'S ROLE IN THE STAFFING MANAGEMENT PROGRAM**

Each agency director is responsible for the continual evaluation of the agency's mission and workload to ensure that staffing resources are consistent with legal authority, mission priority, and sound staffing management principles. Actions taken to ensure the maximum utilization of staffing positions include, but are not limited to, the following:

- A. Conducting long-range agency organizational planning in which organizational changes, additions or deletions of positions, or similar actions affecting budgetary requirements are anticipated and/or recommended for future fiscal years;
- B. Recommending elimination of non-essential agencies or positions;
- C. Recommending consolidation of agencies, positions, and activities when duplication of functions is indicated; and
- D. Establishing and maintaining a system of agency staffing management documentation and collection and retention of data. See Mississippi Code Annotated § 25-9-133.

#### **6.1.1 Reporting Data**

The director of each agency shall submit to MSPB all information deemed necessary by MSPB for the provision of required reports to the Governor, Legislature, Federal Government and general public. See Mississippi Code Annotated § 25-9-135(2).

## **6.2 ESTABLISHMENT AND ABOLISHMENT OF AGENCIES**

Legislative appropriation of funds, Executive Order, Department of Finance and Administration budget escalation, the receipt of federal funds, or loss of funding or authorization shall require the submission of documentation to MSPB for the establishment and/or abolishment of agencies and/or master agencies prior to requesting additions, deletions or changes in employment positions resulting there from. All agencies established or abolished in accordance with the provisions herein shall be based on legislative intent and authorization, appropriation or escalation of funds or loss thereof, and current fiscal policy.

### **6.2.1 Establishment of a New Agency**

When legislative appropriation or other authority provides for the creation of a new agency, the agency director shall submit the following to MSPB:

- A. A copy of the enabling legislation or other authority that created the new agency and/or master agency; and
- B. A copy of the appropriation bill or other authority that funds the new agency and/or master agency.

The Office of Classification, Compensation, and Recruitment employees will perform all functions in OSR related to the creation, maintenance, inactivation, and reactivation of an agency. Once the agency records have been created in OSR (to include the fiscal year records), the agency shall create a Program Budget record for each new agency to be reviewed and approved by the Office of Classification, Compensation, and Recruitment. Please reference the OSR User Training Workbook at <http://www.mmrs.state.ms.us> or your Classification, Compensation, and Recruitment Consultant for more detailed information regarding the establishment of new agencies.

### **6.2.2 Consolidation of Existing Agencies**

Agencies directed by appropriation acts or other legislative authority to consolidate existing agencies shall submit the following to MSPB:

- A. A letter of request to the MSPB Executive Director describing by name and agency code number, which agencies are expanding, and which agencies are being abolished. The letter shall also address the disposition of former agency directors, bureau directors and division directors along with possible duplication of functions such as clerical support, print shops, computer centers, etc.;
- B. A copy of the enabling legislation or other authority that directed the consolidation to be accomplished;
- C. A copy of the appropriation bill or other authority that funded the consolidation of the agencies;
- D. A revised organizational chart identifying the precise location, after consolidation, of all authorized positions prepared in accordance with established procedures;
- E. Any updates to the expanded agency's Program Budget record should be submitted in OSR to the Office of Classification, Compensation, and Recruitment for review and approval; and

- F. Any other relevant supporting documentation.

NOTE: Once all positions have been transferred to the expanded agency, the relevant agencies shall be inactivated by the Office of Classification, Compensation, and Recruitment.

### **6.2.3 Inactivation of Agencies**

Agency inactivation becomes necessary when the Legislature does not pass an appropriation act to continue or fund any positions within an agency. Petitions for inactivation of an agency shall be submitted a minimum of sixty (60) days prior to the proposed effective date. Note that all positions must be abolished before the agency may be inactivated.

### **6.2.4 Agency Program Budget Data**

The agency program budget data is submitted to the Office of Classification, Compensation, and Recruitment in OSR for each agency. This information must be submitted to the Office of Classification, Compensation, and Recruitment at the following times:

- A. During conversion from the current fiscal year to the newly appropriated fiscal year;
- B. As part of the annual Personal Services Budget Request for the next fiscal year;
- C. When adding an agency or program during the operating fiscal year; and/or
- D. When changing the workers' compensation rate during the operating fiscal year.

General Instructions for submitting agency program budget data:

- A. Fiscal Year
  - 1. For FY Conversion – Use appropriated fiscal year;
  - 2. For Budget Request – Use fiscal year for which Budget Request is made;
  - 3. For Addition of Agency or Program and/or Change in Workers' Compensation Rate – Use Operating Fiscal Year.
- B. Program Number and Description – Program Numbers and Names as assigned by the Legislative Budget Office and the Department of Finance and Administration. Change, deletion, or addition of a program during the operating fiscal year or for the budgeted fiscal year will require documentation of Legislative Budget Office and Department of Finance and Administration concurrence.
- C. General Fund, Federal Fund, Other Fund
  - 1. For FY Conversion or Change in Workers' Compensation Rate – Indicate amount of total appropriated personal services dollars assigned to each fund within each program;
  - 2. For Budget Request – Indicate amount of total personal services dollars necessary to fully fund existing positions and requested actions assigned to each fund within each program;

3. For Addition of Agency or Program – Indicate amount of total personal services dollars authorized by the Department of Finance and Administration assigned to each fund within each program.
- D. Current Workers’ Compensation Rate – The numerical rate, expressed in a four (4) digit decimal form, used to compute the total amount needed to cover the operating or budgeted fiscal year's Workers' Compensation Insurance.
  - E. Requested to Cover Cost
    1. For FY Conversion, Addition of Agency or Program, and/or Change in Workers’ Compensation Rate – Use total amount needed to cover Workers’ Compensation for operating fiscal year;
    2. For Budget Request – Use total amount needed to cover Workers’ Compensation for the fiscal year for which the budget request is made.

Please reference the OSR User Training Workbook at <http://www.mmrs.state.ms.us> or your Classification, Compensation, and Recruitment Consultant for more detailed information regarding adding/modifying agency program budget information.

### **6.3 ORGANIZATIONAL PLANNING AND POSITION MANAGEMENT**

MSPB shall recommend policies and procedures for the efficient and economical use of each employment position. The appointing authority of each agency shall be responsible for directing organizational planning and position management intended to manage the number and distribution of staffing resources through:

- A. Efficient and effective organization and staffing plans to accomplish the agency mission and program requirements;
- B. Effective utilization of all personnel resources, considering such factors as available staffing, positions, supervisory spans of control, lines of supervision, supervisor/employee ratios, functional responsibility and delegation of authority; and
- C. Continuing review of organizational structure, staffing plans and position utilization.

See Mississippi Code Annotated § 25-9-119(2)(h)-(i).

#### **6.3.1 The Staffing Planning Cycle**

The staffing planning cycle is a continuous process reflecting the current, ongoing planning phase and the advanced planning phase required to be in concert with the personal services budget and appropriation cycles. The staffing planning cycle is divided into three units of time:

- A. Current fiscal year encompasses the present appropriation acts under which agencies are operating;
- B. Next fiscal year is the fiscal year immediately following the current fiscal year and for which the appropriation acts are approved by the current year's legislative session for implementation and use after the current fiscal year;



- C. Future fiscal year means the fiscal year(s) immediately following the next fiscal year for which agencies prepare budget requests to effect advanced planning for position(s), organizational changes and future appropriations.

### **6.3.2 Budgeting for Staffing Positions**

All agency requests and justification for additional staffing positions shall be submitted in OSR to the Office of Classification, Compensation, and Recruitment for recommendation to the Department of Finance and Administration and the Legislative Budget Office as part of the annual budget process. Budget requests for the future fiscal year must be submitted in accordance with the Department of Finance and Administration/Legislative Budget Office Budget Instructions and MSPB Staff Management Planning Instructions. These instructions are issued annually. Requests for additional positions shall not be recommended for authorization when there are existing long-term vacancies within the organization of the same, similar or related classes. MSPB shall annually monitor each agency's budget request and appropriation bill through the legislative appropriations process. See Mississippi Code Annotated § 25-9-133(1).

### **6.3.3 Organizational Planning**

The Staffing Management Program of each agency shall incorporate existing and proposed agency and position data into organizational charts indicating each position authorized. All current or proposed organizational charts shall be reviewed by the agency for completeness and accuracy of data to ensure inclusion of actions approved for next fiscal year implementation and conformance to the agency's next fiscal year appropriation act. The following shall be in effect with respect to agency organizational charts:

- A. Agencies shall submit an original and one file copy of the organizational chart in the format indicated in the examples at the end of this chapter for approval by the Office of Classification, Compensation, and Recruitment prior to the start of each fiscal year. Upon approval by the Office of Classification, Compensation, and Recruitment, the organizational structure and codes shall become the official organizational structure of the agency for current and/or succeeding fiscal years and the basis for all requested position and organizational changes;
- B. Constant internal review of any agency organizational structure is an agency responsibility. Agencies may make minor alterations or movement of individual positions, including county code changes, in their organizational charts for efficiency or to balance staffing workload (generally singular moves below the division level) during the fiscal year. When requesting organizational chart revisions, the Agency shall submit the request for organizational code or county code change online through OSR on the Position Screen. The following information shall be forwarded to MSPB in support of the organizational change:
  1. Organizational chart pages signed by the appointing authority, or his or her designee, depicting both current and proposed structures; and
  2. Additional documentation as may be specified by the MSPB Executive Director.
- C. Agencies shall request MSPB to review major changes or movement of positions within the organizational structure. Major alterations, movements, or changes within the agency organizational structure must be approved by MSPB prior to implementation

by the agency. Contact your Classification, Compensation, and Recruitment Consultant to determine the format in which to submit your proposed reorganization for formal presentation before MSPB.

### 6.3.4 Agency Organizational Chart

A. The overview page of an organizational chart is applicable to the larger agencies that require several pages of organizational charts to depict all authorized positions. Items to be included on the overview page include:

1. Agency Head;
2. Agency Head's immediate staff; and
3. Program functions depicted by separate squares using lines to indicate related functions by supervision.

B. Mandatory items that shall be included on the agency organizational chart:

1. All authorized positions;
2. Each square shall include the following data as depicted in the examples at the end of this chapter:
  - i. The official job classification title of the position at the top of the square;
  - ii. The functional title for the position at the bottom of the square (required for direct supervisors of one or more employees; optional for non-supervisory employees);
  - iii. The start salary (rounded to the nearest hundred dollars) of the job classification in the lower left side of the position box (i.e., \$37,856.48=37.9 and \$37,829.74=37.8);
  - iv. The position identification number (PIN) in the lower right side of the position box (agency code numbers may also be indicated for agencies utilizing multiple agency codes.);
  - v. The FLSA classification in the bottom center of the position box. FLSA Codes are identified below:

Classification	Code
Exempt	E
Non-Exempt/Hospitals	H
Non-Exempt/Other	O
Non-Exempt/Public Safety	P

- vi. The page number where each PIN can be found if necessary;

vii. The service status code (if the position is non-state service, i.e. x-16).

- C. In the example at the end of this chapter, the chart only goes down through bureau level, indicating precisely those individuals directly supervised by, or reporting directly to, the agency head. Agencies not authorized offices or bureaus shall use divisions directly under the agency head.
- D. All organizational charts shall show the lines of supervision within the agency hierarchy. Lines of supervision reveal a supervisor's span of control and clarify the raters and reviewers in the agency's performance review system.
- E. The information in the upper right corner of the organizational chart example shall be placed on each page. However, the agency director need only sign the first page.

### **6.3.5 Staffing Guides/Plans/Standards**

Each agency director, in conjunction with MSPB, shall be responsible for development of staffing guides, plans and standards to justify and substantiate staffing position requirements. Agency staffing plans shall be utilized to formulate uniform staffing standards applicable to designated employment positions and classes within agencies. See Mississippi Code Annotated § 25-9-133(1).

### **6.3.6 Agency Reorganization**

Agency requests for reorganization shall be accomplished:

- A. In accordance with the provisions of MSPB rules, regulations and procedures;
- B. According to authorization of positions in appropriation acts or budgetary escalations;
- C. In accordance with current fiscal policy and legislative intent; and
- D. Through submission of a detailed letter of compelling justification from the agency director to the MSPB Executive Director. Attachments to this letter shall include:
  - 1. Current and proposed organizational charts;
  - 2. All required documentation for requested downward, lateral, and upward title changes, if applicable (See Section 5.3);
  - 3. All required documentation for any requested new role summaries (See Section 5.1.2); and/or

### **6.3.7 Establishment of Positions**

The establishment of positions occurs either at the start of the fiscal year at conversion for newly appropriated positions or during the operating fiscal year when mandated by special circumstances such as budget escalation authorized by the Department of Finance and Administration or deficit appropriation.

- A. The following documentation shall be submitted in support of all requests to establish new positions:

1. A copy of the appropriation bill or Department of Finance and Administration escalation authority authorizing the position establishment;
  2. An organizational chart depicting the precise location of all authorized positions, including ones to be established;
  3. A Job Content section of the Performance Review Assessment (PRA) or Role Description Questionnaire (RDQ) for each position requested. A representative PDA may be submitted when all positions are to be allocated to the same job class and will be assigned substantially the same work.
- B. Requests for new positions in a new job class shall also include documentation required for a class establishment. See Section 5.1.2.
- C. OSR will assign the next available Position Identification Number (PIN).

Please reference the OSR User Training Workbook at <http://www.mmrs.state.ms.us> or your Classification, Compensation, and Recruitment Consultant for more detailed information regarding position establishments.

### **6.3.8 Abolishment of Positions**

Each agency shall enter vacant position abolishments online in OSR when the number of actual positions is in excess of the number of positions authorized by the agency's appropriation act for the next fiscal year. See Mississippi Code Annotated §§ 25-9-119(i) and 25-9-133. Routine position abolishments shall be submitted online in OSR as soon as practical prior to the proposed effective date unless such abolishment would result in agency reorganization. Agencies effecting reductions in positions resulting in reorganization shall submit required forms and revised organizational charts to MSPB at least sixty (60) days prior to deleting the positions.

Petitions for position abolishment to effect a reduction-in-force shall be submitted to MSPB for review. Reductions in agency staffing shall be proportionate among positions within the hierarchal structure so as not to adversely affect supervisory or non-supervisory classes of positions.

Agencies shall apply a study of the essential needs of the organization, including the need for supervisory positions, when planning a reduction in employment positions. Changes in agency program shall be constantly analyzed with the intent of effecting maximum efficiency with minimum staffing. Agencies should note the possibility of changes in the Job Content section of the Performance Review Assessment (PRA) for other continued positions impacted by reductions. Agencies effecting reductions in employment positions shall submit required documents on MSPB approved forms in accordance with the instructions contained herein.

NOTE: Individuals cannot receive payment for accrued annual leave unless OSR reflects separation from the requesting agency.

Please reference the OSR User Training Workbook at <http://www.mmrs.state.ms.us> or your Classification, Compensation, and Recruitment Consultant for more detailed information regarding Position Abolishments.

### **6.3.9 Swap or Transfer of Positions within Legislative Authority**

A Position Transfer is the movement of an authorized position from one agency to another agency. A full-time/part-time swap is the change in the part-time/full-time status of two (2) positions accomplished within legislative authority. The swapping or transferring of positions may occur either at the start of the fiscal year as a part of conversion or during the operating fiscal year as follows:

- A. Agencies may be mandated by legislative action to transfer positions from one master agency to another master agency, or from one agency to another agency within the same master agency at the start of the fiscal year, or as a part of conversion. Position transfers from one agency to another agency within the same master agency should be requested through OSR using the Intra-Agency Position Transfer screen. At the same time position transfers are requested for approval, the following documents must be submitted in support of all such requests:
  - 1. A copy of the bill authorizing position transfers; and
  - 2. Pages of the appropriate organizational chart depicting the proposed placement of the position(s) to be transferred.
  
- B. Certain agencies are given authority each fiscal year in their appropriation bill to transfer positions between authorized agencies. Authority to transfer positions between agencies is granted by the legislature to specified agencies in the annual appropriation to the agency. Position transfers from one agency to another agency within the same master agency should be requested through OSR using the Intra-Agency Position Transfer screen. Approval to implement transfers during the current fiscal year must be requested and received from the Department of Finance and Administration prior to submitting online in OSR submission to MSPB. The following attachments must be included with all such requests:
  - 1. A copy of the letter of authorization from the Department of Finance and Administration; and
  - 2. Appropriate organizational chart pages depicting the placement of the positions before and after the swap.
  
- C. Any agency authorized both part-time and full-time positions may change the status of a position from part-time to full-time at any time during the operating fiscal year. In such instances, the agency must provide a companion action changing the status of a full-time position to part-time to maintain its appropriated position count. A Full-time/Part-time swap should be requested using the Full-Time/Part-Time Swap screen within the Position Segment of OSR.

Please reference the OSR User Training Workbook at <http://www.mmrs.state.ms.us> or your Classification, Compensation, and Recruitment Consultant for more detailed information regarding Intra-Agency Position Transfers or Full-time/Part-time Position Swaps.

### **6.3.10 Annual Registration of Authorized Positions**

- A. Registration of authorized positions shall apply to the following agencies and employment positions:
  - 1. State service agencies and positions; and
  - 2. Non-state service agencies and positions excluded from the state service (See Mississippi Code Annotated § 25-9-107(c));
  - 3. Agencies voluntarily operating under limited provisions of MSPB; and/or
  - 4. Time-limited positions (See Mississippi Code Annotated § 25-9-107(c)(xiv)).
- B. Registration shall be completed by the close of business on the last day of the fiscal year. All inconsistencies between next fiscal year authorization and current MSPB agency, position and employee data shall be resolved by this date, including the completion of any plan to adjust positions (adjustments; reauthorizations; establishments; abolishments; transfers; consolidations; changes of status from part-time to full-time or full-time to part-time; or changes of status from permanent to time-limited or time-limited to permanent), execute a reduction-in-force or implement a legislatively mandated reorganization. There shall be no exceptions to this policy. See Mississippi Code Annotated §§ 25-9-103(g) and 25-9-135(1).
- C. All agencies and employment positions authorized in each agency's appropriation act shall be updated to reflect actual next fiscal year program budget data by program and fund source by the date specified in the Conversion and Registration of Authorized Agencies, Positions, and Program Budget Data Instructions updated prior to the beginning of each fiscal year.
- D. Organizational charts shall be revised to reflect position adjustments required to conform to the next fiscal year authorization and submitted to MSPB by June 1 of each fiscal year. A legislatively mandated reorganization shall be monitored by MSPB to ensure compliance with legislative intent. A reorganization initiated by the agency or necessitated to conform to the agency's next fiscal year position authorization, or an adjustment to an existing staffing plan, shall require prior MSPB approval.

### **6.3.11 Continuation of Position(s)**

- A. Documentation will not be required to continue established permanent positions within the agency where no change has occurred.
- B. Time-limited positions should be marked for continuation in the next fiscal year using the FY Time-Limited Position Re-Authorization screen within the Position Segment of OSR.

Please reference the OSR User Training Workbook at <http://www.mmrs.state.ms.us> or your Classification, Compensation, and Recruitment Consultant for more detailed information regarding the reauthorization of time-limited positions.

### **6.3.12 Change in Position Status**

Authority to change the status of an established position from part-time to full-time (or full-time to part-time) will require an online revision of the months and/or hours fields as well as revising the service type of the position on the Maintain Position Information screen within OSR.

Please reference the OSR User Training Workbook at <http://www.mmrs.state.ms.us> or your Classification, Compensation, and Recruitment Consultant for more detailed information regarding position status changes.

### **6.3.13 Position Program Budget Data Change**

Changes to the program budget data of positions during the operating fiscal year shall be submitted online using the Position Program Budget Information screen within OSR.

Please reference the OSR User Training Workbook at <http://www.mmrs.state.ms.us> or your Classification, Compensation, and Recruitment Consultant for more detailed information regarding changes to position program budget.

## **6.4 POSITION COST PROJECTION AND POSITION VALIDATION**

Agencies cannot view or print position cost projections using the Maintain Budget Projection Parameters screen within OSR. Information found in any projection provided by the Office of Classification, Compensation, and Recruitment should be reviewed by the agency for accuracy and be looked upon as the basis for any future position additions, changes, or abolishments.

NOTE: The authorized appropriated position data in the MSPB database must be kept up-to-date at all times.

## **6.5 LEGAL SERVICES CONTRACT APPROVAL REQUESTS**

The following procedures are for legal services contracts which must be approved by MSPB Board.

Mississippi Code Annotated § 27-104-105 states:

The Department of Finance and Administration shall not process any warrant requested by any state agency for payment for legal services without first determining that the services and contract were approved either by the Attorney General and the State Personnel Board, or as authorized under Section 7-5-39(3); contracts for legal services performed by the State Highway Department in eminent domain cases shall not require approval by the State Personnel Board. The State Auditor shall test for compliance with this section.

Therefore, state agencies must obtain approval of legal services contracts from both the Attorney General's Office and MSPB in order to be able to make payment for legal services provided to the agency. This requirement applies to any written or oral contract between an agency and any person or entity for the performance of legal services wherein payment for such services is to be processed by the Department of Finance and Administration.

Certain legal services contracts are exempt from this statutory requirement, including contracts for legal services entered into by the Mississippi Department of Transportation involving eminent domain activities and contracts for legal services entered into by the Attorney General's Office with state agencies for assignment of Special Assistant Attorneys General and contracts for legal

services authorized pursuant to Mississippi Code Annotated § 7-5-39(3).

To facilitate the approval request process, MSPB delegates to the MSPB Executive Director the authority to review and approve or disapprove legal services contracts with a maximum contract value of \$75,000.00 or less, including any modifications thereto. MSPB retains sole authority to review and approve or disapprove legal services contracts with a maximum contract value of more than \$75,000.00. Contracts shall neither be artificially divided nor shall the extent of the service required be underestimated so as to circumvent MSPB's authority to review and approve or disapprove legal services contracts.

MSPB has adopted standardized procedures to assist state agencies in requesting approval in compliance with Mississippi Code Annotated § 27-104-105, and this policy provides the administrative procedures to be followed when requesting legal services contract approval from MSPB. This policy applies to all legal services contracts under the purview of MSPB effective on or after October 1, 2010 and all renewals or modifications of existing legal services contracts under the purview of MSPB effective on or after October 1, 2010.

### **6.5.1 Consideration Timelines**

Any agency desiring to contract for legal services should ensure that it requests appropriate approval of such a contract from any required regulatory board governing the agency's contracts, the Attorney General's Office and MSPB in advance of any deadline as set forth in this section. To the extent legal services are performed under a proposed contract before appropriate approval is obtained, an agency does so at its own risk that the contract may not be approved. *See MS AG Op. 1993-0488, Stringer (July 9, 1993).*

Approval requests for contracts with a maximum contract value of more than \$75,000.00 that are received from the Attorney General's Office at least 15 working days prior to a regularly scheduled MSPB Board meeting will be considered for approval at that month's meeting. Contracts received after this deadline that require Board consideration will be considered at the next month's regularly scheduled meeting. Approval requests for contracts with a maximum contract value of \$75,000.00 or less will be considered for approval within 15 working days of receipt from the Attorney General's Office. **These timelines are applicable at all times, including the end of each fiscal year.**

All legal services contract amendments, modifications, or extensions for contracts ending June 30 with a value of \$75,000 or less shall be received from the Attorney General's Office at least 15 working days before the end of the fiscal year to ensure sufficient time for processing. Failure to receive the contracts at least 15 working days before the end of the fiscal year may result in the agency being required to enter into a new contract to continue the legal services.

Any request for expedited consideration of a legal services contract must be submitted in writing to the MSPB Executive Director and must contain a detailed account of the circumstances justifying the request. The written request must be executed by the Agency Head. All such requests will be considered and granted or denied at the discretion of the MSPB Executive Director.

### **6.5.2 Procedures for Requesting Approval**

Prior to requesting MSPB's approval of a legal services contract, an agency must obtain approval of the contract from any applicable regulatory board and the Attorney General's Office. If the Attorney General's Office approves the contract, the Attorney General's Office will then forward



the contract to MSPB for consideration.

Agencies should submit a request for approval of a legal services contract to the Attorney General's Office online through the MAGIC system. For the purpose of timeliness and to establish a chain of custody, agencies must utilize the *Legal Services Contract Routing Sheet* throughout the approval process in order for the contract to be considered for approval by MSPB. This form may be found at <http://www.mspb.ms.gov/agency-forms-templates.aspx>. The agency must also provide a printed MAGIC Cover Sheet and the original proposed legal services contract, executed only by any appropriate agency personnel, to the Attorney General's Office. The contractor should not execute the contract until the contract is approved by both the Attorney General's Office and MSPB. The agency should also submit through the MAGIC system a justification of the need for the legal services to be provided under the contract.

If an agency is submitting a legal services contract with a contract worker, then in lieu of the MAGIC document, it should submit the appropriate OSR document. Additionally, agencies should submit the completed PERS Form 4B for all contract worker contracts with state retirees to ensure the contracts comply with Mississippi Code Annotated § 25-11-127. If an agency desires to amend or modify an existing and previously approved contract, the agency should submit a request for approval to the Attorney General's Office online through the MAGIC system. The agency must also provide a printed MAGIC Cover Sheet and a copy of the executed approved contract and any prior amendments to the Attorney General's Office. **Agencies should be aware that MSPB does not have the authority to approve any modification, renewal or extension of an expired contract.** See MS AG Op., 1999-0272, Stringer (June 25, 1999).

### **6.5.3 Contract Format and Required Clauses**

All legal services contracts submitted for approval must be effective for a definite term with maximum period of five years. All such contracts must also contain a maximum expenditure provision and all clauses found in the legal services template at <http://www.mspb.ms.gov> or <http://www.ago.state.ms.us/>.

Any attorney or law firm providing services under the contract should be identified in the contract by name and address. Each contract should also provide a description of the scope of services to be provided under the contract. Finally, each contract should provide signature space for any required agency personnel, the contractor, any regulatory board, the Attorney General's Office and MSPB.

Agencies utilizing a legal services contract or contract amendment template that has been approved by the Attorney General's Office and MSPB will be presumed to have complied with this section. A sample contract or contract amendment template approved by the Attorney General's Office and MSPB may be found at <http://www.mspb.ms.gov> or <http://www.ago.state.ms.us/>.

### **6.5.4 Determination**

Once a determination has been made by either MSPB or the MSPB Executive Director regarding an agency's request for approval of a legal services contract, the original contract and either the original MAGIC Cover Sheet or OSR document will be returned to the requesting agency. MSPB will provide a copy of the proposed contract as approved by MSPB to the Attorney General's Office. If approved, the original contract should then be finally executed by the contractor. The agency shall provide MSPB and the Attorney General's Office with a copy of the contract after it is fully executed. Additionally, the agency should upload the fully executed contract into MAGIC.

Once MSPB receives an electronic copy of the fully executed contract and the fully executed contract is uploaded into MAGIC, then DFA will be notified electronically through the MAGIC system that the agency has complied with Mississippi Code Annotated § 27-104-105 and that payment for legal services provided pursuant to the approved contract may be processed.

### **6.5.5 Termination**

Each agency must notify MSPB within ten days upon the termination of a previously approved legal services contract. The notification must be submitted to MSPB indicating the termination of services pursuant to the contract and identifying the effective date of such termination. The termination of a contract previously approved by MSPB will be reported to the Board, but no action will be required of the Board as to the termination.

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## **CHAPTER 7 – EMPLOYEE RELATIONS**

### **7.1 TRAINING AND DEVELOPMENT**

MSPB assists appointing authorities in planning for the agency’s future workforce needs by offering assistance in the review of organizational design, talent management, and career development.

The primary emphasis of workforce development is to improve state government services. Under Mississippi Code Annotated § 25-9-103(c), MSPB shall administer a state personnel system to train employees, as needed, to ensure high quality performance. The appointing authority may contact the Office of Training and Development of MSPB to request career development activities for his or her employees. Such activities may be conducted either in the MSPB training facility, on-site, or in other designated facilities.

#### **7.1.1 Training Needs**

The MSPB Executive Director shall assess the workforce development needs of the state service and take necessary steps to meet those needs consistent with funding and resources. An appointing authority shall respond to the workforce development needs assessments sent by the MSPB Training and Development staff to the agencies.

#### **7.1.2 Development and Coordination**

The MSPB Executive Director shall provide or coordinate career development programs integral to the administration of the statewide personnel system and career development needs generic to all state agencies, such as supervisory/management skills, interpersonal skills, clerical skills, and professional development skills.

Registration for career development courses is done through the Learning Solution (LSO) in the Mississippi Accountability System for Government Information and Collaboration (MAGIC), a link to which is at <http://www.mspb.ms.gov>. Employees and agencies may also register for career development courses by completing a registration form, which is also located at <http://www.mspb.ms.gov> under the Office of Training and Development.

#### **7.1.3 Interagency Partnerships**

The MSPB Executive Director shall encourage and, when feasible, coordinate inter-agency partnerships in sharing employee workforce planning and career development activities, resources, materials, and programs.

#### **7.1.4 Guidelines for Development of Agency Career Development Programs**

The appointing authority should:

- A. Assess the workforce needs of the agency workforce;
- B. Develop an agency-wide workforce planning policy using available internal resources, capabilities, facilities, and staff to meet assessed career development needs when appropriate; and
- C. Provide specialized career development activities to agency personnel as required to ensure high quality performance and to meet agency objectives.

### **7.1.5 Training Data**

The MSPB Executive Director may request from agencies, any career development activity data necessary for comprehensive, statewide planning purposes.

## **7.2 EXCELLENCE IN GOVERNMENT AND LONGEVITY SERVICE AWARDS**

Two award programs have been established to recognize and acknowledge achievement in and commitment to public service and encourage innovation in efficiencies and cost savings in state government: the Excellence in Government Awards program and the Longevity Service Awards program.

### **7.2.1 Excellence in Government Awards**

The recognizing of excellence and innovation in the management of administrative procedures, which increase the quality of public service at the state, district, and local governmental levels shall be governed by the procedures outlined below. The development of the following procedures is based upon Mississippi Code Annotated § 25-9-134(2) which states as follows:

The State Personnel Board is hereby authorized and directed to establish a program to encourage and recognize excellence, innovation, and diversity on the part of state, district, and local governmental entities in the design, execution, and management of their own administrative procedures. The State Personnel Board shall establish by rule and regulation procedures for evaluating said examples of improvement in public administration, and shall provide for an annual awards program to recognize excellence in government. The Board may establish categories of governmental service in order to recognize these achievements.

#### **Provisions for Award Determination**

- A. A maximum of two individuals or two groups of individuals will be publicly recognized each year. One shall be the recipient of the Award for Excellence in State Government, and one shall be the recipient of the Award for Excellence in Local and District Government.
- B. The Award for Excellence in State Government shall recognize the state service or non-state service employee or group of employees whose contributions within the last five (5) years represent excellence in government.
- C. The Award for Excellence in Local and District Government shall recognize the local or district level employee or group of employees whose contributions within the last five (5) years represent excellence in government.

## **General Procedures for Award Determination**

### **A. Eligibility Criteria**

1. A nominee must be, at the time of the nomination, a full-time employee of a governmental entity in a classified position with a minimum of three (3) years of service.
2. Persons holding elected offices will be evaluated based on their career in public service, excluding time served as an elected official.

### **B. Nomination Requirements**

1. Each year, the appointing authority or the governing boards or commissions of governmental entities shall submit nominations for personnel in the entity under their purview by the date established by the MSPB Executive Director.
2. Each nomination must be accompanied by a nomination form signed by the appointing authority of the governmental entity employing the nominee. (An appointing authority may only be nominated by the governing board or commission of the entity employing the appointing authority nominee.)
3. In addition to the nomination form, a written nomination should include the following:
  - (i) Brief biography of the nominee, summarizing positions held, educational background, civic and professional involvement, and other personal data; and
  - (ii) Statement of achievement
    - (a) Description of the nominee's work, including but not limited to what was accomplished, how resources were maximized, and what was innovative about the nominee's work;
    - (b) Description of the significance of the nominee's work, including but not limited to the impact on efficiency and effectiveness; and
    - (c) Description of the nominee's commitment to government in Mississippi and how his/her service exemplifies that commitment.

### **C. Submission Guidelines**

Nominations may be submitted electronically to MSPB at [mspb.communications@mspb.ms.gov](mailto:mspb.communications@mspb.ms.gov), by mail, or by hand-delivery.

### **D. Verification**

Information submitted in support of nominations is subject to verification by the MSPB Executive Director. In addition, the Governor or the MSPB Executive Director may request a nominating party or nominee to furnish additional information.

## **Selection Criteria**

- A. The nominee must have primary and direct responsibility for administrative action and implementation of personnel-related improvements in productivity, efficiency, or effectiveness.
- B. Measurability and tangibility of results will be considered. Examples include, but are not limited to, increased revenues, reduced expenditures while maintaining same quality/quantity standards, or improved quality/quantity standards at equal or decreased cost.
- C. Innovation of action or approach will be considered.
- D. Selection will be based on clear and practicable actions for the improvement of particular aspects of technical or administrative procedures, which include, but are not limited to, the following:
  - 1. Strengthening one or more major areas of public administration such as personnel recruitment, training, development and/or payroll administration.
  - 2. Increasing intergovernmental cooperation with respect to such matters as personnel interchange, personnel recruiting, staff utilization and interchange, and fringe benefits.
  - 3. Establishment of personnel systems of general or specific functional coverage to meet the needs of governmental jurisdictions.
- E. Nominations meeting the requirements will be submitted to MSPB for review and comment. Following review and comment by the Board, the MSPB Executive Director shall submit all nominations to the Governor for review, comments, and recommendation at least sixty (60) days prior to final evaluation and award by the Board. An explanation in writing shall be sent to the Governor in the event the Board does not concur with recommendations of the Governor in approving or disapproving said nominations.

## **Announcement of Awards**

The announcement of the awards shall be made publicly at an awards ceremony, **and** each recipient shall receive an award.

Should an insufficient number of valid nominations for the Local and District Government Award and/or the State Government Award be received, the MSPB Executive Director may recommend the award(s) not be presented in any given year.

## **Reactivation of Nominations**

Individual nominations made in previous years may be reactivated by the MSPB Executive Director for nomination in a subsequent year's competition. However, this provision is not automatic, and nominating parties are encouraged to re-nominate deserving personnel who

did not win in the previous year's nominations. Subsequent re-nominations should be updated to include the nominee's latest achievements.

### 7.2.2 Longevity Service Awards

The Longevity Service Award Program was established to recognize full-time employees for service to the State of Mississippi. The program is established based upon Mississippi Code § 25-9-151 which states that awards shall be made upon attainment of ten (10), twenty (20) and thirty (30) years of full-time service in state government, and shall be the same for all personnel regardless of position or title. Agencies, boards and commissions may request awards for employees by submitting the Longevity Service Award Program form, which is available on the MSPB website at <http://www.mspb.ms.gov>, to the MSPB Executive Director. The award program does not provide for the giving of gifts or monetary bonuses to employees.

### 7.3 REDUCTION-IN-FORCE

Except as otherwise provided in these rules, the tenure of an employee with state service status shall be continued during good behavior and the satisfactory (Successful) performance of assigned duties. Mississippi Code Annotated § 25-9-127 provides for a Reduction-in-Force policy.

- A. Reduction-in-Force – An appointing authority may reduce the number of employees in a state service agency whenever deemed necessary for the following reasons:
  - 1. Shortage of funds or work;
  - 2. Material change in duties or organization; or
  - 3. Merger of agencies.

When requesting approval of the reduction-in-force, the agency must provide a written explanation or justification to MSPB citing one or more of the above reasons for the reduction-in-force. If the cited reason is a shortage of funds, the agency shall submit a written certification of a funds shortage from the Department of Finance and Administration or written certification of a funds shortage by the agency head. In addition, the agency **must submit a proposed organization chart, a proposed staffing plan, and a current staffing plan** to MSPB for approval thirty (30) calendar days before MSPB will act upon a reduction-in-force request. Further, a reduction-in-force shall be effective no earlier than fourteen (14) calendar days from the MSPB approval date.

Upon emergency request by an agency, MSPB may waive the thirty (30) day calendar requirement to allow an agency to request approval to implement a reduction-in-force pursuant to the Expedited Implementation Procedure outlined in subsection (B) under circumstances otherwise not qualifying for such a procedure. In considering whether to grant the waiver, it shall consider the emergency nature of the request and whether there has been sufficient time to review the agency's written justification, proposed organization chart, and proposed staffing plan.

- B. Expedited Implementation Procedure

During periods of severe shortfalls of state revenue, an appointing authority may request approval on an expedited basis to implement a reduction-in-force. When requesting



approval of a reduction-in-force, the agency must provide a written explanation or justification to MSPB for the reduction-in-force because of a shortage of funds to the agency, including a written certification of a general funds shortage from the Department of Finance and Administration or a written certification of a special or federal funds shortage from the agency. The agency also must submit a proposed organization chart, a proposed staffing plan to MSPB for approval, in the form required by MSPB, and a current staffing plan at least ten (10) calendar days before MSPB will act on a reduction-in-force request. If an agency requests expedited consideration of its request in compliance with this procedure, MSPB will review such a request and make its determination regarding the request within ten (10) calendar days after receipt of the required proposed organization chart and proposed staffing plan. A reduction-in-force approved by MSPB pursuant to this subsection will be effective no earlier than ten (10) calendar days after the date of approval by MSPB.

### C. Method of Reduction-in-Force

1. A reduction-in-force because of shortage of funds or work or because of material change in duties or organization may be administered by the following method(s):
  - i. By functional area (e.g., Office, Bureau, Division, Branch, Section, Unit);
  - ii. By location (e.g., counties, districts, state office, agency-wide);
  - iii. By job class; or
  - iv. By a combination of the preceding factors.

An agency may exempt a program area or a certain number of positions in a program area from a reduction-in-force when such an exemption is required by federal law or grant requirements.

Once the method of reduction-in-force is determined and prior to implementation, each agency shall submit to MSPB a written statement of the method of the reduction-in-force to be administered and the proposed effective date. Such statement is required to establish a record. Then Sections C and D herein are applied. The result of applying the order for reduction-in-force formula (Section C) and the retention point formula (Section D) must be submitted to MSPB for purpose of establishing a record. Afterward, Section E herein is applied.

2. The method of reduction-in-force because of the merger of agencies shall be administered as follows:
  - i. First – by functional area and/or funding source
  - ii. Second – by location, (e.g., counties, districts, state office, agency-wide)
  - iii. Third – by job class or job class series

When requesting approval of a reduction-in-force by merger of agencies, each agency shall submit to MSPB a written statement of the functional area(s) and/or funding source(s), locations(s) and job class(es), which are targeted for reduction-in-force and the proposed effective date. Such statement is required for the purpose

of establishing a record. Then Sections C and D herein are applied. The result of applying the order for reduction-in-force formula (Section C) and the retention point formula (Section D) must be submitted to MSPB for purpose of establishing a record. Afterward, Section E herein is applied.

D. Order for Reduction-in-Force – The reduction-in-force formula shall be in the order that follows:

1. Those with emergency appointments;
2. Those with probationary or indefinite probationary appointments;
3. State Service employees.

E. Retention Point Formula for Reduction-in-Force – In situations when not all employees are affected by the proposed methodology, an agency shall use the Retention Point Formula for a Reduction-in-Force. State service status employees shall be the last group of employees to be separated in a reduction-in- force. When state service employees must be separated, employees with the lowest number of retention points based on seniority, performance ratings, and veterans' preference shall be dismissed first. The retention point formula shall be as follows:

$$\begin{aligned} & \text{Seniority (1 Point for Each Year of State Service) x 40\%} \\ & \quad \text{Converted Performance Rating Average x 40\%} \\ & \quad \quad \text{+Veterans Preference Score x 20\%} \\ & \quad \quad \quad \textbf{TOTAL RETENTION POINTS} \end{aligned}$$

1. Seniority (40% of total score) – An employee shall be credited with one point for each year or portion thereof of continuous state service as a state service employee for a total not to exceed thirty (30) points. In calculating retention points for a partial month of service, one-twelfth of a point is credited to employees with service equal to fifteen days in the month. No credit is given for service of less than fifteen days of the month.
2. Performance Rating (40% of total score) – Each agency shall use the three most recent annual performance ratings, as recorded in agency files, and assign retention points to calculate the Adjusted Rating Score (ARS), as of the date the agency submits the organizational chart and staffing plan.
  - i. The retention points for each of the three performance ratings shall be averaged together and converted to an Adjusted Rating Score (ARS) using the Performance Rating Conversion Chart. The resulting score should be rounded to the tenth decimal place.
  - ii. If an employee has received less than three performance evaluations, then the employee receives a presumptive “Successful” for each missing evaluation. An appraisal rating rendered more than three years before the date the agency submits the organizational chart and staffing plan for reduction-in-force will not be used to calculate an employee’s Adjusted Rating Score.

- iii. Employee ratings are very critical whenever an agency has to implement a reduction-in-force. Ratings not completed and recorded pursuant to policy and procedures will not be used in the computation of the Adjusted Rating Score and a presumptive rating of “Successful” will be used.
- 3. Veterans’ Preference (20% of total score)– Veterans shall be awarded four (4) points, and disabled veterans shall be awarded eight (8) points.
- 4. Performance Rating Conversion Chart

The average of the employee’s three most recent annual performance ratings shall be converted to an Adjusted Rating Score as identified below:

Average Rating	Performance Rating Points
Under 2.00	0 points
2.00 – 2.19	3 points
2.20 – 2.39	6 points
2.40 – 2.59	9 points
2.60 – 2.79	12 points
2.80 – 3.00	15 points

If an agency must use the Retention Point Formula for a Reduction-in-Force for employees who do not have three annual performance reviews under the 3-point system, previous annual review scores on the 4-point scale should be converted to a 3-point scale.

For example, an employee’s previous rating of 3.5 out of 4 would be converted to a 2.625 out of 3.

**EXAMPLE FOR COMPUTATION OF TOTAL RETENTION POINTS:**

**Employee A profile:**

- Continuous state service of 15 years = 15 points based on seniority
- Performance ratings of 2.3, 2.5, and 2.2 with an average of 2.3 = 6 points based on performance (see conversion chart in E.4)
- Employee A is not a veteran and would receive 0 points for veterans’ preference. Employee A’s total retention points would be calculated as follows:

$$15(.4) + 6(.4) + 0(.2) = 6 + 2.4 + 0 = 8.4$$

Employee A’s final score would be 8.4.

**Employee B profile:**

- Continuous state service of 7 years and 3 months = 7.25 points based on seniority
- Performance ratings of 2.7, 2.8, and 2.9 with an average of 2.8 = 15 points based on performance (see conversion chart in E.4)

- Employee B is not a veteran and would receive 0 points for veterans' preference.

Employee B's total retention points would be calculated as follows:

$$7.25(.4) + 15(.4) + 0(.2) = 2.9 + 6 + 0 = 8.9$$

Employee B's final score would be 8.9

**Employee C profile:**

- Continuous state service of 5 years and 10 months = 5.83 points based on seniority
- Performance ratings of 2.5, 2.8, and 2.8 with an average of 2.70 = 12 points based on performance (see conversion chart in E.4)
- Employee C is a disabled veteran and would receive 8 points for veterans' preference.

Employee C's total retention points would be calculated as follows:

$$5.83(.4) + 12(.4) + 8(.2) = 2.33 + 4.8 + 1.6 = 8.73$$

Employee C's final score would be 8.73

In this example, Employee A has the lowest retention points and would be dismissed first, followed by Employee C then Employee B.

- F. Employees who will be terminated by a reduction-in-force shall be notified in writing of the effective date of the reduction-in-force termination at least ten (10) working days prior to the effective date of the reduction-in-force. The written notification shall cite the reasons for the layoff. The appointing authority and MSPB shall attempt to place affected employees in other positions for which they are qualified. See Chapter 4 of this manual.
- G. When requesting a separation in OSR of an employee due to a Reduction-in-Force, the following shall be in effect:
1. The effective date of the separation shall be the last day the employee worked.
  2. An individual cannot receive payment for accrued personal leave unless records reflect that a termination date has been entered in OSR by the requesting agency.
  3. Online submission of the separation of the employee using the appropriate separation and Reduction-in-Force reason is required.
  4. Positions affected by a Reduction-in-Force cannot be filled, reallocated, or abolished and reestablished for a period of one year following the reduction-in-force.

### 7.3.1 Furlough

A furlough, or an involuntary leave without pay, may be implemented when such action is necessary to temporarily reduce expenditures to avoid a deficit of funds.

#### A. Provisions for Implementation of Furlough (Involuntary Leave without Pay)

The MSPB furlough policy shall apply uniformly to all executive and subordinate employees within an agency, regardless of job class. MSPB shall review furlough plans only upon written certification of a general funds shortage from the Department of Finance and Administration or written certification of a special or federal funds shortage from the agency. MSPB shall ensure that any furlough plan complies with all applicable policies, rules, and regulations of MSPB.

Such furlough leave for the purpose of reducing expenditures shall be based on the agency head's determination that:

1. Funds on hand or funds to be received during the current fiscal period will be inadequate to effectively discharge the agency's responsibilities without recourse to reductions-in-force; or
2. It is necessary to accrue funds by reducing current payroll expenses so that reductions-in-force or more extensive furloughs may be minimized or avoided.

#### B. When instituting a furlough, the agency head shall abide by the following rules and regulations:

1. Before instituting furlough leave, an agency head shall develop an equitable and systematic plan for implementation of an agency-wide furlough stating the reasons that require this action. Such plan and subsequent furlough action must be submitted to MSPB for review and approval prior to implementing such leave.
2. Such a plan shall apply uniformly to all employees in the agency, regardless of status or funding source unless prohibited by law, loss of federal funds, or inability to continue a federally mandated program; however, agency heads may request MSPB for an exemption from the loss of federal funds provision. All employees, including those on paid leave, shall be placed on an equivalent number of hours of leave without pay. A proportionate number of hours shall be applied to part-time employees. However, an agency head may, with the approval of the MSPB Executive Director, make such leave subject to early cancellation or periodic call-back on a case-by-case basis to protect public health, safety, or property or to ensure operations of critical agency functions. The plan and the employees' notice of leave shall describe the reasons for and conditions of the provision. Agency heads who are elected and whose salary is set by Mississippi Code Annotated § 25-3-31 are not subject to an agency furlough.
3. Employees placed on furlough leave shall be given prior written notice, advising the employee of the particulars regarding the action, including the dates and times furlough leave is to begin and end.

4. While on furlough leave, an employee shall not accrue personal and major medical leave for that portion of the employee's salary funded by the restricted funds. Additionally, personal, major medical, and compensatory leave shall not be taken in lieu of furlough leave.
  5. During furlough leave, group health and life insurance benefits funded by the State will continue for employees who remain qualified in accordance with the eligibility criteria as set forth in the group health and life insurance plan approved by the Health Insurance Management Board. An employee will continue to pay for dependent insurance coverage as well as other insurance premiums paid by the employee.
  6. During furlough leave, employees classified as Exempt employees, in accordance with U.S. Department of Labor regulations promulgated pursuant to the Fair Labor Standards Act of 1938, as amended, lose their exemption for the workweek in which the furlough occurs. See 29 C.F.R. § 541.5d(3)(b).
  7. Once the funds have been restored, the agency head shall implement, on an equitable and systematic basis, the recall of furloughed employees. Failure on the part of an employee to return from furlough leave to his or her previous work status as directed in writing shall be cause for discharge.
  8. Involuntary leave without pay conducted under this policy shall not be grievable.
  9. For provisions regarding implementation of furlough of federally funded employees due to the restricting or limiting of federal funds, see Section C. below.
- C. Provisions for Implementation of Furlough of Federally Funded Employees (Involuntary Leave Without Pay)

Mississippi Code Annotated § 25-9-126 authorizes furloughs of federally funded employees as follows:

In the event that federal funds for the funding of programs of any state agency shall be restricted or limited, the administrative board of such agency or agency administrative head shall have the authority to furlough rather than dismiss employees in accordance with rules and regulations established by MSPB.

When instituting such a furlough, the administrative board or agency administrative head shall abide by the following rules and regulations:

1. The restriction or limiting of federal funds must be certified in writing by an agency of the federal government, or be an indisputable fact (as in the failure of the United States Congress to pass funding legislation for the federal fiscal year.)
2. The administrative board or agency administrative head shall develop an equitable and systematic plan of furlough and shall administer it uniformly to all executive and subordinate employees, without regard to status, whose positions are funded by the federal funds being restricted or limited. Employees whose positions are funded only in part by federal funds may be placed on part-time duty to exclude the obligation and expenditure of federal funds.

3. Within forty-eight hours of implementation of the furlough plan, the administrative board or agency administrative head shall notify the MSPB Executive Director in writing of the furlough, and shall include the reasons and the plan for implementation.
4. Employees placed on such furlough leave shall be given prior written notice, advising the employee of the particulars regarding the action, including the dates and time furlough leave is to begin and end.
5. While on furlough leave, an employee shall not accrue personal and major medical leave for that portion of the employee's salary funded by federal funds. Additionally, personal, major medical, and compensatory leave shall not be taken in lieu of furlough leave.
6. During furlough leave, group health and life insurance benefits funded by the State will continue for employees who remain qualified in accordance with the eligibility criteria as set forth in the group health and life insurance plan approved by the Health Insurance Management Board. An employee will continue to pay for dependent insurance coverage as well as other insurance premiums paid by the employee.
7. Once the restrictions have been lifted and/or the funds restored, the administrative board or agency administrative head shall implement, on an equitable and systematic basis, the recall of furloughed employees. Failure on the part of an employee to return from such leave to his or her previous work status as directed in writing shall be cause for discharge.
8. The administrative board or agency administrative head may make such furlough leave subject to early cancellation or periodic call-back on a case-by-case basis to protect public health, safety, or property, or to ensure operations of critical agency functions only upon approval by the federal agency of the obligation and expenditure of federal funds.
9. Involuntary leave without pay conducted under this policy shall not be grievable.

## **7.4 EDUCATIONAL LEAVE**

### **7.4.1 General Professional Development**

State agencies are authorized to grant paid educational leave on a part-time or full-time basis and/or reimburse employees for educational leave expenses in order for employees to develop job-related skills and to develop employees for higher-level professional and management positions; to prescribe eligibility for such educational leave and expense reimbursement; and, for related purposes. **Employees should note that not all State agencies offer educational leave.** See Mississippi Code Annotated § 37-101-293.

MSPB is required to approve the form of the contract prepared by the Attorney General and establish a maximum salary amount at which any employee may be paid full compensation while on educational leave and establish a deduction ratio or reduced percentage rate of compensation to be paid to all employees compensated at a salary level above such maximum salary amount. An approved Educational Leave Assistance Contract template may be found at <http://www.mspb.ms.gov/agency-forms-templates.aspx>. The law also stipulates that each agency

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granting paid educational leave or reimbursing expenses, or both, shall file an annual report with the Legislature detailing for each recipient's position the cost of educational assistance, the degree program, and the school attended. This report, covering the previous fiscal year, shall also be filed with MSPB on or before January 1 of each year. A sample Educational Leave Report may be found at <https://www.mspb.ms.gov/Docs/Educational-Leave-Report.pdf>. See Mississippi Code Annotated § 37-101-293.

#### A. Procedures Outline

Agencies should:

1. Develop internal policies and procedures governing educational leave;
2. Identify the job classifications in which they are experiencing demonstrated critical shortages;
3. Have educational leave recipients sign a contract, the form of which has been approved by the Attorney General and MSPB; and,
4. Forward to MSPB and to the Legislature prior to January 1 of each year a copy of the annual report on the Educational Leave program as required by the statute.

#### B. Eligibility

##### 1. Requirements for All Employees

- a. 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.
- b. 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.
- c. 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.
- d. Candidates must agree to work as an employee in the same state agency for at least three (3) full years after completion of the course of study or, in the case of employees on educational leave on a part-time basis or receiving reimbursement for educational expenses only, to work for a time prorated based upon the total amount of expenses, including leave, paid for by the agency.

##### 2. Additional Requirements for Mental Health Medical Residents

- a. Candidates must be medical residents of the University of Mississippi.
- b. Candidates must be approved by the Department of Mental Health



Educational Leave Committee.

- c. Candidates must meet all obligations established under agreements between the Department of Mental Health and the University of Mississippi and the regulations promulgated by the Board of Mental Health.
- d. Candidates must fulfill their obligations under this program on an annual pro rata basis for each year on paid educational leave.

C. Salaries of Employees on Educational Leave

1. Educational Leave Contract Salary

- a. The Educational Leave contract shall specify the salary by which Educational Leave recipients shall be compensated.
- b. MSPB prescribes the maximum salary levels permitted employees on Educational Leave, except for Department of Mental Health Medical Residents. Department of Mental Health Medical Residents may receive a stipend in an amount not to exceed the salary of a medical resident.

2. Determination of Maximum Educational Leave Salary

- a. Employees whose salaries at the time of application are \$24,941.40 or less may have their salaries established at the discretion of the appointing authority at any salary up to the current salary at the time of application. The salary established shall be the maximum salary permitted while on Educational Leave.
- b. Employees whose salaries at the time of application are greater than \$24,941.40 may have their salaries established by the appointing authority at any salary up to \$24,941.40. Appointing authorities may additionally grant 50% of the difference between \$24,941.40 and the current salary. This formula shall establish the maximum salary permitted while on Educational Leave. See the following example:

Current Salary:	\$35,711.04
Educational Leave Salary:	<u>\$24,941.40</u>
Difference:	\$10,769.64

$$\$10,769.64 \times 50\% = \$5,384.82$$

$$\$5,384.82 + \$24,941.40 = \$30,326.22 \text{ (max. salary on Educational Leave)}$$

- c. If any part of a month is spent on Educational Leave, the employee shall be compensated at the Educational Leave salary for that entire month.
- d. Employees shall be informed of their Educational Leave salary prior to signing the Educational Leave Contract.

### 3. Legislative and Variable Compensation Plan Salary Increases

Employees shall be ineligible for salary increases for the time they are on Educational Leave. However, upon the completion of Educational Leave, recipients of Educational Leave shall have their salaries restored by appointing authorities to the level the salary would have been after the addition of any salary increases guaranteed by the Legislature during the period of Educational Leave. No back pay or back award of pay shall be authorized for the time spent on Educational Leave.

#### D. Educational Programs Which Qualify for Educational Leave

Educational Leave shall be granted only to pursue undergraduate and graduate level education. Undergraduate and graduate-level education shall be defined as an educational program:

1. Conducted by a college, university, or school; and
2. That awards academic credit upon successful completion of each course.

#### E. Educational Opportunities Which Do Not Qualify for Educational Leave

Educational Leave does not apply to educational programs other than those identified above. Educational Leave shall not apply to training conducted, sponsored, or co-sponsored by the requesting agency, MSPB, or other state or federal agencies which offer job-related training of short duration.

#### F. Equal Educational Opportunity

Appointing authorities shall ensure that Educational Leave and training opportunities are accorded all qualified agency employees without unlawful discrimination as to political affiliation, race, color, handicap, genetic information, religion, national origin, sex, religious creed, age, or disability. See Mississippi Code Annotated §§ 25-9-103; 25-9-149.

#### G. Duration of Educational Leave

Unless otherwise terminated, the duration of Educational Leave may be the length of the semester, quarter, or term in which the employee is actually enrolled pursuing his or her designated professional course work; or at the option of the appointing authority, the duration may extend across successive semesters, quarters, or terms, as long as the employee is enrolled and pursuing his or her designated professional course work in each intervening semester, quarter, or term. Agencies shall maintain contemporaneous leave records, which detail those periods an employee uses Educational Leave.

#### H. Conditions Requiring Termination of Educational Leave

Educational Leave may be terminated by the administrative head of the agency based on a variety of reasons, including, but not limited to:

1. Any condition listed in the Educational Leave contract,
2. Agency funds constraints,

3. Agency reorganization or change in agency mission,
4. Agency program changes,
5. Agency workload increases or staffing crises,
6. Reductions-in-force,
7. Disciplinary action, or
8. Failure to make adequate academic progress.

Unless otherwise specified in the Educational Leave contract, adequate academic progress shall be defined as maintaining a “B” or better cumulative average. Failure to make adequate academic progress in one term may result in the employee being ineligible for further Educational Leave.

#### I. Administrative Provisions

1. If an Educational Leave candidate will be having his or her salary decreased as a result of Educational Leave, the requesting agency shall submit the action into OSR. Please reference the OSR User Training Workbook located at <http://www.dfa.ms.gov/mmrs> or contact your Classification, Compensation, and Recruitment Consultant for more detailed information regarding Educational Leave. The employee’s current salary plus any legislative guarantees will continue on the PIN to ensure proper salary projections.
  2. Any Educational Leave candidate on full-time educational leave shall not accrue personal or major medical leave while on paid educational leave.
- J. Refer to Mississippi Code Annotated § 37-101-293 for other requirements. These include specific employment obligations in exchange for Educational Leave benefits, repayment obligations and liquidated damages with interest for failure to fulfill the terms of the contract, other legal rights and remedies, and the requirement for annual agency reports to the Legislature on Educational Leave.
- K. The administrative head of the employing agency shall be responsible for stipulating any other needed contractual provisions, including but not limited to repayment obligations should the employee be separated for cause, failure to make adequate academic progress, disciplinary action, retirement, or other conditions which may result in the failure to meet Educational Leave contractual obligations. If the administrative head of the agency wishes to require the applicant to be employed at the conclusion of their Educational Leave in a specific geographic location, office, or location, then such terms should be addressed in the contract.

### **7.4.2 Professional Development Programs**

Certain paid educational leave and paid internship programs have been authorized to develop professional skills and to prepare employees for higher-level professional and management positions. Those employees deemed qualified for paid educational leave or paid internship shall receive funds that may be used to pay for tuition, books, and related fees to pursue their degrees.

See Mississippi Code Annotated §§ 37-101-291 and 37-101-292.

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.