

ADM-11.05, "Reduction in Force," July 1, 2004

SCDC POLICY/PROCEDURE

NUMBER: ADM-11.05

TITLE: REDUCTION IN FORCE

ISSUE DATE: JULY 1, 2004

RESPONSIBLE AUTHORITY: DIVISION OF HUMAN RESOURCES

OPERATIONS MANUAL: ADMINISTRATION

SUPERSEDES: ADM-11.05 (March 14, 2003); Change 1 (September 10, 2003)

RELEVANT SCDC FORMS/SUPPLIES: 16-5, 16-7

ACA/CAC STANDARDS: None

STATE/FEDERAL STATUTES: Sub-regulations 19-703, 19-704, 19-705, 19-706, 19-715, 19-718, and 19-719, State Office of Human Resources Regulations Manual

THE LANGUAGE USED IN THIS POLICY/PROCEDURE DOES NOT CREATE AN EMPLOYMENT CONTRACT BETWEEN THE EMPLOYEE AND THE AGENCY. THIS POLICY/PROCEDURE DOES NOT CREATE ANY CONTRACTUAL RIGHTS OR ENTITLEMENTS. THE AGENCY RESERVES THE RIGHT TO REVISE THE CONTENTS OF THIS POLICY/PROCEDURE, 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: To establish guidelines for a reduction-in-force (RIF) in the event of reduced Agency funding, change in workload, or reorganization.

POLICY STATEMENT: In order for the SCDC to continue effectively meeting its financial and/or operational objectives, the Agency Director may authorize a reduction-in-force (RIF) due to the reorganization of the SCDC, reduced funding, and/or change in workload. Any RIF will be planned and conducted in compliance with all applicable State of South Carolina Office of Human Resources regulations and policies/procedures.

TABLE OF CONTENTS

1. AUTHORIZATION FOR A REDUCTION-IN-FORCE (RIF)
2. GENERAL RIF PROVISIONS
3. EXCEPTIONS IN SPECIAL OR UNIQUE CASES
4. EMPLOYEE NOTIFICATION
5. ESTABLISHMENT OF RIF SERVICE DATES
6. BUMPING RIGHTS OF EMPLOYEES
7. RECALL AND REINSTATEMENT RIGHTS OF EMPLOYEES
8. GRIEVANCES
9. REORGANIZATION
10. REHIRES
11. DEFINITIONS

SPECIFIC PROCEDURES:

1. AUTHORIZATION FOR A REDUCTION-IN-FORCE (RIF):

1.1 The Agency Director or designees is authorized to approve any position(s) to be abolished and to approve the competitive areas within which employees subject to a lay off will be able to exercise their rights under this policy/procedure. (NOTE: The competitive area may be agency wide, a department, or a more restricted geographical area where the staff is separately organized and clearly distinguishable from the staff in other areas.) The Agency Director will be the final authority for approving a reduction-in-force whereby:

- employees may only bump into vacant positions, which are actively recruiting to be filled;
- filled positions are abolished with the subsequent removal of some or all employees from the payroll and/or the reassignment, and/or possible transfer or demotion of others.

1.2 A RIF plan based on the directives of the Agency Director will be developed by the Division Director of Human Resources.

1.3 A copy of the RIF plan will be submitted to the State Office of Human Resources (OHR) for approval of procedural correctness prior to the effective date of the RIF. At a minimum, the plan will contain the

reasons for the RIF; a proposed list of affected employees in the order of their RIF Service Dates (see Section 5, below); the competitive area(s) and classification(s) affected; and the age, race, and sex of the affected employees, organizational chart of affected areas, and a sample letter to employees. In addition, efforts will be made to assist laid-off employees to find other employment through the State Career Center of the OHR. The Recruiting and Employment Services Branch of the SCDC Division of Human Resources will be provided with updated employment applications of all employees affected by the RIF.

1.4 Upon approval of the RIF plan by the OHR, the Division Director of Human Resources will be responsible for implementing the actions called for in the plan. No action will be taken nor will information be provided to any employee without the written approval of the Division Director of Human Resources. No action will be considered official without the written approval of the Division Director of Human Resources.

2. GENERAL PROVISIONS GOVERNING RIFs:

2.1 The Division Director of Human Resources will maintain a roster of employees who have been bumped or who have been laid-off. It will be the responsibility of all Agency managers to furnish the Division Director of Human Resources with any and all information related to the filling of positions upon request.

2.2 It is the responsibility of all employees to ensure that the Division of Human Resources has current information on their home addresses and telephone numbers at all times.

2.3 Whenever a RIF is in effect, no additional new hires, internal promotions, or reassignments into vacant positions in the competitive area will be allowed in any position without first determining through the Division Director of Human Resources or designee those employees with recall rights. These employees have recall rights as a result of being bumped or laid off and must be notified of such vacancies to determine their eligibility.

3. EXCEPTIONS IN SPECIAL OR UNIQUE CASES:

3.1 In exceptional cases, the Agency Director reserves the right to approve actions outside the provisions of this policy/procedure if, in his/her opinion, circumstances warrant such approval. If any provisions of this policy/procedure are affected by a proposed exception, justification and specific instructions to be followed will be recommended in writing to the Agency Director by the appropriate member of the Director's staff with the concurrence of the General Counsel and the Division Director of Human Resources.

3.2 Reasons or justification for such actions above may include, but are not limited to the following:

3.2.1 Sufficient evidence exists that the movement by an employee into a position may aggravate a pre-existing health related condition. Such evidence would require medical documentation and diagnosis of inability to perform the essential functions of the position.

3.2.2 A particular employee may be retained over another employee within the Agency regardless of RIF Service Date and bumping rights of other employees because s/he possesses supervisory skills, knowledge,

experience, or abilities that cannot be learned within a reasonable training period. In such cases, a statement of facts must be made in the reduction-in-force plan and approved in advance by the Agency Director. The SCDC will retain documentation to support any exceptions made on this basis.

3.3.3 The move would violate State and/or Agency nepotism policies/procedures.

3.3.4 Sufficient evidence exists to show that it would not be in the best interest of the SCDC or the employee to allow a move.

4. EMPLOYEE NOTIFICATION:

4.1 After a RIF plan is approved and reviewed for procedural correctness by OHR and before it becomes effective, employees to be affected by an approved RIF will be notified in writing by the Division Director of Human Resources. Notification will be made by either:

- A personally delivered letter to the affected employee requiring the signed acknowledgment of receipt by the employee; or
- Certified mail (return receipt requested).

4.2 An employee affected by a RIF may make a written request to the Division Director of Human Resources to receive a copy of the RIF plan affecting the employee. The RIF Service Dates of affected employees (see Section 5, below) will not be disclosed in the copy of the plan provided to such employees.

4.3 Employees notified that their position is to be abolished (and those employees subsequently bumped under these procedures) will be scheduled to meet with a designated representative of the Division of Human Resources to review their rights under these procedures. After reviewing their rights, affected employees must indicate in writing whether they will exercise or waive their bumping rights (see Section 6, below). Written notification of each employee's decision must be filed with the Division of Human Resources representative designated to meet with the employee no later than two (2) working days following the meeting, or else that employee's bumping rights will be automatically waived.

4.4 Generally, employee meetings and employees exercising their bumping rights will be made in decreasing order based on each affected employee's RIF Service Date. Exceptions may be made by the Division Director of Human Resources when:

- A change in the order of meetings and transactions does not affect other employees with a lower RIF Service Date, or
- To delay a meeting or transaction would jeopardize efficient operations of the RIF, or
- An employee either fails to keep or fails to notify the Division of Human Resources of his/her inability to keep a required appointment date and therefore, the appointment will be rescheduled after other employees with a lower RIF Service Date have been contacted.

4.5 After the final list of employees to be laid off is determined, these employees will be informed in writing by the Division Director of Human Resources or an approved designee no later than 14 calendar days before

the actual date the lay off is to become effective. Notification will, at a minimum, include the following information:

- Reason for the lay off;
- Competitive classification and/or competitive series (job class, pay band, pay level) and competitive area;
- Benefits to which the affected employee is entitled;
- Where to obtain benefit information;
- Recall and reinstatement rights;
- Services available for seeking other employment;
- Efforts taken (or to be taken) to place the affected employee; and
- Employee grievance rights.

4.6 Notification will be made to such employees by either a hand-delivered letter to the employee requiring the employee's written acknowledgment of the same, or by certified mail (return receipt requested).

4.7 The Division of Human Resources will be responsible for ensuring that SCDC Form 16-5, "Personnel Advice Form," and SCDC Form 16-7, "Employee Termination Clearance," are completed for all employees being removed from the SCDC payroll.

5. ESTABLISHMENT OF RIF SERVICE DATES: A RIF Service Date will be established for any employee affected by a RIF and will be used as the basis for bumping, laying-off, recalling, or reinstating an affected employee. All approved RIFs will be conducted in such a manner which provides employees the optimum security for past performance and length of service, while minimizing disruption to the Agency's operations. The RIF Service Date will be established by combining the continuous state service date of each affected employee with credit for his/her job/merit performance, as follows:

5.1 Continuous State Service: The continuous state service date of each affected employee will be determined by the employee's most recent date of hire with the state. Section 19-719 of the State Office of Human Resources Regulations Manual outlines conditions affecting the employees length of continuous state service.

5.2 Job Performance Credit: All employees will be awarded additional service credit based on the total of their last two (2) scheduled performance appraisals (special appraisals are excluded) which precede the date of designation of positions to be eliminated by the Agency Director. The additional service credit will be allocated as follows:

- Below Performance Requirements = 0 months credit
- Meets Performance Requirements = 6 months credit
- Exceeds Performance Requirements = 12 months credit
- Substantially Exceeds Performance Requirements = 18 months credit.

5.3 The calculated additional service credit will be added to the employee's continuous state service date to determine the RIF Service Date for all RIF purposes.

5.4 Where two (2) employees have equal RIF Service Dates, deadlocks will be broken by using each employee's Agency hire date. If the deadlock continues, other impartial means (e.g., drawing lots, etc.) may be used to break the deadlock.

5.5 Probationary employees will not have any rights under these RIF procedures and may be terminated at any time during their initial 12 month probationary period.

6. BUMPING RIGHTS OF EMPLOYEES:

6.1 Applicability: Only those employees considered covered state employees are authorized to have bumping rights. Temporary ("pink-slip"), contract, full/part-time temporary grant employees, and probationary employees have no bumping or RIF rights.

6.2 Covered Employees: Covered employees have bumping rights only when:

6.2.1 The position the employee occupies is being abolished or the employee is bumped by another employee and the bumped employee has a greater RIF Service Date than remaining employees in the classification and/or job classification series; or

6.2.2 The employee elects to exercise his/her bumping rights in writing no later than two (2) working days following the review meeting with the designated representative of the Division of Human Resources (see Section 4.3, above).

6.3 If an employee elects to exercise his/her bumping rights, the employee must utilize the option below which provides him/her the highest resulting pay band or s/he may elect to be laid-off with recall or reinstatement rights as provided by the provisions within these procedures. (NOTE: Under no circumstances may an employee gain from a RIF. Bumping rights are only provided laterally or downward.)

6.4 The following procedures must be followed only in cases where the position eliminated is one of a designated competitive series (e.g. Administrative Specialist I, AA25, Band 2; and Administrative Specialist II, AA50, Band 3):

- If the employee whose position is eliminated has a higher RIF Service Date than other employees in the designated competitive series in the competitive area, s/he will bump into the position occupied by the employee with the lowest RIF Service Date in the same job classification and pay band with the same or lower pay level. The bumped employee may then bump into the position occupied by the employee with the lowest RIF Service Date in the next lowest job classification in the designated competitive series. Once the employee with the lowest RIF Service Date in the series is determined, s/he must then follow the procedures outlined in Section 6.6, below.
- In all cases, the employee bumping into a position must meet the State and SCDC minimum training and experience requirements outlined in Section 6.10, below.

6.5 If a position eliminated is not one of a designated series and the employee elects to exercise his/her bumping rights, the employee must first bump the employee in the competitive area with the lowest RIF Service Date in the same job classification and pay band, and same or lower pay level, provided s/he meets the State and SCDC minimum training and experience requirements.

6.6 The employee must next be reassigned or demoted into a vacant position in the competitive area of the same pay band, and pay level or lower, provided the agency is actively recruiting to fill the vacancy, and provided s/he meets the State and SCDC minimum training and experience requirements.

6.7 For those employees bumped or bumping into a position with a lower pay band, the employee's pay rate and review date will be determined in accordance with the Office of Human Resources Regulations Manual.

6.8 If a position is offered to an employee under RIF bumping procedures, and the employee refuses the position, s/he has the right to elect to be laid-off with recall/reinstatement rights.

6.9 An employee is considered as meeting the minimum training and experience requirements provided that:

- S/he meets minimum state training and experience with regard to education and experience, and
- The experience required is considered acceptable to perform the specific essential functions of the position (i.e., a vocational teacher of a specific trade such as electrical, automotive, plumbing, etc.) as defined in the positions SCDC Additional Requirements.

6.10 Any employee exercising his/her bumping rights will be notified in writing by the Division of Human Resources of the position (job title, pay band, pay level, location, and salary) and effective date of the position change. Notification of the position change will also be made to the Recruiting and Employment Services Branch. The Recruiting and Employment Services Branch will be responsible for keying the selection and notifying the Payroll Branch so that the change can be made effective.

6.11 An employee bumped out of his/her position during a RIF (regardless of source of funds) may then exercise his/her rights according to these procedural guidelines.

6.12 A second wave of bumping rights for covered employees who have been displaced will not be implemented until first wave RIF bumping procedures have been completed.

6.13 An employee subject to lay off may waive his/her bumping rights in writing. Once waived, s/he forfeits bumping rights for the remainder of the RIF. An employee who waives bumping rights does not waive any recall rights under these procedures.

7. RECALL AND REINSTATEMENT RIGHTS OF EMPLOYEES:

7.1 Covered employees who have been laid-off or bumped to a position with a lower pay band and pay level will have recall and reinstatement rights for a period of one (1) year from the effective date of their lay off, bumping, or reassignment to another position. Employees will be reinstated in inverse order of lay off.

7.2 Recall Rights: When a vacancy occurs in an employee's competitive area which is (1) in the same job class, pay band, pay level or lower, and functionally similar as the position held prior to the lay off, downward bumping, or reassignment and (2) within a reasonable geographic distance (30 mile radius) of the work location of the employee, then the eligible employee will be offered the vacancy provided s/he meets the minimum training and experience qualifications. The position must be accepted in writing by the employee within two (2) working days of the offer or s/he waives any future recall rights.

7.3 Upon refusal of the position by an eligible employee, the offer will be extended in decreasing RIF Service Date order to other eligible employees on the recall list. If all eligible employees on the recall list refuse the position, the vacancy will be filled pursuant to normal Agency hiring policy/procedure.

7.4 Reinstatement Rights: An employee affected by a Reduction-In-Force may apply for any SCDC or State job for which s/he meets the minimum training and experience requirements. If the employee accepts a position with a lower pay band than the one from which s/he was separated, s/he still retains recall rights to a position in the same job classification in the competitive area.

7.5 Probationary, temporary (pink slip), or temporary grant employees will not have recall or reinstatement rights. They may, however, apply for rehire through regular Agency employment policy/procedure.

7.6 If an employee on the recall list relocates to another geographic area, s/he will be eligible for recall in the new competitive area. After relocation it will be the employee's responsibility to notify the Division Director of Human Resources in writing of the relocation in order to be eligible for recall within that competitive area.

7.7 Upon appointment to an established position (either as a result of bumping or recall), an employee shall be given one of the following types of status in accordance with State regulations and Agency policies/procedures:

- Trial, or
- Covered.

7.8 Any changes in salary, job date, or performance appraisal review dates will be in accordance with established State regulations and Agency policies/procedures.

7.9 Employees who are recalled or reinstated within one (1) year of the effective date of the RIF will be eligible for all benefits including sick leave restored in accordance with state regulations, and will have the option of buying back all, some, or none of the annual leave as a result of the RIF.

8. GRIEVANCES: A covered employee who is affected by a reduction-in-force has the right to appeal through the Agency's employee grievance procedures and to the State Employee Grievance Process only if the appeal is based upon inconsistent or improper application of any portion of the Agency's reduction-in-force policy/procedure or plan. The grievance must be filed within 14 calendar days of the effective date of the RIF as outlined in SCDC Policy/Procedure ADM-11.02.

9. REORGANIZATION: Reorganization of the SCDC after a RIF will be implemented in compliance with all existing departmental policies. Those employees remaining after reorganization will not be eligible for moving expenses or travel to and from their home to their work stations if they are transferred to meet the mission of the Agency.

10. REHIRES: An employee affected by a RIF who waives his/her bumping or recall rights or who is not eligible for such rights may apply for rehire with the Agency through normal hiring and employment policies/procedures.

11. DEFINITIONS:

Bumping refers to the action taken when an employee subject to lay off is placed in a vacant position or displaces ("bumps") another employee in the same or another job classification and/or location.

Class Series refers to a group of classes which are sufficiently similar in the kind of work performed to warrant similar state class titles, but sufficiently different in level of responsibilities to warrant different state salary ranges.

Competitive Area refers to a common geographic or organizational area in which employees will be considered for reduction-in-force procedures including transfers, reassignments, and/or bumping which is determined and approved by the Agency Director.

Competitive Class refers to classifications (job class, pay band, pay level) designated to compete in a reduction-in-force.

Continuous State Service refers to service with the state determined by the most recent date of hire with the State of South Carolina without a break in service.

Employee Subject to Lay Off refers to an employee who is subject to termination because s/he has a lower RIF Service Date than another employee.

Lay Off refers to the actual termination of employment from the Agency because of reduced funding, change in workload, or reorganization.

State Minimum Qualifications refers to those qualifications specified by the state job specifications and specific job functions as required for an employee to enter a job classification.

Probationary Employee refers to an employee in a covered position who has less than 12 months of continuous state service.

Recall refers to the reinstatement of an employee who is in lay-off status within one (1) year of the effective date of the lay off.

Reduction-in-Force (RIF) refers to the reduction or abolishing of positions because of reduced funding, change in workload, or reorganization.

Reduction-in-Force (RIF) Service Date refers to date upon which all RIF procedures are based. RIF Service Date is determined by continuous state service date with additional service credits awarded for job performance rating.

Temporary Employee refers to a full-time or part-time employee who does not occupy an FTE position, whose employment is not to exceed one year, and who is not a covered employee. (S.C. Code Ann. 8-17-320)

Trial Period/Status refers to a six (6) month working trial period/status of a covered employee following a promotion, demotion, or reclassification transfer or reassignment to any class in which the employee has not held permanent status.

SIGNATURE ON FILE

-

s/ Jon E. Ozmint, Director

ORIGINAL SIGNED COPY MAINTAINED IN THE DIVISION OF POLICY DEVELOPMENT.