

7.0 EMPLOYEE RELATIONS

7.10 TRAINING

The State Personnel Board assists appointing authorities by promoting, formulating, conducting, and coordinating training and development programs to improve the productivity, effectiveness, and efficiency of employees. Training and development is a management tool and as such, is utilized in the discretion of the appointing authority. Nothing in the policies, rules, and procedures should be construed to mean that specific application of this process is a right of the employee.

The primary emphasis of training and development is to improve state government services; however, it should not be seen as incompatible or inconsistent with the growth of individual employees. Under Section 25-9-103 (c), Mississippi Code of 1972, Annotated, as amended, the State Personnel Board shall administer a state personnel system to train employees, as needed, to ensure high quality performance. The appointing authority may contact the Office of Training of the State Personnel Board to request training for his/her employees. Such training may be conducted either in the State Personnel Board training facility, on-site, or in other designated facilities.

7.10.1 Training Needs

The State Personnel Director shall assess the training needs of the state service and take necessary steps to meet those needs consistent with funding and resources. The appointing authority shall respond to the training needs assessments sent by the State Personnel Board Training Staff to the agencies.

7.10.2 Development and Coordination

The State Personnel Director shall provide or coordinate training on programs integral to the administration of the statewide personnel system and training needs generic to all state agencies, such as supervisory/management skills, interpersonal skills, clerical skills, and professional development skills.

The appointing authority should respond to the State Personnel Board's memorandum concerning training on the VCP by indicating those employees who will be in the training seminars. Registration for training courses is done through the State's Mississippi Enterprise Learning Management System (MELMS), which is located at www.spb.state.ms.us. Employees and agencies may also register for training courses by completing a training registration form, which is also located at www.spb.state.ms.us under the Office of Training.

7.10.3 Employee Performance Enhancement Training

The State Personnel Director shall, at a level consistent with staffing level and funding, coordinate and implement training designed to improve the efficiency, productivity, and professionalism of state service employees. All training paid for in whole or in part by the State of Mississippi or which takes place during an employee's standard work schedule shall be job related. Refer to Section 25-9-103 (c), Mississippi Code of 1972, Annotated, as amended.

7.10.4 Implementation of Training Courses

The State Personnel Director shall consider two factors when implementing State Personnel Board- sponsored training courses:

- A. The need to provide training in areas which will lead to improved efficiency and productivity in the work place and keep employees away from their jobs for as short a time as possible;
- B. The need to provide training on-site to agencies to meet specific needs.

7.10.5 Interagency Cooperation

The State Personnel Director shall encourage and, when feasible, coordinate inter-agency cooperation in sharing employee training activities, resources, materials, and programs.

7.10.6 Training Costs

The State Personnel Director may assess State Personnel Board-sponsored training course costs to agencies on a per-course basis or a pro-rata share of the cost of training course basis depending on the number of an agency's employees who participate or are scheduled by the agency to participate.

7.10.7 Guidelines for Development of Agency Training Programs

The appointing authority should:

- A. Assess the training needs of the agency workforce;
- B. Develop an agency-wide training policy and plan using available internal resources, capabilities, facilities, and staff to meet assessed training needs when appropriate;
- C. Provide specialized training to agency personnel as required to ensure high quality performance and to meet agency objectives; and

- D. Maintain training records indicating the race and sex of the individuals trained, the type of training provided, and the cost of training.

7.10.8 Training Data

The appointing authority shall provide, upon request from the State Personnel Director, any training data necessary for comprehensive, statewide planning purposes.

7.10.9 Out-Service Training

Out-service training includes formal course work offered by educational institutions, workshops, conferences, correspondence courses, and seminars conducted by professional, private, or public organizations. Agencies may use facilities and resources of educational institutions and other sources outside state government if such out-service training is used in the appointing authority's discretion and only to assist employees in acquiring the knowledge and skills necessary to perform their tasks more efficiently or to conform to regulatory or professional training requirements. For training which involves college or graduate credit, refer to Section 7.90.

7.10.10 Liaison with Educational Institutions and State Service Agencies

The State Personnel Director may establish a liaison with public and private institutions of higher learning, the community college system, the Mississippi Co-op and Placement Association, and state government agencies to maintain a point-of-contact for cooperative efforts.

7.10.11 Graduate Internship Programs

The State Personnel Director may provide personnel resources to the Board of Trustees of the Institutions of Higher Learning and to state service agencies, and may provide other assistance in establishing graduate internship programs.

7.20 Benefits

Except for rule-making authority in the area of leave, the State Personnel Board does not have the authority to make rules regarding the administration of benefits for state employees. Citations of Mississippi Code of 1972, Annotated, as amended, are provided to help users find the applicable laws.

7.21 Work Attendance

Section 25-1-98, Mississippi Code of 1972, Annotated, as amended, defines "workday" and authorizes the appointing authority to establish work schedules, which ensure that each full-time employee works a full workday.

7.21.1 Holidays

Holidays shall be observed according to Section 3-3-7, Mississippi Code of 1972, Annotated, as amended.

January 1	New Year's Day
The Third Monday of January	Robert E. Lee's Birthday and Dr. Martin Luther King, Jr.'s Birthday
The Third Monday of February	Washington's Birthday
The Last Monday of April	Confederate Memorial Day
The Last Monday of May	Jefferson Davis' Birthday and National Memorial Day
July 4	Independence Day
The First Monday of September	Labor Day
November 11	Armistice or Veterans' Day
A day fixed by proclamation of the Governor of Mississippi as a day of Thanksgiving, which shall be fixed to correspond to the date proclaimed by the President of the United States	Thanksgiving Day
December 25	Christmas Day

Provided, however, that in the event any holiday herein before declared legal shall fall on Saturday or Sunday, then the following Monday shall be a legal holiday.

Employees who are not in an active pay status on a legal holiday shall not be compensated for the holiday. Active pay status is defined as either physically working or on paid leave the day of a legal holiday, the day immediately preceding a legal holiday, or the day immediately following a legal holiday.

Compensation for legal holidays for part-time employees shall be computed on a pro-rata basis according to hours worked.

Except as may be provided in specific agency appropriation bills, when, in the opinion of the appointing authority, it is essential that a state employee work during an official state holiday, the employee shall receive credit for the day. [Refer, Section 25-3-92 (1), Mississippi Code of 1972, Annotated, as amended.] Such credit shall be computed on

an hour-per-hour basis and shall be made available to the employee in the form of time off later.

In accordance with specific provisions of an agency's appropriation bill, an appointing authority may require employees in specific job classes to work on an official state holiday and be paid call-back pay in lieu of receiving compensatory time credit.

7.21.2 Employee Work Schedules

Section 25-1-98, Mississippi Code of 1972, Annotated, as amended, requires all state offices to be open and staffed for the normal conduct of business from 8:00am until 5:00pm, Monday through Friday.

The State Personnel Board defines a normal work schedule as eight (8) hours per day, forty (40) hours per week, 173.929 hours per month, and 2087.148 hours per year. Each part-time employee shall be provided a schedule of his/her working hours.

The appointing authority may develop modified work schedules providing for flextime or compressed work schedules. "Flextime" is a schedule that offers employees a choice, within limits, to vary their arrival and departure times from work. A "compressed work schedule" allows an employee to complete the forty (40) hour workweek requirements in less than the usual five (5) workdays a week.

7.22 LEAVE

Employees, including part-time employees, shall be granted leave as provided in Sections 25-3-91, et. seq., 25-9-125, 33-1-19, and 33-1-21, Mississippi Code of 1972, Annotated, as amended. No other kind of leave may be granted.

7.22.1 Transfer of Leave between Agencies

- A. All accrued leave, both major medical and personal leave, shall be transferable between state agencies. Each appointing authority shall be furnished a statement of accrued leave at the time of transfer by an employee. [Refer, Section 25-3-97 (5), Mississippi Code of 1972, Annotated, as amended.]
- B. Upon transfer, leave accrual rate at the receiving agency will reflect total continuous service. An employee transferring with a voluntary break in service must begin accruing leave at the rate established for new employees. Lump sum payment for personal leave and/or the lapse of one eight-hour workday between termination date at an old agency and effective date into a new agency denote a break in service.

7.22.2 Personal Leave

Personal leave shall be administered as provided in Sections 25-3-93 and 25-3-97, Mississippi Code of 1972, Annotated, as amended. Employees earn personal leave from date of hire and accumulate personal leave upon completion of one month of continuous service. Each full-time and part-time employee and appointed officer of the State of Mississippi shall earn personal leave as follows:

Continuous Service	Accrual Rate (Monthly)	Accrual Rate (Annually)
1 month to 3 years	12 hours	18 days
37 months to 8 years	14 hours	21 days
97 months to 15 years	16 hours	24 days
Over 15 years	18 hours	27 days

Temporary employees who work less than a full workweek and part-time employees shall be allowed credit for personal leave computed on a pro-rata basis. Faculty members employed by the eight (8) public universities on a nine-month contract and recipients of full-time educational leave, while on such leave, shall not be eligible for personal leave.

Full-time employees and appointed officers who are hired after the first of a month, who terminate before the end of a month, or who are placed on leave without pay for a portion of the month shall be credited with personal leave for that month on a pro-rata basis.

In computing credit for personal leave, each appointed officer or employee shall receive credit for no more than five (5) days each week. Leaves of absence granted by the appointing authority for one (1) year or less shall be permitted without forfeiting previously accumulated continuous service. The provisions of this section shall not apply to military leaves of absence. The time for taking personal leave, except when such leave is taken due to an illness, shall be determined by the appointing authority of the agency in which such employees are employed.

For the purpose of Sections 25-3-91 through 25-3-99, Mississippi Code of 1972, Annotated, as amended, the earned personal leave of each employee shall be credited monthly after the completion of each calendar month of service, and the appointing authority shall not increase the amount of personal leave to an employee's credit. It shall be unlawful for an appointing authority to grant personal leave in an amount greater than was earned and accumulated by the officer or employee.

Employees are encouraged to use earned personal leave. Personal leave may be used for vacations and personal business as authorized by the appointing authority and shall be used for illnesses of the employee requiring absences of one (1) day or less. Accrued personal or compensatory leave shall be used for the first day of an employee's illness requiring his/her absence of more than one (1) day. Accrued personal or compensatory leave may also be used for an illness in the employee's immediate family as defined in Section 25-3-95, Mississippi Code of 1972, Annotated, as amended. There shall be no limit to the accumulation of personal leave. Upon termination of employment, each employee shall be paid for not more than thirty (30) days of accumulated personal leave. Unused personal leave in excess of thirty (30) days shall be counted as creditable service toward the retirement system as provided in Sections 25-11-103 and 25-13-5, Mississippi Code of 1972, Annotated, as amended. (Refer to Section 5.15.)

The beneficiary of an employee who dies with unused personal leave, shall receive payment of all personal leave accumulated but not used by the employee. [Refer, Section 25-3-97, Mississippi Code of 1972, Annotated, as amended.]

7.22.3 Major Medical Leave

Major medical leave shall be administered as provided in Sections 25-3-95 and 25-3-97, Mississippi Code of 1972, Annotated, as amended. All full-time employees and appointed officers of the State of Mississippi, except recipients of full-time educational leave, while on such leave, shall accrue major medical leave as follows:

Continuous Service	Accrual Rate (Monthly)	Accrual Rate (Annually)
1 month to 3 years	8 hours	12 days
37 months to 8 years	7 hours	10.5 days
97 months to 15 years	6 hours	9 days
Over 15 years	5 hours	7.5 days

Part-time employees shall accrue major medical leave on a pro-rata basis. There shall be no maximum limit to major medical leave accumulation. Full-time employees and appointed officers who are hired after the first of a month, who terminate before the end of a month, or who are placed on leave without pay for a portion of the month shall be credited with major medical leave for that month on a pro-rata basis.

For the purpose of Sections 25-3-91 through 25-3-99, Mississippi Code of 1972, Annotated, as amended, the earned major medical leave of each employee shall be

credited monthly after the completion of each calendar month, and the appointing authority shall not increase the amount of major medical leave to an employee's credit. It shall be unlawful for an appointing authority to grant major medical leave in an amount greater than was earned and accumulated by the officer or employee.

Major medical leave may be used for the illness or injury of an employee or member of the employee's immediate family as defined in Section 25-3-95, Mississippi Code of 1972, Annotated, as amended, only after the employee has used one (1) day of accrued personal or compensatory leave for each absence due to illness or leave without pay if the employee has no accrued personal or compensatory leave. However, faculty members employed by the eight (8) public universities on a nine-month basis may use major medical leave for the first day of absence due to illness. Provided, however, major medical leave may be used, without prior use of personal leave, to cover regularly scheduled visits to a doctor's office or a hospital for the continuing treatment of a chronic disease, as certified in advance by a physician. "Physician" means a doctor of medicine, osteopathy, dental medicine, podiatry, or chiropractic. For each absence due to illness of thirty-two (32) consecutive working hours (combined personal leave and major medical leave) major medical leave shall be authorized only when certified by their attending physician.

An employee may use up to three (3) days of earned major medical leave for each occurrence of death in the immediate family requiring the employee's absence from work. No qualifying time or use of personal leave will be required prior to use of major medical leave for this purpose. The immediate family is defined as spouse, parent, stepparent, sibling, child, stepchild, grandchild, grandparent, son-in-law, daughter-in-law, mother-in-law, father-in-law, brother-in-law, or sister-in-law. Child means a biological, adopted, or foster child, or a child for whom the individual stands/stood in loco parentis.

A. Exhaustion of Major Medical Leave

An employee is entitled to use all accrued major medical leave for recuperation from illness. In cases of illness or disability exhausting available major medical leave, the employee may be allowed to charge the excess days against accumulated personal leave or compensatory time earned by the employee. If all major medical and personal leave have been exhausted and the employee is eligible to receive and has received donated leave, the donated leave may be used. If all accumulated major medical leave, personal leave, and compensatory time have been used, employees are subject to a pro-rata deduction from their salaries for the length of time or number of days in excess of accumulated leave.

B. Major Medical Leave, Termination, and Death

Unused major medical leave shall be counted as creditable service toward the retirement system, as provided for in Sections 25-11-103 and 25-13-5, Mississippi Code of 1972, Annotated, as amended, when an employee terminates from state service. Should an employee die having accumulated major medical leave, such leave is counted as creditable service. There is no statutory authority to pay an employee's beneficiary for unused major medical leave in the event of an employee's death.

7.22.4 Donated Leave for Catastrophic Injury or Illness

Donated leave for catastrophic injury or illness shall be administered as provided in Sections 25-3-91, 25-3-93 and 25-3-95, Mississippi Code of 1972, Annotated, as amended. Those employees who received donated leave and continued to be eligible to use it as of July 1, 2000, shall be allowed to use that leave, which was donated to them before July 1, 2000.

“Catastrophic injury or illness” means a life-threatening injury or illness of an employee or a member of an employee’s immediate family, which totally incapacitates the employee from work, as verified by a licensed physician, and forces the employee to exhaust all leave time earned by that employee, resulting in the loss of compensation from the state for the employee. Conditions that are short-term in nature, including, but not limited to, common illnesses such as influenza and the measles, and common injuries are not catastrophic. Chronic illnesses or injuries, such as cancer or major surgery, which result in intermittent absences from work, which are long-term in nature, and which require long recuperation periods, may be considered catastrophic.

Any employee may donate a portion of his/her earned personal leave or major medical leave to another employee who is suffering from a catastrophic injury or illness,

or to another employee whose immediate family member is suffering from a catastrophic injury or illness, as follows:

- A. The employee donating the leave (the "donor employee") shall designate the employee who is to receive the leave (the "recipient employee") and the amount of earned personal leave and major medical leave that is to be donated. The donor employee shall notify his/her appointing authority or supervisor of his/her intent to donate. The donor employee's appointing authority or supervisor shall notify the recipient employee's appointing authority or supervisor of the amount of leave that has been donated by the donor employee to the recipient employee.
- B. The maximum amount of earned personal leave an employee may donate to another employee may not exceed a number of days that would leave the donor employee with fewer than seven (7) days of personal leave. The maximum amount of earned major medical leave an employee may donate to another employee may not exceed fifty percent (50%) of the earned major medical leave of the donor employee. All donated leave shall be in increments of not less than twenty-four (24) hours.
- C. An employee must have exhausted all of his/her earned personal leave and major medical leave before he/she would be eligible to receive any leave donated by another employee.
- D. Before an employee may receive donated leave, he or she must provide his/her appointing authority or supervisor with a physician's statement that indicates the beginning date of the catastrophic injury or illness, a description of the injury or illness, a prognosis for recovery, and the anticipated date that the recipient employee will be able to return to work.
- E. If an employee is aggrieved by the decision of his/her appointing authority that the employee is not eligible to receive donated leave because the injury or illness of the employee or member of the employee's immediate family is not, in the appointing authority's determination, a catastrophic injury or illness, the employee may appeal the decision to the Employee Appeals Board.
- F. Beginning March 25, 2003, the maximum period that an employee may use donated leave without resuming work at his/her place of employment is ninety (90) days, which commences on the first day that the recipient employee uses donated leave. Donated leave that is not used because a recipient employee has used the maximum amount of donated leave authorized under this paragraph shall be returned to the donor employees in the manner provided under paragraph (G) of this subsection.

- G. If the total amount of leave donated to any employee is not used by the recipient employee, the remaining donated leave shall be returned to the donor employees on a pro-rata basis. The amount of leave return shall be based on the ratio of the number of days of leave donated by each donor employee to the total number of days of leave donated by all donor employees. In no case will any donor employee receive more leave in return than the employee donated.
- H. The failure of any appointing authority or supervisor of any employee to properly deduct an employee's donation of leave to another employee from the donor employee's earned personal leave or major medical leave shall constitute just cause for the dismissal of the appointing authority or supervisor.
- I. No person by coercion, threats, or intimidation shall require or attempt to require any employee to donate his/her leave to another employee. Any person who alleges a violation of this paragraph shall report the violation to the executive head of the agency in which he/she is employed. If the alleged violator is the executive head of the agency, the employee shall report the violation to the State Personnel Board. Any person found to have violated this paragraph shall be subject to removal from office or termination of employment.
- J. No employee can donate leave after tendering notice of separation for any reason or after termination.
- K. Recipient employees of agencies with more than five hundred (500) employees as of March 25, 2003, may receive donated leave only from donor employees within the same agency. A recipient employee in an agency with five hundred (500) or fewer employees as of March 25, 2003, may receive donated leave from any donor employee.
- L. For an employee to be eligible to receive donated leave, the employee must:
1. Have been employed for a total of at least twelve (12) months by the employer on the date the leave is donated; and
 2. Have been employed for at least one-thousand, two-hundred fifty (1,250) hours of service with such employer during the previous twelve (12) month period from the date the leave is donated.
 3. Donated leave shall not be used in lieu of disability retirement.
 4. For the purposes of this subsection, "immediate family" means spouse, parent, stepparent, sibling, child, or stepchild.

7.22.5 Compensatory Leave

Compensatory leave shall be administered according to Section 25-3-92 (1), Mississippi Code of 1972, Annotated, as amended, and in accordance with the Fair Labor Standards Act (FLSA).

- A. When, in the opinion of the appointing authority, it is essential that a state employee work after normal working hours, the employee may receive credit for compensatory leave.
- B. An employee classified as non-exempt shall receive overtime credit in compensatory time off or overtime-monetary payment in accordance with the FLSA. All other employees may receive credit for compensatory time off on an hour-per-hour basis.
- C. When, in the opinion of the appointing authority, it is essential that a state employee work during an official state holiday, the employee shall receive credit for compensatory leave. (Refer to Section 7.21.1 regarding Holidays.)

7.22.6 Administrative Leave

In accordance with Section 25-3-92 (2), Mississippi Code of 1972, Annotated, as amended, state employees may be granted administrative leave with pay. For the purposes of this section, "administrative leave" means discretionary leave with pay, other than personal leave or major medical leave.

- A. The appointing authority may grant administrative leave to any employee serving as a witness, juror, or party litigant, as verified by the clerk of the court, in addition to any fees paid for such services. Such services or necessary appearance in any court shall not be counted as personal leave.
- B. The Governor or the appointing authority may grant administrative leave with pay to state employees on a local or statewide basis in the event of extreme weather conditions or in the event of a manmade, technological, or natural disaster or emergency.
- C. The appointing authority may grant administrative leave with pay to any employee who is a certified disaster service volunteer of the American Red Cross who participates in specialized disaster relief services for the American Red Cross in this state and in states contiguous to this state when the American Red Cross requests the employee's participation. Administrative leave granted under this paragraph shall not exceed twenty (20) days in any twelve (12) month period. An employee on leave under this paragraph shall not be deemed an employee

of the state for the purposes of workers' compensation or for purposes of claims against the state allowed under Section 25-3-92, Mississippi Code of 1972, Annotated, as amended. As used in this paragraph, the term "disaster" includes disasters designated at Level II and above in the American Red Cross national regulations and procedures.

7.22.7 Leave of Absence

- A. Section 25-3-93 (2), Mississippi Code of 1972, Annotated, as amended, provides that an employee may, upon written application to and in the discretion of the appointing authority, obtain a leave of absence without pay not to exceed twelve (12) months, without forfeiting previously accumulated continuous service. (Refer, Chapter 5, Section 5.04.12.)
- B. A state service employee, with the consent of the head of the department, agency, or institution and the concurrence of the State Personnel Director, may be placed on a leave of absence for purposes of accepting an assignment in the non-state service for a period not to exceed one (1) year. (Refer to Section 25-9-125, Mississippi Code of 1972, Annotated, as amended.)

7.22.8 Use of Leave during Pregnancy

Federal law requires that women affected by pregnancy, child-birth or related medical conditions shall be treated the same for all employment-related purposes, including receipt of benefits under fringe benefit programs, as other persons not so affected but similar in their ability or inability to work. (See 42 U.S. Code Section 2000e (k)).

- A. All types of leave shall be granted to pregnant women on the same terms as leave is granted to other disabled employees in accordance with these rules.
- B. The appointing authority shall not terminate the employment of any employee in the state service because of pregnancy or require that such employee take a mandatory leave.
- C. When certified in advance by a medical doctor, pregnant women shall be allowed to use major medical leave for regularly scheduled prenatal care by a medical doctor without the requirement that personal leave be used for the first eight (8) hours of each absence for such care.

7.22.9 Military Leave

Employees requesting leave when ordered to military duty in excess of the fifteen (15) days military leave allowed by law, shall for such periods in excess of fifteen (15) days, be entitled to leave of absences from their respective duties without loss of time, annual leave, or efficiency rating until relieved from duty. If approved by the appointing authority, military leave can be charged against personal leave.

The agency personnel officer can provide specific information regarding the administration of military leave benefits as prescribed in Sections 33-1-19 and 33-1-21, Mississippi Code of 1972, Annotated, as amended.

7.22.10 Leave Accumulation and Retirement

No maximum accumulation limits exist for personal or major medical leave. Unused leave for which an employee is not compensated upon termination or retirement shall be counted as creditable service toward the retirement system. In computing unused leave for creditable service, twenty-one (21) days of unused leave shall constitute one (1) month of creditable service, and in no case shall credit be allowed for any period of unused leave of less than fifteen (15) days. To receive creditable service for the months of unused leave, the Public Employees' Retirement System (PERS) must receive certification of such leave balances from the appointing authority of the employee's agency.

The number of months of unused leave shall determine the number of quarters of years of creditable service in accordance with Section 25-11-109, Mississippi Code of 1972, Annotated, as amended. Contact the agency Human Resources Director and PERS for answers to specific questions regarding the crediting of unused leave.

Conversion of Accumulated Unused Uncompensated Leave			
Combined Personal and Sick Leave	Credit Equivalent	Combined Personal and Sick Leave	<i>Credit Equivalent</i>
15 to 77 days (120 to 623 hours)	0.25 year	393 to 455 days (3144 to 3647 hours)	1.75 years
78 to 140 days (624 to 1127 hours)	0.50 year	456 to 518 days (3648 to 4151 hours)	2.00 years
141 to 203 days (1128 to 1631 hours)	0.75 year	519 to 581 days (4152 to 4655 hours)	2.25 years
204 to 266 days (1632 to 2135 hours)	1.00 year	582 to 644 days (4656 to 5159 hours)	2.50 years
267 to 329 days (2136 to 2639 hours)	1.25 years	645 to 707 days (5160 to 5663 hours)	2.75 years
330 to 392 days (2640 to 3143 hours)	1.50 years	708 to 770 days (5664 to 6167 hours)	3.00 years

For members of the system who are elected officers and who retire on or after July 1, 1987, the following shall govern:

- A. For service prior to July 1, 1984, the members shall receive credit for leave (combined personal and major medical) for service as an elected official prior to that date at the rate of thirty (30) days per year.
- B. For service on and after July 1, 1984, the member shall receive credit for personal and major medical leave beginning July 1, 1984, at the rates authorized in Sections 25-3-93 and 25-3-95, computed as a full-time employee.

7.22.11 Record Keeping

The appointing authority shall keep records of each employee's accrual and use of all leave and shall inform employees on a regular basis of the amount of leave that has been accrued and used.

7.22.12 Accrual and Use of Leave by Part-time Employees

Section 25-9-107 (xi), Mississippi Code of 1972, Annotated, as amended, provides that part-time employees shall only be hired into authorized employment positions classified by the State Personnel Board, shall meet minimum qualifications as set by the State Personnel Board, and shall be paid in accordance with the Variable Compensation Plan as certified by the State Personnel Board. Part-time employees shall only be granted leave during periods when they were otherwise scheduled to work.

7.22.13 Mississippi Living Organ Donor Leave

The Mississippi Living Organ Donor Leave policy was promulgated by the Department of Finance and Administration, as authorized in Section 25-3-103, Mississippi Code of 1972, Annotated. It is provided here for informational purposes only.

All permanent full-time or part-time employees who have been employed by any agency of state government for a period of six (6) months or more and who donate an organ, bone marrow, blood, or blood platelets shall be eligible for organ donor leave. Those individuals employed by units of local government or school districts are not eligible for leave under this policy.

- A. Employees may use organ donor leave only upon receipt of prior approval from the donor employee's agency.
- B. Employees are not required to use accumulated major medical leave or personal leave before using organ donor leave.
- C. Certification by the employee's attending physician for an employee participating as a bone marrow or organ donor will be required prior to using organ donor leave.
- D. Employees requesting to be placed on organ donor leave to donate blood or blood platelets must provide verification from the blood service organization of the donation of blood and/or blood platelets to their supervisor upon returning to work to be approved for organ donor leave.
- E. An employee may use the following amounts of leave:
 - 1. Up to thirty (30) days (240 hours) of organ donor leave in any twelve-month period to serve as a bone marrow donor;
 - 2. Up to thirty (30) days (240 hours) of organ donor leave in any twelve-month period to serve as an organ donor;
 - 3. Up to one (1) hour to donate blood every fifty-six (56) days; and
 - 4. Up to two (2) hours to donate blood platelets no more than twenty-four (24) times in a twelve (12) month period in accordance with appropriate medical standards established by the American Red Cross or other nationally recognized standards.

7.30 EQUAL EMPLOYMENT OPPORTUNITY

The State Personnel Board ensures equal employment opportunity for all individuals regardless of race, color, creed, sex, religion, national origin, age, physical handicap, disability, or political affiliation. To ensure non-discriminatory personnel administration, the State Personnel Board promotes non-discriminatory practices and procedures in all phases of state service personnel administration. State Personnel Board equal employment opportunity policy, therefore, prohibits any form of unlawful discrimination based on the foregoing and on other considerations made unlawful by federal or state laws.

It is the view of the State Personnel Board that equal employment opportunity can only be attained through state agency commitment to compliance with all applicable laws affording equal employment opportunities to individuals including, among others, persons with disabilities. Accordingly, it is imperative that state agency employees make all personnel decisions in accordance with State Personnel Board policies, practices, and procedures. The selection process and criteria must ensure fair and equitable treatment of all applicants and employees and not disqualify them if they have disabilities, which prohibit or limit their ability to perform nonessential or marginal job functions. The Americans with Disabilities Act of 1990 requires state agencies to make reasonable accommodations for the known physical and mental limitations of otherwise qualified individuals with disabilities who are applicants or employees, provided such accommodations do not cause undue hardships to state agency operations. Qualified individuals with disabilities are persons with disabilities who meet the job-related requirements of an employment position and who can perform the essential functions of the position with or without reasonable accommodations. A person with a disability is considered an individual with a physical or mental impairment that substantially limits one or more major life activities, has a record of such impairment, or is regarded as having such impairment.

It is the policy of the State Personnel Board that applicants and employees with disabilities are provided equal employment opportunity in the application process, as well as in employment practices, and enjoy the same privileges and benefits of employment as employees without disabilities.

7.40 STANDARDS OF EMPLOYEE CONDUCT

All state service employees shall conduct themselves in accordance with the rules prescribed herein. All state service employees shall treat the public impartially.

7.40.1 Attendance

All employees shall report to and leave work at the times designated by the appointing authority. Planned lost time shall be arranged with the supervisor in advance and

unexpected lost time shall be reported as promptly as possible to the supervisor at the beginning of the employee's scheduled work period.

7.40.2 Diligence during Work Period

All employees shall apply themselves to their assigned duties during the full schedule for which they are being compensated, except for reasonable time provided to take care of personal needs.

7.40.3 Work Performance

All employees shall meet established performance standards. Any conditions or circumstances in the work environment, which prevent employees from performing effectively, shall be reported to their supervisor.

7.40.4 Sexual Harassment

Each appointing authority shall provide a work place free from sexual harassment. Sexual harassment may include, but is not limited to, requests for sexual favors, unwelcome sexual advances, threats, bodily contact, or other deliberate verbal or physical conduct of a sexual nature. Also included are remarks, gestures, physical contact, or display or circulation of written or electronic materials, pictures or objects derogatory to any employee. Such behavior is strictly forbidden and will not be tolerated at any organizational level. All acts of retaliation against persons who utilize the grievance procedure are expressly prohibited.

No employee or applicant should endure sexual harassment. Any person believing he/she has been sexually harassed should immediately report the incident to management. The appointing authority shall take appropriate corrective action. This rule applies equally to same sex harassment.

Sexual harassment is strictly prohibited at any organizational level. This includes co-workers, same-level employees, or employees and supervisors. Sexual harassment is expressly detrimental when the offending employee is in a position to affect the compensation or employment status of the person being harassed.

Sexual harassment is behavior of a sexual nature, which is uninvited and unwelcome verbal or physical conduct directed at an employee because of his/her sex. Sexual harassment does not refer to occasional compliments of a socially appropriate nature.

Specifically, sexual harassment may include, but is not limited to:

- repeated offensive sexual flirtations
- repeated requests for dates
- advances or propositions
- verbal abuse of a sexual nature
- graphic or degrading comments about appearance
- display of sexually suggestive objects, appearance, pictures or images
- offensive or degrading cartoons or jokes
- offensive or degrading e-mail or electronic images

No employee should imply, suggest, or threaten that an applicant's or employee's cooperation of a sexual nature (or refusal thereof) will have any effect on the individual's employment status, including but not limited to assignment, compensation, advancement or other condition of employment.

Any permanent state service employee, probationary state service employee, non-state service employee in, or applicant for, an authorized employment position in an agency, which employs state service employees, may file a grievance in accordance with the sexual harassment grievance procedure contained in Section 10.20.1.

Any applicant or employee alleging sexual harassment may:

- A. File a grievance with his/her supervisor in accordance with the standard Grievance Procedural Steps (Refer to Section 10.10 and SPB Form 1010-81); **OR**
- B. If the source of the harassment is the employee's supervisor, the employee may skip a level of management by proceeding to Step IIA (Refer to Section 10.10 and SPB Form 1010-81) and file the grievance directly with the harassing supervisor's supervisor; **OR**
- C. File the grievance with the agency Human Resources Director, Deputy Director, or Executive Director.

Regardless of outcome, all grievances alleging sexual harassment shall be forwarded to the appointing authority.

Acts or statements of a retaliatory nature against employees who file grievances based upon sexual harassment and who utilize the grievance procedure outlined and referenced above are strictly prohibited.

In addition to the agency Human Resources Director, a designee of the State Personnel Director shall be available to advise employees on the sexual harassment grievance procedure. In such cases:

- D. Agency Human Resources Director or staff designee of the State Personnel Director may be advised to assist in the filing and resolution of a grievance; or
- E. In cases of widespread harassment, the employee may be advised to file an appeal directly with the Employee Appeals Board without exhausting agency-level remedies.

7.40.5 Political Activity

It is the policy of the State Personnel Board that personnel administration be conducted in an atmosphere free from political influence or coercion.

- A. POLITICAL CONTRIBUTIONS AND SERVICES - No state service employee shall be obliged, by reason of his/her employment, to contribute to a political fund or to render political service, and he or she may not be removed or otherwise prejudiced for refusal to do so.
- B. USE OF OFFICIAL AUTHORITY OR INFLUENCE TO COERCE POLITICAL ACTION - No state service employee shall use his/her official authority or influence to coerce the political action of a person or body. [Refer, Section 25-9-145, Mississippi Code of 1972, Annotated, as amended.]
- C. FAIR TREATMENT OF APPLICANTS AND EMPLOYEES - Each appointing authority shall ensure fair treatment of applicants and employees in all aspects of personnel administration without regard to political affiliation.
- D. FREEDOM FROM POLITICAL COERCION - Each appointing authority shall ensure that employees are free from coercion for partisan or political purposes.
- E. INFORMING EMPLOYEES OF POLITICAL ACTIVITIES LAWS - Each appointing authority shall inform all employees of which political activities are permitted or prohibited by law.
- F. VIOLATION OF PROVISIONS - Any employee in the state service who violates any of the provisions of this section may be subject to appropriate disciplinary action.
- G. GRIEVANCE AND APPEALS - Any applicant or employee who believes he/she has been discriminated against based on political affiliation or unlawful political activity affecting state service employment may grieve and appeal. (Refer, Chapter 10, Section 10 and SPB Forms 1010-81 and 1020-86.)
- H. POLITICAL ACTIVITY PROHIBITED - Agencies receiving federal loans or grants
 - 1. The Hatch Act - The federal "Hatch Act," 5 U.S.C. § 1501 and following, covers individuals employed by state or local agencies whose principal employment is in connection with an activity, which is financed in whole or in part, by loans or grants made by the United States or a federal agency, but does not include (a) an individual who exercises no function in connection with that activity; or (b) an individual employed by an educational or research institution, establishment, agency, or system, which is supported in whole or in part, by a state or political subdivision thereof or by a recognized religious, philanthropic, or cultural organization.

The Hatch Act regulations applicable to state and local employees are contained in the Appendix and may be found in the Code of Federal Regulations at 5 C.F.R. § 151.101 and following. In cases where the Hatch Act is applicable, stricter state prohibitions against political activity of state employees will supersede the Hatch Act. See the Appendix for a booklet entitled "Political Activity and the State and Local Employee," which explains the provisions of the Hatch Act.

2. Mississippi Code sections applicable to specific agencies

Several state agencies have specific Mississippi Code sections, which relate to political activity of its employees. Those agencies shall inform all employees, which political activities are permitted or prohibited pursuant to those Code sections.

3. Mississippi Election Code

Section 23-15-871, Mississippi Code of 1972, Annotated, as amended, states:

It shall be unlawful for any corporation or any officer or employee thereof, or any member of a firm, or trustee or any member of any association, or any other employer, to direct or coerce, directly or indirectly, any employee to vote or not to vote for any particular person or group of persons in any election, or to discharge or to threaten to discharge any such employee, or to increase or decrease the salary or wages of an employee, or otherwise promote or demote him, because of his vote or failure to vote for any particular candidate or group of candidates; and likewise it shall be unlawful for any employer, or employee having the authority to employ or discharge other employees, to make any statement public or private, or to give out or circulate any report or statement, calculated to intimidate or coerce or otherwise influence any employee as to his vote, and when any such statement has obtained circulation, it shall be the duty of such employer to publicly repudiate it, in the absence of, which repudiation the employer shall be deemed by way of ratification to have made it himself.

Nor shall any employee be requested, directed or permitted to canvass for or against any candidate or render any other services for or against any candidate or group of candidates, during any of the hours within, which the salary of said employee as an employee is being paid or agreed to be paid; nor shall any such employee be allowed any vacation or leave of absence at the expense of the employer to render any service or services for or against any candidate or group of candidates, or to take any active part in any election campaign whatsoever; nor shall any employee at the expense, in whole or in part, of any employer take any part whatsoever in any election campaign, except the necessary time to cast his vote.

The prohibitions of this section shall apply to all state, state district, county, and county district officers, and to any board or commission and the

members thereof by whatever name designated and whether elective or appointive, and to each and every one of those employed by them or any of them.

And no state, state district, county, or county district officer, or any employee of any of them who directly or indirectly has the control, or in any way the power of control, or who asserts or pretends that he has such power, over the expenditure of any public funds in this state, whatever the purpose or object of said expenditure may be, shall state, suggest, or intimate, publicly or privately, or in any manner or form, that any such expenditure shall in any way depend upon or be influenced by the vote of any person, group of persons, or community or group of communities, whether for or against any candidate or group of candidates at any election.

This section and every part of it shall apply also to all federal officers, agents, employees, board and commissions by whatever name known and to each and every one of those employed by them or any of them, as to any interference by them or any of them, contrary to the provisions of this chapter, in the elections of this state.

Section 23-15-873, Mississippi Code of 1972, Annotated, as amended, provides:

No person, whether an officer or not, shall, to promote his own candidacy, or that of any other person, to be a candidate for public office in this state, directly or indirectly, himself or through another person, promise to appoint, or promise to secure or assist in securing the appointment, nomination or election of another person to any public position or employment, or to secure or assist in securing any public contract or the employment of any person under any public contractor, or to secure or assist in securing the expenditure of any public funds in the personal behalf of any particular person or group of persons, except that the candidate may publicly announce what is his choice or purpose in relation to an election in, which he may be called on to take part if elected. It shall be unlawful for any person to directly or indirectly solicit or receive any promise by this section prohibited. But this does not apply to a sheriff, chancery clerk, circuit clerk, or any other person, of the state or county when it comes to their office force.

7.40.6 Drug-Free Workplace Act of 1988

The Drug-Free Workplace Act of 1988, found at Title 5, Subtitle D, Anti-Drug Abuse Act of 1988, Public Law No. 100-690 (DFWA) requires grantees of federal agencies to certify

that they will provide a drug-free workplace. Making the required certification is a precondition of receiving a federal grant beginning March 18, 1989.

The certification statement, which grantees are required to make under the DFWA, includes several provisions that grantees must comply with to provide a drug-free workplace, including:

- A. Publishing a statement notifying employees that the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance is prohibited in the grantee's workplace and specifying the actions that will be taken against employees for violation of such prohibition; and
- B. Establishing a drug-free awareness program to inform employees about the dangers of drug abuse in the workplace; the grantee's policy of maintaining a drug-free workplace; any available drug counseling, rehabilitation, and employee assistance programs; and the penalties that may be imposed upon employees for drug abuse violations occurring in the workplace.

The DFWA also provides that sanctions may be imposed against grantees for non-compliance with the law. To comply with the DFWA, state agencies that are federal grantees should refer to the federal regulations governing this law. A copy of the regulations is contained in the Appendix and may be found in the Federal Register, Vol. 54, No. 19, Tuesday, January 31, 1989.

State law governing drug and alcohol testing of employees and job applicants is set forth at Section 71-7-1, et. seq., Mississippi Code of 1972, Annotated, as amended. This statute provides procedures and guidelines for appointing authorities who wish to formulate a drug and alcohol testing policy. Except as provided by federal law, agencies are not required to administer drug or alcohol tests. This statute must be complied with if such tests are given. However, the statute does not apply to agencies subject to any federal law or regulations, which govern the administering of drug and alcohol tests. Agencies are also required to be cognizant of the proscriptions of the Americans with Disabilities Act regarding pre-employment medical tests.

7.50 VIOLENCE IN THE WORKPLACE

Each appointing authority shall provide a workplace for employees that is free from violence. Agencies are strongly encouraged to publish a written policy prohibiting all forms of violence in the workplace. An effective policy will provide preventative measures, guidelines for holding perpetrators of violence accountable, and guidelines for providing assistance and support to victims and their families, when applicable.

No employee shall be allowed to harass any other employee or a member of the general public by exhibiting behavior including, but not limited to the following:

harassment, intimidation, threats, physical attacks, domestic related violence, or property damage.

7.60 REDUCTION IN FORCE

Except as otherwise provided in these rules, the tenure of an employee with permanent state service status shall be continued during good behavior and the satisfactory (Meets Expectations) performance of assigned duties. Section 25-9-127, Mississippi Code of 1972, Annotated, as amended, provides for a Reduction-in-Force.

A. Reduction-in-Force - An appointing authority may reduce the number of employees in a state service agency whenever deemed necessary for the following reasons:

1. Shortage of funds or work;
2. Material change in duties or organization; or
3. Merger of agencies.

Prior to implementing the reduction-in-force, the agency must provide a written explanation or justification to the State Personnel Board citing one or more of the above reasons for the reduction-in-force. In addition, the agency **must submit a proposed organization chart and a proposed staffing plan** to the State Personnel Board for approval sixty (60) calendar days before the reduction-in-force can be put into effect.

Upon emergency request by an agency, the State Personnel Board may waive the sixty (60) day calendar requirement. In considering whether to grant the waiver, it shall consider the emergency nature of the request and whether there has been sufficient time to review the agency's written justification, proposed organization chart, and proposed staffing plan.

B. Method of Reduction in Force

1. A reduction-in-force because of shortage of funds or work or because of material change in duties or organization may be administered by the following method(s):
 - a. By functional area (e.g., Office, Bureau, Division, Branch, Section, Unit);
 - b. By location (e.g., counties, districts, state office, agency-wide);

- c. By job class; or
- d. By a combination of the preceding factors.

An agency may exempt a program area or a certain number of positions in a program area from a reduction in force when such an exemption is required by federal law or grant requirements.

Once the method of reduction in force is determined and prior to implementation, each agency shall submit to the State Personnel Board a written statement of the method of the reduction in force to be administered and the proposed effective date. Such statement is required to establish a record. Then Sections C and D herein are applied. The result of applying the order for reduction in force formula (Section C) and the retention point formula (Section D) must be submitted to the State Personnel Board for purpose of establishing a record. Afterward, Section E herein is applied.

- 2. The method of reduction-in-force because of the merger of agencies shall be administered as follows:
 - a. First - by functional area and/or funding source
 - b. Second - by location, (e.g., counties, districts, state office, agency-wide)
 - c. Third - by job class or job class series

Prior to implementing a reduction in force by merger of agencies, each agency shall submit to the State Personnel Board a written statement of the functional area(s) and/or funding source(s), locations(s) and job class(es), which are targeted for reduction in force and the proposed effective date. Such statement is required for the purpose of establishing a record. Then Sections C and D herein are applied. The result of applying the order for reduction in force formula (Section C) and the retention point formula (Section D) must be submitted to the State Personnel Board for purpose of establishing a record. Afterward, Section E herein is applied.

- C. Order for Reduction in Force - The reduction in force formula shall be in the order that follows:
 - 1. Those with emergency appointments;

- 2. Those with probationary or indefinite probationary appointments;
 - 3. Permanent State service employees.
- D. Retention Point Formula for Reduction in Force - Permanent state service status employees shall be the last group of employees to be separated in a reduction-in-force. When permanent state service employees must be separated, employees with the lowest number of retention points based on seniority, performance appraisal ratings, and veterans' preference shall be dismissed first. The retention point formula shall be as follows:

- 1. Seniority - An employee shall be credited with one (1) point for each year or portion thereof of continuous state service as a state service employee. In calculating retention points for a partial month of service, one-twelfth (1/12) of a point is credited to employees with service equal to fifteen (15) days in the month. No credit is given for service of less than fifteen (15) days of the month.
- 2. Performance Appraisal - Each agency shall use the **three (3) most recent performance appraisal ratings in the last three (3) years**, as recorded in SPAHRS and/or agency files, and assign retention points to calculate the average Adjusted Appraisal Score (AAS), as of the date the agency submits the organizational chart and staffing plan.
 - a. Each employee's three (3) most recent performance appraisal ratings in the last three (3) years shall be assigned retention points by using the following scale:

<u>RATING</u>	<u>RETENTION POINTS</u>
Under 2.00	Zero (0) points
2.0 - 2.19	Three (3) points
2.2 - 2.39	Six (6) points
2.4 - 2.59	Nine (9) points
2.6 - 2.79	Twelve (12) points
2.8 - 3.00	Fifteen (15) points

- b. The retention points for each of the three (3) performance ratings shall be added together and divided by three (3) to obtain an average Adjusted Appraisal Score (AAS). If the division results in a fraction of .5 or greater, the result is rounded to the next higher whole number. If the division results in a fraction of less than .5, the result is rounded to the next lower whole number.

- c. If an employee has received less than three (3) performance evaluations, then the employee receives a presumptive “**Meets Expectations (2.0)**”, for each missing evaluation. An appraisal rating rendered more than three (3) years before the date the agency submits the organizational chart and staffing plan for reduction-in-force will not be used to calculate an employee’s average Adjusted Appraisal Score.
 - d. The Performance Appraisal Review (PAR) functions of SPAHRS provide a mechanism to record and track employee ratings and appraisal periods/dates. Consequently, appraisal ratings and dates must be recorded in SPAHRS within fourteen (14) days after the end of the appraisal period recorded in SPAHRS. Employee ratings are very critical whenever an agency has to implement a reduction-in-force. Ratings not completed and recorded pursuant to policy and procedures will not be used in the computation of the average Adjusted Appraisal Score and a presumptive rating of “**Meets Expectations (2.0)**” will be used.
3. Veterans' Preference - Veterans shall be awarded one (1) point, and disabled veterans shall be awarded two (2) points.

EXAMPLE FOR COMPUTATION OF TOTAL RETENTION POINTS: Employee A profile:

- (1) Continuous state service of 5 years - Employee A would receive five (5) retention points based on seniority. (Refer to D.1. above.)
- (2) The last three performance appraisal ratings are 2.3, 2.4, and 2.7 - Employee A would receive retention points of six (6), nine (9), and twelve (12), respectively, based on performance appraisal. The *average* Adjusted Appraisal Score would be nine (9) since $6 + 9 + 12 = 27$ and $27 \div 3 = 9$. (Refer to D.2.a., above)
- (3) Non-veteran – Employee A would receive no retention points for veteran’s service. (Refer to D.3.)

Employee A's total retention points equal fourteen (14):
[Seniority (5) + AAS (9) + Veteran's Preference (0).]

- E. Employees who will be terminated by a reduction-in-force shall be notified in writing of the effective date of the reduction-in-force termination at least ten (10) working days prior to the effective date of the layoff. The written notification shall cite the reasons for the layoff. The appointing authority and the State

Personnel Board shall attempt to place affected employees in other positions for which they are qualified. (Refer to Section 4.21.5.)

- F. When requesting a separation in SPAHRS of an employee due to a Reduction-in-Force, the following shall be in effect:
1. The effective date of the separation shall be the last day the employee worked.
 2. An individual cannot receive payment for accrued personal leave unless records reflect termination date has been entered in SPAHRS by the requesting agency.
 3. Online submission of the separation of the employee using the appropriate separation and Reduction-in-Force reason is required.
 4. Positions affected by a Reduction-in-Force cannot be filled, reallocated, or abolished and reestablished for a period of one (1) year following the reduction-in-force.

7.60.1 Furlough

A furlough, or an involuntary leave without pay, may be implemented when such action is necessary to temporarily reduce expenditures to avoid a deficit of funds.

A. Provisions for Implementation of Furlough (Involuntary Leave without Pay)

The State Personnel Board furlough policy shall apply uniformly to all executive and subordinate employees within an agency, regardless of job class. The State Personnel Board shall review furlough plans only upon written certification of a general funds shortage from the Department of Finance and Administration or written certification of a special funds shortage from the agency. The State Personnel Board shall ensure that any furlough plan complies with all applicable policies, rules, and regulations of the State Personnel Board.

Such furlough leave for the purpose of reducing expenditures shall be based on the agency head's determination that:

1. Funds on hand or funds to be received during the current fiscal period will be inadequate to effectively discharge the agency's responsibilities without recourse to reductions-in-force; or

2. It is necessary to accrue funds by reducing current payroll expenses so that reductions-in-force or more extensive furloughs may be minimized or avoided.
- B. When instituting a furlough, the agency head shall abide by the following rules and regulations:
1. Before instituting furlough leave, an agency head shall develop an equitable and systematic plan for implementation of an agency-wide furlough stating the reasons that require this action. Such plan and subsequent furlough action must be submitted to the State Personnel Board for review and approval prior to implementing such leave.
 2. Such a plan shall apply uniformly to all employees in the agency, regardless of status or funding source unless prohibited by law, loss of federal funds, or inability to continue a federally mandated program; however, agency heads may request the State Personnel Board for an exemption from the loss of federal funds provision. All employees, including those on paid leave, shall be placed on an equivalent number of hours of leave without pay. A proportionate number of hours shall be applied to part-time employees. However, an agency head may, with the approval of the State Personnel Director, make such leave subject to early cancellation or periodic call-back on a case-by-case basis to protect public health, safety, or property or to ensure operations of critical agency functions. The plan and the employees' notice of leave shall describe the reasons for and conditions of the provision. Agency heads who are elected and whose salary is set in Section 25-3-31 of the Mississippi Code of 1972, Annotated, as amended, are not subject to an agency furlough.
 3. Employees placed on furlough leave shall be given prior written notice, advising the employee of the particulars regarding the action, including the dates and times furlough leave is to begin and end.
 4. While on furlough leave, an employee shall not accrue personal and major medical leave for that portion of the employee's salary funded by the restricted funds. Additionally, personal, major medical, and compensatory leave shall not be taken in lieu of furlough leave.
 5. During furlough leave, group health and life insurance benefits funded by the State will continue for employees who remain qualified in accordance with the eligibility criteria as set forth in the group health and life insurance plan approved by the Health Insurance Management Board. An

employee will continue to pay for dependent insurance coverage as well as other insurance premiums paid by the employee.

6. During furlough leave, employees classified as Exempt employees, in accordance with U.S. Department of Labor regulations promulgated pursuant to the Fair Labor Standards Act of 1938, as amended, lose their exemption for the workweek in which the furlough occurs. See Section 541.5d (3)(b), Title 29, Part 541 of the Code of Federal Regulations.
 7. Once the funds have been restored, the agency head shall implement, on an equitable and systematic basis, the recall of furloughed employees. Failure on the part of an employee to return from furlough leave to his/her previous work status as directed in writing shall be cause for discharge.
 8. Involuntary leave without pay conducted under this policy shall not be grievable.
 9. For provisions regarding implementation of furlough of federally funded employees due to the restricting or limiting of federal funds, see Section B. below.
- C. Provisions for Implementation of Furlough of Federally Funded Employees (Involuntary Leave Without Pay)

Section 25-9-126, Mississippi Code of 1972, Annotated, as amended, authorizes furloughs of federally funded employees as follows:

In the event that federal funds for the funding of programs of any state agency shall be restricted or limited, the administrative board of such agency or agency administrative head shall have the authority to furlough rather than dismiss employees in accordance with rules and regulations established by the State Personnel Board.

When instituting such a furlough, the administrative board or agency administrative head shall abide by the following rules and regulations:

1. The restriction or limiting of federal funds must be certified in writing by an agency of the federal government, or be an indisputable fact (as in the failure of the United States Congress to pass funding legislation for the federal fiscal year.)
2. The administrative board or agency administrative head shall develop an equitable and systematic plan of furlough and shall administer it uniformly to all executive and subordinate employees, without regard to status,

whose positions are funded by the federal funds being restricted or limited. Employees whose positions are funded only in part by federal funds may be placed on part-time duty to exclude the obligation and expenditure of federal funds.

3. Within forty-eight (48) hours of implementation of the furlough plan, the administrative board or agency administrative head shall notify the State Personnel Director in writing of the furlough, and shall include the reasons and the plan for implementation.
4. Employees placed on such furlough leave shall be given prior written notice, advising the employee of the particulars regarding the action, including the dates and time furlough leave is to begin and end.
5. While on furlough leave, an employee shall not accrue personal and major medical leave for that portion of the employee's salary funded by federal funds. Additionally, personal, major medical, and compensatory leave shall not be taken in lieu of furlough leave.
6. During furlough leave, group health and life insurance benefits funded by the State will continue for employees who remain qualified in accordance with the eligibility criteria as set forth in the group health and life insurance plan approved by the Health Insurance Management Board. An employee will continue to pay for dependent insurance coverage as well as other insurance premiums paid by the employee.
7. Once the restrictions have been lifted and/or the funds restored, the administrative board or agency administrative head shall implement, on an equitable and systematic basis, the recall of furloughed employees. Failure on the part of an employee to return from such leave to his/her previous work status as directed in writing shall be cause for discharge.
8. The administrative board or agency administrative head may make such furlough leave subject to early cancellation or periodic call-back on a case-by-case basis to protect public health, safety, or property, or to ensure operations of critical agency functions only upon approval by the federal agency of the obligation and expenditure of federal funds.
9. Involuntary leave without pay conducted under this policy shall not be grievable.

7.70 INCENTIVE BONUS AWARD FUNDS

- A. Purpose

Disbursement of federally funded incentive bonus awards shall be governed by the procedures outlined below. The development of the following procedures is based upon implementation of legislative intent as promulgated by Section 25-9-134, (5) Mississippi Code of 1972, Annotated, as amended:

As part of the program of excellence in government, the State Personnel Board shall authorize and establish guidelines for state agencies to accept and present cash awards and bonuses as part of any federally funded employee awards incentive. The guidelines shall authorize state employees to compete for federal incentives and authorize state agencies to accept federal funds earmarked for incentives. All federal awards and bonuses received by state agencies shall not be designated as part of the agency's yearly budget for the purpose of receiving state appropriations.

B. Coverage of Policies

These policies shall govern incentive bonus awards for eligible state service employees and eligible non-state service employees who have been excluded from the state service under Section 25-9-107 (c) (xiii), (xiv), (xv), and (xvi), Mississippi Code of 1972, Annotated, as amended. Coverage is limited to personnel employed by agencies that receive federal funds earmarked for employee incentive bonus awards.

C. Scope of State Personnel Director's Authority

All requests for State Personnel Board action under these policies and procedures shall be submitted on the required documentation needed to implement the request. Each request for incentive bonus awards shall include Request for Federally Funded Incentive Bonus Award Approval form (SPB Form 770.1-88) and accompanying Employee Incentive Award Listing (SPB Form 770.2-88). Incentive bonus awards shall be made only after all required documentation has been submitted to the State Personnel Director and the requesting agency receives approval on the request from the State Personnel Director.

D. Provisions for Incentive Bonus Award Determination

1. Employees eligible to receive incentive bonus awards are employees who have been employed by the agency for a period of twelve (12) months or more immediately prior to the date of the award and who have a valid performance appraisal rating of 2.00 or greater in SPAHRS.

2. All employees eligible to receive incentive bonus awards shall receive said bonus awards. The appointing authority may award each eligible employee an equal amount not to exceed \$1,000 per year depending upon the availability of federal funds designated for incentive bonus awards and all applicable state and federal statutes, regulations, guidelines, policies and procedures.
3. Agencies who have received federal incentive bonus award funds as a result of the exclusive performance of certain agency programs, departments, sub-agencies, bureaus, divisions, or other subdivisions shall restrict the disbursement of bonus awards to eligible employees of those designated subdivisions.

E. General Procedures Governing Incentive Bonus Awards

1. The salary of an employee who receives an incentive bonus award will remain at the salary prior to the award.
2. An incentive bonus shall be awarded in a one-time lump-sum payment. The appointing authority shall ensure that all awardees are aware that incentive awards are not an entitlement, that receipt of such award is predicated upon federal funding earmarked for incentive bonus awards, and that the employee's receipt of such award in one year does not imply the award of such bonuses at a future date.
3. The funds for the incentive bonus awards will be received and awarded outside the regular appropriation process.
4. The awarding state agency shall disburse bonus awards only from funds it has received from the federal government, which are specifically designated for incentive bonus awards.
5. The appointing authority shall combine each year's request for federally funded incentive bonus award approval into a single submission of each federal program and shall include specific (highlighted) documentation that funds were **earmarked** for employee incentive bonus awards.

F. Administrative Procedures

1. A Request for Federally Funded Incentive Bonus Award Approval (SPB Form 770.1-88) and attached Employee Incentive Award Listing (SPB Form 770.2-88) shall be submitted to the State Personnel Director ten (10) working days prior to the proposed date of the award.

2. All requests for incentive bonus awards must include a statement from the appointing authority certifying the availability of federal funds earmarked for incentive bonus awards.
3. The appointing authority of the awarding agency shall confirm in writing to the State Personnel Director the disbursement of incentive bonus awards indicated on each submitted SPB Form 770.2-88 within (10) ten days of the actual disbursement of incentive bonus awards to the employees.

7.80 STENNIS AWARD FOR EXCELLENCE IN GOVERNMENT**A. Purpose**

The recognizing of excellence and innovation in the management of administrative procedures, which increase the quality of public service at the state, district, and local governmental levels shall be governed by the procedures outlined below.

The development of the following procedures is based upon implementation of legislative intent as promulgated by Section 25-9-134 (2), Mississippi Code of 1972, Annotated, as amended:

The State Personnel Board is hereby authorized and directed to establish a program to encourage and recognize excellence, innovation, and diversity on the part of state, district, and local governmental entities in the design, execution, and management of their own administrative procedures. The State Personnel Board shall establish by rule and regulation procedures for evaluating said examples of improvement in public administration, and shall provide for an annual awards program to recognize excellence in government. The Board may establish categories of governmental service in order to recognize these achievements.

B. Coverage of Policies

These policies shall govern the John C. Stennis Awards for Excellence in Government for all eligible state service employees and all eligible non-state service employees.

C. Scope of the State Personnel Director's Authority

1. In the event the State Personnel Director determines that any nomination is misclassified, the Director may reclassify the nomination to the appropriate category without prejudice to the nominee.

2. Individual nominations made in previous years may be reactivated by the State Personnel Director for nomination in a subsequent year's competition. However, nominating parties are reminded this provision is not automatic, and they are urged to re-nominate deserving personnel who have not won in a previous year's nominations. Subsequent re-nominations should be updated to include the nominee's latest achievements.
 3. Should an insufficient number of valid nominations for the Stennis Award for Excellence in Local or District Government and/or the Stennis Award for Excellence in State Government be received, the State Personnel Director may recommend those awards not be presented in any given year.
- D. Provisions for John C. Stennis for Excellence in Government Award Determination
1. A maximum of two individuals will be publicly recognized each year. In addition, Certificates of Special Achievement and Certificates of Nomination may be awarded.
 2. The Stennis Award for Excellence in State Government shall recognize the state service or non-state service employee whose contributions within the last five (5) years are of excellence and perseverance.
 3. The Stennis Award for Excellence in Local and District Government will be the local or district level employee who represents the same qualities as the "state government" category.
- E. General Procedures for Award Determination
1. Eligibility Criteria
 - a. Nominee must be, at the time of the nomination, a full-time state employee of a state agency in a classified position with a minimum of three (3) years of service.
 - b. Persons holding elected offices will be evaluated based on their career in public service, excluding time served as an elected official.
 2. Nomination Requirements

- a. The appointing authority or the governing boards or commissions of agencies, which receive appropriation by the Legislature for personal services and have authorized employment positions, shall submit nominations to the State Personnel Director for personnel in the agency under their purview by the deadline imposed each year.

- b. Each nomination must be accompanied by a cover letter signed by the appointing authority of the governmental agency employing the nominee. (An appointing authority may only be nominated by the governing board or commission of the agency employing the appointing authority nominee.) The cover letter should be one page that includes the following general information:
 - (1) Name, address, day phone, title, and agency of **nominee**
 - (2) Name, address, day phone, title, and agency of **nominator**

- c. The information on Nominee, not to exceed five (5) pages (8 ½ x 11 inches, one side), should include the following:
 - (1) Brief biography of nominee, summarizing positions held, educational background, civic and professional involvement, and other personal data.

 - (2) Statement of achievement
 - (a) Highlight what was creative and innovative about the nominee's work. What did the nominee think needed to be done? What did the nominee accomplish? How were the people and resources mobilized?

 - (b) What has changed as a result of the nominee's work? What has been the impact on efficiency, effectiveness, etc.?

 - (c) Comment on the nominee's commitment to state government and how his/her service exemplifies it.

3. Submission Guidelines
 - a. Nominations must be received by the State Personnel Director postmarked no later than the close of business on the deadline date. The State Personnel Director will announce such deadline each year.
 - b. Please send six (6) copies to:

Mississippi State Personnel Director
301 N. Lamar Street, Suite 203
Jackson, MS 39201
4. Information submitted in support of nominations is subject to verification by the Mississippi Personnel Advisory Council. The State Personnel Director or the Governor may request a nominating party or nominee to furnish amplifying information in addition to that contained in the initial supporting documents.

F. Selection Criteria

1. The nominee must have primary and direct responsibility for administrative action and implementation of personnel-related improvements in productivity, efficiency, economy, or effectiveness.
2. Measurability and tangibility of results of actions will be considered. Examples would include, but not be limited to, increased revenues, reduced expenditures while maintaining same quality quantity standards, or improved quality/quantity standards at equal or decreased cost.
3. Adaptability of actions and/or transferability of approach to other state, district, and/or local jurisdictions will be considered.
4. Innovation of action or approach will be considered.
5. Selection shall be based on clear and practicable actions for the improvement of particular aspects of technical or administrative procedure, which include, but are not limited to, the following:
 - a. Strengthening one or more major areas of public administration such as personnel recruitment, training, development and/or payroll administration.

- b. Increasing intergovernmental cooperation with respect to such matters as personnel interchange, personnel recruiting, manpower utilization and interchange, and fringe benefits.
- c. Establishment of personnel systems of general or specific functional coverage to meet the needs of governmental jurisdictions.
- d. All nominations will be screened by the State Personnel Director to ensure compliance with the eligibility, nomination, and selection requirements. Nominations meeting the requirements above will be submitted to the State Personnel Advisory Council. The Council shall consider each valid nomination and forward its recommendation to the State Personnel Board for review and comment. Following review and comment by the Board, the State Personnel Director shall submit all nominations to the Governor for review, comments, and recommendation at least sixty (60) days prior to final evaluation by the State Personnel Board. An explanation in writing shall be sent to the Governor in the event the State Personnel Board does not concur with recommendations of the Governor in approving or disapproving said nominations.

G. Announcement of Awards

- 1. The announcement of the award shall be made publicly at an award ceremony.
- 2. Media coverage of all awards functions will be solicited to the greatest extent possible.
- 3. Recipients will receive recognition and publicity on a statewide basis. In addition, each recipient shall receive an award.
- 4. Nominees deserving special recognition may be awarded by the State Personnel Director a Certificate of Special Achievement suitable for framing. All other nominees will receive a certificate to publicly recognize them as a nominee for the John C. Stennis Award for Excellence in Government.

H. General Policies Governing the Awarding of the John C. Stennis Award for Excellence in Local and District-Level Government

- 1. Eligibility Criteria

- a. Nominees must be practicing Mississippi public administrators of a district or local institution or agency; for example, boards of supervisors, municipalities, county offices, or boards of education.
- b. Persons holding elected offices will be evaluated based on their career in public service, excluding time served as an elected official.

2. Nomination Requirements

- a. Nominations shall be made to the State Personnel Director by the governing authority of the board of the government entity employing the particular individual (or group of individuals) to be recognized by the deadline imposed each year.
- b. Each nomination must be accompanied by a cover letter signed by the chairperson of the board or governing authority of the governmental entity employing the nominees.
- c. Each nomination must be accompanied by supporting documentation in a format suggested by the State Personnel Director. The documentation may not exceed five pages (8 ½ x 11 inches, one side). In addition, the State Personnel Board may request that other supporting information be provided.
- d. Each nomination must be received by the State Personnel Director at the designated address no later than the close of business on the date of the deadline, which will be announced by the State Personnel Director each year. The State Personnel Director or the Governor may request a nominating party or nominee to furnish information in addition to that contained in the initial supporting documents.

3. Selection Criteria

Selection criteria are the same as for the John C. Stennis Award for Excellence in State Government.

4. Announcement of Awards

- a. The announcement of the award shall be made publicly at an awards ceremony.
- b. Media coverage of all awards functions will be solicited to the greatest extent possible.
- c. Recipients will receive recognition and publicity on a statewide basis. In addition, each recipient shall receive an award.

Nominees deserving special recognition may be awarded by the State Personnel Director a Certificate of Special Achievement suitable for framing. All other nominees

will receive a certificate to publicly recognize them as a nominee for the John C. Stennis Award for Excellence in Government.

7.90 EDUCATIONAL LEAVE

7.90.1 General Professional Development

Section 37-101-293, Mississippi Code of 1972, Annotated, as amended, authorizes state agencies to grant paid educational leave on a part-time or full-time basis and reimburse employees for educational leave expenses for employees to develop job-related skills and to develop employees for higher-level professional and management positions; to prescribe eligibility for such educational leave and expense reimbursement; and for related purposes.

This statute stipulates that the State Personnel Board approve the form of the contract prepared by the Attorney General of this state and establish a maximum salary amount at which any employee may be paid full compensation while on educational leave and establish a deduction ratio or reduced percentage rate of compensation to be paid to all employees compensated at a salary level above such maximum salary amount. The law also stipulates that each agency granting paid educational leave or reimbursing expenses or both shall file an annual report with the Legislature detailing for each recipient's position the cost of educational assistance, the degree program, and the school attended. This report, covering the previous fiscal year, shall also be filed with the State Personnel Board on or before January 1 of each year.

A. Procedures Outline

Agencies should:

1. Develop internal policies and procedures governing educational leave;
2. Identify the job classifications in which they are experiencing demonstrated critical shortages;
3. Have educational leave recipients sign a contract, the form of which has been approved by the Attorney General and the State Personnel Board;
4. Forward to the State Personnel Board and to the Legislature prior to January 1 of each year a copy of the annual report on the Educational Leave program as required by the statute.

B. Eligibility

1. Candidates for Educational Leave shall be working at a state agency for three (3) years at the time of application or be working at a state agency at the time of application for part-time graduate level education in a

particular profession deemed by the administrative head of the state agency to meet a critical need within the state agency.

- 2. Candidates must agree to enter into a contract with the requesting state agency, which shall contain the statutory provisions and regulatory terms and conditions upon which the paid Educational Leave shall be granted to the candidate.
- 3. Candidates must attend a college or university in the State of Mississippi and approved by the head of the agency unless such course of study is not available at a Mississippi college or school.

C. Salaries of Employees on Educational Leave

1. Educational Leave Contract Salary

- a. The Educational Leave contract shall specify the salary by which Educational Leave recipients shall be compensated.
- b. The State Personnel Board prescribes the maximum salary levels permitted employees on Educational Leave.

2. Determination of Maximum Educational Leave Salary

- a. Employees whose salaries at the time of application are \$24,941.40 or less may have their salaries established at the discretion of the appointing authority at any salary up to the current salary at the time of application. The salary established shall be the maximum salary permitted while on Educational Leave.
- b. Employees whose salaries at the time of application are greater than \$24,941.40 may have their salaries established by the appointing authority at any salary up to \$24,941.40. Appointing authorities may additionally grant 50% of the difference between \$24,941.40 and the current salary. This formula shall establish the maximum salary permitted while on Educational Leave. See the following example:

Current Salary:	\$35,711.04
Educational Leave Salary:	<u>\$24,941.40</u>
Difference:	\$10,769.64

$\$10,769.64 \times 50\% = \$5,384.82$

\$ 5,384.82 + \$24,941.40 = **\$30,326.22** (max salary on Educational Leave)

- c. If any part of a month is spent on Educational Leave, the employee shall be compensated at the Educational Leave salary for that entire month.
- d. Employees shall be informed of their Educational Leave salary prior to signing the Educational Leave Contract.

3. Legislative and Variable Compensation Plan Salary Increases

Employees shall be ineligible for salary increases for the time they are on Educational Leave. However, upon the completion of Educational Leave, recipients of Educational Leave shall have their salaries restored by appointing authorities to the level the salary would have been after the addition of any salary increases guaranteed by the Legislature during the period of Educational Leave. No back pay or back award of pay shall be authorized for the time spent on Educational Leave.

D. Educational Programs, which Qualify for Educational Leave

Educational Leave shall be granted only to pursue undergraduate and graduate level education. Undergraduate and graduate-level education shall be defined as an educational program:

1. Conducted by a college, university, or school; and
2. That awards academic credit upon successful completion of each course.

E. Educational Opportunities, which Do Not Qualify for Educational Leave

Educational Leave does not apply to educational programs other than those identified above. Educational Leave shall not apply to training conducted, sponsored, or co-sponsored by the requesting agency, the State Personnel Board, or other state or federal agencies, which offer job-related training of short duration.

F. Equal Educational Opportunity

Appointing authorities shall ensure that Educational Leave and training opportunities are accorded all qualified agency employees without unlawful discrimination as to race, color, religion, sex, national origin, age, handicap, or

disability. Refer to Sections 25-9-103 and 25-9-149, Mississippi Code of 1972, Annotated, as amended.

G. Duration of Educational Leave

Unless otherwise terminated, the duration of Educational Leave may be the length of the semester, quarter, or term in which the employee is actually enrolled pursuing his/her designated professional course work; or at the option of the appointing authority, the duration may extend across successive semesters, quarters, or terms, as long as the employee is enrolled and pursuing his/her designated professional course work in each intervening semester, quarter, or term. Agencies shall maintain contemporaneous leave records, which detail those periods an employee uses Educational Leave.

H. Conditions Requiring Termination of Educational Leave

Educational Leave may be terminated by the administrative head of the agency based on a variety of reasons, including, but not limited to:

1. Any condition listed in the Educational Leave contract,
2. Agency funds constraints,
3. Agency reorganization or change in agency mission,
4. Agency program changes,
5. Agency workload increases or staffing crises,
6. Reductions-in-force,
7. Disciplinary action, or
8. Failure to make adequate academic progress.

Unless otherwise specified in the Educational Leave contract, adequate academic progress shall be defined as maintaining a "B" or better cumulative average. Failure to make adequate academic progress in one term may result in the employee being ineligible for further Educational Leave.

I. Administrative Provisions

1. If an Educational Leave candidate will be having his/her salary decreased as a result of Educational Leave, the requesting agency shall submit the action into SPAHRS. Please reference the SPAHRS User Training

Workbook, Employment Segment, for more detailed information regarding educational leave. The employee's current salary plus any legislative guarantees will continue on the PIN to ensure proper salary projections.

2. Refer to the Educational Leave statute for other requirements. These include specific employment obligations in exchange for Educational Leave benefits, repayment obligations and liquidated damages with interest for failure to fulfill the terms of the contract, other legal rights and remedies, and the requirement for annual agency reports to the Legislature on Educational Leave.
3. The administrative head of the employing agency shall be responsible for stipulating any other needed contractual provisions, including but not limited to repayment obligations should the employee be separated for cause, failure to make adequate academic progress, disciplinary action, retirement, or other conditions, which may result in the failure to meet Educational Leave contractual obligations. If the administrative head of the agency wishes to require the applicant to be employed at the conclusion of their Educational Leave in a specific geographic location, office, or location, then such terms should be addressed in the contract.
4. In accordance with the Educational Leave law, Educational Leave recipients shall attend colleges or schools located in Mississippi. However, if the administrative head of the employing agency determines that the course of study is not available at a Mississippi college or school, the applicant may attend an out-of-state college or school.

Section 37-101-293, Mississippi Code of 1972, Annotated, as amended

1. Within the limits of the funds available to any state agency for such purpose, the administrative head of such state agency may grant paid educational leave on a part-time or full-time basis and reimburse employees for educational expenses such as tuition, books and related fees to pursue undergraduate or graduate level education to those applicants deemed qualified.

It is the intent of the Legislature that such educational leave program shall be used as an incentive for employees to develop job-related skills and to develop employees for higher-level professional and management positions.

2. To be eligible for paid educational leave, reimbursement for educational expenses or both, an applicant must:

- a. Be working at a state agency for at least three (3) years at the time of application or be working at a state agency at the time of application for part-time graduate level education in a particular profession deemed by the administrative head of the state agency to meet a critical need within the state agency;
 - b. Attend any college or school located in the State of Mississippi and approved by the administrative head of such agency, unless such course of study is not available at a Mississippi college or school, in which case the applicant may attend an out-of-state college or school;
 - c. Agree to work as an employee in the same state agency for at least three (3) full years after completion of the course of study or, in the case of employees on educational leave on a part-time basis or receiving reimbursement for educational expenses only, to work for a time prorated based upon the total amount of expenses, including leave, paid for by the agency.
3.
 - a. Before being granted paid educational leave, or being approved for reimbursement of educational expense or both, each applicant shall enter into a contract with the state agency, which shall be deemed a contract with the State of Mississippi, agreeing to the terms and conditions upon, which the paid educational leave will be granted to him. The contract shall include such terms and provisions necessary to implement the purpose and intent of this section. The form of such contract shall be prepared by the Attorney General of this state and approved by the State Personnel Board, and shall be signed by the administrative head of the state agency and signed by the recipient. If the recipient is a minor, his minority disabilities shall be removed by a chancery court of competent jurisdiction before the contract is signed.
 - b. Educational expenses for tuition, books, and associated fees shall be reimbursed to the employee only after the employee has submitted documentation that the approved course has been successfully completed.
 - c. If the recipient does not work as an employee in that state agency for the period of employment specified in the contract, the recipient shall be liable for repayment on demand of the remaining portion of the compensation that he or she was paid while on paid educational leave and educational expenses paid, with interest

- accruing at ten percent (10%) per annum from the recipient's date of graduation, or the date the recipient last worked at that state agency, whichever is the later date. In addition, there shall be included in any contract for paid educational leave a provision for liquidated damages equal to Two Thousand Dollars (\$2,000.00) per year for each year remaining to be served under such contract.
- d. If any recipient fails or withdraws from school at any time before completing his/her education, the recipient shall be liable for repayment on demand of the amount of the total compensation that he or she was paid while on paid educational leave, with interest accruing at ten percent (10%) per annum from the date the recipient failed or withdrew from school. However, if the recipient remains or returns to work in the same position he or she held in the same state agency prior to accepting educational leave, he or she shall not be liable for payment of any interest on the amount owed.
 - e. The state agency shall have the authority to cancel any contract made between it and any recipient for paid educational leave or educational expenses or both upon such cause being deemed sufficient by the administrative head of the agency.
 - f. The state agency is vested with full and complete authority and power to sue in its own name any recipient for any balance due to the state on any such uncompleted contract, which suit shall be conducted and handled by the Attorney General of the state.
 - g. Persons who default on contracts entered into under this section shall have the default determined and lose their professional health care license under the procedures provided in Section 37-101-291.
4. At the discretion of the administrative head of the state agency, any recipient who is granted paid educational leave by the state agency, including nurses, shall be compensated by such agency as prescribed by the State Personnel Board during the time he or she is in school. For employees who are on educational leave on a full-time basis, the State Personnel Board shall establish a maximum salary amount at which any employee may be paid full compensation while on educational leave and shall establish a deduction ratio or reduced percentage rate of compensation to be paid to all employees compensated at a salary level above such maximum salary amount. No recipient of full-time educational leave shall accrue personal or major medical leave while he or she is on paid educational leave.

5. Each state agency granting paid educational leave to employees or reimbursing educational expense or both shall file an annual report with the Legislature, which shall detail for each recipient of paid educational leave the position of the employee, the cost of the educational assistance and the degree program and school attended.
6. Within the limits of funds available to the Mississippi Department of Mental Health, the Executive Director of the Department of Mental Health may grant educational leave to medical residents of the University of Mississippi and pay a stipend in an amount not to exceed the salary of a medical resident. To be eligible for paid educational leave under this subsection, the applicant must be approved by the Department of Mental Health Educational Leave Committee and meet all obligations established under agreements between the Department of Mental Health and the University of Mississippi and regulations promulgated by the Board of Mental Health. The recipient shall fulfill his/her obligation under this program on an annual pro rata basis for each year on paid education leave.

7.90.2 Professional Development Programs

Certain paid educational leave and paid internship programs have been authorized to develop professional skills and to prepare employees for higher-level professional and management positions. Those employees deemed qualified for paid educational leave or paid internship shall receive funds that may be used to pay for tuition, books, and related fees to pursue their degrees. (Reference Sections 37-101-291 and 37-101-292, Mississippi Code of 1972, Annotated, as amended; and House Bills 1016 and 1617, passed during the 2008 Regular Session.)

7.91 EMPLOYER REQUIREMENTS UNDER THE FAMILY AND MEDICAL LEAVE ACT OF 1993

7.91.1 General Provisions

The Family and Medical Leave Act (FMLA) was enacted into law on February 5, 1993 and took effect August 5, 1993. All agencies of the State of Mississippi are considered covered employers under the Act.

The FMLA entitles eligible employees to take up to twelve (12) weeks of unpaid, job-protected leave in a twelve (12) month period for specified family and medical reasons and makes it unlawful for any state agency to discharge or discriminate against any person for opposing any practice made unlawful by the Act or for involvement in any proceeding under or relating to the Act. Further, the appointing authority shall not interfere with, restrain, or deny the exercise of or the attempt to exercise any right provided under the Act.

Effective January 2008, eligible employees are entitled to up to 12 weeks of FMLA leave because of "any qualifying exigency" arising out of the fact that the spouse, son, daughter, or parent of the employee is on active duty, or has been notified of an impending call to active duty status, in support of a contingency operation.

Also effective January 2008, an eligible employee who is the spouse, son, daughter, parent, or next of kin of a covered serviceman who is recovering from a serious illness or injury sustained in the line of duty on active duty is entitled to up to 26 weeks of leave in a single 12-month period to care for the servicemember.

The FMLA does not affect any other federal or state law that prohibits discrimination and does not supersede any state or local law, which provides greater and more generous leave rights.

7.91.2 Agency Posting Requirements

Each appointing authority shall post and keep posted, in conspicuous places where notices to employees and applicants are customarily posted, a notice summarizing the entitlement to family leave and providing information concerning the procedures for filing complaints of violations of the Act.

7.91.3 Definitions for Purposes of FMLA

A. Healthcare Provider

1. A doctor of medicine or osteopathy who is authorized to practice medicine or surgery (as appropriate) by the state in, which the doctor practices; or

2. Any other person determined by the Secretary to be capable of providing health care services, including only:
 - a. Podiatrists, dentists, clinical psychologists, optometrists, and chiropractors (limited to treatment consisting of manual manipulation of the spine to correct a subluxation as demonstrated by X-ray to exist) authorized to practice in the state and performing within the scope of their practice as defined under state law;
 - b. Nurse practitioners, nurse-midwives and clinical social workers who are authorized to practice under state law and who are performing within the scope of their practice as defined under state law;
 - c. Christian Science practitioners listed with the First Church of Christ Scientist in Boston, Mass. Where an employee or family member is receiving treatment from a Christian Science practitioner, an employee may not object to any requirement from an employer that the employee or family member submit to examination (though not treatment) to obtain a second or third certification from a health care provider other than a Christian Science practitioner, except as otherwise provided under applicable state or local law;
 - d. Any health care provider from whom an agency or the agency's group health plan's benefit manager will accept certification of the existence of a serious health condition to substantiate a claim for benefits; and
 - e. A health care provider listed above who practices in a country other than the United States, who is authorized to practice in accordance with the law of that country, and who is performing within the scope of his/her practice as defined under such law.
- B. **Authorized to Practice in the State:** Means that the provider must be authorized to diagnose and treat physical or mental health conditions without supervision by a doctor or other health care provider.
- C. **Incapacity:** Inability to work, attend school, or perform other regular daily activities due to 1) a serious health condition, 2) treatment for a serious health condition, or 3) recovery from a serious health condition.
- D. **Parent:** The biological parent of an employee or an individual who stands/stood in loco parentis to an employee when such employee was a son or daughter. This term does not include parents-in-law.

- E. **Son or Daughter:** A biological, adopted, or foster child, a stepchild, a legal ward, or a child of a person standing in loco parentis, who is either under 18 years of age; or who is 18 years of age or older and incapable of self-care because of a mental or physical disability.
- F. **Incapable of Self-care:** Means that the individual requires active assistance or supervision to provide daily self-care in three or more of the activities of daily living including grooming and hygiene, bathing, dressing and eating or instrumental activities of daily living including cooking, cleaning, shopping, taking public transportation, paying bills, maintaining a residence, using telephones and directories, using a post office, etc.
- G. **Physical or Mental Disability:** A physical or mental impairment that substantially limits one or more of the major life activities of an individual.
- H. **In Loco Parentis:** Persons having daily responsibilities to care for and financially support a child or, in the case of an employee, who had such responsibility for the employee when the employee was a child. A biological or legal relationship is not necessary.
- I. **Reduced Leave Schedule:** A leave schedule that reduces an employee's usual number of working hours per workweek or hours per workday. A reduced leave schedule is a change in the employee's schedule for a period of time, normally from full-time to part-time.
- J. **Serious Health Condition** - An illness, injury, impairment, or physical or mental condition that involves:
1. Inpatient care (an overnight stay) in a hospital, hospice, or residential medical care facility, including any period of incapacity, or any subsequent treatment in connection with such inpatient care; or
 2. Continuing treatment by a health care provider to include:
 - a. A period of incapacity of more than three consecutive calendar days and any other subsequent treatment or period of incapacity relating to the same condition that also involves:
 - (1) Treatment two or more times by a health care provider, by a nurse or physician's assistant under direct supervision of a health care provider, or by a provider of health care services (e.g., physical therapist) under orders of, or on referral by, a health care provider; OR

- (2) Treatment by a health care provider on at least one occasion, which results in a regimen of continuing treatment under the supervision of the health care provider.
 - b. Any period of incapacity due to pregnancy or for prenatal care.
 - c. Any period of incapacity or treatment for such incapacity due to a chronic serious health condition.
 - d. A period of incapacity, which is permanent or long-term due to a condition for which treatment may not be effective. The employee or family member must be under the continuing supervision of a health care provider, but need not be receiving active treatment by a health care provider. Examples include Alzheimer's, a severe stroke, or the terminal stages of a disease.
 - e. Any period of absence to receive multiple treatments (including any period of recovery there from) by a health care provider or by a provider of health care services under orders of, or on referral by, a health care provider, either for restorative surgery after an accident or other injury, or for a condition that would likely result in a period of incapacity of more than three (3) consecutive calendar days in the absence of medical intervention or treatment, such as cancer (chemotherapy, radiation, etc.), severe arthritis (physical therapy), or kidney disease (dialysis).
- K. **Chronic Serious Health Condition:** A condition that (a) requires periodic visits for treatment by a health care provider or by a nurse or physician's assistant under direct supervision of a health care provider; (b) continues over an extended period of time (including recurring episodes of a single, underlying condition); and (c) may cause episodic rather than a continuing period of incapacity (asthma, diabetes, epilepsy, etc.)
- L. **Equivalent Position:** A position that is virtually identical to the employee's former position in terms of pay, benefits, and working conditions, including privileges, pre-requisites, and status. It must involve the same or substantially similar duties and responsibilities, which must entail substantially equivalent skill, effort, responsibility, and authority.
- M. **Intermittent Leave:** FMLA leave taken in separate blocks of time due to a single qualifying reason.

- N. **Unable to Work:** Where the health care provider has found that the employee is either unable to work at all, or is unable to perform any one of the essential functions of the job.
- O. **Spouse:** A husband or wife, as defined or recognized under state law for purposes of marriage.
- P. **Immediate Family Member:** An employee's spouse, son, daughter, or parent.

7.91.4 Eligibility

An eligible employee is one who has been employed by the state for at least a total of twelve (12) months, and has worked for at least 1,250 hours over the prior twelve (12) months.

7.91.5 Entitlement

FMLA entitles eligible State employees to take up to twelve (12) weeks of **unpaid, job-protected leave** during any twelve (12) month period for any one or more of the following family and medical reasons:

- A. For the birth of the employee's son or daughter, and to care for the newborn child;
- B. The placement with the employee of a son or daughter for adoption or foster care, and to care for the newly placed child;
- C. To care for an immediate family member with a serious health condition;
- D. Because of a serious health condition that makes the employee unable to perform one or more of the essential functions of his/her job.

Entitlement to leave under (A) and (B) above shall expire at the end of the twelve (12) month period beginning on the date of such birth or placement. The twelve (12) month period under (C) and (D) above will begin on the date of the employee's first FMLA leave.

Spouses employed by the same employer are jointly entitled to a combined total of twelve (12) workweeks of family leave for the birth or placement of a child for adoption or foster care, and to care for a sick parent (but not a parent-in-law) who has a serious health condition. However, if the leave is to care for a sick child or the serious health

conditions of each other or for the employee's own serious illness, this limitation does not apply.

7.91.6 Substitution of Paid Leave

Generally, FMLA leave is unpaid. However, eligible employees may choose to substitute certain accrued paid leave for FMLA leave as follows:

- A. Major medical leave may be substituted for FMLA leave if such leave is to care for a seriously ill family member, or for the employee's own serious health care conditions.
- B. Personal leave may be substituted for any FMLA qualifying purpose.

If an employee does not choose to substitute accrued paid leave, *the agency may require them to do so.*

A serious health condition may result from injury to the employee "on or off" the job. Either the employee or the agency may choose to have the employee's FMLA twelve (12) week leave entitlement run concurrently with a workers' compensation absence when the injury is one that meets the criteria for a serious health condition. Since the workers' compensation absence is not unpaid leave, the provision for substitution of the employee's accrued paid leave is not applicable. However, if the health care provider treating the employee for the workers' compensation injury certifies that the employee is able to return to a "light duty job," but is unable to return to the same or equivalent job, the employee may decline the agency's offer of a "light duty job." As a result, the employee may lose workers' compensation payments, but is entitled to remain on unpaid FMLA leave until the twelve (12) week entitlement is exhausted. As of the date workers' compensation benefits cease, the substitution provision becomes applicable, and the employee may either elect, or the agency may require, the use of accrued paid leave.

Compensatory time off is not a form of accrued paid leave that an agency may require the employee to substitute for unpaid FMLA leave. The employee may request to use his/her compensatory time for an FMLA reason; however, if the agency allows the compensatory time to be used, it may not be counted against the employee's FMLA leave entitlement.

An employee who elects to use paid leave should make a written request of his/her intent to use accrued paid leave. The employee should explain the reasons for the request to substitute major medical and/or personal leave and provide sufficient information for the agency to determine that the leave qualifies under the Act and to designate the paid leave as substitution for all or some portion of the employee's FMLA leave entitlement.

7.91.7 Notice to Agency

The agency may require that the employee provide written notice setting forth the reasons for the requested leave, the anticipated duration of the leave, and the anticipated start of the leave in accordance with the agency's established policy. Failure to follow established agency policy may result in disciplinary action, but will not permit the agency to disallow or delay an employee's taking of FMLA leave, if the employee gives timely verbal or other notice.

Any time the necessity for leave is foreseeable based on an expected birth or placement, the employee shall provide the agency with no less than thirty (30) days notice, before the date the leave is to begin, of the employee's intention to take such leave. If the date of the birth or placement requires leave to begin in less than thirty (30) days, the employee shall provide such notice as is practicable.

Any time the necessity for leave is foreseeable based on planned medical treatment, the employee:

- A. Shall make a reasonable effort to schedule the treatment so as not to unduly disrupt the operations of the agency, subject to the approval of the health care provider of the employee or the health care provider of the son, daughter, spouse, or parent of the employee, as appropriate; and
- B. Shall provide the agency with no less than 30 days' notice, before the date the leave is to begin, of the employee's intention to take leave, under FMLA, except if the treatment is to begin in less than 30 days, the employee is to provide such notice as is practicable.

If the employee has actual notice of the FMLA leave requirements and he/she fails to give thirty (30) days notice for foreseeable leave with no reasonable excuse for the delay, the agency may deny taking FMLA leave until at least thirty (30) days after the date the employee provides notice to the agency of the need for FMLA leave.

An agency may require periodic reports from an employee on FMLA leave regarding the employee's status and intent to return to work. If the employee provides a statement of intent to return to work, even if the statement is qualified, entitlement to leave and maintenance of health benefits continue. However, if the employee gives an unequivocal notice of intent not to return to work, the agency's obligations to provide health benefits (except pursuant to COBRA requirements) and to restore the employee end.

Should the employee discover after beginning leave that the circumstances have changed and the amount of leave needed is shorter than originally anticipated, the

employee may not be required to take more FMLA leave than necessary. If the employee desires to return to work earlier than anticipated, the agency may require the employee to provide notice of at least two (2) business days.

7.91.8 Designation of Leave as FMLA Leave and Notification to Employee

The agency is responsible for designating leave that is FMLA qualifying and for giving notice of the designation to the employee.

- A. If the agency knows the reason for leave is an FMLA reason at the time leave begins, the leave must be designated by the agency in writing at that time. If the agency knows the leave is for an FMLA reason at the time leave begins and *fails* to designate, the leave may not be counted against the employee's FMLA entitlement, and the employee continues to be subject to FMLA protection. Once the agency designates, the leave may be counted against the FMLA entitlement only from that time forward, and not retroactively.
- B. When the agency learns that leave is for an FMLA purpose after leave has begun, but before the employee returns to work, the entire or some part of the leave period may be retroactively counted as FMLA leave.
- C. Leave may be designated as FMLA after the employee has returned to work in only two (2) circumstances:
 1. The leave is short-term and the agency is awaiting medical certification, or
 2. The agency does not know the reason for the leave, but learns upon the employee's return to work. The designation must be made within two (2) business days of the employee's return to work. If the agency has not made a designation, but the employee wants the absence to be treated as FMLA leave, the employee must notify the agency within two (2) business days of his/her return to work. If such notification is not made, the employee may not subsequently assert FMLA protection.
- D. If an employee takes paid or unpaid leave and the agency does not designate the leave as FMLA leave, it may not be counted against the employee's FMLA entitlement.
- E. The agency must provide written notice detailing the specific expectations and obligations of the employee and explaining any consequence of failure to meet these obligations. Such specific notice must be provided to the employee within a reasonable time after notice of the need for leave is given, and must include, as appropriate:

1. That the leave will be counted against the employee's annual FMLA leave entitlement;
2. Any requirements for the employee to furnish medical certification of a serious health condition and the consequences of failing to do so;
3. The employee's right to substitute paid leave and whether the agency will require the substitution of paid leave and the conditions related to any substitution;
4. Any requirement for the employee to make any premium payments to maintain health benefits, the arrangements for making such payments, and the consequences of failure to make such payments on a timely basis;
5. Any requirement for the employee to present a fitness-for-duty certificate to be restored to employment;
6. The employee's status as a "key employee," the potential consequence that restoration may be denied following FMLA leave, and the conditions required for such denial;
7. The employee's right to restoration to the same or an equivalent job upon return from leave; and
8. The employee's potential liability for payment of health insurance premiums paid by the agency during the employee's unpaid FMLA leave if the employee fails to return to work after taking FMLA leave.

7.91.9 Intermittent Leave or Leave on a Reduced Leave Schedule

FMLA leave may be taken intermittently or on a reduced leave schedule under certain circumstances. When leave is taken after the birth or placement of a child for adoption or foster care, an employee may take leave intermittently or on a reduced leave schedule only if the agency approves. The agency's approval is not required, however, for leave during, which the mother has a serious health condition in connection with the birth of her child or if the newborn child has a serious health condition.

Leave may be taken intermittently or on a reduced leave schedule when medically necessary for planned and/or unanticipated medical treatment of a related serious health condition by or under the supervision of a health care provider, or for recovery from treatment or recovery from a serious health condition. It may also be taken to

provide care or psychological comfort to an immediate family member with a serious health condition.

Only the time actually taken as FMLA leave may be charged against the employee's leave entitlement when leave is taken intermittently or on a reduced schedule. For part-time employees and those who work variable hours, the FMLA leave entitlement is pro-rated by comparing the new schedule with the employee's normal schedule. For example, if an employee who normally works 30 hours per week works only 20 hours a week under a reduced leave schedule, the employee's 10 hours of leave would constitute 1/3 of a week of FMLA Leave for each week the employee works the reduced schedule.

7.91.10 Medical Certification

The agency may require that an employee's leave to care for his/her seriously-ill immediate family member, or due to the employee's own serious health condition that makes the employee unable to perform one or more of the essential functions of his/her position, be supported by a certification issued by the health care provider of the employee or the employee's ill family member.

When the leave is foreseeable and at least thirty (30) days notice has been provided, the employee should provide the medical certification before the leave begins. When this is not possible, the employee must provide the requested verification to the agency within the timeframe requested (which must allow at least fifteen (15) calendar days after the agency's request) unless it is not practicable under the particular circumstances despite the employee's diligent, good faith efforts.

The Department of Labor has developed an optional form (Form WH-380, as revised) for employees or their family members to use in obtaining medical certification from health care providers that meet FMLA's certification requirements. This form or another form containing the same basic information may be used by the agency; however, no additional information may be required. The form contains required entries for:

- A. A certification as to, which part of the definition of serious health condition, if any, applies to the patient's condition and the medical facts, which support the certification, including a brief statement as to how the medical facts meet the criteria or definition.
- B. The approximate date the serious health condition commenced, and its probable duration.
- C. Whether it will be necessary for the employee to take leave intermittently or to work on a reduced leave schedule basis.

- D. If the condition is pregnancy or a chronic condition, whether the employee is presently incapacitated, and the likely duration and frequency of episodes of incapacity.
- E. If additional treatments will be required for the condition, an estimate of the probable number of such treatments.
- F. If the patient's incapacity will be intermittent, or will require a reduced leave schedule, an estimate of the probable number and interval between such treatments, actual or estimated dates of treatment if known, and the period required for recovery.
- G. If medical leave is required for the employee's absence from work because of the employee's own condition, whether the employee:
 - 1. Is unable to perform work of any kind;
 - 2. Is unable to perform any one or more of the essential functions of the employee's position, including a statement of the essential functions that the employee is unable to perform based on either information provided on a statement from the agency of the essential functions of the position, or if not provided, discussion with the employee about the employee's job functions; or
 - 3. Must be absent from work for treatment.
- H. If leave is required to care for a family member of the employee with a serious health condition, whether the patient requires assistance for basic medical or personal needs or safety or for transportation; or if not, whether the employee's presence to provide psychological comfort would be beneficial to the patient or assist in the patient's recovery.

If an employee submits a complete certification signed by the health care provider, the agency may not request additional information from the employee's health care provider.

If the agency has reason to doubt the validity of the certification, it may require, at agency expense that the employee obtain the opinion of a second health care provider designated or approved by the agency. Any such health care provider designated or approved shall not be employed on a regular basis by the state.

If the second opinion differs from the original certification, the agency may require, at its own expense, that the employee obtain the opinion of a third health care provider designated or approved jointly by the agency and the employee concerning the

information previously certified. The opinion of the third health care provider concerning the information previously certified shall be considered final and shall be binding on the agency and the employee.

The agency may require, at the employee's expense, that the employee obtain subsequent recertification on a reasonable basis. No second or third opinion on recertification may be required.

7.91.11 Restoration

- A. Employees, with the exception of certain highly paid "key employees," are entitled to be restored to their positions after returning to work.
1. The employee will be entitled to be re-stored by the agency to the position held by the employee when the leave commenced, *OR* the employee will be entitled to be restored to an equivalent position with equivalent benefits, pay status, and other terms and conditions of employment;
 2. The employee will not lose any employment benefit accrued prior to the date on, which leave commenced;
 3. The employee will not accrue any employment benefits during any period of unpaid leave; and
 4. The employee will not be entitled to any right, benefit, or position of employment other than any right, benefit, or position to, which the employee would have been entitled to had the employee not taken the leave.
 5. The employee has no greater right to reinstatement or to other benefits and conditions of employment than if the employee had been continuously employed during the FMLA leave period. The agency must be able to show that the employee would not otherwise have been employed at the time reinstatement is requested to deny restoration to employment.
- B. An employee who qualifies as a "key employee" may be denied restoration to employment. A key employee is one who is salaried and is "among the highest paid 10 percent" of the employees. The agency may deny restoration to a "key" employee only as necessary to prevent substantive and grievous economic injury to agency operations. The agency may refuse to reinstate certain highly paid "key" employees after using FMLA leave during, which health benefits are maintained. However, to do so, the agency must:

1. Notify the employee of his/her status as a "key" employee in response to the employee's notice of intent to take FMLA leave;
 2. Notify the employee as soon as the agency decides it will deny job restoration and explain the reasons for this decision;
 3. Offer the employee a reasonable opportunity to return to work from FMLA leave after giving this notice; and,
 4. Make a final determination as to whether reinstatement will be denied at the end of the leave period if the employee then requests restoration.
- C. An agency that will not deny restoration is not required to determine, which employees are "key" employees or to notify them of that status when leave is requested.

7.91.12 Maintenance of Benefits**A. Generally**

At the end of an employee's FMLA leave, benefits must be resumed in the same manner and at the same levels as provided when the leave began, and subject to any changes in benefit levels that may have taken place during the period of FMLA leave affecting the entire agency, unless otherwise elected by the employee. Upon return from FMLA leave, an employee cannot be required to re-qualify for any benefits the employee enjoyed before FMLA leave began.

B. Health Insurance

An agency is required to maintain group health insurance coverage for an employee on FMLA leave whenever such insurance was provided before the leave was taken, and on the same terms as if the employee had continued work.

For purposes of FMLA, the term Group Health Plan does not include an insurance program providing health coverage under, which employees purchase individual policies directly from insurers provided that: (1) no contributions are made by the agency; (2) participation in the program is completely voluntary for employees; (3) the sole functions of the agency with respect to the program are, without endorsing the program to permit the insurer to publicize the program to employees, to collect premiums through payroll deductions and to remit them to the insurer; (4) the agency receives no consideration in the form of cash or otherwise in connection with the program, other than reasonable compensation,

excluding any profit for administrative services actually rendered in connection with payroll deduction; and (5) the premium charged with respect to such coverage does not increase in the event the employment relationship terminates.

An agency may recover premiums it paid for maintaining group health plan coverage during any period of unpaid FMLA leave if the employee fails to return to work after the employee's FMLA leave entitlement has expired, unless the reason the employee does not return to work is due to:

1. The continuation, recurrence, or onset of a serious health condition that would entitle the employee to FMLA leave (either affecting the employee or an immediate family member), or
2. Other circumstances beyond the control of the employee.

If an employee fails to return to work at the end of the leave period because of a serious health condition, the agency may request that the employee furnish a medical certification from the health care provider of the employee, or the employee's family member to support the employee's claim. If the employee fails to furnish the requested certification within 30 days of the agency's request, the agency may recover the health insurance premiums it paid during the period of unpaid leave.

The agency and the employee are encouraged to work out arrangements, which accommodate both administrative convenience for the agency and the financial situation of the employee who would not be receiving a paycheck during the leave period. There is a 30-day grace period after the agreed upon date for payment within, which the employee may make payment of the premium without affecting health benefit coverage. If the employee does not make the payment within the 30-day grace period, the agency may cease to maintain health coverage on the date the grace period ends, or the agency may continue health coverage by making both the agency's and employee's premium payments.

To drop the coverage for an employee whose premium payment is late, the agency must provide written notice to the employee that the payment has not been received. Such notice must be mailed to the employee at least fifteen (15) days before coverage is to cease, advising that coverage will be dropped on a specified date at least fifteen (15) days after the date of the letter unless the payment has been received by that date.

If an employee fails to pay his/her share of health benefit premiums and the agency elects to continue health coverage for the employee (to be able to

restore the employee on return to work) by paying the employee's share, and the employee fails to return to work at the end of the FMLA leave period in circumstances where recovery is allowed, the agency may recover all of the health benefit premiums it paid (both the agency's and the employee's share) during the period of unpaid FMLA leave. An employee who does not return to work for at least 30 calendar days is considered to have failed to "return" to work for this purpose. If the agency chooses to continue coverage in this manner, the agency is entitled to recover the additional payments made on behalf of the employee while on leave after the employee returns to work.

C. Seniority, Major Medical and Personal Leave

An employee is not entitled to accrue any additional benefits or seniority during unpaid FMLA leave. Benefits accrued at the time leave began, however, (e.g., paid major medical or personal leave to the extent not substituted for FMLA leave) must be available to an employee upon return from leave.

D. Life Insurance

If an employee desires to continue life insurance, disability insurance, or other types of benefits for, which he or she typically pays during unpaid FMLA leave, the agency is required to follow established policies or practices for continuing such benefits for other instances of leave without pay. If the agency has no established policy, the employee and the agency are encouraged to agree upon arrangements before FMLA leave begins.

E. Retirement

With respect to pension and other retirement plans, any period of FMLA leave will be treated as continued service (i.e., no break in service) for purposes of vesting and eligibility to participate.

7.91.13 Return to Duty from Family Leave

As a condition to return to duty, the employee may be required to provide certification from the employee's health care provider that the employee is able to resume work. An agency requiring any fitness for duty certifications must have a uniform applied policy that is based on the nature of the illness or duration of the absence. The agency may seek fitness for duty certification only with regard to the particular health condition that caused the employee's need for FMLA leave. Agency requirements must be job-related and consistent with business necessity.

7.91.14 Enforcement

The U. S. Department of Labor (DOL) is responsible for the enforcement of the FMLA and may investigate and resolve complaints and violations under the Act in the same manner as under the Fair Labor Standards Act (FLSA). For assistance in complying with the FMLA, state agency employers may contact the area office of the Wage and Hour Division of the DOL. Additionally, federal regulations governing FMLA will be added to the Appendix of the Mississippi State Personnel Board Policy and Procedures Manual.

EDUCATIONAL ASSISTANCE AGREEMENT

Pursuant to the authority provided in Section 37-101-293, Mississippi Code of 1972, Annotated, as amended, this agreement is entered into by and between the _____ (hereinafter referred to as "Agency"), an agency of the State of Mississippi and _____, (hereinafter referred to as "Recipient") who is currently employed and has been employed with a state agency for a period of at least three (3) years immediately prior to the date of application, or is working at a state agency at the time of application for part-time graduate level education in a particular profession deemed by the administrative head of the state agency to meet a critical need within the state agency.

In consideration of the mutual promises contained herein, the parties agree to the following terms and conditions:

1. Recipient agrees to attend _____ for the period beginning and ending _____, to pursue a course of study in _____, and has been accepted for such course of study.
2. Agency agrees to reimburse tuition and fees of approximately _____ and book fees of approximately _____ and/or to authorize educational leave of approximately _____. These provisions apply only in the case of successfully completed courses as defined in paragraph nine (9).
3. Recipient agrees to work as an employee within the Agency for a period of year(s) beginning _____ and ending _____, after completion of the course of study.
4. The time periods and dollar figures set forth in paragraphs one (1) through three (3) are subject to change depending on actual course work completed, length of time needed to complete course work, whether the student is full or part-time, and the like. Consequently, Recipient's progress will be evaluated at least yearly, and the figures in paragraphs one (1) through three (3) adjusted accordingly, if needed.
5. If Recipient does not work as an employee of the Agency for the period of time specified herein, Recipient shall be liable for repayment on demand of the remaining portion of the compensation that he or she was paid while on paid educational leave and educational expenses paid, with interest accruing at ten percent (10%) per annum from the Recipient's date of completion of the approved course of study, or the date the Recipient last worked at the Agency, whichever is the later date. In addition, Recipient

agrees to pay liquidated damages equal to Two Thousand Dollars (\$2,000.00) per year for each year remaining to be served under this agreement.

- 6. If Recipient fails to successfully complete the approved course work or withdraws from school at any time before completing the course of study, Recipient agrees to repay on demand the amount of the total compensation paid while on paid educational leave, with interest accruing at ten percent (10%) per annum from the date Recipient failed or withdrew from school. However, if Recipient fails to successfully complete the approved course work or withdraws from school prior to completing the course of study and remains or returns to work in the same position Recipient held in the Agency prior to accepting educational assistance and remains employed in such position for a period equal to the period of time that Recipient received such leave, Recipient shall not be liable for payment of any interest on the amount owed, but shall remain liable for the total compensation paid while on educational leave.
- 7. The administrative head of the Agency may cancel and terminate this contract upon such cause as he or she deems sufficient. Notification will be given Recipient by forwarding first class mail, postage prepaid to the following address_____.
- 8. If educational leave is granted, the Agency agrees to compensate Recipient at a salary of _____per month during the period of leave specified herein.
- 9. The Agency will reimburse Recipient for approved educational expenses only after Recipient submits documentation that the approved course(s) have been successfully completed. Successful completion is defined as: _____.
- 10. The award and administration of educational assistance shall be in accordance with the policies and procedures of the State Personnel Board and the Agency, which are incorporated herein and are made a part of this agreement.
- 11. Additional terms and conditions, if any, are contained in Exhibit "A" attached hereto.
- 12. Any modification or amendment to this agreement shall only be made in writing and approved by the parties hereto.

Agreed to this the _____day of _____, 20__.

Employee Recipient

Subscribed and sworn to before me this the ____ day of _____, 20__.

Notary Public

This agreement is acknowledged and accepted by me this the ____ day of _____, 20__.

Administrative Head

ATTEST:

Name and Title

SPB Form 770.1-88 Rev. 3/93	STATE PERSONNEL BOARD REQUEST FOR FEDERALLY FUNDED INCENTIVE BONUS AWARD APPROVAL
TO	
FROM	
DATE	
I hereby request approval to disburse federally funded incentive bonus awards to the individuals listed on the attached Employee Incentive Award Listing Form.	
I also certify by my signature below that _____ Agency Name	
is in receipt of federal funds, which are specifically designated for incentive bonus awards, and that all bonus award disbursements shall be made entirely from those federal funds specifically designated for incentive bonus awards.	
I further certify that disbursement of these incentive bonus awards shall be made in strict compliance with federal, state, and Mississippi State Personnel Board guidelines, policies, and procedures governing the award of federally funded incentive bonus awards.	

Total dollar amount of incentive bonus awards under this request is:	
Anticipated date of awards to employees is:	
Signature of Appointing Authority:	
cc: Department of Finance and Administration State Treasurer State Auditor	

State Personnel Board Training Registration Form		
Please complete a separate form for each participant		
Participant's Name:	Social Security Number:	
Title:	Participant's Telephone Number:	
Name of Agency & Address:	Special Services Needed:	
Participant's Supervisor's Signature	Supervisor' Telephone Number:	
Agency Director's Signature (or)	Agency Training Coordinator	
Workshop Titles(s)	Date Requested	Cost
Billing Information		
Payment Attached for \$_____ made payable to State Personnel Board #3610		
OR		
Bill Agency: _____		
Attention of: _____		
Address: _____		
<p>All registrations should be made as far in advance of the course start date as possible, as each course is filled on a first-come, first-serve basis. Agencies will be billed for registrants unless cancellation is received ten (10) days prior to the course start date. Substitutions are allowed up to the start of the course (<i>advance notice requested</i>). Written confirmation will be sent to all students seven (7) to ten (10) days prior to course date. If you do not receive a confirmation/cancellation notice, please call 601-359-2758.</p>		
<p>Mail all registrations and/or requests for information to:</p> <p>State Personnel Board Office of Training 301 North Lamar Street, Suite 203 Jackson, Mississippi 39201</p>		

