Department of Health and Human Services (DHHS)
Reduction in Force Policy for Classified System Personnel Rules and Regulations
Covered employees

Effective Date: February 10, 2011

Purpose:

To establish guidelines and criteria for implementation of a reduction in force in accordance with Chapter 13 of the Nebraska Classified System Personnel Rules and Regulations (Title 273 of the Nebraska Administrative Code).

General Provisions

The Department of Health and Human Services is committed to attracting and retaining a workforce that significantly contributes to the Agency's mission, vision, values and goals, with the primary focus placed on excellence in performance. While commitment to the organization is valued, the successful performance of its employees is what ensures the Agency's success.

Definitions

Reductions in force shall be defined as the elimination of positions/employees due to lack of funds or business reorganization.

Layoffs shall be defined as the involuntary employee separation or reduction of hours because of economic reasons, elimination of funds, reduction in workload, or reorganization of the agency.

Furloughs shall be defined as a temporary non-duty, non-pay status because of lack of funds. This is an alternative to layoff that provides for the continuation of critical work and retention of valuable human resources.

Salary grade, for the purpose of this policy, is defined as the difference in percentages between pay lines for the various classes.

Identification of Affected Classifications and Location

The Chief Executive Officer of the Department of Health and Human Services shall determine the classifications, organizational units and positions affected by the reduction in force. The need and scope, as well as any other elements will be defined in specific plans published by DHHS prior to any reduction in force.

Order of Reduction in Force

Reduction in force order will be determined by lowest employee retention points. The employee with the least retention points within the affected classification will be considered the person first in the reduction in force order. The employee with the highest retention points would be last in the reduction in force order.

Employee Retention Points

Employee retention points will be determined by a combination of length of service (adjusted service date) and scores from performance appraisals (quality of service).
When two or more employees have the same retention points, the tie shall first be broken by the highest number of quality of service points. If a tie still exists, the tie will be broken by lot.

Length of Service

Length of service shall mean adjusted service date and part-time service shall be considered on a prorated basis, excluding employment in a temporary status.

Length of service shall be adjusted for leaves of absence, reductions in force, suspensions or unpaid leaves of more than 14 calendar days.

Absences by employees on qualified Uniformed Services Employment and Reemployment Act (USERRA) shall be counted as service with the agency. Time spent as an intermittent or temporary employee is not counted.

When calculating retention points for length of service .50 points will be given for each year of state adjusted service (.042 points per month) with part time employee's service time prorated.

When calculating length of service, an employee with more than fourteen (14) calendar days of service in a month will be credited as a whole month.

Quality of Service

Scores from performance appraisals covering the prior two annual evaluation periods at DHHS will be used in the calculation of quality of service retention points.

A performance evaluation completed after the second annual evaluation period which documents performance worthy of recognition, either favorable or unfavorable, shall be used in the determination of quality of service retention points in lieu of the least current of the prior two annual evaluations.

For any period of time within the last two annual evaluation periods that a performance appraisal has not been made within 60 calendar days after its due date, quality of service shall be considered at least satisfactory, and employees will receive at least 9.375 retention points.

Employees with a DHHS service date of less than 12 months will receive no quality of service points if on original probation at the time of the reduction in force. If original probation has satisfactorily been completed, the employee shall receive quality of service points based on their evaluation rating.

When calculating retention points for quality of service, the following conversion formula applicable to the particular rating scale (listed below) that was used on the performance evaluation document will be applied.

1 – 3 Scale Points
1 = Unsatisfactory 2 = Satisfactory 3 = Above Satisfactory

1 – 1.99	= 0
2 – 2.24	= 9.375
2.25 – 2.49	= 18.75
2.50 – 2.74	= 28.125
2.75 – 3.00	= 37.50

1 – 5 Scale Points

1 – 2.99 = Unsatisfactory 3 = Satisfactory 4 – 5 = Above Satisfactory

1.00 -- 2.99	0
3.00 -- 3.49	9.375
3.50 -- 3.99	18.75
4.00 -- 4.49	28.125
4.50 -- 5.00	37.50

1 – 7 Scale Points
1 – 3 = Unsatisfactory 4 = Satisfactory 5 – 7 = Above Satisfactory

1 – 3.99	= 0
4 – 4.74	= 9.375
4.75 – 5.49	= 18.75
5.50 – 6.24	= 28.125
6.25 – 7.00	= 37.50

Notice to Employee of Reduction in Force

Employees impacted shall be given as much notice as possible, but at least a fifteen (15) workday written notice of the pending reduction in force. When an emergency funding situation exists, this notification period can be shortened with the approval of the Chief Executive Officer of the Department of Health and Human Services. The written notice shall include:

1. Reason for reduction in force;
2. Effective date of reduction in force;
3. Information on retention privileges;
4. Bumping options, if applicable;
5. Information about reinstatement rights;
6. Information about the State Reemployment Program;
7. Information about the Employee Assistance Program.

Bumping

Bumping rights shall be established by Division and/or facility and/or geographical area and/or total agency and will be determined and outlined in the specific agency reduction in force plan. Employees may not bump to the position unless they meet the minimum qualifications for that position.

Employees hired or voluntarily accepting promotion in the “G” (management) class code on or after July 1, 1998, shall not have bumping rights.

Bumping will not take place between agencies. A Classified State Personnel Rules and Regulations covered employee shall not bump into filled positions covered by the NAPE/AFSCME Labor Contract.

Subject to the limitations of the reduction in force plan, employees occupying positions impacted who elect to exercise his/her bumping rights shall, except in situations where unique job related factors are involved, bump employees with the least retention privileges in the following sequence:

1. Positions in the same classification within the identified bumping limitation(s), if qualified;

2. Positions in the same classification series of a lower salary grade within the identified bumping limitations(s), if qualified;

3. Positions in classifications the employee previously occupied of an equal or lower salary grade and held within the previous 48 months and existing within the identified bumping limitation(s). If an employee has held more than one classification in the previous 48 months, the employee must bump in reverse sequential order of classification held.

Employees subject to the reduction in force shall have the option within a minimum of three (3) workdays from receipt of formal written notice, to exercise their bumping rights or to accept the reduction in force. Notification of intent to exercise bumping rights shall be made in writing directed to the Department of Health and Human Services (DHHS) Human Resources and Development Administrator or designee. The employee shall include, with their written notice of intent to bump, a recently completed employment application. Failure to respond to the DHHS Human Resources Administrator or designee within the specified three (3) workday limit shall constitute the employee’s acceptance of the reduction in force.

Vacant Positions

Employees may apply for DHHS job vacancies. Employees must submit a state application and expect to participate in the competitive hiring process.

Pay Adjustments

Employees requesting voluntary transfer (lateral or down) or as a result of bumping in lieu of the reduction in force may, at the agency head's discretion, have their salary reduced. (Chapter 8, 003.02A of the Nebraska Classified System Personnel Rules)

Relocation Expenses

Employees relocating as a result of a reduction in force shall not be reimbursed for moving expenses.

Recall/Reinstatement

Employees or former employees are eligible for reinstatement to their previous classification or to a lower classification within the same series for 24 months after reduction in force, if qualified.

Former employees who were impacted by the reduction in force, or employees who transferred to another position in lieu of a reduction in force, shall be reinstated in the reverse order.

Those desiring to be reinstated shall, following notification of the availability of a position, notify the DHHS Human Resources and Development Administrator or designee in writing of the acceptance or refusal of the position within five (5) workdays. It is the responsibility of the employee or former employee to inform the agency of any changes in address. Failure to receive notification of a position's availability because of an address change shall not cause the five (5) workday reply period to be lengthened.

Employees or former employees refusing a position of their previous classification and location or not notifying the DHHS Human Resources and Development Administrator or designee of acceptance or refusal, forfeit any reinstatement rights. Employees or former employees declining reinstatement to a position of a lower classification within the same series shall be given the opportunity to be reinstated to a position of their previous classification, if positions become available within the 24 month period.

Employees or former employees reinstated within 24 months to a position of their previous classification (held at the time of the reduction in force) shall return at their former salary excluding any legislative increases granted during the period of absence. Employees reinstated shall not be required to serve an original probation unless this probationary period was not completed prior to the reduction in force. In those instances where the employee was serving a probationary period, the probationary period will be completed after reinstatement.