**Important Advisory Note:** This policy applies to employees who are notified of reduction in force on or after July 1, 2011.

**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 (full time or part time) 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. 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 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 (6) months of training working in the same classification 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 total state service shall be separated before an employee with more total state service in the same classification unless there is a documented material difference in the employee's relative efficiency. When the length of state 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 management organization change form if the abolishment of positions result in the change of reporting relationships in BEACON.

C. A list of the employees scheduled for separation and their appointment status, if applicable,

D. The anticipated effective date(s) of such separations,

E. Certification that the proposed separations will be implemented in accordance with the departmental RIF policy and procedure, and

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, which includes the anticipated effective date of separation. In the case of career state employees, such notice shall include information on their priority consideration status and applicable appeal rights. Employees in probationary status shall not be changed to permanent status and employees in time-limited appointments shall not be extended beyond three years in order to afford a different RIF priority status or rights for an employee.
RIF notification timeframes and priority placement rights are outlined in the table below by employee appointment type, including a reference to healthcare coverage:

<table>
<thead>
<tr>
<th>Appointment Type</th>
<th>RIF: Written Notice</th>
<th>RIF Priority Consideration</th>
<th>Severance Pay</th>
<th>Healthcare Coverage</th>
</tr>
</thead>
<tbody>
<tr>
<td>Time-limited with less than 3 yrs of service; Temporary; Probationary; or Trainee with less than 6 months of service</td>
<td>At least 10 working days written separation notice, if possible; 30-day notice not applicable</td>
<td>Not applicable</td>
<td>Not applicable</td>
<td>Not applicable for temporary; Applicable if employee has 12 months of cumulative service.</td>
</tr>
<tr>
<td>Trainee with 6 or more months of service; Permanent with less than 24 months of continuous state service</td>
<td>30 or more days RIF written notice required</td>
<td>Not applicable</td>
<td>Applicable</td>
<td>Applicable if employee has 12 months of cumulative service.</td>
</tr>
<tr>
<td>Career status in a permanent full time appointment with 24 or more continuous months of state service</td>
<td>30 or more days RIF written notice required</td>
<td>Applicable</td>
<td>Applicable</td>
<td>Applicable</td>
</tr>
<tr>
<td>Career Status employee in a permanent part time appointment working 30 to 39 hours per week</td>
<td>30 or more days RIF written notice required</td>
<td>Applicable</td>
<td>Applicable</td>
<td>Applicable</td>
</tr>
<tr>
<td>Career Status employee in a permanent appointment working 20 to 29 hours per week</td>
<td>30 or more days RIF written notice required</td>
<td>Applicable</td>
<td>Applicable</td>
<td>Not Applicable: If purchased, option to continue at full premium rate</td>
</tr>
<tr>
<td>Career Status employee in a permanent part-time appointment</td>
<td>30 or more days RIF written notice</td>
<td>Applicable</td>
<td>Not Applicable</td>
<td>Not Applicable</td>
</tr>
</tbody>
</table>
The division/facility human resources manager shall receive a copy of the written notice of separation. Concurrent with or subsequent to presenting the written 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. Only career state employees have RIF priority consideration to position vacancies subject to the State Personnel Act.

B. A career state employee who has received written notice of a reduction in force has a 12-month priority from the date of receipt of the notice to a permanent position of equal or lower salary grade. A position accepted at a higher salary grade satisfies the RIF priority and is processed under the state’s promotion policy.

C. DHHS will strive to maintain a career state employee’s permanent appointment type, salary grade and salary who has received written notice of reduction in force, when possible. Reduction in force rules do not assure the protection of a RIF candidate’s permanent appointment type, salary grade and salary. RIF priority consideration is satisfied and/or salary severance continuation is forfeited in the following situations when an employee has received official notice of RIF separation:

1. Acceptance of a permanent position or denial of placement to a DHHS permanent position within 35 miles before RIF separation for which the employee may or may not have applied, including refusal to interview, regardless of permanent appointment type, salary grade or salary.

2. Acceptance of a permanent position or denial of placement within 35 miles, including refusal to interview, to a permanent position within state government before or after RIF separation for which the employee has applied regardless of permanent appointment type, salary grade or salary.

D. On receipt of written notice of imminent separation due to a RIF, a DHHS career state employee has RIF priority consideration for vacancies in DHHS and for vacancies in other state agencies (and universities) when vacancies are posted external to those agencies. DHHS career state employees do not have priority rights for vacancies at other state agencies that limit applicant pools to internal applicants and exclude RIF candidates from other agencies.

E. The priority for a RIF employee is equal to the priority of an employee separated from an exempt position with less than ten (10) years of service subject to the State Personnel Act.
F. A RIF applicant with priority consideration who has qualifications that are substantially equal to the qualifications of other applicants shall be extended an offer. Substantially equal qualifications occur when the employer cannot make a determination that the job-related qualifications held by one applicant are significantly better suited for the position than the job-related qualifications held by the RIF applicant.

1. For RIF applicants in flat-rate positions at the time of notice, 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.

2. For RIF applicants in trainee status at the time of notice, the salary grade level for priority consideration shall be the salary grade of the full class.

3. For RIF applicants in graded positions applying for positions at a lower salary grade as held at the time of notice, the rate of pay shall not exceed the maximum of the salary range of the lower grade.

4. For RIF applicants in career banded positions applying for positions in the same banded classification at the same competency level or a lower competency level as that held at the time of notice OR for positions in a different banded classification with the same or lower journey market rate as that held at time of notification, the rate of pay shall not exceed the maximum of the salary range.

5. For RIF applicants applying for positions in a different classification system than their current classification at the time of official written notification (i.e. from graded to career banded or vice versa) a salary grade equivalent will be assigned for each competency level within a career banded classification using the OSP. *Salary Grade Reference Inventory*

G. To exercise priority consideration status, the RIF applicant must submit a State employment application within the posted application period via the *State of North Carolinas Online Job Application System*.

H. 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.

I. All placement offers to RIF candidates shall be in writing. The employee shall respond in writing within three (3) calendar days of the receipt of the offer or risk forfeiture of further priority consideration and/or severance.

7. Assistance for Department Employees
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.

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.

8. 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.

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.

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 OAH (Office of Administrative Hearings), at the choice of the employee.

Denial of Priority Consideration Status: Career state employees may appeal an alleged denial of priority consideration directly to the Office of Administrative Hearings (OAH) by filing a Petition for a Contested Case Hearing within 30 days of notification of the selection decision.

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 OAH by filing a Petition for a Contested Case Hearing.
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 OAH by filing a Petition for a Contested Case Hearing.

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 OAH by filing a Petition for a Contested Case Hearing.

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.