

<b>NORTH CAROLINA DEPARTMENT OF COMMERCE</b>		<b>POLICY # HR-14</b>
<b>Title: Reduction in Force Policy</b>		
<b>Effective Date: April, 1996</b> <b>Revisions: 3/2011</b>	<b>Administering Authority: Human Resources Dir.</b>	
<b>Statutory Authority (if applicable): G.S. 126</b>		

**Purpose:** To provide guidelines for any Reduction-in-Force (RIF) due to shortage of funds or work, abolishment of a position, or other changes in organizational duties.

**Policy:** It is the policy of the Department of Commerce to reduce employees only after all feasible alternatives to involuntary separation are attempted. These alternatives include hiring freezes, limits on purchases and travel, job sharing, early retirement to the extent allowed by state policy, shifting of moneys between different budgets, and any other feasible actions. However, in accordance with the policy of the State Personnel Commission, as stated in Section 11, Page 5 of the State Personnel Manual, the agency has the authority to separate an employee whenever it is necessary due to shortage of funds or work, abolishment of a position, or other material change in duties or organization. Retention of employees in classes affected shall be based on systematic consideration, at a minimum, of the following factors:

- type of appointment
- relative efficiency
- actual or potential adverse impact on the diversity of the work force
- length of service

Neither temporary, probationary, nor trainee employees in their initial six months of training shall be retained in classes where employees with a permanent appointment (those who have satisfactorily completed a probationary or equivalent trial period) must be separated in the same or related class. In determining the length of service, an eligible veteran shall be accorded one year of state service for each year or fraction thereof of military service, up to a maximum of five (5) years credit. All employees have access to this policy through their Division/Commission Personnel Representative and a copy is placed on bulletin boards in work areas as well as on the Department's intranet site on the World Wide Web.

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### **Development of a Plan for the Reduction-in-Force**

When faced with the need to reorganize or abolish programs, units, and/or positions, management shall develop a reduction plan using this policy as a guideline. The reduction plan shall include the business reasons for the reduction, the factors considered in deciding on particular cuts, the specific positions to be eliminated, reallocated, or reassigned identified by position classification and number.

The following factors shall be considered in developing a reduction plan to implement the reduction:

1. Applicable laws and regulations
2. Funding sources and budget guidelines
3. Impact on Department mission and objectives
4. Possible re-distribution of staff and other resources
5. Mix of employee skills needed to meet the Department's mission and objectives after the reduction
6. Potential adverse impact on employees protected under state and federal equal employment opportunity and affirmative action policy
7. An adverse impact analysis will be conducted following both Federal and State EEO guidelines prior to conducting a departmental RIF - before any notifications are made
8. Economy and efficiency
9. All plans must be submitted to the appropriate Assistant Secretary or Commission Head and to the Human Resources Director for approval prior to notification of affected employees.

### **Choosing Positions for Reduction**

When the implementation of a reduction plan requires the involuntary separation of employees, separations shall be made using the procedures listed below.

1. Whenever possible, separations shall be made using positions filled by temporary or probationary employees. The type of appointment shall be the first determinant in separating employees in a reduction in force. No permanent employee in an affected classification shall be separated while there are temporary or probationary employees working in the same division or commission effecting the reduction if the permanent employee, otherwise scheduled for separation for the layoff unit, has the knowledge, skills, and abilities for the position in question and is agreeable to reassignment. An employee in trainee status is to be considered probationary unless they: 1) have received permanent status in another position, or 2) have more than six months in trainee status.

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2. The separation of permanent employees from affected positions in the layoff unit shall be made upon systematic consideration of the following criteria:

- a. The employee's work record and relative efficiency (including performance management reviews, recent disciplinary actions, awards or citations, and any other documented information that might have a bearing on ability to perform in the work unit.)
- b. The employee's skills, knowledge and abilities as compared with the skills, knowledge and abilities of employees retained in the same or related classification or band.
- c. The employee's length of service (in determining length of service, an eligible veteran shall be accorded one year of state service for each year or fraction thereof of military service, up to a maximum of five (5) years credit.

In accordance with federal guidelines affecting equal employment opportunity and affirmative action, all decisions concerning reduction in force must be analyzed to determine their impact on departmental utilization goals by race and sex and to avoid adverse impact in violation of Sec. 4d. of the Uniform Guidelines on Employee Selection Procedures.

### **Notice Requirements**

Employees shall receive a minimum of 30 days written notice of separation if they have been identified as a part of a Commerce reduction in force effort. The notice shall include the following information: the reason for the position in question being eliminated, eligibility for priority reemployment consideration, appeal rights regarding the RIF, and eligibility for any health benefits. Employees subject to reduction in force must notify the Department's Human Resources Officer if they are requesting priority reemployment consideration. Commerce will notify the Office of the State Personnel in writing regarding assistance in locating other State employment. Any employee not wishing reemployment assistance in locating other state employment shall provide a written statement to that effect.

### **Priority Placement and Re-employment Status**

Upon official written notification of imminent separation through reduction in force, an employee shall receive priority re-employment consideration for a period of twelve months (or twenty-four months, for any employees notified of a RIF from May 1, 2009 through June 30, 2011) from the date of the official written notification. Additional criteria noted in Section 2, Page 23 of the State Personnel Manual will be followed.

### **Appeal Rights**

An employee separated through a reduction in force may appeal the separation if it is alleged that the separation is in retaliation for the employee's opposition to alleged discrimination against the employee on account of the employee's age, sex, race, color, national origin, religion, creed, political affiliation, or disabling condition as defined by Chapter 168A of the General Statutes. An employee may appeal the separation if it is alleged that the separation is a denial of the veterans' preference granted in connection with a reduction in force for an eligible veteran. The appeal may be made either through the agency

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internal grievance procedure or may be filed directly with the Office of Administrative Hearings, at the choice of the employee.

### **Affirmative Action**

In accordance with federal guidelines affecting equal employment opportunity and affirmative action, all decisions concerning reduction-in-force must be analyzed to determine their impact on agency utilization goals by race and sex and to avoid adverse impact in violation of Section 4.d of the Uniform Guidelines on Employee Selection Procedure.

### **Leave**

**Vacation Leave:** Employees may elect, subject to approval by management, to exhaust vacation leave after their last day of work and be paid in a lump sum for the balance not to exceed 240 hours. If an employee had over 240 hours of vacation leave at the time of reduction in force, the excess leave shall be reinstated when reemployed within one year.

**Sick Leave:** Employees separated due to reduction-in-force shall be informed that their sick leave shall be reinstated if employed in any agency within five years.