

DHHS POLICIES AND PROCEDURES

Section V:	Human Resources
Title:	Recruitment Services
Chapter:	Reduction-in-Force
Current Effective Date:	5/1/11
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Important Advisory Note: The DHHS RIF Policy as outlined applies exclusively to employees subject to the State Personnel Act who were notified of a reduction in force on or before 06/30/2011. Employees notified of reduction in force on or after 07/01/2011 are subject to S.L 2011-391. The Office of State Personnel is in the process of revising the state's reduction in force policies based on S.L 2011-391. These policies will be communicated once received by DHHS.

Purpose

The purpose of this policy is to ensure that reductions-in-force (RIF) in the department are planned and implemented in a fair and systematic manner.

Policy

The State Personnel Act provides that an agency may separate an employee whenever it is necessary due to a shortage of funds or work, abolishment of a position, or other material change in duties or organization.

Definitions

1. Employee with a Permanent Appointment – An employee who has successfully completed a probationary or trainee period or an employee who has completed six (6) months of service as a trainee.
2. Career State Employee – An employee in a permanent position who has been continuously employed by the state in a position subject to the State Personnel Act for the immediate 24 preceding months.

Implementation

1. A RIF occurs when management determines the following:

- A. The need exists to consolidate, reorganize, or abolish programs or organizational units with a resulting loss of one (1) or more permanent positions,
 - B. The need exists to redesign the duties and responsibilities of a permanent position so materially that the changed classification and qualifications render the incumbent unqualified for the redesigned position, or
 - C. The abolishment of positions and/or the reversion of salary reserve funds are required by the North Carolina General Assembly.
2. A RIF separation is the involuntary separation of an employee resulting from a RIF
- Management in the department shall consider all feasible alternatives to a RIF separation of employees with permanent appointments.
3. Policy Exclusions
- A. The separation of an employee with less than three (3) years of service in a time-limited appointment due to RIF is not entitled to priority consideration rights as defined in this policy.
 - B. When management reassigns or transfers a position to another program and/or geographical location with no subsequent change in classification or salary grade, the position's incumbent shall also be reassigned or transferred with the position. Position reassignments or transfers are not considered RIF, and are, therefore excluded from the provisions of this policy. An employee who elects not to accept reassignment or transfer is not accorded priority consideration rights as defined in this policy.
4. Reduction Plan
- A. When a RIF occurs, other than a reduction of specific positions mandated by the North Carolina General Assembly, appropriate management shall develop a reduction plan. The plan shall document the reasons for the RIF, the factors considered in deciding a particular course of action, and the specific positions scheduled for abolishment or redesign. The following factors shall be addressed in the development of a reduction plan:
 - Applicable laws and regulations
 - Funding sources and budget guidelines
 - Potential adverse impact on employees protected under state and federal equal employment opportunity provisions
 - Impact on program objectives
 - Possible redistribution of staff and other resources
 - Composition of the affected work force
 - Economy and efficiency

- B. When a reduction plan results in the probable separation of employees with permanent appointments, it shall include the designation of a layoff unit for the purpose of handling such separations. The layoff unit is the organizational unit from which employees in the classifications specified for abolishment or redesign will be separated. The layoff unit may be defined as an entire division/facility, or any organizational, geographical, or program unit within a division/facility. The layoff unit need not coincide with the program or activity that is the cause of the reduction.

5. Separation of Employees

When the implementation of a reduction plan requires the involuntary separation of employees with permanent appointments, the following factors shall be considered:

- A. Type of appointment
- B. Length of service
- C. Relative efficiency
- D. Adverse Impact

1. Type of appointment shall be the first determining factor when separating employees. No employee with a permanent employee appointment in an affected classification shall be separated while there are temporary or probationary employees or trainees in their initial six months of training working in the same classification any place in the division/facility implementing the RIF.
2. Length of service shall be applied after type of appointment and shall be defined as total state service according to State Personnel policy. An employee with less seniority shall be separated before a more senior employee in the same classification unless there is a documented material difference in the employee's relative efficiency. When the length of service is one of the considerations in the determination of retention, an employee who qualifies for veteran's preference will be accorded one (1) year of service for each year or fraction thereof of military service up to a maximum of five (5) years. When the length of service of two (2) or more employees in the affected classification is equal, separation decisions shall be based on relative efficiency as defined below.
3. Relative efficiency shall be determined from the review and comparison of employees' performance evaluations on record for the last completed work cycle and from any formal disciplinary action brought against the employee during the preceding 12 months.
4. Adverse impact shall be reviewed in accordance with federal guidelines affecting equal employment opportunity and affirmative action. All decisions concerning RIF must be analyzed to avoid

adverse impact on demographically underrepresented classes.

6. Plan Approval

When the necessary separation decisions are reached through application of the criteria noted above, management shall notify the director of the DHHS Division of Human Resources in writing of the proposed RIF before implementation. The written notification shall include the following elements:

- A. A copy of the reduction plan,
- B. A copy of the organization change form (link) if the abolishment of positions result in the change of reporting relationships in BEACON. The preplanning of organizational changes at the time of a reduction in force is necessary to ensure the timely abolishment of positions in the BEACON HR/Payroll system.
- C. A list of the employees scheduled for separation and their appointment status,
- D. The anticipated effective date(s) of such separations, and
- E. Certification that the proposed separations will be implemented in accordance with the departmental RIF policy and procedure,
- F. Certification by the division/facility budget office that the position abolishment(s) are approved by the DHHS Office of Budget and Analysis.

7. Notice to Employees

After plan approval, management shall give all employees scheduled for separation a written notice of the reduction-in-force. In the case of career state employees, such notice shall include information on their priority consideration status and applicable appeal rights. The notice shall include the anticipated effective date of separation. The employee notice shall be given as soon as possible but not less than 30 calendar days before the scheduled separation date. The division/facility human resources manager shall receive a copy of the notice. Concurrent with or subsequent to presenting the notice to the employee, the appropriate supervisor shall discuss with the employee scheduled for separation the reasons for the action and the employee's rights and responsibilities under this policy.

8. Priority Consideration

- A. A career state employee who is subject to a RIF shall have priority consideration rights for vacancies in state agencies and divisions/facilities subject to the provisions of the State Personnel policy. On receipt of written notice of imminent separation due to a RIF, a career state employee acquires priority consideration status within all state agencies and universities subject to the State Personnel Act. For employees in flat-rate positions, the salary grade level for priority consideration shall be the salary grade which has as its

maximum a rate nearest to the flat rate salary of the eligible employee. For employees in trainee status, the salary grade level for priority consideration shall be the salary grade of the full class.

- B. An applicant with priority consideration status (RIF priority) has priority over non-state government applicants for vacancies at a salary grade, competency level, salary grade/competency equivalent, salary rate and appointment type equal to or below that held at the time of notification. When more than one (1) RIF employee applies for a vacant position, a RIF employee with more than 10 years of service shall receive priority consideration over a RIF employee with less than 10 years in the same or related classification. RIF employees receive equal consideration with state employees not affected by the RIF. RIF priority is in effect for 12 months following the date the employee receives written notification of imminent separation.
- C. To exercise priority consideration status, the RIF employee must submit a current State employment application (Form PD 107) directly to the human resources office of the respective state agency or university within the posted application period.

The DHHS Division of Human Resources office shall provide the Office of State Personnel (OSP) with a list of employees who are eligible for priority consideration for inclusion on the OSP RIF Priority Verification List.

When an appropriate vacancy has been identified the employee shall be offered the position unless the position is offered to a current state employee or another RIF applicant. The following requirements must be met:

- 1. Employee must meet the minimum qualifications for the class as stated in the section entitled recruitment standard,
 - 2. Employee must meet the specific job requirements as outlined by management, and
 - 3. Employee must possess the ability to satisfactorily perform the duties and responsibilities within a reasonable period of time after appointment.
- D. A RIF employee may be placed in a position at a salary grade, salary rate, competency level, salary grade/competency level equivalent, and appointment type greater than, equal to or below that of the position held at the time of notification. All placement offers within the department shall be in writing. The employee must respond in writing within three (3) calendar days of the receipt of the offer. RIF priority is satisfied when the employee accepts a position that is at a salary grade, salary rate, competency level, salary grade/competency level equivalent or appointment type which is the same or greater than that held at the time of notification. If the employee refuses an interview or rejects an offer of employment for a position at a salary grade, salary rate, competency level, salary grade/competency level equivalent, or

appointment type which is the same as or higher than that held at the time of notification, the employee forfeits further RIF priority unless the position exceeds a distance of 35 miles from the employee's previous work station. An employee shall retain priority if the employee accepts an offer for a position at a salary grade, competency level, salary grade/competency level equivalent, salary rate, or appointment type which is lower than the position held at the time of notification.

- E. When a RIF employee accepts a position at the same or at a lower salary grade, competency level, salary grade/competency equivalent, the employee's salary rate will be the salary at the time of notification, unless the salary rate exceeds the maximum of the new salary grade, in which case, the salary rate is reduced to the maximum of the new salary grade. When an employee accepts a position at a higher salary grade, the salary rate will be set according to the promotion policy.

9. Assistance for Department Employees

- A. The division/facility human resources manager shall be responsible for providing information concerning the RIF and associated rights and responsibilities to affected employees. This role will include the following:

1. Initial guidance and counsel on RIF policy and procedure,
2. Liaison with the DHHS Division of Human Resources,
3. Job placement assistance and job counseling,
4. Referrals for necessary training and development, and
5. Coordination of job placement efforts within a division/facility.

- B. It shall be the department's responsibility to make all feasible and reasonable efforts to identify appropriate vacancies and employment opportunities for employees subject to a RIF. The division/facility human resources manager will assume responsibility for assisting employees and ensuring coordination with the DHHS Division of Human Resources.

10. Appeal Rights

Employees with a permanent appointment have the right to appeal a RIF separation. Employees with veterans' preference have the right to appeal the alleged denial of veterans' preference in a RIF separation. Career state employees also have the right to appeal the alleged denial of priority consideration in a selection decision.

- A. Appeal of a RIF Separation: The issue in an appeal of a RIF separation is whether the separation is in retaliation for the employee's opposition to alleged discrimination on account of the employee's age, sex, race, color, national origin, religion, creed, political affiliation, or handicapping condition.

Such an appeal may be made either through the agency internal grievance procedures (Directive No. III-8) and is to be filed at step 2 within 15 days from the employee's separation, (i.e., the last day of work) or may be filed directly with the Office of Administrative Hearings, at the choice of the employee.

- B. Denial of Veterans' Preference: An employee may appeal the separation if it is alleged that the separation is a denial of veterans' preference granted in connection with a reduction in force for an eligible veteran as provided in Chapter 126, Article 13. The appeal may be made either through DHHS grievance procedures or may be filed directly with the Office of Administrative Hearings, at the choice of the employee.
- C. Denial of Priority Consideration Status: Career state employees may appeal an alleged denial of priority consideration directly to the NC State Personnel Commission within 30 days of notification of the selection decision.
- D. An employee who alleges that a RIF separation was the result of unlawful discrimination may elect to file an appeal either under the departmental grievance procedure or directly to the NC State Personnel Commission.
- E. An employee who alleges that denial of priority consideration for a DHHS position was the result of unlawful discrimination may elect to file an appeal either under the departmental grievance procedure or directly to the NC State Personnel Commission.

- F. An employee who alleges that denial of priority consideration for a non-DHHS position was the result of unlawful discrimination may file an appeal directly to the NC State Personnel Commission.

For questions or clarification on any of the information contained in this policy, please contact [Human Resources](#) For general questions about department-wide policies and procedures, contact the [DHHS Policy Coordinator](#).