



SOUTH CAROLINA REVENUE AND FISCAL AFFAIRS OFFICE

REDUCTION IN FORCE PROCEDURES

THE LANGUAGE USED IN THIS DOCUMENT DOES NOT CREATE AN EMPLOYMENT CONTRACT BETWEEN THE EMPLOYEE AND THE AGENCY. THIS DOCUMENT DOES NOT CREATE ANY CONTRACTUAL RIGHTS OR ENTITLEMENTS. THE AGENCY RESERVES THE RIGHT TO REVISE THE CONTENTS OF THIS DOCUMENT, IN WHOLE OR IN PART. NO PROMISES OR ASSURANCES, WHETHER WRITTEN OR ORAL, WHICH ARE CONTRARY TO OR INCONSISTENT WITH THE TERMS OF THIS PARAGRAPH CREATE ANY CONTRACT OF EMPLOYMENT.

Purpose and Scope

The purpose of this policy is to prescribe the manner in which covered employees of the Agency are released in an equitable manner should a reduction in force become necessary. A reduction in force may require the separation, involuntary demotion, reassignment or reduction in work hours of the Agency's covered employees. A reduction in force does not apply to non-covered employees (e.g., probationary employees, temporary employees, temporary grant employees, time-limited project employees, research grant employees and employees exempt from the State Employee Grievance Procedure Act).

The Agency may implement a reduction in force for one or more of the following four reasons:

- A. Reorganization;
- B. Work Shortage;
- C. Loss of Funding; or
- D. Outsourcing/Privatization.

Management Decisions

The Agency shall determine the following items prior to developing the reduction in force plan:

- A. What is the reason(s) for the reduction in force;
- B. What area(s) of the agency are to be impacted by the reduction in force [Competitive Area(s)];
- C. What State class title(s) within the competitive area(s) are to be affected [Competitive Group(s)];
and
- D. How many positions in each State class title(s) are to be eliminated.

Competitive Area(s)

The Agency shall determine the competitive area(s) the reduction in force will impact. The Agency should establish a competitive area that is clearly distinguishable from the staff in other areas and where the interchange of employees would not be practical. This competitive area may be the entire agency, a division, an office, a section, a unit or a geographical location.

Competitive Group(s)

The Agency shall determine the competitive group(s) based on the State class title(s) within the competitive area(s) that the reduction in force will affect. If the reduction in force is to apply to more than one State class title, each State class title will be treated separately, except where the reductions are to be made in a State class title series (e.g., Auditor I, Auditor II, Auditor III, Auditor IV, Audits Manager I, Audits Manager II) or in State class titles that are part of the Agency's customary career path (e.g., Administrative Assistant, Communications Coordinator, Program Coordinator II, Program Manager I).

Position Identification

The Agency shall identify the position(s) within the competitive area(s) and competitive group(s) by identifying the following information:

- A. State Class Title;
- B. State Class Code;
- C. Pay Band Level, if applicable;
- D. Total number of positions in the State class title within the competitive area; and
- E. Total number of positions in the State class title within the competitive area to be eliminated.

Retention Points

The Agency will calculate retention points for covered employees in the competitive area(s) and competitive group(s) to determine which covered employees are to be involuntarily demoted, reassigned, separated or have work hours reduced. Retention points are based on the total scores of the two most recent annual performance appraisals and the length of continuous State service. The sum of the retention points for performance and length of continuous State service are the total retention points that an employee uses in the competition.

Performance Appraisal Points

The Agency will determine the total score for an annual performance rating by using the following numerical values assigned to the EPMS performance ratings.

Exceptional	6
Successful	2
Unsuccessful	0

The Agency will recognize the performance ratings as follows for current state employees transferring to this agency for reviews conducted on or after the effective date of this policy: "Substantially Exceeds Requirements" and "Exceeds Requirements" as "Exceptional," "Meets Performance Requirements" as "Successful" and "Below Performance Requirement" as "Unsuccessful."

For any year in which the employee does not receive an actual evaluation with a rating, the employee will receive a “Successful” rating for that year; however, if in the previous year, the employee received a higher than “Successful” rating, the employee will receive the points for the higher rating.

Continuous State Service Points

Covered employees will receive one retention point for each year of continuous state service after completion of a 12-month probationary period. Six months or more of continuous state service will be considered as one year of service and less than six months of service will receive no retention points.

Exception to Procedure for Retention Point Calculation

If every position in the competitive area is being eliminated, the agency is not required to calculate retention points. For positions reestablished within one year of the RIF, in the same competitive area and in the same State class title, the agency must calculate retention points at the time of the recall or reinstatement. The agency must calculate retention points using continuous State service and performance appraisal points based on the effective date of the reduction in force.

Sequence of Reduction in Force

The order of the reduction in force of covered employees in each State class title(s) shall be determined by the total number of retention points for each employee. If two or more employees affected by a reduction in force have the same number of retention points and not all are to be affected by the reduction in force, the agency hire date will determine the order of the employees affected. The covered employee with the earlier agency hire date will be retained. If after using the agency hire date to determine the order of the affected employees, a tie still exists, the Agency will use the last four digits of the employee’s social security number. The employee(s) who have lower numbers will be retained.

Bumping rights are provided for covered employees who have accumulated more retention points than those with whom they are competing. Under no circumstances can an employee gain from a reduction in force. Bumping rights are provided only downward.

Retention of Necessary Qualifications

No employee with a lower number of retention points shall be retained in preference to another employee in a competitive area(s) and group(s) with a higher number of retention points except when the Agency determines that a Retention of Necessary Qualifications applies.

If an employee is competing for a position that is not being eliminated and the Agency asserts that an employee with higher retention points who has rights to be placed in that position cannot satisfactorily perform the duties of the position within a reasonable training period, not to exceed six months, the employee with lower retention points may be retained in preference to the employee with higher retention points. The Agency may determine that the employee with higher retention points will not be able within a reasonable training period to satisfactorily perform the duties of the job based on the lack of knowledge, abilities, skills, supervisory responsibilities, or necessary experience.

When a Retention of Necessary Qualifications is used in a reduction in force plan, justification for this retention must be documented and approved by the Agency prior to submitting the reduction in force plan to the State Human Resources Division for review and approval for procedural correctness. The Agency should retain the documentation to support any retention made on this basis.

Writing the Reduction in Force Plan

Once the Agency has made the decisions outlined above and prior to the implementation of a reduction in force, the Executive Director or his designee shall develop the reduction in force plan. This plan must include the following:

- A. The reason for the reduction in force;
- B. The identification of the competitive area(s);
- C. The identification of the competitive group(s) [State class title(s)];
- D. The number of position(s) to be eliminated in each State class title;
- E. A list of the covered employees, in order of retention points, in the competitive area(s) and competitive group(s) to include the following:
 - F. Name;
 - G. Age, Race and Gender; and
 - H. Retention Points;
 - I. Justification of any Retention of Necessary Qualifications used in the reduction in force plan; and
 - J. The Agency's efforts to assist employees affected by the reduction in force.

Approval Process

Once the reduction in force plan has been completed, the Agency shall submit the following information to the State Human Resources Division for review and approval for procedural correctness:

The reduction in force plan as outlined in Section IX:

- A. An organizational chart including each position (designated with the State class title and incumbent's name) within the competitive area(s);
- B. A copy of the Agency's reduction in force policy; and
- C. A sample letter to employees affected by the reduction in force including information as outlined in Section XI, along with:
 - a. A list of the employee's recall and reinstatement rights;
 - b. The Agency's procedure for the recall of an employee; and
 - c. The employee's grievance rights.

Implementation of the Reduction in Force

The Agency shall communicate the following information to each affected employee after the State Human Resources Division approves the reduction in force plan for procedural correctness and before the reduction in force becomes effective:

1. The reason for the reduction in force;
2. The competitive area(s) and competitive group(s) in which the employee competed;
3. The benefits to which the employee is entitled and the manner in which the reduction in force will affect the employee's State benefits, (e.g., health insurance, optional life insurance, retirement);
4. The employee's reinstatement rights, (e.g., reinstatement of all sick leave; option of buying back all, some, or none of the annual leave at the rate at which it was paid out);
5. The employee's recall rights to any position, within the competitive area, that becomes available in the same State class title as the position the employee held prior to the reduction in force;
6. The manner in which the agency will notify the employee of any such vacancies; and
7. The requirements of S.C. Code of Laws Ann. Section 8-11-185, which requires the Agency to report information about the employees (separated) in a reduction in force to the State Human Resources Division.

Recall and Reinstatement Rights

An employee affected by a reduction in force has recall and reinstatement rights to a position in State government for one year after the effective date of the reduction in force.

Recall Rights

If a vacancy occurs within the competitive area which is in the same State class title as the position the employee held prior to the reduction in force, the Agency will recall employees in the inverse order of the reduction in force. The Agency will notify the employee in writing of the job offer and recall rights. If the employee does not accept the job offer within ten days, the employee's recall rights are waived. Should the employee accept the job offer, the Agency will reinstate the employee's accumulated sick leave, and will provide the employee the option of buying back all, some, or none of his annual leave at the rate it was paid out as the time of the separation. Upon returning to employment in an insurance eligible Full-Time Equivalent (FTE) position, the employee will also be offered insurance benefits as a new hire. The recalled employee may purchase retirement service credit under the leave of absence provision in Section 9-1-1140(D) for the period of time that the employee was not employed by state government, at cost specified in Section 9-1-1140(D). When an employee is recalled, this time will not be considered punitive in determination of retiree insurance eligibility.

Reinstatement Rights

An employee separated by a reduction in force may apply for any State job for which he/she meets the minimum training and experience requirements. Should the separated accept a job offer to an FTE position, the Agency will reinstate the employee's accumulated sick leave, and will provide the employee the option of buying back all, some, or none of his annual leave at the rate it was paid out at the time of the separation. Upon returning to employment in an insurance eligible FTE position, the employee will also be offered insurance benefits as a new hire. The reinstated employee may purchase retirement service under the leave of absence provision in Section 9-1-1140(D) for the period of time that the employee was not employed by state government, at the cost specified in Section 9-1-1140(D). When an employee is reinstated, this time will not be considered punitive in the determination of retiree insurance eligibility. If the employee is reinstated to another position, he/she still retains his/her recall rights to a position in the same State class in the competitive area.

Grievance Rights

A covered employee who is affected by a reduction in force has the right to file a grievance to the Agency and an appeal to the State Human Resources Director only if the grievance or appeal is based on improper or inconsistent application of a reduction in force policy or plan.