



**MISSISSIPPI MILITARY
DEPARTMENT**

**POLICIES AND
PROCEDURES**

FOR

**STATE HUMAN
RESOURCES**

MANUAL AUTHORIZATION

This manual contains policies and rules which apply to all state employees of the Mississippi Military Department. This edition replaces and supersedes all previous editions of the manual.

AMOS P. PARKER
Brigadier General (Retired), MSNG
Director State Resources

JANSON D. BOYLES
Major General, MSNG
The Adjutant General of Mississippi

TABLE OF CONTENTS

CHAPTER 1 – BASIC POLICY	PARAGRAPH	PAGE
Basic Policy	1-1	1
Policy	1-2	2
Equal Employment Opportunity	1-3	2
Immigration Reform & Contract Act	1-4	3
Drug Free Workplace	1-5	3
Americans with Disabilities Act	1-6	4
Recruitment	1-7	4
 CHAPTER 2 – STANDARDS OF CONDUCT		
Standards of Conduct	2-1	5
Operation of Motor Vehicles	2-2	6
Political Activity	2-3	7
Political Contributions & Services	2-4	7
Political Use of Authority to Influence	2-5	7
Use of Official Authority to Influence	2-6	7
Violations of Provisions Governing Political Act	2-7	8
Grievance Appeals Regarding Political Act	2-8	8
Activity of Indirection	2-9	8
Conflict of Interest	2-10	8
Discouraged Relationships	2-11	8
Employment of Relatives	2-12	9
Discipline & Corrective Action	2-13	9
Grievance & Appeal	2-14	9
Outside Employment	2-15	9
Wireless Communication Devices	2-16	10
Expectation to Privacy	2-17	10
Right to Search	2-18	10
Employee Records	2-19	11
 CHAPTER 3 – EMPLOYEE RELATIONS		
Full Time Employees	3-1	12
Employee Work Schedule	3-2	12
Holidays	3-3	12
Leave	3-4	13
USERRA	3-5	15

	PARAGRAPH	PAGE
Unemployment Compensation	3-6	15
Workers' Compensation	3-7	16
Length of Service	3-8	17
Retirement	3-9	17
MS Deferred Comp Plan	3-10	18
State Offices Credit Union	3-11	18
Cafeteria Plan	3-12	18
State Employees' Health Plan	3-13	18
COBRA	3-14	19
Group Life Insurance	3-15	20
Supplemental Insurance	3-16	20
Employee Assistance Program	3-17	20
Physical Fitness Program	3-18	20
Training	3-19	21
State Employee Tuition Assistance Program	3-20	21
Reduction in Force	3-21	23
Furlough Leave	3-22	24

CHAPTER 4 – TIME AND ATTENDANCE

Holidays	4-1	25
Personal & Major Medical Leave	4-2	25
Donated Leave	4-3	28
Family Medical Leave Act (FMLA)	4-4	29
Military Leave	4-5	35
Military Deployment	4-6	36
Administrative Leave	4-7	36
Authorized Leave of Absence	4-8	36
Furlough Leave	4-9	37
Time Keeping	4-10	37
Leave Without Pay	4-11	40
Recording Procedures	4-12	40

CHAPTER 5 – PERFORMANCE EVALUATION SYSTEM

Purpose	5-1	41
Annual Performance	5-2	41
General Rule	5-3	41
Responsibilities	5-4	42

	PARAGRAPH	PAGE
Job Descriptions	5-5	43
Performance Improvement Plan	5-6	43
Assessment	5-7	44

CHAPTER 6 – RECRUITMENT AND PLACEMENT

Policy	6-1	45
Scope	6-2	45
Responsibilities	6-3	45
Request for Filling Vacancy	6-4	45
Vacancies	6-5	45
Posting Announcements	6-6	46
Applicant Interviews	6-7	46
Recommendations of Interview Panel	6-8	48
Approval of Selection	6-9	48
Effective Dates	6-10	48
Reemployment	6-11	49

CHAPTER 7 – POSITION MGMT, CLASSIFICATION & COMPENSATION

Position Management	7-1	50
Allocation of Position	7-2	50
Organization	7-3	51
Position Descriptions	7-4	51
Classification Maintenance	7-5	51
Classification Determinations	7-6	51
Request for Reallocation of Position	7-7	51
Status of Incumbents when Position Reallocated	7-8	52
Compensation	7-9	52
Pay Range Assignment	7-10	52
Pay Range Realignment	7-11	52
Implementation of Salaries	7-12	52
Promotions & Position Transfers	7-13	53
Salary Determination	7-14	53
Detail to Special Duty	7-15	54
Shift Differential	7-16	54
Education Benchmark	7-17	54
Merit Performance Award	7-18	55
The Adjutant General's Salary	7-19	55
Back Pay	7-20	56
Salary Range	7-21	56
Minimum Wage	7-22	56

	PARAGRAPH	PAGE
Exceptions	7-23	56
Probationary Period	7-24	56

CHAPTER 8 – DISCIPLINE, CORRECTIVE ACTION & SEPARATION OF EMPLOYMENT

Authority & Scope	8-1	58
Discipline & Corrective Action	8-2	58
Schedule of Offenses & Authorized Disciplinary Action	8-3	58
Forms of Discipline	8-4	60
Corrective Action Preliminary to Formal Disciplinary Action	8-5	60
Documentation of Corrective Disciplinary Action	8-6	60
The Adjutant General	8-7	61
Suspension	8-8	61
Disciplinary Demotion	8-9	61
Dismissal	8-10	61
Due Process	8-11	61
Procedural Process for Disciplinary Action	8-12	62
Non-Retention of Probationary State Employee	8-13	62
Procedure for Non-Retention of Probationary State Employee	8-14	62

CHAPTER 9 – GRIEVANCE

Grievance Procedure	9-1	63
Who Can File a Grievance	9-2	63
Grievance Issues	9-3	63
Non-Grieveable Issues	9-4	63
Grievance Procedure	9-5	64
Grievance Time Limit	9-6	65

CHAPTER 10 – CONTRACT WORKERS

Purpose	10-1	66
Contract Personnel	10-2	66
Contract Worker Salary Determination	10-3	66
Procedure for Establishing State Contract Agreement	10-4	66
Contract Worker New Hire	10-5	67
Timekeeping	10-6	67
Contract Renewal	10-7	67
Contract Modifications	10-8	67

PROPRIETARY INFORMATION

The Mississippi Military Department is a public entity funded solely by public appropriations either from the State of Mississippi or the Federal Government. All files, convened board results, personnel records, personnel medical records, accounts, records (of any kind), materials, documents, drawings, sketches, designs, diagrams, models, blueprints, plans, specifications, manuals, books, forms, receipts, notes, reports, memoranda, studies, data, calculations, recordings, catalogues, compilations of information, correspondence, e-mails, financial data, password data, user ID data, customer data, affiliate data, and all copies, abstracts and summaries of the foregoing, instruments, tools and equipment and all other physical items related to the Mississippi Military Department or to employment with the Mississippi Military Department, other than merely personal items, whether of a public nature or not, and whether prepared by the employee or not, are and shall remain the sole and exclusive property of the Mississippi Military Department.

These materials remain the property of the Mississippi Military Department and will not be publicly provided to any person, or entity, and will not be removed from the premises of the Mississippi Military Department, except as required by law or in the course of employment by the Mississippi Military Department, without prior written consent of Senior Management in each instance. Any such requests for these documents will be provided in writing to the Director, State Resources, Mississippi Military Department for action.

In the event of termination of employment with the Mississippi Military Department, for any reason whatsoever, all said proprietary property of the Mississippi Military Department will be returned to the Mississippi Military Department. Any violation of proprietary information will result in termination and/or possible prosecution.

CHAPTER 1

BASIC POLICY

- 1-1** Express statutory powers of The Adjutant General are set forth in The Mississippi Code of 1972 Annotated, §33-3-11. Section §33-3-11 provides in part that The Adjutant General shall:
- A. Appoint all of the employees of his/her department and he/she may remove any of them at his/her discretion.
 - B. The Adjutant General, with the approval of the Governor, shall provide for and be responsible for the organization, training, tactical employment, and discipline of the Mississippi National Guard, Mississippi State Guard and the unorganized militia when called to active state duty.
 - C. Nothing in this manual shall constitute a waiver, relinquishment, abdication or other diminution of the constitutional and statutory authority of The Adjutant General over the Mississippi Military Department.
 - D. Nothing in this manual grants any member or employee of the Mississippi Military Department any guarantee of tenure. This manual is not an employment contract.
 - E. Nothing in this manual alters or relinquishes the statutory authority of The Adjutant General to remove any employee of the Mississippi Military Department at his/her sole discretion.
 - F. Nothing in this manual creates any employment rights beyond those already existing under other applicable laws or regulations.
 - G. All employment with the Mississippi Military Department, both state employees and contract workers, is at-will.
 - H. Nothing in this manual creates any property rights for any member or employee of the Mississippi Military Department.
 - I. Any process, grievance procedures, appeal procedures or other procedures set out herein are purely privileges, not rights. The Adjutant General may, in his/her sole discretion, grant or deny the Mississippi Military Department employees such process if he/she deems it is in the best interest of the Mississippi Military Department.
 - J. Nothing in this manual shall be interpreted as a waiver of the Mississippi Military Department or the State of Mississippi's sovereign immunity (including, but not limited to, the protections set out in the Mississippi Code of 1972, Annotated § 11-46-1 through 11-46-23.
 - K. Nothing in this manual shall be interpreted as a waiver or relinquishment of the Mississippi Military Department or State of Mississippi's 11th Amendment immunity.
 - L. Any employee may recommend an amendment or change to this manual; however, The Adjutant General retains sole authority and discretion to adopt, or reject, any proposed amendments or changes.
 - M. Exceptions Disciplinary Actions: Any requests for exceptions to policy regarding discipline, corrective action and separation of employment rules and policies set forth in the State Human Resources Policies and Procedures will be fully justified and submitted in writing,

through channels, to the Adjutant General. The Adjutant General retains sole authority and discretion to adopt, or reject, any proposed exceptions based on the express statutory powers granted in the Mississippi Code of 1972 Annotated 33-3-11.

- N. Exceptions Administrative Actions: Any requests for exceptions to policy regarding recruitment and placement, position management, compensation or any other administrative action set forth in the State Human Resources Policies and Procedures will be fully justified and submitted in writing, through channels, to the Director of State Resources.

1-2 Policy: The policies contained herein are in accordance with the following principles:

- A. Recruiting, selecting, and advancing employees shall be based on their relative ability, knowledge, skills and estimated potential, including open consideration of qualified applicants for initial appointment.
- B. Equitable and adequate compensation shall be provided.
- C. Employees shall be trained, as needed, to assure high quality performance.
- D. Employees shall be retained on the basis of the adequacy of their performance and provisions shall be made for correcting inadequate performance and separating employees whose inadequate performance cannot be corrected.
- E. Fair treatment of applicants and employees in all aspects of personnel administration without regard to race, religious creed, political affiliation, national origin, sex, age or disability. Employees shall be informed of their political rights and prohibited practices.

1-3 Equal Employment Opportunity/Affirmative Action:

- A. Equal employment opportunity for all individuals regardless of race, creed, sex, religion, national origin, age, physical handicap, disability or political affiliation is the policy of the Mississippi Military Department. In order to assure nondiscriminatory personnel administration, the Mississippi Military Department promotes nondiscriminatory practices and procedures in all phases of state personnel administration. This equal employment opportunity policy prohibits any form of unlawful discrimination based on the aforementioned and other considerations made unlawful by federal or state laws.
- B. It is the view of the Mississippi Military Department that equal employment opportunity can only be attained through commitment to complying with all applicable laws affording equal employment opportunities to individuals including, among others, persons with disabilities. The selection process and criteria must assure fair and equitable treatment of all applicants and employees and not disqualify them if they have disabilities that prohibit or limit their ability to perform nonessential or marginal job function. It is the policy of the Mississippi Military Department that applicants and employees with disabilities are provided equal employment opportunity in the application process as well as employment practices and enjoy the same privileges and benefits of employment as employees without disabilities.

- C. Recruitment efforts or initial appointments shall be planned and carried out in a manner that assures open competition and equal consideration of all qualified candidates. Special emphasis shall be placed on recruiting efforts to attract minorities, women or other groups that may be substantially underrepresented in the work forces to help in providing an opportunity for them to be among the candidates from whom appointment may be made.
- D. The Mississippi Military Department requires the various facilities to internally review their responsibilities in terms of affirmative action. The Mississippi Military Department commits its' resources to provide technical assistance, guidance, and consultation in achieving these objectives.

1-4 Immigration Reform and Control Act: In accordance with the Immigration Reform and Control Act of 1986, Public Law 99-603, November 6, 1986, (IRCA), all persons hired after 31 May 1987 are required to complete Form I-9, Employment Eligibility Verification Form to substantiate their identity and eligibility for employment within three (3) working days of date of hire. Each Base Commander/Work Center must complete their portion of Form I-9 and maintain a copy for a period of three (3) years or one (1) year after termination, whichever is later. It is recommended that the Form I-9 not be retained in the employee's personnel file, but rather in a separate Form I-9 file.

1-5 Drug-free Workplace Act of 1988 (Title 5, Subtitle D, Anti-Drug Abuse Act of 1988, Public Law No. 100-690 102 Stat. 4181):

- A. The Mississippi Military Department is committed to maintaining a drug-free workplace. The unlawful manufacture, distribution, dispensation, possession or use of a controlled substance is prohibited in all workplaces of the Mississippi Military Department.
- B. Appropriate disciplinary actions, to include termination, will be taken against any employee for violations of such prohibition.
- C. Facilities will implement a drug-free awareness program to inform employees about the dangers of drug abuse in the workplace. Facility Commanders will post the Mississippi Military Department's policy of maintaining a drug-free workplace in a visible area to all employees, as well as information on available drug counseling and rehabilitation treatment centers; and penalties for employees for drug abuse violations occurring in the workplace.
- D. Every effort must be made to help those that seek assistance for drug abuse; however, every effort must be made to eliminate those who continue its use.
- E. As a condition of employment, each employee will abide by the terms of this policy and agree to notify the appropriate supervisory level of any drug conviction for a violation occurring in the workplace no later than five (5) days after such conviction.
- F. It is the responsibility of every supervisor to take appropriate personnel action upon notification from an employee or otherwise received actual notice of such conviction.

1-6 Americans with Disabilities Act of 1990 (ADA):

- A. The ADA prohibits discrimination against qualified individuals with disabilities in the recruiting, application and hiring process, as well as in the terms and conditions of employment, including promotion and training procedures. Protection is afforded to qualified individuals with a disability who can perform the essential functions of a job. Nondiscrimination includes providing accessibility to facilities. Discrimination against an individual because of a relationship or association with an individual with a disability is also prohibited.
- B. Facilities/entities are required to make “reasonable accommodation” to known physical or mental limitations of an otherwise qualified applicant or employee with a disability unless the facility can demonstrate that the accommodation would impose an undue hardship.
- C. 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 to be 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.

1-7 Recruitment: The Mississippi Military Department

- A. The Mississippi Military Department shall administer a program designed to recruit, select, and advance employees on the basis of their relative ability, knowledge, skills and estimated potential.

CHAPTER 2

STANDARDS OF CONDUCT

2-1 Standards of Conduct: State employees of the Mississippi Military Department will maintain high standards of conduct in order to ensure optimum performance of duties and responsibilities in service to the State of Mississippi. Employees will adhere to guidelines as set forth in this manual to ensure the highest standards of honesty, integrity, equality and impartiality in all aspects of employment. State employees will demonstrate sound judgment and adherence to policies and procedures in order to avoid misconduct or conflicts of interests that would be harmful to themselves, others, the Mississippi Military Department or the State of Mississippi.

Standards of Conduct are as follows but not limited to:

- A. Attendance. All employees will report to and leave work at such time as designated by supervisory authority. Planned leave shall be arranged with the supervisor in advance and unexpected leave shall be reported as promptly as possible to the supervisor at the beginning of the employee's scheduled workday.
- B. Work Performance. All employees will meet established performance standards as prescribed by supervisory authority. Any conditions or circumstances in the work environment that prevent employees from performing effectively will be reported to their supervisors immediately.
- C. Workplace Harassment. Supervisors will provide a workplace free from harassment without regard to race, religious creed, political affiliation, national origin, sex, age, disability or retaliation. This prohibition includes, but is not limited to remarks, gestures, physical contact, display or circulation of written or electronic materials, pictures or objects derogatory to any person based on the characteristics listed above. Such behavior is strictly forbidden and will not be tolerated at any organizational level.
 - (1) The following is a non-exhaustive list of actions that may be inappropriate: epithets; derogatory or suggestive comments, slurs or gestures; unwelcome or offensive physical touching; and offensive posters, e-mail(s), cartoons, pictures or drawings aimed at a protected classification. No employee may imply, suggest or threaten that an applicant's or employee's cooperation in any form of harassment or refusal to so cooperate, will have any effect on the individual's employment status, including but not limited to assignment, compensation, advancement or any other condition of employment.
 - (2) Harassment or discrimination by someone within the same protected class, as well as by someone of another protected class, is prohibited. For example, harassing conduct by a male toward a female because of her sex as well as harassing conduct by a male toward another male because of his sex is prohibited.
 - (3) No employee or applicant should endure workplace harassment. Any person believing he or she has been illegally harassed should immediately report the incident to The Mississippi Military Department, ATTN: State Human Resources Director, P.O. Box 5027, Jackson, MS 39296-5027.

- D. Workplace Violence. Supervisors will provide a workplace environment free from violence. 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, or property damage.
- (1) Harassment is engaging in actions that include but are not limited to retaliation, abusive conduct, verbal abuse and/or behavior intended to frighten, coerce, or induce duress. Intimidation is behavior or communication designed or intended to intimidate, menace, or frighten another person. A threat is the expression of intent to cause physical or mental harm. An expression constitutes a threat without regard to whether the party communicating the threat has the present ability to carry it out and without regard to whether the expression is contingent, conditional, future or verbal. A physical attack is hostile physical contact or attempted physical contact such as hitting, fighting, pushing, shoving or throwing objects.
- (2) Property damage is intentional damage to property and includes property owned by the State, employees, visitors or vendors. The workplace environment consists of the building(s), grounds, and other considerations. It also includes the attitude the employees have about their belief that they will be safe at work.
- E. All full-time employees of the Mississippi National Guard (MSNG), including State employees, who are members of the MS National Guard will wear their respective Army or Air Force uniform during the work-week in performance of their full-time employment. Exceptions are made where an employee's duty assignment may require the wear of a specified uniform approved by The Adjutant General.
- (1) All State employees, who are not members of the MSNG, will wear attire appropriate to their duty assignments. In all cases, state employees are expected to portray a professional appearance.
- (2) The employees of the Mississippi Military Department represent a professional business office for the Adjutant General. In order to build an effective and professional work force we must dress appropriately. The following criteria will be strictly adhered to:
- a. Male employees will wear a shirt with a collar (turtle necks will suffice), dress slacks/clean pressed blue jeans, business casual shoes. If worn, beards will be clean, neatly trimmed and present a professional appearance.
 - b. Female employees will wear a dress, skirt, slacks, pant suits, dress blouse, business casual shoes, jeans (if appropriate to the duties being performed), etc.
 - c. The following items are not considered to be business casual: Jogging suits/outfits, T-shirts, Tank Tops, tennis/jogging shoes, flip flops, tights/leggings (without skirts or dresses, extremely low-cut blouses, ball caps, etc.
 - d. Supervisors will ensure that the clothing worn by employees is appropriate for the duties being performed by the employee.

2-2 **Operation of Motor Vehicles:**

- A. State employees are authorized to operate motor vehicles within their scope of assigned duties and for official purposes only. It is the responsibility of the supervisor to ensure the employee is qualified and properly licensed to operate the vehicle and the mission is appropriate for the employee.

- B. The preferred vehicle for a state employee’s official travel within the state is a state vehicle belonging to the Mississippi Military Department. State employees may be authorized to operate other vehicles to include federal GSA vehicles, leased vehicles and property of other state or federal agencies. It is important to consider the mission and purpose of the trip when choosing the type vehicle which will be used. Always ensure that the driver of any vehicle is properly licensed and approved to operate the specific vehicle.
- C. The State of Mississippi Tort Claims Act provides liability coverage for state employees when an incident occurs during the “normal scope and course of duty.” When a third party is involved and a suit is filed for damages resulting from an accident, the Tort Claims Board will defend the state as well as the state employee involved. A state employee is not provided coverage under the Tort Claims Act when an incident occurs outside the normal course of duty or when the employee is driving under the influence or in the commission of a crime or other criminal act. State employees are encouraged to consider liability coverage as a part of their personal liability insurance policy. This is especially significant to those employees that operate Federal GSA vehicles in the normal course of duties. The Tort Claims Act will not cover the cost of repair to Federal GSA vehicles operated by state employees.
- D. State employees may be authorized to use their personally owned vehicle (POV) for travel when a state vehicle is not available. The supervisor must authorize this use and must obtain approval from the Comptroller using the request form outlined in the State Travel SOP. Reimbursement for use of a POV for official travel will require advance approval and authorization to ensure adequate funds are available to do so.

2-3 Political Activity: Employees may expect to work in an atmosphere that is free from political influence or coercion.

2-4 Political Contributions and Services:

- A. No employee shall, directly or indirectly, give, render, pay, offer, solicit or accept any money, service, or other considered valuables for or on account of any appointment, proposed appointment, promotion or proposed promotion, or any other offer of advantage.
- B. An employee is not obliged by reason of employment to contribute to a political fund or render political services and may not be removed or otherwise prejudiced for refusal to do so.

2-5 Political Use of Authority or Influence: No employee may request or accept from any elected official any advantage relating to employment status or compensation.

2-6 Use of Official Authority to Influence an Election: No employee shall use official authority for the purpose of interfering with or affecting the result of an election or a nomination for office.

2-7 Violations of Provisions Governing Political Activity:

- A. Any employee who violates any of the provisions governing political activity may be subject to appropriate disciplinary action, including dismissal.
- B. Any employee who uses official authority or influence to coerce, by threat of discharge from employment or otherwise, the political action of a person or body shall be subject to termination.

2-8 Grievance and Appeals Regarding Political Activity: Any applicant or employee has the right to grieve and appeal any action which is believed to be discriminatory, or which otherwise adversely affects employment status or compensation, where such action is believed to be taken on the basis of political opinion or illegal political activity.

2-9 Activity by Indirection: Any actions an employee is prohibited from doing directly may not be done indirectly or through another.

2-10 Conflict of Interest:

- A. Employees must be especially careful to avoid using, or appearing to use, their position for personal gain, giving unjustified preference, or losing sight of the need for efficient and impartial decisions in methods of operation. No act should be committed which could result in questioning the integrity of the Mississippi Military Department.
- B. Employees are not to engage in any activity in either a private or official capacity where a conflict of interest may exist. An employee's first loyalty should be to the public interest, and they should avoid dealings, associations, or interest that could affect their objectivity in performing their job or in making the decisions required of their position. However, employees are encouraged to participate in professional and civic organizations if such participation does not adversely affect their role as an employee.

2-11 Discouraged Relationships:

- A. All employees are required to behave at all times in a professional manner that avoids unlawful discrimination, including harassment, conflict of interest, or risk of a claim or loss to the State of Mississippi. These requirements include maintenance of a work environment in which the Military Department discourages romantic, dating or sexual relationships between:
 - (1) Employees working in a common sphere of influence, meaning a relationship between a supervisor and subordinate, or any relationship in which one employee supervises or manages, directly or indirectly, another employee or makes decisions concerning another employee's terms, conditions or privileges of employment.
 - (2) An employee and a contractor, subcontractor, potential employees or vendor when the employee has the capacity to influence, directly or indirectly, the business relationship or potential employment.

- B. Such relationships can cause conflict and adversely affect morale, operations and productivity because of the perception of impropriety or unfairness and the possibility of accusations that one's position is being used to obtain or grant sexual favors, and of inappropriate influence on others, favoritism, bias or unfair treatment.

2-12 Employment of Relatives: No person shall be employed in a position which, at any ascending or descending level of such position's supervisory line, (First or Second level) a spouse, parent, grandparent, aunt, uncle, great-grandparent, child, grandchild, great-grandchild, brother, nephew, sister or niece, by blood, marriage or adoption of the person or such person's spouse, is employed. This policy applies to all employment positions.

2-13 Discipline and Corrective Action: Each supervisory authority must ensure disciplinary actions are fair, prompt, and legally sufficient. The Adjutant General requires that all forms of discipline comport with due process.

2-14 Grievance and Appeal: Applicants or employees who feel they have been discriminated against or otherwise adversely affected in employment status or compensation on the basis of race, religious creed, political affiliation, national origin, sex, age or disability in any personnel action, may file a grievance or appeal or both when such meets the criteria and is in accordance with guidelines contained within these procedures.

2-15 Outside Employment: All employees must be available for and devote their full attention to their assigned duties and responsibilities during scheduled working hours. Further, employees having emergency response responsibilities must be reasonably available during non-scheduled hours. Each employee must ensure that his or her off-the-job activities do not adversely affect job performance and are not contrary to the interest of the State. For this reason, the following guidelines and rules are established for all employees:

- A. Employment with the State will be the employee's primary job responsibility and obligation to any other employment will be deemed secondary.
- B. An employee should not seek or accept outside or secondary employment that may negatively impact or affect the employee's punctual and consistent attendance, ability to satisfactorily and efficiently perform his or her duties or that creates a conflict of interest.
- C. The demands or requirements of outside or secondary employment may not be considered as excusable reasons for absences, tardiness, poor performance or other areas of concern from a personnel perspective.
- D. Prior to seeking or accepting outside employment, full-time regular employees must discuss a secondary job with management to determine whether or not the job is considered a "conflict of interest" as previously defined. This also applies if an outside activity exists at the time of employment.
- E. Outside employment refers to a job or task performed for which any form of compensation is received. This includes the receipt of a benefit as opposed to monetary compensation; for example, performing a service and receiving goods for the task performed instead of receiving a salary or wage. Outside employment does not refer to being a member of a

reserve component of the military.

2-16 Wireless Communication Devices and Electronic Communications:

- A. Wireless communication equipment includes cellular telephones, personal digital assistant devices, and standard and two-way pagers, as well as any similar devices that perform some or all of these functions.
- (1) Wireless communication devices shall be used for legitimate State business only. Use of an agency-provided cellular phone for personal calls may result in appropriate disciplinary action and/or the loss of the use of the phone.
- (2) The agency may not reimburse employees for any charges on personal wireless communication devices.
- (3) Employees should be aware that cellular phone transmissions are not secure transmissions. Confidential information regarding official business should be transmitted from a secure environment.

2-17 Expectation of Privacy: State employees of the Military Department have no expectation of privacy in their work premises. All State property, including an employee's workstation, all physical storage areas and all electronic storage areas, including all software and data on all computers, voicemail and email, are subject to access and inspection at any time by management, other employees or third parties designated by management. Leadership may access or inspect an employee's work area at any time to find materials or obtain information. Employees should not store any personal documents or materials on or in State property where they can be seen or read by others.

2-18 Right to Search:

- A. The Adjutant General reserves the right to permit supervisors to conduct reasonable searches on, in or of state property and on state premises including, at any time, locked and unlocked areas, for any reason related to the operation of state business. Consent by the employee is implied and lack of cooperation or refusal to permit a search can result in immediate discipline.
- B. The Mississippi Military Department may conduct inspections or searches for illegal drugs, weapons, explosives, contraband, or other prohibited materials on, around or stored in any property controlled by the Military Department.
- C. Inspections or searches for prohibited materials may be conducted by any member of management, an independent person appointed by management, law enforcement representative, or by the Mississippi Military Department with its own personnel.
- D. The right to conduct routine searches of agency premises is in addition to the right of the Mississippi Military Department to access all state property without requiring consent of the employee or in state property, at any time, without notice, whenever there is a reasonable basis that an employee may be in the possession of such materials in violation of policy.

2-19 Employee Records:

- A. The Mississippi Military Department, Human Resources Office, located at Joint Force Headquarters, Jackson, MS is the repository for all official employee personnel files. These files contain sensitive and personal identifying information that is protected under the Freedom of Information Act of 1974.
 - (1) These records include: Application for employment, personnel data summary, attendance records, personnel actions, performance evaluations, cumulative leave records, discipline record, letters of commendation, payroll deduction data, bond, training records, etc.
- B. Subordinate agencies and timekeepers will maintain a “shell” personnel file that includes, personnel data summary, personnel actions, performance evaluations, discipline record, letters of commendation, and training records.
- C. All favorable and unfavorable records will be forwarded to the Mississippi Military Department, Human Resources Office, located at Joint Force Headquarters, Jackson, MS within 5 days of being presented to the employee.

CHAPTER 3

EMPLOYEE RELATIONS

3-1 Full Time Employees: The benefits detailed herein are granted to full-time (probationary and non-probationary) and full-time temporary employees (time-limited). IAW § 25-9-120 of The Mississippi Code 1972, Annotated, contract workers are not state employees and are not eligible to participate in the benefits programs as provided to employees of the State of Mississippi.

3-2 Employee Work Schedule:

- A. The compressed work schedule (CWS) is the basic, authorized work schedule for state employees. Hours of duty are 0700-1630 or 0730 - 1700 for each nine (9) hour workday (Tuesday thru Friday), 0700-1530 or 0730 – 1600 for the eight (8) hour Monday. The lunch break is 1130-1200 daily.
- B. A work period is defined as forty (40) hours per seven (7) day cycle, 173.929 hours per month, and 2087.143 hours per year.
- C. Although duty requirements of certain state employees may necessitate modified work schedules and work periods, any exceptions to the CWS policy must be submitted in writing with justification through appropriate channels to the State Human Resources Division where approval/disapproval will be obtained from The Director State Resources.
- D. In accordance with provisions of the Fair Labor Standards Act (FLSA), firefighters and law enforcement officers (as defined by the FLSA) are exempt from the forty (40) hour work period standard.
 - (1) Personnel engaged in firefighting activities usually have a work period of twenty-eight (28) days with a maximum of 212 hours. A work year is comprised of 13 work periods of 212 hours for a maximum of 2756 hours.
 - (2) Law enforcement personnel may be assigned a seven (7) day work period of forty-three (43) hours. The hourly work year for law enforcement personnel is 2223 hours. Personnel performing Law Enforcement duties will work a 28 day, 171 hours per cycle schedule.

NOTE: The Military Department is not covered by § 25-1-98, Mississippi Code of 1972, Annotated which provides for opening and staffing of state offices, legal holidays, and construction of “workday.”

3-3 Holidays: By direction of The Adjutant General, holidays for state employees of the Military Department are correlated with those of the federal government:

January 1 st	New Year’s Day
The 3 rd Monday of January	Martin Luther King, Jr./Robert E. Lee’s Birthday
The 3 rd Monday of February	George Washington’s Birthday
The last Monday of May	National Memorial Day/Jefferson Davis’ Birthday
July 4 th	Independence Day
The First Monday of September	Labor Day
The 2 nd Monday of October	Columbus Day
November 11 th	Armistice or Veteran’s Day
The 4 th Thursday of November	Thanksgiving Day
December 25 th	Christmas Day

- A. When a holiday falls on any state employee’s regular workday, that day is the employee’s holiday. If the holiday falls on the employee’s compressed day off, the preceding Friday is the employee’s holiday.
- B. Employees are not entitled to paid holidays when in a non-pay status for any hours preceding or following the holiday nor if they return from a non-pay status on a holiday unless they actually work the holiday.

3-4 Leave:

- A. Personal leave is administered as provided by § 25-3-93 and § 25-3-97 of The Mississippi Code of 1972, Annotated. Employees earn and accumulate personal leave upon completion of one month of service as follows:

Continuous Service	Personal Leave Accrual Rates Monthly
1 month thru 36 months (3 years)	12 hours
37 months thru 96 months (8 years)	14 hours
97 months 180 months (15 years)	16 hours
Over 180 months (15 years)	18 hours

- B. Leave must be requested in writing and approved by the supervisor 5 days prior to initiation of leave. An employee who leaves work early or fails to report for work without prior approval by their supervisor is subject to being entered into a Leave Without Pay Status for the time in question.
- C. Leave without pay status will cause an employee’s leave accrual to be adjusted. This means the employee will not accrue leave for the days in a LWOP status.
- D. Major medical leave is administered as provided by § 25-3-95 and § 25-3-97 of The Mississippi Code of 1972, Annotated. Employees earn and accumulate major medical leave upon completion of one month of service as follows:

Continuous Service	Major Medical Leave Accrual Rates Monthly
1 month thru 36 months (3 years)	8 hours
37 months thru 96 months (8 years)	7 hours
97 months 180 months (15 years)	6 hours
Over 180 months (15 years)	5 hours

- E. Family Medical Leave Act (FMLA). Eligible employees may be granted up to 12 weeks of paid or unpaid leave during a 12-month period for one or more of the reasons as follows:
 - (1) For the birth and care of the newborn of the employee.
 - (2) For the placement with the employee of a son or daughter for adoption or foster care.
 - (3) To care for an immediate family member (spouse, child or parent) with a serious health condition.
 - (4) When the employee is unable to work because of a serious health condition.
 - (5) Military Family Leave Entitlements
 - a. Eligible employees with a spouse, son, daughter, or parent on active duty or call to active-duty status in the National Guard or Reserves in support of a contingency operation may use their 12-week leave entitlement to address certain qualifying exigencies. Qualifying exigencies may include attending certain military events, arranging for alternative childcare, addressing certain financial and legal arrangements, attending certain counseling sessions, and attending post-deployment reintegration briefings.
 - b. FMLA also includes a special leave entitlement that permits eligible employees to take up to 26 weeks of leave to care for a covered service member during a single 12-month period. A covered service member is a current member of the Armed Forces, including a member of the National Guard or Reserves, who has a serious injury or illness incurred in the line of duty on active duty that may render the service member medically unfit to perform his or her duties for which the service member is undergoing medical treatment, recuperation, or therapy; or is in an outpatient status; or is on the temporary disability retired list.
 - c. FMLA may be taken in increments, as necessary, for the same condition.

- F. Administrative Leave with pay may be granted only when:
 - (1) An employee serves as a witness or juror or party litigant as verified by the clerk of the court.
 - (2) The Governor or The Adjutant General may grant administrative leave with pay on a local or statewide basis in the event of extreme weather conditions or in the event of a man-made, technological, or natural disaster or emergency.
- G. Military Leave. State employees of the Military Department who are members of any of the reserve components of the Armed Forces of the United States are entitled to a leave of absence from duties, without loss of pay or seniority and without effect on service rating, on all days during which they shall be required and ordered to perform duty with troops, at field exercises for instruction, for state service, or for annual field training for periods not to exceed 15 working days in any one calendar year. Military leave must be used in increments equal to their regular work schedule.
- H. Compensatory Leave. When in the opinion of management, it is essential that a state employee work after normal duty hours, or on an official holiday, the employee shall receive compensatory leave (hour for hour basis).
- I. Donated Leave for Catastrophic Illness or Injury. State employees may donate accrued personal or major medical leave to another state employee of the Military Department who is or has an immediate family member suffering from a catastrophic injury or illness. (For specific details pertaining to this type of leave refer to section 4-3 of this regulation).
- J. The Mississippi Living Organ Donor Leave Act was effective 1 July 2004. It is intended to provide time off, 1 hour every 56 days for blood and 2 hours every 56 days for platelets, with pay for state employees donating organs, bone marrow, blood or blood platelets.
- K. Separation in a leave status. It is unlawful for a state employee to extend an employment termination date by the use of accrued leave. A state employee of the Military Department cannot separate his/her employment in a leave status. After separation employees may be paid for up to 240 hours of accrued personal leave. Personal and major medical leave remaining will be credited to their PERS account using PERS Form 18.
- L. Additional FLMA timekeeping information is found in paragraph 4-4.

3-5 Uniformed Services Employment and Reemployment (USERRA): USERRA protects the job rights of individuals who voluntarily or involuntarily leave employment positions to undertake military service. USERRA also prohibits employers from discriminating against past and present members of the uniformed services and applicants to the uniformed services.

3-6 Unemployment Compensation:

- A. If employees are separated due to no fault of their own, they may be eligible for unemployment compensation. Eligibility depends upon length of employment, reasons for separation, earnings and employee's availability for other suitable work.
- B. For a complete list of eligibility requirements and answers to questions regarding unemployment compensation, benefits, policies, and claims, employees may contact the nearest unemployment insurance claims office.

3-7 Workers' Compensation:

- A. All state employees, contract workers and Guardsmen on State Active Duty are covered by MS State Agencies Self-Insured Workers' Compensation Trust. THE NOTICE OF COVERAGE FURNISHED FACILITIES MUST BE POSTED IN A CONSPICUOUS PLACE.
- B. Compensation under the Mississippi Workers' Compensation Act relates to "disability or death of an employee from injury or occupational disease arising out of and in the course of employment," as provided in Mississippi Code Annotated, Section 71-3-7 (1972). Employees are not normally covered when going to and from work. Personnel are covered if they leave from their home on an official trip and are not going to the place of employment. Employees are not covered during lunch period if they leave their place of employment.
- C. The Mississippi Workers' Compensation Commission (WCC) has the authority to levy a \$100 fine against the employer for late reporting of claims. Workers Compensation First Report of Injury or Illness must be used to report all injuries received on the job. As this form is the permanent record, it should be typed or printed legibly. The Choice of Physician form will also be completed and signed by the injured employee as part of the claim process. Forms will be submitted regardless of opinion as to whether the claim is legitimate. This is true regardless of whether the injury results in loss of work. Submissions will not be delayed for collection of medical bills. A copy will be faxed/emailed to the State Human Resources Division at 601-313-6163. Original will be placed in the employee's medical file.
- D. The 2008 Regular Session of the MS Legislature amended §25-3-95 of Mississippi Code with Senate Bill 2977. This change stipulates that state employees entitled to certain workers compensation benefits may not exceed a combination of payments exceeding 100% of their gross wages.
- E. Transitional Duty (Light) Program. In order to reduce time away from work while healing, the Transitional Work Program (TWP) provides any injured or ill employee a productive, temporary work assignment that is within the treating physician's recommendation. Instead of employees being "off work", transitional work assignments allow a gradual return to full duties.
 - (1) It is not appropriate for a supervisor to ask about medical diagnosis or treatment and this personal information is not necessary to develop a TWP plan.
 - (2) Employees with temporary physical or mental limitations who may be unable to perform their entire job can often do some of their job duties while recovering. The TWP focuses on what job duties an employee can do while following the work restrictions that a physician (or treating provider) has prescribed.
 - (3) When given written permission by a physician/provider to work with temporary restriction or limitations, TWP participation is mandatory. Employees will work with their supervisor, with assistance from the TWP Coordinator (MSNG-SRP), to develop a temporary modified or alternate work assignment. This does not mean creating a new job simply to accommodate an employee's medical condition or limitations.
 - (4) Transitional work assignments are typically less than 30 days, and generally no longer than 90 days, and are reviewed on a case-by-case basis.

- a. Temporary modified work is ideal for the department and employee. Efforts will be made to adjust (modify) the work duties to allow an employee to continue to work in their position and remain in their department.
 - b. Temporary alternate work is appropriate when the job duties cannot be modified enough to allow an employee to perform their regular job. Other (alternate) work duties can be within the department or elsewhere on the installation or facility.
- (5) It is the employee’s responsibility to:
- a. Follow the work restrictions. If asked to perform a task that exceeds the work restrictions, please inform your supervisor.
 - b. Follow the work restrictions. If asked to perform a task that exceeds the work restrictions, please inform your supervisor.
- (6) It is the approving supervisor’s responsibility to notify State Resources Human Resources Office that a TWP has been developed and implemented for an employee.

3-8 Length of Service Recognition:

- A. Length of Service Certificates will be awarded to state employees to provide recognition for long and faithful continuous service as a Military Department State Employee.
- B. An employee becomes eligible for recognition upon completion of 10, 20, 30, 40, or 50 years continuous service.

3-9 Retirement:

- A. Employees employed in a position having less than 20 hours per week or a total of 80 hours per month as prescribed actual work shall not become a member of the Public Employees’ Retirement System (PERS).
- B. Contract Workers are not considered State employees for retirement purposes.
- C. Disability and death benefits, regardless of years of creditable service, are provided for a member of PERS injured or killed in the line of performance of duty. The beneficiary designation made by a member must be on file in the PERS office. In the absence of a spouse, member may designate a dependent child to receive retirement annuity in the event of member’s death prior to retirement.
- D. Unpaid leave will be allowed as creditable service upon termination for all vested employees.

UNUSED LEAVE CREDIT TABLE				
15 days	To	77 days	Equals	.25 year
78 days	To	140 days	Equals	.50 year
141 days	To	203 days	Equals	.75 year
204 days	To	266 days	Equals	1 year

- E. Up to four years creditable service may be requested for active military service. Employees hired prior to 30 June 2011 are eligible to retire at age 60 if they are vested or at any age if they have 25 or more years of creditable service. Employees hired after 30 June 2011 are eligible to retire at age 60 if they are vested or at any age if they have 30 or more years of creditable service.
- F. If an employee was employed by the state prior to 1 July 2007, the employee may receive monthly benefits once the employee becomes eligible for retirement after the employee contributes to the retirement system for at least four years. Employees first employed by the state after 1 July 2007 must contribute to the retirement system for eight years prior to being able to receive monthly benefits upon retirement eligibility.
- G. For those If an employee is not eligible for such or elects a refund of contributions, PERS Form 5, Refund of Accumulated Contributions, must be completed. A 20% tax withholding will be taken from the refund unless the amount is a direct rollover trustee to trustee transfer. PERS Form 5 may be obtained from the State Resources, Human Resource office or PERS website. <http://www.pers.state.ms.us>

3-10 Mississippi Deferred Compensation Plan: This is a tax deferred savings plan whereby the employee may set aside a part of their salary each year. The contributions, interest and/or earnings on investments are tax deferred until withdrawn. The State Human Resource office may provide additional information about this benefit.

3-11 State Offices Credit Union: The State Offices Credit Union is a nonprofit financial organization serving the saving and borrowing needs of its members. An employee's spouse and children may also become members. An employee may join the Credit Union after their first day of employment.

3-12 Cafeteria Plan:

- A. The Cafeteria Plan allows employees to pay for insurance premiums with before-tax rather than after-tax dollars. Employees eligible for insurance coverage may participate. Each year during open enrollment employees must sign a new election form.
- B. Two additional options are available through the Cafeteria Plan. They too are qualified benefits under Code Section 125 of the IRS. One is a Dependent Care Assistance Plan allowing an employee to use pre-tax dollars for qualified daycare expenses. The other is a Medical Care Reimbursement Plan allowing an employee to pre-tax dollars to receive reimbursement for qualified medical expenses.
- C. Once participation in the Cafeteria Plan is elected, employees must agree to remain in the plan, as enrolled, for the full plan year. The only exception to this rule involves having a major change in family status such as marriage, divorce, death, or change of entitlements. Any changes must be submitted with proper documentation of the life event within 60 days of occurrence.
- D. The obvious disadvantage to the Cafeteria Plan is that whatever amount of income is not taxed for social security purposes is not credited toward annuity entitlement of FICA.

- E. Employees who do not desire to participate in the Cafeteria Plan must sign a Waiver of Participation.

3-13 State Employees' Health Plan:

- A. The State and School Employees' Health Insurance Plan is a self-insured plan. The state makes contributions on behalf of each employee and employees contribute the cost of the family coverage. The employee may have to contribute according to type of coverage elected.
- B. Full-time employees of the State are eligible for coverage under the health insurance program. Coverage is also available for COBRA terminated participants and retired employees.

3-14 Consolidated Omnibus Budget Reconciliation Act (COBRA): COBRA provides that covered employees, spouses and dependents (called "qualified beneficiaries") be provided the opportunity for a temporary extension of group health plans (called "continuation coverage") at group rates in certain instances where their coverage under the plans would otherwise end.

- A. Employees of the Military Department covered by The State Employees' Health Plan, Vision or Dental plans may choose continuation coverage if they lose coverage because of a reduction in hours or termination of employment.
- B. By law, the employee or a family member has the responsibility to inform the servicing personnel/payroll office at the facility where the employee is assigned, of a divorce, legal separation, or a child losing dependent status within 60 days of the date of the event or the date in which coverage would end under the plan because of the event, whichever is later.
- C. The spouse or dependent child of an employee also covered by the plan or any qualifying supplemental plans has the right to choose continuation coverage for themselves if they lose coverage for any of the following reasons:
 - (1) The death of their spouse/parent.
 - (2) A termination of their spouse/parents' employment (for reasons other than gross misconduct) or reduction in their hours of employment.
 - (3) Divorce or legal separation.
 - (4) Their spouse/parent becomes entitled to Medicare.
- D. dependent child of an employee also covered by the plan or supplemental plans, also has the right to choose continuation coverage if coverage is lost because the dependent child ceases to be a "dependent" under the plan.
- E. The law provides that continuation coverage may be terminated for any of the following reasons:
 - (1) The Military Department no longer provides such coverage to any of its employees.
 - (2) The premium for the continuation coverage is not on time.
 - (3) Qualified beneficiary becomes covered under another group health plan, unless that plan contains any exclusions or limitations with respect to any pre-existing conditions they may have.
 - (4) Qualified beneficiary becomes entitled to Medicare.

- (5) Qualified beneficiary extended coverage for up to 29 months due to disability and there has been a final determination that they are no longer disabled.

3-15 Group Life Insurance:

- A. Life insurance is available to full time employees of the Military Department. Coverage is twice your basic annual earnings rounded to the next higher \$1,000. Maximum coverage is \$100,000; minimum is \$30,000.
- B. If the employee's death is caused by an accident, the amount will be doubled. Evidence of insurability will be required if coverage is desired by the employee after 31 days of employment. This life insurance is not available for the employee's spouse or dependents. COBRA does not apply to the life insurance program. However, the employee may elect portability of his/her State Life Insurance at the time of termination.

3-16 Supplemental Insurance Programs: A number of supplemental insurance programs such as dental, vision, cancer, accidental death and disability are available to full-time employees and their dependents.

3-17 Employee Assistance Program:

- A. The Military Department provides an employee benefit that provides confidential, professional assistance to employees and their families in resolving problems which affect employee well-being and ultimately their job performance. Problems addressed include health issues, marital problems, financial concerns, legal problems, stress, emotional concerns, addictions, and many others. An employee or any member of the employee's household can call the Employee Assistance Program (EAP) for assistance.
- B. The EAP provider for the Mississippi Military Department is Deer Oaks EAP Services. Their staff consists of licensed professional counselors, licensed social workers and other qualified counselors. The EAP counselors have access to a network of professionals in every field and located across the U.S. Deer Oaks EAP Services may be contact at 1-888-993-7650. Employees and dependents should identify themselves as Mississippi Military Department employees (not Camp McCain or DPW employees, for example).
- C. This program is free to the employee. The MMD does not have access to the fact that an employee has called or seen a counselor. All calls are confidential. This is called a self-referral. Supervisors may recommend that an employee contact the EAP due to poor performance on the job. This is a supervisory referral. Supervisory referrals are also confidential and the EAP counselor will only advise the employer that the employee is following the recommended course of action.
- D. The EAP does provide an excellent sounding board for personal problems. The EAP is not for long term therapy and the number of visits are limited. If assistance is needed after those visits, health insurance and other benefits may be considered.

3-18 Physical Fitness Program: Full-time employees are authorized to participate in physical fitness training during duty hours as outlined in program policies and procedures. Participation will only be permitted if no degradation of office/shop/ facility/ unit mission accomplishment will occur.

The physical fitness program is intended as a full fitness program based on total body fitness. Required forms must be completed prior to participation. This program is outlined in Policy Memorandum #10-19, Mississippi National Guard Physical Fitness Program, dated 23 June 2010.

3-19 Training:

- A. The primary emphasis of training and development is to improve government services. The State Human Resources Division, at a level consistent with staffing level and funding, coordinate and implement training designed to improve the efficiency, productivity and professionalism of state employees of the Military Department.
- B. All training paid for in whole or in part by the Military Department or which takes place during an employee's standard work schedule shall be job related.

3-20 State Employee Tuition Assistance Program:

- A. Within the limits of the available funds, The Adjutant General may grant authority to reimburse eligible state employees of the Military Department for educational expenses such as tuition, books and related fees to pursue undergraduate or graduate level education.
- B. The purpose of the Tuition Assistance Program is to encourage employees to develop job-related skills and to develop employees for higher level technical, professional and management positions. Priorities for awarding assistance will be based on the established, critical need within the Military Department for staff with the educational credentials being sought and the unavailability of individuals with those credentials. The course of study must be directly related to the requirements of the job.
- C. Eligibility Criteria:
 - (1) To be eligible for consideration for reimbursement of educational expense, an employee must have at least three (3) years full-time continuous state employment with the Mississippi Military Department at the time of application. The employee must also attend a college or university in Mississippi, preferably a public institution. Only applications involving class attendance outside of normal duty hours will be considered. Employees in a degree-granting track must be classified as a junior or senior if they are undergraduates. Recipients shall be required to complete course work within four (4) years of the beginning date specified on the request unless prior approval for an extension is granted.
 - (2) 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. Successful completion is defined as a grade of "B" or higher, or as "pass" for a pass/fail course. Furthermore, **reimbursement is contingent upon funds availability.**
- D. Repayment Requirement.
 - (1) Tuition assistance recipients shall agree to work for the Mississippi Military Department for a period of time as based on the total amount of tuition repayment by the Mississippi Military Department. The recipient's employment obligation shall be according to the schedule as follows:

Cost to Military Department	Employee Obligation
\$999.00 or less	1 Year
\$1,000.00 to \$2,999.00	2 Years
\$3,000.00 to \$4,999.00	3 Years
\$5,000.00 to \$7,000.00	4 Years

- (2) The recipient’s employment obligation shall run from the date of tuition repayment by the Mississippi Military Department, except that no part of any such obligation shall run concurrent with any part of another.
 - (3) The full terms of the recipient’s obligation shall be specified in a separate contract between the recipient and the Mississippi Military Department. This contract shall be entered into prior to the awarding of any tuition assistance, which shall not exceed a total of \$7,000.00 for tuition and fees and \$600.00 for books.
 - (4) In the event that more than one tuition repayment is made to the same recipient, a separate contract shall be executed for each such payment. Multiple employment obligations incurred by one recipient shall run consecutively.
 - (5) If a recipient does not complete his/her obligation to the Mississippi Military Department, such recipient shall be liable to the Mississippi Military Department as set out in the default penalties of this regulation as follows:
 - a. If an employee resigns or is terminated for cause or due to RIF (Reduction in Force) before the repayment period has been completed, The Adjutant General may, at his discretion, waive repayment.
 - b. If the recipient fails or withdraws at any time before completion of his/her educational program, the recipient will be liable for repayment on demand the full amount of tuition assistance with interest accruing at ten percent per annum (10%) from the date the recipient failed or withdrew from school.
- E. Cancellation. The Military Department may cancel any contract made between the Agency and any recipient for tuition assistance upon such cause being deemed sufficient by The Adjutant General. The Military Department 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. Such suit shall be conducted by the Staff Judge Advocate in conjunction with the Office of the Attorney General of Mississippi.
- F. Application Procedures. Any Military Department state employee meeting the previously described eligibility requirements may apply for tuition assistance. Eligible state employees can request an Application for Tuition Assistance from the State Human Resource Office or from their immediate supervisor. The employee will complete the application and forward it to his/her immediate supervisor who will complete the supervisor’s recommendation. The supervisor will then submit the application and recommendation to the Facility Commander/Directorate. Subsequent to approval by Facility Commander/Directorate, funds

availability will be certified by the appropriate program manager/GOR and the package will be forwarded to the State Human Resource Office.

G. Tuition Assistance Committee:

- (1) The Tuition Assistance Committee is comprised of the Director of State Human Resources, a designee from NGMS-PEF-E, a professional or management level state employee, and a non-voting recorder from the State Human Resource Office. The Tuition Assistance Committee will accept applications three times a year. Applications for the fall semester must be received during the first week of June immediately preceding the session requested; spring semester applications must be received during the first week of the preceding October. Applications for the summer semester must be received the first week of the preceding April. **In the event of fiscal constraints, applications may be held until the final month (June) of the State fiscal year to determine if funds are available.**
- (2) The Tuition Assistance Committee will make recommendations for approval/disapproval of requests for tuition assistance to The Adjutant General. The Adjutant General's decision is final. Upon completion of the process, the applicant will be notified in writing of the final disposition by the State Human Resource Office.

3-21 Reduction in Force: If necessary, The Adjutant General may direct that Reduction in Force procedures be implemented. If so, the following provisions are applicable.

- A. Order of Reduction in Force: The Reduction in Force formula shall be in the order that follows:
 - (1) Time-limited: Persons occupying an encumbered position or temporarily supported position.
 - (2) Probationary: Persons serving first twelve months of employment.
 - (3) Non-Probationary, Full-time: Persons occupying positions with work hours specified as a minimum of 40 hours per week for 52 weeks.
- B. Retention Point Formula for Reduction in Force: Non-probationary employees shall be the last group of employees to be separated. In applying this formula, those with the lowest number of retention points within the categories designated in paragraph above based on seniority, performance evaluation, and veterans' preference shall be dismissed first. The retention point formula shall be as follows:
 - (1) Seniority: An employee shall be credited with one point for each year or portion, thereof, of continuous service as a state employee of the Military Department. In calculation of retention points for a partial month of service, one/twelfth of a point is credited to employees with service equal to fifteen days in the month. No credit is given for service of less than fifteen days of the month.
 - (2) Performance Assessment: An employee shall be rated using the last three performance appraisals. The employee will be credited with points for each category rating in accordance with the following:

Below expectations = one point; Meets expectations = two points; Exceeds expectations = three points.

The total from all categories will be totaled and divided by 5. This will be the overall score for this employee in the Performance Assessment category.

- (3) Veteran's Preference: Veterans shall be awarded one point for service and disabled veterans shall be awarded an additional one point.
- (4) One point is awarded for active membership in the MSNG.
- C. Employees who are to 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 working days prior to the effective date of the layoff. The written notification shall cite the reason(s) for the layoff.
- D. Efforts will be made to place the employee in another position for which the employee is qualified.

3-22 Furlough Leave (Leave without Pay): Should it become necessary to accrue funds by reducing current payroll expenses so that reduction in force or more extensive furloughs may be minimized or avoided, The Adjutant General may direct that furlough procedures be implemented. If so, the following provisions are applicable:

- A. Furlough leave shall apply uniformly to all employees of the supporting funding, regardless of status.
- B. The Adjutant General may make such leave subject to early cancellation or periodic callback on a case-by-case basis, to protect public health, safety or property or to ensure operations of critical agency functions.
- C. Employees who are to be placed on such leave shall be given written notice, advising the employee of the particulars regarding the action, including that dates and times leave is to begin and end.
- D. While on furlough leave, an employee shall continue to accrue personal and major medical leave as though the involuntary leave without pay had not occurred, but personal and major medical leave cannot be taken in lieu of furlough leave.
- E. Failure on the part of an employee to return from such leave to his previous work status as directed, in writing, shall be cause for discharge.
- F. Involuntary leave without pay resulting from furlough procedures, will be non-grieveable.

CHAPTER 4

TIME AND ATTENDANCE

4-1 Holidays:

A. Holidays for state employees of the Military Department are correlated with those of the federal government. Employees occupying positions classified as full-time, receive pay for the following holidays and for any other day proclaimed by the Governor.

January 1 st	New Year’s Day
The 3 rd Monday of January	Martin Luther King, Jr./Robert E. Lee’s Birthday
The 3 rd Monday of February	George Washington’s Birthday
The last Monday of May	National Memorial Day/Jefferson Davis’ Birthday
July 4 th	Independence Day
The 1 st Monday of September	Labor Day
The 2 nd Monday of October	Columbus Day
November 11 th	Armistice or Veteran’s Day
The 4 th Thursday of November	Thanksgiving Day
December 25 th	Christmas Day

B. Holidays for Compressed Work Schedule. When a holiday falls on an employee’s regular workday, then that day is the employee’s holiday. If the holiday falls on employee’s CWS day, then the preceding Friday is the holiday. This procedure applies to all employees.

C. If required to work on any day indicated by paragraphs a or b above, compensatory time will be earned (See Paragraph 4-10 for timekeeping guidelines).

D. Employees are not entitled to holidays when in a non-pay-status preceding or following the holiday nor can they return from a non-pay status to a pay status on a holiday unless they actually work on the holiday.

4-2 Personal and Major Medical Leave:

A. Personal and Major Medical leave benefits are granted to all employees regardless of whether permanent, or permanent time-limited. **Contract employees do not earn leave benefits.**

B. Service begins on the effective date of an employee’s initial appointment. For full-time employees, a continuous service month is that period of time beginning with initial date of

appointment and ending one month later as of close of business on the date preceding the date of initial appointment. EXAMPLE: If full time permanent employee “A” was initially employed on 17 July 2013, the first month of continuous service would be the period of 17 July 2013 to close of business 16 August 2013. In addition, they must be in a pay status for at least one-half of the work hours available during a particular month, in order for the month to be considered creditable for continuous service requirements for progressive leave earnings.

- C. The chart below indicates earnings of personal and major medical leave for a full month’s work.

MAXIMUM MONTHLY RATES OR APPLICABLE PRO RATA AMOUNTS NOT EXCEEDING THE MAXIMUM RATES OF:

Continuous Service	Personal Leave Accrual Rates	Major Medical Leave Accrual Rates
1 month thru 36 months (3 years)	12 hours per month	8 hours per month
37 months thru 96 months (8 years)	14 hours per month	7 hours per month
97 months thru 180 months (15 years)	16 hours per month	6 hours per month
Over 180 months (15 years)	18 hours per month	5 hours per month

- D. When an employee is initially appointed on other than the first day of the month or Leave-Without-Pay/Authorized Leave of Absence occurs within a month, the Pro Rata Chart for Personal and Major Medical Leave (obtained thru SPARHS) must be utilized to determine the amount of earnings due on the last day of the month. Pro rata computations must be made anytime an employee fails to be in a pay status for the entire month regardless of reason.
- E. Based on amount of continuous service and a complete month of work, the above chart is also used for determining personal and major medical leave earnings for temporary time limited employees but, if these employees work less than a complete month, they are qualified for earnings only to the extent of the total hours in a pay status during the month being applied to the Pro Rata Chart. The period of a month is the basis for determining the hours in a pay status. When the total number of hours worked in a pay status is determined to be less than the total work hours available during the month, the total number of hours must be located on the Pro Rata Chart to determine the amounts of personal leave and major medical leave earnings, under the monthly earning rate of the particular leave.
- F. In some instances, application of the chart to a month containing substantially more work hours than those of an average month might result in the eligibility maximums being exceeded. When such occurs, the maximum authorized in paragraph 4-2c will not be exceeded.
- G. Employees may utilize no more than that accrued at the end of the *preceding month*. They may never utilize more than accrued as of the beginning of the utilization period.

- H. Employees are encouraged to use personal leave for vacations and personal business. However, all requests for personal leave, except when taken due to illness, are approved at the agency's discretion. Except for illness, personal leave may be taken only when approved or as directed by supervisory authority. Personal or compensatory time must be used for illnesses of the employee requiring absences of one day or less. In addition, accrued personal or compensatory leave must be used for the first day of an employee's illness requiring his or her absence of more than one day. Accrued personal, major medical, or compensatory leave may also be used for an illness in the employee's immediate family, including a spouse, child, stepchild, grandchild, grandparent, son-or daughter-in-law, mother- or father-in-law or brother- or sister-in-law.
- I. Major medical leave may be used for the illness or injury of an employee or member of the employee's immediate family, only after the employee has used eight (8) hours of compensatory time or personal leave for each absence due to illness or leave without pay if the employee has no accrued personal leave. **However, medical leave may be used 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 without using 8 hours of regular leave for each occurrence.** For each absence due to illness of 32 consecutive working hours or more, (combined personal and major medical leave) major medical leave shall be authorized only when certified by the attending physician. A letter from the employee's physician outlining the illness and requirement for frequent visits for treatment must be filed in the employee's medical file.
- J. An employee may use up to three days of earned major medical leave for each occurrence of a 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.
- K. State employees who transfer from a state employee entity to the Mississippi Military Department without a break in service will be given credit for unused personal and major medical leave when certified by the former entity.
- L. Mississippi Military Department state employees transferring to another department or agency without interruption of continuous service will be entitled to have their unused accumulated leave balances transferred.
- M. Upon termination of employment, employees may be paid in lump sum for up to 240 hours of accumulated unused personal leave.
- N. Unused personal leave in excess of 240 hours will be counted as creditable service toward retirement.
- O. Termination date will be the last actual physical date an employee reported to work. No leave accrued will be used to extend an employee's termination date.
- P. Upon termination, employees may not be paid for accumulated unused major medical leave unless presenting medical evidence that they are no longer physically capable of state employment. If such evidence is presented, employees may elect to be paid in lump sum for the amount of accumulated unused major medical leave not to exceed 960 hours. (Reference § 25-3-97 (3), Mississippi Code of 1972, Annotated).
- Q. Any unpaid major medical leave will be credited as continuous service toward retirement.

- R. As employees receive benefit of leave accruals (balances), either being paid, credited as continuous service or some combination thereof at termination, restoration of any leave accruals (balances) or former leave earning rates are not authorized upon re-employment.
- S. Should an employee die having accumulated personal leave, the full salary value of such leave will be paid to the person designated by the employee for this purpose, or the beneficiary of the employee as recorded with the Public Employees' Retirement System. Accumulated personal leave shall be considered as wages earned but not paid. Major medical leave balances are not compensable upon death of an employee.
- T. IAW the Attorney General's Office, it is unlawful for a state employee to extend a termination date through the use of any kind of accrued leave. Termination of employment occurred as the date the employee last worked. Therefore, the Military Department will not extend a termination date to utilize accrued leave.

4-3 Donated Leave for Catastrophic Illness or Injury:

- A. This section authorizes Military Department state employees to donate accrued personal or major medical leave to illness, or to another employee who has a member of his/her immediate family who is suffering from a catastrophic injury or illness.
- B. "Catastrophic injury or illness" means a life-threatening injury or illness of an employee or 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 and which are long-term in nature and require long recuperation periods, may be considered catastrophic.
- C. Before an employee may receive donated leave, he or she must provide his or her supervisor with a physician's statement that states the beginning date of the catastrophic injury or illness, a description of the injury or illness, and a prognosis for recovery and the anticipated date that the recipient employee will be able to return to work.
- D. Immediate family is defined as spouse, parent, stepparent, sibling, child or step-child.
- E. Any employee may donate a portion of his or her earned personal leave or major medical leave to another employee who is suffering from a catastrophic injury or illness or to an employee who has a member of his or her immediate family who is suffering from a catastrophic injury or illness.
- F. Requests for donated leave will be made through supervisory channels to State Human Resource Division designating the employee who is to receive the leave and the amount of earned personal and major medical leave that is to be donated. A copy of the donated leave request and physicians' statement must be attached.
- G. The maximum amount of earned personal leave that an employee may donate to any other employee may not exceed a number of days that would leave the donor employee with fewer than seven (7) days of personal leave left, and the maximum amount of earned major medical leave that an employee may donate to any other 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 twenty-four (24) hours.

- H. In order for an employee to be eligible to receive donated leave, they must:
- (1) Have been employed for a total of at least (12) months with MMD on the date the donated leave is to be donated.
 - (2) Have worked for at least one thousand two hundred fifty (1,250) hours of service as a full-time employee with the MMD during the previous twelve-month period from the date on which the leave is donated.
 - (3) Have exhausted all of his or her earned personal leave and major medical leave before he or she will be eligible to receive any leave donated by another employee.
 - (4) Provide his or her supervisor with a physician's statement that states the beginning date of the catastrophic injury or illness, a description of the injury or illness, and a prognosis for recovery and the anticipated date that the recipient employee will be able to return to work.
- I. Donated leave shall not be used in lieu of disability retirement.
- J. If an employee is aggrieved by the decision of his or her appointing authority that the employee is not eligible to receive donated leave for themselves or their immediate family member 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 State Human Resource Division.
- K. The maximum period of time that an employee may use donated leave without resuming work at his or her place of employment is ninety (90) calendar 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 l.
- L. No employee can donate leave after tendering notice of separation for any reason or after termination of employment.
- M. If the total amount of leave that is donated to the recipient employee is not used within the ninety (90) days, the donated leave shall be returned to the donor employees on a pro rata basis, 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.
- N. Donated leave for a catastrophic illness or injury will be entered on the employee's time sheet as DONLV. This will indicate that the employee is receiving donated leave in order to be paid. **Employees using donated leave will accrue additional leave during this time.**

4-4 **Family and Medical Leave Act (FMLA):**

- A. The Family and Medical Leave Act (FMLA) was enacted into law on February 5, 1993 and effective August 5, 1993. FMLA entitles eligible state employees to take up to 12 weeks of unpaid (or substituted paid), job-protected leave during a 12-month period for the following family and medical reasons:

- (1) For the birth or placement of a child for adoption or foster care. Entitlement for this reason shall expire at the end of the 12-month period beginning on the date of such birth or placement.
 - (2) To care for an immediate family member with a serious health condition. The 12-month period for this reason shall begin on the date of the employee's first FMLA leave.
 - (3) When the employee is unable to perform any one essential function of his/her position because of a serious health condition. The 12-month period shall begin on the date of the employee's first FMLA leave.
 - (4) Notice for leave due to active duty of family member.
- B. In any case in which the necessity for leave is foreseeable, whether because the spouse, or a son, daughter, or parent, of the employee is on active duty, or because of notification of an impending call or order to active duty in support of a contingency operation, the employee shall provide such notice to the employer as is reasonable and practicable.
- C. Accordingly, it is unlawful 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. Also, employers may not interfere with, restrain, or deny the exercise of, or the attempt to exercise any right provided under the Act. 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.
- D. Each facility commander/supervisor 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. Copies of such notice may be obtained from State Human Resource Division.
- E. The following definitions are applicable for FMLA purposes:
- (1) Health Care Provider: Doctor of Medicine or osteopathy; podiatrists, dentists; clinical psychologists; optometrists; chiropractors (treatment consisting of manual manipulation of the spine to correct a subluxation as demonstrated by X-ray to exist); nurse practitioners; nurse mid-wives; Christian Science practitioners listed with the First Church of Christ, Scientist in Boston, Massachusetts, any healthcare provider accepted by the Group Health Plan; and all clinical/social workers.
 - (2) Reduced Leave Schedule: A leave schedule that reduces the usual number of hours per workweek, or hours per workday, of an employee.
 - (3) Serious Health Condition: An illness, injury, impairment, or physical or mental condition that requires inpatient care in a hospital, hospice, or residential medical care facility; or continuing regimen of treatment by a health care provider; or any period of incapacity requiring absence from work of more than three calendar days.
 - (4) Parent: The biological parent of an employee or an individual who stands or stood in loco parentis to an employee when such employee was a child. This term does not include parents-in-law.
 - (5) 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 under 18 years of age; or 18 years of age or older and incapable of self-care because of a mental or physical disability.
 - (6) Spouse: A husband or wife, as defined or recognized under state law for purpose of marriage.

- (7) Immediate Family Member: An employee’s spouse, son or daughter or parent as defined above differs from definition for utilization of major medical and personal leave.
 - (8) Active Duty: The term “active duty” means duty under a call or order to active duty under a provision of law referred to in section 101(a) (13) (B) of title 10, United States Code.
 - (9) Contingency Operation: The term “contingency operation” has the same meaning given such term in section 101(a) (13) of title 10, United States Code.
 - (10) Covered Service member: The term “covered service member” means a member of the Armed Forces, including a member of the National Guard or Reserves, who is undergoing medical treatment, recuperation, or therapy, is otherwise in outpatient status, or is otherwise on the temporary disability retired list, for a serious injury or illness.
 - (11) Outpatient Status: The term “outpatient status,” with respect to a covered service member, mean the status of a member of the Armed Forces assigned to the one of the following:
 - a. Military medical treatment facility as an outpatient; or
 - b. A unit established for the purpose of providing command and control of members of the Armed Forces receiving medical care as outpatients.
 - (12) Next of Kin: The term “next of kin,” used with respect to an individual, means the nearest blood relative of that individual.
 - (13) Serious Injury or Illness: The term “serious injury or illness”, in the case of a member of the Armed Forces, including a member of the National Guard or Reserves, means an injury or illness incurred by the member in line of duty on active duty in the Armed Forces that may render the member medically unfit to perform the duties of the member’s office, grade, rank, or rating.
- F. An eligible employee is one who has been employed by the state for at least a total of 12 months and has worked for at least 1,250 hours over the prior 12 months.
 - G. An employee and spouse who are both employed by the state, are jointly entitled to a combined total of 12 work weeks of FMLA 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.
 - H. The Military Department will not classify any of its employees as “key employees” for the purpose of denial of return to work after utilizing FMLA leave.
 - I. Employees are required to provide notice, preferably written, to the facility commander/supervisor in accordance with the following:
 - (1) In any case in which the necessity for leave is foreseeable based on an expected birth or placement, the employee shall provide the facility commander/ supervisor with no less than 30 days’ notice, before the date the leave is to begin, and of the employee’s intention to take such leave, except that if the date of the birth or placement required leave to begin in less than 30 days, the employee shall provide such notice as is practicable.
 - (2) In any case in which the necessity for leave is foreseeable based on planned medical treatment, the employee:
 - a. Should make a reasonable effort to schedule the treatment so as not to unduly disrupt employment entity operations, subject to the approval of the health care provider of the son, daughter, spouse or parent of the employee, as appropriate.

- b. Should provide the facility commander/supervisor with no less than 30 days' notice, preferably written, 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.
- J. If the employee had actual notice of the FMLA leave requirements and fails to give notice for foreseeable leave with no reasonable excuse for the delay, the facility commander/ supervisor may take appropriate disciplinary actions.
- K. Intermittent FMLA leave entitlements shall be as follows:
 - (1) FMLA leave for childbirth, adoption or foster care may not be taken intermittently or on a reduced leave schedule, unless approved by The Adjutant General.
 - (2) Leave to care for a seriously ill family member or due to the employee's own serious health condition may be taken intermittently or on a reduced schedule whenever medically necessary.
 - (3) If an employee requests intermittent leave or leave on a reduced leave schedule that is foreseeable based on planned medical treatment, such as employee may be placed temporarily in an available alternative position for which the employee is qualified and with equivalent pay and benefits that better accommodates recurring periods of leave than the employee's regular employment position.
 - (4) 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 employee's and those who work variable hours, the FMLA leave entitlement is calculated on a pro-rated basis by comparing the new schedule with the employee's normal schedule (i.e. 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).
- L. When an employee provides notice of the desire for FMLA leave or the employee has knowledge that absence is FMLA qualifying, the employer will notify the employee that leave is being counted as FMLA and will provide the employee with the "Employer Response to Employee Request for Family or Medical Leave" within 2 business days. Medical certifications, opinions and re-certifications requirements are:
 - (1) Information indicated by Certification of Physician or Practitioner (Form WH-380), or the completed Form WH-380 from a health care provider must be submitted to the State HR to support FMLA leave requests either to care for an employee's seriously ill family member, or for leave due to a serious health condition that makes the employee unable to perform the functions of the employee's job. The employee must provide such certification in a "timely manner." The regulations define timely manner as within "15 calendar days, unless it is not practicable to do so under the circumstances."
 - (2) Subject to funding availability and proper expenditure authority, the State HR doubting the validity of the certification may require that the employee obtain, at agency's expense, the opinion of a second health care provider designated or approved by the facility commander/supervisor. 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 State HR may require, subject to funding availability and proper expenditure authority, that the employee obtain the opinion of a third health care

- provider designated or approved jointly by the facility commander/ supervisor and the provider concerning the information previously certified. The opinion of the third health care provider concerning the information previously certified shall be considered to be final and shall be binding on the Military Department and the employee.
- (3) The facility commander/supervisor may also require, at agency expense, subject to funding availability and proper expenditure authority, that the employee obtain subsequent re-certifications on a reasonable basis.
 - (4) No second opinion, third opinion or recertification shall be at the employee's expense.
- M. The Military Department requires employees to elect to substitute certain paid leave for FMLA leave as follows:
- (1) Major medical leave will 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.
 - (2) Personal leave or compensatory time earned will be substituted for any FMLA qualifying purpose.
 - (3) If State Resources Human Resources determines that the leave qualifies under the Act, the employee will be required to use paid leave. When an employee uses accrued paid major medical and/or personal leave for all or some portion of FMLA leave entitlement, such paid leave shall be considered substituted for and counted against the 12-week FMLA leave entitlement. For example, an employee having only four weeks of accrued major medical leave may need an additional four weeks of unpaid FMLA leave. If the employee desires to use four weeks of accrued paid major medical leave and four weeks of unpaid FMLA leave, he/she should submit a Certification of Physician or Practitioner (or statement from a physician containing such information) (paragraph k. above). If determined qualifying, the employee would be allowed to do so. All eight weeks would be counted against the 12-week FMLA leave entitlement.
- N. Certification related to Active Duty or Call to Active Duty. An employer may require a request for leave, under section 102(a) (1) (E), be supported by a certification issued at such time and in such manner as the Secretary of Defense may by regulation prescribe. If the secretary issues a regulation requiring such certification, the employee shall provide, in a timely manner, a copy of such certification to the employer.
- O. Employees are entitled to maintenance of benefits and restoration as follows:
- (1) Employer portions of group health insurance premiums will be paid 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.
 - (2) The costs of premiums paid for maintaining group health plan coverage during any period of unpaid FMLA leave may be recovered 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:
 - a. The continuation, recurrence or onset of a serious health condition that would entitle the employee to FMLA leave. (Affecting either the employee or an immediate family member).
 - b. Or other circumstances beyond the control of the employee.
 - (3) A facility commander/supervisor may require periodic reports from an employee on FMLA leave regarding the employee's status and intent to return to work. These reports will be via telephone conversations, text messages or email are not authorized for this

- reporting. 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 continues. However, if the employee gives an unequivocal notice of intent not to return to work, the Mississippi Military Department's obligations to provide health benefits (except pursuant to COBRA requirements) and to restore the employee end.
- (4) If an employee fails to return to work at the end of the leave period because of a serious health condition, the facility commander/supervisor 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 request for such, health insurance premiums paid during the period of unpaid leave may be recovered.
 - (5) The facility commander/supervisor and the employee are encouraged to work out arrangements which accommodate both administrative convenience for the employment entity 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 facility may cease to maintain health coverage on the date the grace period ends.
 - (6) 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.
 - (7) If an employee desires to continue life insurance, supplemental insurance, or other types of benefits for which he typically pays during unpaid FMLA leave, established policies or practices for continuing such benefits for other instances of leave without pay must be followed.
 - (8) Employees will be entitled to the position held when the leave commenced, or to be restored to an equivalent position with equivalent benefits, pay statute and other term and conditions of employment.
 - (9) 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.
 - (10) If upon return to work, the continuance of the particular health condition that caused the employee's need for FMLA leave could result in the safety and health of the employee or other employees being jeopardized, the facility commander/supervisor may require the employee to provide certification from the employee's health care provider that the employee is able to resume work. A facility commander/supervisor requiring a fitness for duty certification must ensure the employee was informed that such certification would be required when approving the employee's FMLA. Return to work certificates must be uniformly applied, applicable only to the health condition resulting in FMLA leave and only to its effect on the future health and safety of the employee or other employees.
 - (11) 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 had the employee not taken the leave.

- P. Service Member Family Leave. An eligible employee who is the spouse, son, daughter, parent, or next of kin of a covered service member shall be entitled to a total of 26 work weeks of leave during a 12-month period to care for the service member. The leave described in this paragraph shall only be available during a single 12-month period.
- Q. Combined Leave Total. During the single 12-month period, an eligible employee shall be entitled to a combined total of 26 work weeks of leave. Nothing in this paragraph shall be construed to limit the availability of leave under paragraph “4-4 N” during any other 12-month period.

4-5 Military Leave:

- A. All employees, full-time, permanent time-limited, probationary, who are members of any of the reserve components of the Armed Forces of the United States are entitled to leave of absence from duties, without loss of pay or seniority and without effect on service rating, on all days during which they shall be required and ordered to perform duty with troops, at field exercises, for instruction, for state service, or for annual field training for periods not to exceed 15 working days in any calendar year. Employees are required to submit an order or statement from the appropriate military officer as evidence of active duty for which leave is taken. The order or statement must accompany the request for leave.
- B. Military leave is an entitlement which is calculated on an hourly basis, not to exceed normal workday hours. Military leave must be used in increments of the employee’s daily work schedule. Thus, the entitlement of 15 days per calendar year is converted to hourly basis on eligibility per calendar year.
- C. Employees are not required to use military leave for military duty performance after normal state employment work hours or during holidays.
- D. Employees should utilize their authorized military leave before using personal leave, as military leave has no monetary value upon termination or death.
- E. Employees, who have utilized all their military, may utilize compensatory time, personal leave or leave-without-pay on an hour for hour basis for each hour of scheduled work missed.
- F. Employees are also entitled to military leave with pay for the time required to report and be processed for military pre-induction examination.
- G. Although leave earnings cease upon utilization of accumulated balances, employees are granted a leave of absence without pay when as a result of declared war or national emergency/crisis (Presidential Order); they are drafted or involuntarily ordered to Active Duty. Such employee who receives an Honorable Discharge and who applies to reinstatement of employment now depends on the duration of a person’s military service.
- H. Employees returning from active-duty military service will be returned with the same privileges that would have been afforded them had they continued in their positions such as:
 - (1) Personal and major medical leave accumulated and unused by the employee at the time of entrance into the active-duty military service.
 - (2) Salary adjustments resulting from changes of the position formerly occupied or the Variable Compensation Plan.
 - (3) Opportunity for consideration for promotions, which the employee might have received, had service not been uninterrupted.
- I. A copy of the discharge orders or release papers will be required.

J. Employees on Military leave will continue to accrue service credit while in a Military status.

4-6 Military Deployment: If on active-duty orders in excess of 30 days, employees must submit an AGO form, “Leaving Military Duty,” through their supervisory chain to State Human Resources Division requesting an authorized leave of absence; a copy of their orders must be submitted with the request. In addition, employees choosing to maintain group health and life insurance coverage while in a leave-without-pay status will be responsible for the full premium. Employees not choosing to maintain group insurance coverage while in a leave-without-pay status for military duty must complete group health and group life applications showing “Leaving for Military Duty.” This procedure allows for reinstatement of insurance without pre-existing requirements.

4-7 Administrative Leave:

- A. Administrative leave shall be granted by supervisors/commanders of facilities when the employee is being required to serve as a witness or juror or party litigant as verified by the clerk of the court (or other appropriate official in case of hearing under Administrative Law). Service or necessary appearance in any court or administrative tribunal shall not require use of an employee’s personal leave or forfeiture of any pay received from the court. Such documents are to be forwarded to MSNG-SRP.
- B. The Governor or The Adjutant General may authorize employees to be absent from work without having to use personal leave in the event of weather conditions or in the event of a man-made, technological or natural disaster or emergency.

4-8 Authorized Leave of Absence:

- A. An employee may, upon written application to and at the discretion of The Adjutant General, obtain a continuous leave of absence with or without pay not to exceed twelve months. There are generally two types of authorized leaves of absence, Military LOA and Medical LOA.
- B. All leaves of absence must be submitted in writing, through the appropriate supervisory channels, to the State Human Resources Office at least 30 days prior to the expected Leave of Absence. Leaves of absence with or without pay granted for twelve months or less is permitted without forfeiting previously accumulated continuous service or unused leave balances, but leave is not earned during periods of such status. Although “Authorized Leave of Absence” is a type of leave-without-pay, it should not be confused with short periods during a particular month that a full-time permanent employee may be authorized to be in a leave-without-pay status. “Authorized leave of absence” generally applies to a continuous period of more than one month.
- C. While in leave of absence status, state employees may cancel or retain current insurance programs, but they should carefully consider these options to insure dependents will be adequately covered and there is no break in coverage. Employees desiring to cancel group health/life coverage during the period of leave of absence must, prior to effective date of leave of absence, advise the appropriate insurance companies, in writing, of such status change(s). If canceled, pre-existing clauses may apply upon return. Employees may pay for state insurance by cashier’s check or money order, but the state will not share in insurance costs.

- D. Authorization of this type of leave is discretionary. Employees should understand that once leave entitlements are exhausted, The Adjutant General is not obligated to authorize further absence and termination may result. This should not be interpreted to mean that it is impossible to be granted some type of authorized absence without pay for a specific period of time. The determination as to whether to grant any type of absence without pay will be made on a case-by-case basis.
- E. This should not be confused with employee’s request for eligible absence under provisions of the Family and Medical Leave Act.

4-9 Furlough Leave (Leave without Pay): Should it become necessary to accrue funds by reducing current payroll expenses so that reduction in force or more extensive furloughs may be minimized or avoided, The Adjutant General may direct that furlough procedures be implemented. If so, the following provisions are applicable:

- A. Furlough leave shall apply uniformly to all employees of the supporting funding, regardless of status.
- B. The Adjutant General may make such leave subject to early cancellation or periodic callback on a case-by-case basis, to protect public health, safety or property or to ensure operations of critical agency functions.
- C. Employees who are to be placed on such leave shall be given written notice, advising the employee of the particulars regarding the action.
- D. While on furlough leave, an employee shall continue to accrue personal and major medical leave as though the involuntary leave without pay had not occurred, but personal and major medical leave cannot be taken in lieu of furlough leave.
- E. Failure on the part of an employee to return from such leave to his previous work status as directed, in writing, shall be cause for discharge.
- F. Involuntary leave, without pay resulting from furlough procedures, will not be grievable.

4-10 Timekeeping Guidelines:

- A. General:
 - (1) State Human Resource Division personnel will notify all SPAHRS timekeepers the dates for creating time sheets for semi-monthly payroll, as well as contract workers payroll; deadlines for Personnel Action Requests will also be indicated. Personnel Action Requests received after the established deadline will be processed for the next available supplemental payroll. The effective dates of all transfers may be delayed until the first of the next month if received after the deadline.
 - (2) Each position must be identified as being “subject to” or “exempt from” the Fair Labor Standards Act and assigned a prescribed 7-day workweek or 28-day work period. The public safety personnel (security guards/resource protection personnel) work period will not exceed 43 work hours or 40 work hours for all others. As an option to a 7-day workweek, firefighters may be placed on a 28-day work period not to exceed 212 hours of prescribed work. Security Personnel working in a law enforcement capacity have the option to work a 28-day work period not to exceed 171-hour work hours. Work hours

may vary among workdays but once established a workweek or work period can only be changed for the purpose of being permanent.

- (3) Actual work also referred to as regular hours, includes all time that an employee is required to be on duty, or on the employer's premises, or at a prescribed workplace for the employer, and all the time during which the employee is permitted to work for the employer. Any absence, including personal leave, major medical leave and administrative leave, military leave, state/federal compensatory time off and time off for holidays, is not creditable as "hours worked." Only time actually worked applies to the Fair Labor Standards Acts (FLSA) requirements.
 - (4) Work resulting in compensatory time must be held to absolute minimums. It is not authorized for convenience. Proper management and supervision, coupled with proper planning and innovative work scheduling, should eliminate most, if not all, requirements for such work.
 - (5) Employees will not be allowed or directed to perform any work at their residences without consent of The Adjutant General.
 - (6) Compensatory time will not be accrued for any period that an employee is in a State Active Duty or federal pay status.
 - (7) Compensatory time will be available for an employee to use in the month following the month in which it is accrued. Except for illness, compensatory time may be taken only when approved or as directed by supervisory authority.
 - (8) Dates of termination may not be extended past normal termination dates for purpose of utilizing compensatory time. No form of leave can be used to extend the termination date of an employee. Leave taken must not exceed the amount of leave the employee has effectively accrued as of the date of the employee's last date worked.
 - (9) All compensatory time must be utilized prior to authorization for use of personal leave.
 - (10) When compensatory time is applicable to employees, the supervisor directing the employee to work in a compensatory time status must complete AGO Form 84.1. The form is to be attached to timesheet. AGO Form 84.1 records will be retained for a minimum of 1 year. If a complaint is pending, records will be retained until resolution.
 - (11) Donated Leave for a Catastrophic Illness or Injury will be entered on the employee's timesheet as DONLV. This will indicate that the employee is receiving donated leave in order to be paid.
- B. Compensatory Time Earned IAW State Policy Straight Comp Earned (SCE).
- (1) When an employee works in excess of their prescribed work hours, but less than forty (40) hours during the work week, they will receive straight (hour-for-hour) compensatory time for every extra hour worked. This occurs when an employee takes some type leave during that week or if there is a holiday during that week.
 - (2) When actual work is performed on a holiday occurring on a normal workday, the employee will be credited SCE on an hour-for-hour basis for all actual hours worked up to regular scheduled hours to preclude forfeiture of holiday time off. Hours worked over the normal prescribed work hours may cause overtime.
 - a. Firefighters, certified law enforcement and other emergency response personnel who are not scheduled to work on the holiday will receive holiday pay of eight (8) hours for the holiday so as not to forfeit holiday time off.

- b. Firefighters, certified law enforcement and other emergency response personnel who are scheduled to work on a holiday will be credited SCE on an hour-for-hour basis for all actual hours worked to preclude forfeiture of holiday time off, but at a minimum will receive eight (8) hours of SCE, depending on the shift hours scheduled on the holiday.
 - (3) When an employee who is subject to the Fair Labor Standards Act actually works in excess of forty (40) hours during a work week, they are to receive Federal Compensatory Time (time and one-half) for every hour worked over forty (40).
 - a. IAW FLSA firefighters who actually work in excess of 212 hours in a 28-day work period are to receive compensatory time over the 212 hours.
 - b. IAW FLSA certified law enforcement personnel who work in excess of 43 hours in 7-day work period will receive compensatory time over the 171 hours.
 - (4) When a holiday occurs on a normal off day, the employee will be credited 8 hours SCE to preclude forfeiture of holiday time off, unless an in lieu of day is observed.
 - (5) When an employee who is exempt from the FLSA actually works in excess of prescribed work hours during the prescribed 7-day workweek or 28-day work period, all hours in excess will be credited as SCE.
 - (6) There is no maximum accrual imposed upon compensatory time earned IAW state policy. Compensatory time will be available for an employee to use in the month following the month in which it is accrued.
- C. Compensatory Time Earned IAW the FLSA Federal Comp Earned (FCE).
- (1) When an employee who is subject to the FLSA takes leave during a particular week, but they actually work in excess of forty (40) hours, they will earn straight (hour-for-hour) compensatory time up to the forty (40) hours and every hour over forty (40) will be federal compensatory time (time and one-half). EXAMPLE: An employee takes 5 hours leave on Tuesday, but works 2 extra hours on Wednesday and 5 extra hours on Saturday. The total number of hours for that week is 42. Credit the 2 extra hours worked on Wednesday and the first 3 extra hours worked on Saturday as straight (hour-for-hour) compensatory and the remaining 2 hours worked will be federal compensatory at time and one-half.
 - (2) As an alternative to the above, and subject to funding availability, entities may pay overtime work to those employee's subject to the FLSA at a 1 ½ times rate of pay for each hour of actual work in excess of prescribed work hours during a prescribed workweek or work period, not taken as compensatory time off during a pay period. In compliance with the FLSA, payrolls must substantiate that such payment was made as overtime pay.
 - (3) Funding entities must apply either option (s) c. (1) (2) above throughout an FY of primary funding source. At the time of employment, employees should execute Memorandum of Understanding and Agreement (AGO Form 84.2).
- D. State Employee Time Report. All time must be strictly accounted for. Postings must reflect an employee's actual status during each workday.

E. State Human Resource Division will provide leave balance reports to all timekeepers. This will assist supervisors in monitoring the employee's leave usage.

4-11 Leave Without Pay:

- A. The Director of State Resources is the approving authority for all Leave Without Pay (LWOP) requests.
- B. Authorization of this type of leave is discretionary and employees must understand that once leave entitlements are exhausted, The Adjutant General is not obligated to authorize absence beyond 240 hours and subsequent requests may result in termination. This should not be interpreted to mean that it is impossible to be granted some type of authorized leave without pay for a specific period of time. In determining whether LWOP is approved, all facets of an employee's work record and the urgency of maintaining the workload of the position will be considered. Determination to grant any type of absence without pay will be made on a case-by-case basis. Employees are reminded that leave is not earned during periods of leave-without-pay status.
- C. This should not be confused with employees requesting leave for an absence under provisions of the Family and Medical Leave Act.

4-12 Recording Procedures:

- A. Employees are to be informed monthly of the amount of personal and major medical leave that has been accrued and used. This information is shown on the bottom of the employee's time sheet.
- B. Each entity is to keep records of each employee's accrual and use of all leave in accordance with this manual.
- C. Non-probationary employees are strongly encouraged to maintain a 40-hour personal leave balance in order to take leave for unforeseen circumstances.

CHAPTER 5

PERFORMANCE EVALUATION SYSTEM

5-1 Purposes:

- A. Annual performance assessments provide agency management a factual basis to identify employees for pay increase, promotion, retention on the basis of performance, correction of inadequate performance, separation when inadequate performance cannot be corrected, job development and training or other job-related personnel management actions. Assessment of an employee's performance must be job-related.
- B. Rewards of a fair performance evaluation system are many. The following benefits will result if requirements and guidelines established for this system are carried out properly:
 - (1) Clearer job definition and understanding of each job by both supervisor and employee;
 - (2) On-going communication and dialogue between supervisor and employee regarding work performance;
 - (3) Improved employee performance;
 - (4) Better recognition of above average performance;
 - (5) More effective ways of dealing with poor performance;
 - (6) A more efficient and productive agency.

5-2 Annual Performance Assessments: It is the policy of the Mississippi Military Department that all employees be evaluated by their immediate supervisor, called the Appraiser. Assessments must be validated by a higher level of supervision, where such exists, within organizational structure; normally, the Appraiser's supervisor.

5-3 General Rules:

- A. Performance assessments are to be administered in a fair manner, without regard for race, sex, religious or political affiliation, age, national origin or disability. Only job-related and performance-related factors can be considered.
- B. State employees working year-round shall be assessed at least annually based on performance of duties of the employee's position. Normal assessment periods will be 1 July through 30 June of each state fiscal year. Performance assessments are due to the State Human Resources Office NLT 31 July each year.
- C. Job descriptions must be updated annually and attached to assessments so that work responsibilities and production outcome are communicated to the employee.
- D. No factor handled by established disciplinary procedures (tardiness, physical violence, etc.) shall be allowed as part of the evaluation process. Only work outcome shall be evaluated.
- E. An employee shall have been in a position for 90 days before being eligible to receive an assessment.
- F. The Appraiser shall generally be considered to be the last person to have supervised the employee for a period greater than 90 calendar days at the time of the assessment.

- G. The appraiser will conduct a formal assessment interview with the employee at the end of the assessment period to discuss the employee’s level of performance as rated by the appraiser.
- H. Personnel managers and appraisers in each entity shall retain records that may be evaluated by The Adjutant General or his agent for justification of assessments.
- I. An employee, who is detailed or temporarily assigned to a different position for a period expected to be at least 120 calendar days, shall be provided a written job description of the temporarily assigned position. Upon completion of the assignment, the employee shall receive an assessment by the supervisor in charge of the temporarily assigned position.

5-4 Responsibilities:

- A. The Adjutant General is the final authority for all state employee actions.
- B. Primary staff responsibility for all state employee programs is assigned to the Director, State Human Resources of the Mississippi Military Department.
- C. Appraiser’s Supervisors are responsible for:
 - (1) All comments on a Performance Appraisal must be measurable and not simply generic comments. Comments should clearly outline where the employee exceeds, meets or falls below expectations.
 - (2) Assuring that job descriptions (AGO Form 82-1) accurately reflect the duties and responsibilities assigned to all employees supervised.
 - (3) Discussing written standards and responsibilities with employees at the beginning and end of the assessment period.
 - (4) Conducting periodic meetings with each employee to advise and update the employee on their performance and any duty changes.
 - (5) Assessing the employee’s performance at the end of the assessment period or as otherwise required. Duty related comments in each category are required before the assessment will be considered complete.
 - (6) Preparing written documents, as needed, to defend assessments.
 - (7) Initiating corrective action when performance falls below “Meets Expectations” level and assist employee in improving “Below Expectations” performance to the “Meets Expectations” level.
- D. Appraiser’s Supervisors are responsible for:
 - (1) Ensuring compliance with performance assessment system.
 - (2) Ensuring duty-related comments are provided in each category.
 - (3) Ensuring up-to-date job descriptions are attached.
 - (4) Indicating approval or disapproval of assessments.
 - (5) Attempting to resolve differences between the appraisers and employees.
 - (6) Monitoring all subordinate appraisers to insure consistency in the same or similar jobs.
 - (7) Ensuring against rater bias or discrepancies in ratings.
- E. Facility commanders are responsible for ensuring that facets of this assessment system are carried out by assigned supervisors and for issuing management decisions on disputed matters. Such decisions shall be final except when overruled through grievance or appeal process.
- F. Employees are responsible for:

- (1) Notifying the appraiser of any facts or circumstances which the employee believes should be considered.
- (2) Participating in assessment discussions concerning current performance standards and ways to improve performance.
- (3) Successfully performing the duties, tasks, and responsibilities of the position.

5-5 Job Descriptions: Each position must have duties, tasks and responsibilities of the position described with a job description. Information for well-written job descriptions may be obtained from any source which adequately describes duties, tasks and responsibilities of the position. The Performance Assessment System depends on well-stated job descriptions, and it is the responsibility of the Appraiser to maintain a correct and current job description of each position.

5-6 Performance Improvement Plan:

- A. Performance Improvement Plan is not applicable to temporary employees or to employees serving a probationary period. Employees on appointments other than permanent may be recommended for termination at any time that performance is less than “Meets Expectations.”
- B. The supervisor will call to the employee’s attention, as early as possible, areas of performance needing improvement, and will initiate positive steps to assist the employee to improve performance to a satisfactory level. The following methods will be utilized by supervisors to improve an employee’s performance:
 - (1) Informal Efforts. The supervisor will discuss with the employee any area of performance that needs improvement. Part of the discussion will include guidance from the supervisor regarding specific actions which should be taken to improve performance. Informal actions include counseling, regular and careful review of work, on and off-site training, etc. Where these informal steps do not result in improved performance by an employee, the formal Performance Improvement Plan will be initiated.
 - (2) When informal efforts above do not result in improved performance, a Performance Improvement plan will be developed with the participation of the employee. The plan will be discussed with the affected employee and put in writing. This plan will require efforts of both supervisor and employee to result in an overall job performance at the “Meets Expectations” or higher level. The State Human Resources Office will be provided a copy of the written plan. This plan will be identified as a “Performance Improvement Plan” and, minimally, it will include the following:
 - a. An explanation of how the employee’s performance falls below the “Meets Expectations” level.
 - b. Specific goals in terms of time and results expected for progress.
 - c. Advice about what the employee must do to bring performance up to the “Meets Expectations” level and periodic counseling and reassessment during the period.
 - d. An updated copy of the employee’s job description.
- C. Timing of progress under the Performance Improvement Plan will be tailored to the degree of improvement needed, duties and complexity of the job, and the nature of appropriate corrective actions. The employee must be provided at least 90 days to demonstrate improved performance.

- D. When performance is “Below Expectations”, the employee will be notified that performance must be improved to a level that justifies retention by the end of the performance observation period.
- E. The employee will be given a copy of the Performance Improvement Plan at the beginning of the performance improvement period.
- F. When an employee fails to improve as a result of the Performance Improvement Plan, supervisors will recommend the employee be demoted, transferred or terminated.

5-7 Assessment:

- A. The Performance Assessment will be a fair and objective rating of the employee’s performance. Evaluations encompass only that pertaining to duties outlined within the job description and as discussed at meetings between the employee and the appraiser. Where duties were amended during the assessment period, a period of 90 days of performance observation must elapse before an evaluation is made against such for inclusion within the performance categories. Supervisors will not make evaluations based on disciplinary factors, i.e., tardiness, insubordination, etc. (these factors are better handled by established disciplinary procedures). Performance assessments must be based only on the outcome of work accomplished in regard to specific duties, tasks and responsibilities, and their interfacing with the five (5) performance categories.
- B. Appraisers may be called upon to document and justify reasons for giving a rating. These justifications MUST be measurable and clearly indicate the employee’s job performance. Documentation should prove the supervisor took into consideration the cumulative performance of the employee throughout the evaluation period and reflected performance within the performance categories, rather than concentrating on one or a few occurrences or periods of performance.
- C. A formal assessment will be required annually for each employee and at the time the employee leaves the supervision of an immediate supervisor, if an assessment has not been accomplished with the past 90 days.
- D. An appraiser who leaves a supervisory position is responsible for submitting to the next supervisory level an assessment for each supervised employee. At the discretion of the Facility Commander, the assessment will be transferred to the new appraiser for combining with additional evaluations in making the annual performance assessment report.
- E. Final assessments are grievable and supervisors should understand they may be called on to justify their ratings or adverse personnel actions. Justification does not exist without written documentation acknowledged by signature of employee and/or witnesses.

CHAPTER 6

RECRUITMENT AND PLACEMENT

6-1 Policy: It is the policy of the Mississippi Military Department that all positions be filled by a qualified individual selected on a basis of their relative ability, knowledge, skills and estimated potential while ensuring all current employees have an opportunity to develop and advance to their full potential. All vacancies will be filled on the basis of merit and job-related factors. Mississippi Military Department policy is to ensure fair treatment of applicants and employees in all aspects without regard to race, religious creed, political affiliation, national origin, gender, age or disability. However, the Mississippi Military Department reserves the right to enforce military, physical, age and gender requirements to positions which are essentially military in nature or for which military membership is required.

6-2 Scope: These policies encompass all state employee positions of the Mississippi Military Department. It will be used in filling positions through initial appointment, promotion, reassignment, reemployment, demotion and transfer.

6-3 Responsibilities: The Adjutant General is the appointing authority of all state employees of the Mississippi Military Department as provided in Section 3-3-11, Mississippi Code.

6-4 Request for Filling Vacancy: Supervisors will forward all requests to announce a vacant position through the appropriate chain of command and State Program Budget Manager to the State Human Resources Division. The request should specify whether the position should be advertised internally or opened to the general public. A current job description with a current review date must be attached to the request. Request for vacancy fill must include an updated organization chart, interview questions and interview panel members.

- A. Internal Recruitment restricts the recruitment to on-board employees of the Military Department only. Only those employees meeting the applicable selection criteria shall be approved for an Internal Recruitment position. Requests for Internal Recruitment must be submitted in memorandum format with full justification explaining why this form of recruitment is in the best interests of the Military Department.
- B. Open Competitive broadens the recruitment to the general public. This type advertising is most effective when the applicants who possess transferable skills are readily available in the labor market.
- C. Request for Position Announcements must include the PIN number of the position to be filled from the announcements. If multiple PINS are to be filled from a single announcement, each PIN must be included in the announcement.

6-5 Vacancies: Vacancies created by extended authorized leave of absence may be filled subject to return of the incumbent and other special conditions. Supervisors desiring to do this must submit a

request to State Human Resources justifying the need to fill the position. Special instructions regarding the temporary fill of an encumbered position will be on a case-by-case basis.

6-6 Posting of Announcements: Vacancy announcements will be posted and remain open for a minimum of 15 calendar days. Upon request, potential applicants should be furnished a personal copy of the position announcement.

- A. Mississippi state law requires that male applicants between the ages of eighteen (18) and twenty-six (26) submit satisfactory documentation of their compliance with the draft registration requirements of the Military Selective Service Act with their application. In addition, males between the ages of (18) and twenty-six (26), who are currently employed, shall not be promoted to higher positions until they submit documentation of compliance with the requirements of the Federal Selective Service Act.
- B. Only those applicants who meet or exceed the minimum qualifications specified in the announcement will be interviewed for the announced position. State Human Resources staff will be responsible for certifying the applications and forwarding them, along with Interview Rating Forms, to the Facility Commander/Supervisor for applicant interview.
- C. Employment of Relatives. No person shall be employed in a position which, a spouse, parent, grandparent, aunt, uncle, great-grandparent, child, grandchild, great-grand-child, brother, sister, nephew, niece, or sister, by blood, marriage, or adoption of the person or such person's spouse, is in direct supervisory line as either first- or second-line supervisor. This policy applies to all employment positions.

6-7 Applicant Interview: All position vacancies will be filled by use of, at a minimum, a three-member interview panel consisting of the first and second level supervisors of the position to be filled and other panel members appointed by the Facility Commander/Supervisor. State Human Resources should be advised of names, current position, race and gender of panel members prior to applicant interview. All applicants certified for interview by NGMS-SRP will be interviewed, without exception.

- A. Whenever a minority applicant is to be interviewed, a minority will be the third member of the panel. All panel members will occupy positions (federal/state) equivalent to or higher than that of the position to be filled. However, if a minority is unavailable that meets the equivalent grade requirements of the position to be filled, the most qualified minority available will be appointed to serve as the third panel member on the interview panel
- B. When the Adjutant General is the first or second level supervisor of a position, he may appoint a special panel for the purpose of interviewing applicants and making recommendations.
- C. In unusual situations, the first level supervisor or activity supervisor may request an exception to the above policy. The request must be fully justified in writing, citing the circumstances based on the request, and submitted to the Director, State Human Resources prior to panel establishment. Approval may be granted if the basic intent of the Mississippi Military Department policies and Equal Opportunity Laws are maintained.

- D. The purpose of convening an interview panel is to create a non-partisan panel to fairly and thoroughly examine each applicant's credentials and determine the best overall applicant. The panel will:
- (1) Develop questions and other factors to be used during the interviews to determine the best-qualified applicant. Interview questions must be submitted to State Human Resources for approval before interviews are conducted. Questions should be done so as to encourage the applicant to talk freely and openly. Questions should be carefully prepared and based, in part, upon prepared checklist to insure comparisons of applicant responses and qualifications.
 - (2) Phone or email contact by the first-level supervisor to each applicant advising them:
 - (a) Date, time and location of interview.
 - (b) Failure to report for the interview will result in non-consideration for the vacancy.
 - (c) If a member of the National Guard and the position requires such, they must report for the interview in the appropriate military uniform. (Appropriate uniform as designated by the panel). Other applicants will wear appropriate civilian attire.
 - (3) Conduct interviews and consider all applicants that report for interviews fairly and impartially.
 - (4) Telephonic interviews may be conducted due to extenuating circumstances of the applicant.
 - (5) All applicants will be allocated the same amount of time for the interview. Applicants must not be asked any question(s) which may be considered discriminatory or are prohibited by state or federal law. Federal laws and regulations applicable to employment discrimination include but are not limited to: Title VII of the Civil Rights Act of 1964, Age Discrimination in Employment Act of 1967, Equal Opportunity Act of 1972, Rehabilitation Act of 1973, and Americans with Disabilities Act of 1990.
 - (6) Panel members will document each interview to ensure impartiality, objectivity and job relatedness. Personal notations about the candidate or non-job-related notes should be avoided. Interview Sheets and notes will be reviewed by the State Human Resources Director ensure compliance with this requirement.
 - (7) The veteran status of an applicant may increase the numerical rating of the applicant. A copy of employee's DD Form 214 is required as proof of military service.
 - (a) A total of 5 points will be added for veteran status.
 - (b) A total of 5 points will be added for disabled veteran status. Current documentation showing percentage of disability must be included.
 - (c) These points will be added to the final points awarded by the president of the hiring board only and are based on a 100-point scale.
 - (d) Points will not be awarded when duty was for "training purposes only" to meet military obligations. A copy of the applicants DD Form 214 discharge papers and separation record or disability certification from the Veterans Administration will serve to qualify applicant for the appropriate point award.
 - (e) These points are added to the score of a veteran who served:
 - a. During war; or
 - b. During the period April 28, 1952 through July 1, 1955, or

- c. For more than 180 consecutive days, other than for training, any part of which occurred after January 31, 1955, and before October 15, 1976; or
 - d. During the Gulf War from August 2, 1990, through January 2, 1991; or
 - e. For more than 180 consecutive days, other than for training, any part of which occurred during the period beginning September 11, 2001, and ending on a date prescribed by Presidential proclamation or by law as the last day of Operation Iraqi Freedom or
 - f. In a campaign or expedition for which a campaign medal has been authorized. Any Armed Forces Expeditionary medal or campaign badge, including El Salvador, Lebanon, Grenada, Panama, Southwest Asia, Somalia, and Haiti, qualifies for preference.
- (f) Interviews will be conducted within 21 calendar days of the announcement closing date.

6-8 Recommendations of Interview Panel:

- A. The recommendation of the panel with all related forms will be submitted by memorandum to the State Human Resources Division. The panel will give specific reason for the recommendation made. A complete package will consist of:
 - (1) Copy of vacancy announcement.
 - (2) Interview schedule.
 - (3) Questions asked and applicant responses.
 - (4) Separate panel members' interview rating forms.
 - (5) Scoresheet of all applicants' individual rating score.
- B. Each member of "The Independent Interview Panel" must remain independent and neutral from each other panel member. It is imperative the "Interview Panel" understand that this office does not allow pre-selection, favoritism, or undue influence, when evaluating candidates. The Applicant who is awarded the highest overall score will be given the right of first refusal of the vacant position, unless the panel does not recommend the candidate for employment per the interview rating form.
- C. In the event of a tie score between candidates; the Interview Panel must reconvene and re-interview the tied candidates. If none of the candidates are recommended for the position, the Interview board president must justify in writing to this office the reason(s) for non-selection.
- D. Interview packets along with the recommendation letter will be transmitted to arrive in the State Human Resources Directorate NLT 7 days after the interviews are conducted.

6-9 Approval of Selection: The State Human Resources Division will review the recommendation of the interview panel and all related documentation. Upon approval/disapproval of the selection, the first-line supervisor will be notified. A letter from State Human Resources will notify those individuals interviewed and not selected when an appointment is made.

6-10 Effective Dates: Personnel actions will not be effective prior to notification of approval from State Human Resources. These actions include, but are not limited to, appointments, promotions, reassignments, transfers, non-selection notification, etc.

- A. If a position is being filled by "promotion/transfer", the effective date shall be the first day of the following month. If a position is to be filled by a “new hire”, the effective date of employment shall be 1st or the 16th day of the month.

6-11 Reemployment: The salary to be paid a former employee who is re-employed will be in accordance with rules governing original appointments.

CHAPTER 7

POSITION MANAGEMENT, CLASSIFICATION AND COMPENSATION

7-1 Position Management: The primary objective of sound position management is the most economical and effective use of human resources. It is the obligation of leadership to structure the various organizational units of the agency in a manner which will assure that assigned missions are legally, efficiently, and effectively accomplished. The structuring process involves the assignment of missions and functions to major organizational elements.

- A. The Mississippi Military Department’s position management program is a systematic knowledge requirement of the positions, and the grouping of duties and responsibilities among the positions.
- B. Position Management Principles. The Mississippi Military Department establishes and maintains only those positions necessary to accomplish agency programs in the most effective and economical manner. The determination of organizational structure, development of staffing plans, and assignment of duties to individual positions will comport with position management principles as follows:
 - (1) Establish the fewest number of positions essential to accomplish the functions assigned.
 - (2) Structure positions clearly and discretely to avoid overlapping of duties, unnecessary positions, or fragmentation of work processes.
 - (3) Abolish vacant positions if the duties can be redistributed or eliminated.
 - (4) Optimize supervision/employee ratios.
 - (5) Limit the number of deputy or assistant positions, both line and staff.
 - (6) Minimize the number of organizational levels with emphasis on decentralization, where feasible.
 - (7) Minimize the number of organizational levels with emphasis on decentralization, where feasible.

7-2 Allocation of Positions:

- A. Positions are established in accordance with the agency mission requirements, state laws and regulations, legislative intent, and funds availability.
- B. Once positions are established, a Position Identification Number (PIN) is assigned; the position is classified appropriately and assigned to the proper organizational element.
- C. Normally new positions are established at the beginning of the state fiscal year in conjunction with the state budget process and the Mississippi Military Department’s legislative appropriation authority.
- D. If federal funds become available during the operating state fiscal year, the Department of Finance and Administration (DFA) has a procedure to escalate state budgets. In order to establish a new position(s) via this process, federal program managers must provide funding

certification from the appropriate federal authority. The certification should reflect that funds are now available to support a given activity to include new positions. Subsequent to receiving escalation authority from DFA and the Legislative Budget Office, State Human Resources will classify the positions and the organizational chart depicting the precise location of the position(s).

7-3 Organization:

- A. The organization chart of the Mississippi Military Department established the agencies official structure. The chart depicts lines of supervision from The Adjutant General, through each organizational level, and sub-level to individual positions. The chart also includes those federal positions which are supervisory lines of state employees. The chart must account for all authorized state positions allocated to the Mississippi Military Department.
- B. The Mississippi Military Department's organization chart will be validated on a state fiscal year basis. Any interim changes, additions or modifications will be forwarded through supervisory channels to the State Human Resources Division (NGMS-SRP).

7-4 Position Descriptions: Position descriptions are written to meet specific operational needs. They describe the actual work of individual jobs. They describe specific duties that are performed, including essential job functions, and describe the structure and reporting relationships for the position in the functional area of the agency. Position descriptions reflect the current duties assigned to the position and are approved by the State Human Resources Division of the Mississippi Military Department. The major responsibility to ensure accurate position descriptions is that of the Supervisor. Position Descriptions are maintained at the facility/worksite.

7-5 Classification Maintenance: The State Human Resources Division of the Mississippi Military Department has the authority to determine whether positions are allocated to the appropriate job class. These determinations are based on job analysis data to include the state employee job description, professionally accepted guidelines for position classification, classification standards, and the appropriate class specifications.

7-6 Classification Determinations: All employment positions with the Mississippi Military Department are allocated to the appropriate job classification prior to any personnel action. The classification decision will be one of the following:

- A. No change. The position is properly classified.
- B. Lateral reallocation. The position will be reclassified to a job classification assigned the same pay range. Upward Reallocation. The position will be reclassified to a job classification assigned a higher pay range.
- C. Downward Reallocation. The position will be reclassified to job classification assigned a lower pay range.

7-7 Request for Reallocation of Positions: Requests for reallocation of positions must be submitted to State Human Resources with supporting documentation to include:

- A. A narrative of how the job position duties have substantially changed, justification as to why the proposed job classification better describes the new duties and a description of the consequences, if any, of the request disapproval.

- B. Current and proposed job descriptions.
- C. Modified organization chart.

7-8 Status of incumbents when Positions are Reallocated:

- A. When a position is reallocated, the employee in the position must perform the functions and meet the minimum requirements for the job classification to which the position is reallocated. Reallocation of filled positions will be without competition.
- B. When a reallocation of a position is upward (the pay range of the job classification to which the position is reallocated is higher than the old job classification), the incumbent is entitled to a salary increase *equal to the Start Step for the new position plus 3% or their current salary plus 10% whichever is greater* as provided by promotional formula cited in the compensation section of this guideline.
- C. If the reallocation is lateral (the pay range assigned the job classification to which the position has been reallocated is the same as the old job class), the incumbent's salary remains unchanged.
- D. If the reallocation is downward (the pay range assigned the job classification to which the position has been reallocated is lower than the pay range of the old job class), the incumbents' salary remains the same if the salary does not exceed the end range of the pay range. The incumbent must acknowledge in writing that he/she is aware the pay range of the job classification is lower than the previous pay range.

7-9 Compensation: The State Human Resources Division of the Mississippi Military Department will administer appropriate compensation plans in accordance with policy established herein and The Adjutant General's directions. Compensation policies are implemented within the context of funds availability, legislative intent, pertinent rates, regulations and statutes.

7-10 Pay Range Assignment: The Mississippi Military Department will assign pay ranges to job classes in recognition of the relative level of duties and responsibilities allocated to the positions in the job class.

7-11 Pay Range Realignment: Pay ranges are realigned in recognition of economic changes in the prevailing pricing of manpower for a job category within the relevant labor market. The relevant labor market is defined as comparable jobs in other state agencies, comparable jobs in the private sector market where appropriate, and/or comparable jobs in other state military departments where appropriate. The purpose of pay range realignment is to assign a relevant market competitive salary range to each job class.

- A. Salary adjustments resulting from pay range realignment are awarded in the same proportion that the pay range is adjusted. For example, if the starting salary assigned a job class is increased by 5%, then the salary of all incumbents in that job class is increased by 5%.

7-12 Implementation of Salaries:

- A. The rate of compensation to be paid an employee is based on the standard work period for full time employment and in conformity with the salary range assigned the job class for which employed. Generally, an employee's starting salary is set in accordance with the pay range of the job class to which he/she is placed.

- B. The pay range of a supervising job class should be superior to the pay range of the subordinate job class. So as not to violate the principal seniority or time-in services, a subordinate employee may have an actual salary equal to, or greater than, the supervisor's salary.
- C. All salary adjustments will be effective on the first day of the month.

7-13 Promotions and Position Transfers:

- A. Position transfers may be a demotion, a lateral or a promotion and only apply to current employees of the Mississippi Military Department.
- B. Demotions. Demotions occur when the new position (transferred to) is assigned a starting salary lower than the old position (transferred from). Salary for demotion transfers will be new position Start Step plus 3%. There is no salary increase associated with a demotion transfer.
- C. Lateral Transfers. A lateral transfer occurs when the new position (transferred to) is assigned a starting salary equal to the starting salary assigned the old position (transferred from). There is no salary increase associated with a lateral transfer. The transferred employee may be permitted to retain their current salary if sufficient funds are available and with the approval of the Director State Resources.
- D. Promotions. Promotions occur when a current employee is transferred into a position with a higher starting salary (according to the job classification) than the starting salary for their current job classification (position transferred from). The salary increase awarded the employee will be calculated using the formula shown in paragraph 7-21 based upon funds availability and the approval of the Director State Resources. Promotions occur when an incumbent moves to a job class with a higher pay range. Promotions may result from position transfers, position reallocation, or position reclassifications. All promotions are effective on the first day of the month.

7-14 Salary Determination:

- A. New employees to the Military Department will be brought into the employee system at the start step for their position. The start step is the salary that will be shown on the position vacancy announcement.
- B. The promotional formulas shown in this paragraph will be utilized for the purpose of calculating the maximum promotional salary that may be offered to a current employee. The promotional maximum salary is the maximum that may be awarded. The salary for a promotion is determined as follows:

Current Employee Promotional Formula:

- (1) For Positions announced as **unrestricted**; the start salary for new employees to the Military Department will be the new position start-step not to exceed new position start-step. For current employees of the Military Department the position will be offered at current salary plus 10% or new position start-step plus 3% whichever is greater.
- (2) For Positions announced as **restricted**; the start salary will be "the new position start-step plus 3% or current salary plus 10% whichever is greater."

(3) For Positions that are reallocated to a pay range in which the new positions start salary is higher than the current start salary the employee is entitled to a salary increase equal to the Start Step for the new position plus 3% or their current salary plus 10% whichever is greater.

7-15 Detail to Special Duty: When the services of an employee are temporarily needed in a position other than the position to which regularly assigned, the employee may be required to perform the tasks of such a position without a change in position title or employee status.

- A. A probationary employee assigned to special duty shall not be required to serve an additional probationary period.
- B. When an employee is assigned the duties of a position that is in an equal or higher pay range, a temporary salary award up to ten percent (10%) above the current salary may be awarded when justified. The position to which the employee is being detailed must be vacant or filled by an incumbent who is not available for duty due to an authorized leave.
- C. Employees being detailed to vacant positions will usually be limited to 180 days.
- D. If an employee is being detailed to a filled position, the incumbent of the filled position must have been absent for at least thirty (30) days prior to the request for detail.

(1) Detailed justification which indicates the position to which the employee is being detailed and the duties to be assigned while performing in the detail capacity; A statement from the employee acknowledging the temporary salary increase will be withdrawn upon completion of special duty.

7-16 Shift Differential: Additional compensation may be paid to individuals in a designated occupational class who always work the evening or night shifts.

- A. The evening shift is generally from 1530 to 2400 hours and the night shift is generally from 1130 to 0800 on a continuing basis. Shift differential is Evening 5% and Night 10% of the base salary as long as the individual is working the evening or night shift.
- B. For employees on the 12-hour shift schedule the night shift is generally 1800 to 0600 on a continuing basis. Shift differential is Night 10% of the base salary as long as the individual is working the Night shift.
- C. The Shift differential does not apply to contract employees unless this differential is included in their contracts.

7-17 Educational Benchmarks: The State Human Resources Division is authorized to approve a one-time request to award educational benchmark increases on a case-by-case basis; educational benchmark awards will not exceed 10% of the base salary. To be eligible for an educational benchmark award, the employee will have achieved an educational or professional attainment that exceeds the level possessed by the employee at the time of appointment. The attainment must be directly related to the duties assigned the employees' position.

- A. The following documentation is to be submitted with an educational benchmark request:
 - (1) A copy of the Degree (including transcripts) issued by an institution of higher learning approved by the State of Mississippi Department of Education in the specific field of study associated with the position, Certification or Licensure issued.
 - (2) Justification of the job-related value of the educational attainment to the Military Department.

(3) Certification of the budget manager that funds are available to support the educational benchmark request.

- B. Attendance at workshops, conferences or any educational opportunity that is funded by the Military Department, State of Mississippi or the National Guard Bureau will not be considered for an Educational Benchmark.

7-18 Salary Adjustments: Salary adjustments are salary increases based upon economic conditions in the state and retention efforts.

- A. This salary increase is for all employees who have been rated. The intent is to recognize and retain your good performers in the state workforce with requests for salary adjustments up to five (5) percent with require justification for approval by the Directory of Human State Resources.
- B. All requests for salary adjustments are to be recommended by the first line supervisor and concurred with by all other appropriate levels of supervision. The employment Performance Assessments for the previous 12-month period must be on file in the State Human Resources Office prior to consideration. Final approval of the request will be subject to review by the Director State Human Resources.
- C. Each proposed merit salary increase is to be transmitted by a completed Personnel Action Request (AGO Form 81), along with the narrative justification. To verify funds availability, all requests for merit salary increase must be submitted through the appropriate Program Manager.

7-19 Merit Performance Awards: Merit performance awards are salary increases based upon exceptional performance. Awards must be thoroughly documented in conjunction with performance assessments.

- A. This is a very limited award, not a general increase for all employees who have been rated. The intent is to recognize your very top performers, request for merit salary increases up to ten (10) percent will require exceptional justification for approval by the Director of State Resources.
- B. Recommendations must be based upon and supported by a narrative justification, citing the specific achievements of the employee, over and above the standard. Examples of statements include, “Joe produced a program that cut the time for processing bill requests in half.” “In addition to his engineering duties, Sam is the ERR Coordinator for the state and annually attends week-long training for that in addition to attending monthly meetings.”
- C. If a request is based on educational achievement, it must be above what is required for the position and the types of courses and length of courses must be submitted.
- D. These are not longevity increases, i.e. “Joe has worked at the facility for 18 years. Examples of justification that will not work include, “Joe is very prompt and works well with others. He is always eager to assist others.” “Joe has done an excellent job in this position. He completes his work in a timely manner.” The justification statements must be very specific, and they must be beyond the job duties. Working extra hours is not justification for a merit increase; it is managed by compensatory time earned.
- E. All requests for merit increases are to be recommended by the first line supervisor and concurred with by all other appropriate levels of supervision. The employment Performance Assessments for the previous 12-month period must be on file in the State Human Resources

Office prior to consideration. Final approval of the request will be subject to review by the Director State Resources.

F. Each proposed merit salary increase is to be transmitted by a completed Personnel Action Request (AGO Form 81), along with the narrative justification. To verify funds availability, all requests for merit salary increase must be submitted through the appropriate Program Manager.

G. Requests received after payroll cut-off dates will become effective the following month.

7-20 Back Pay: Retroactive pay will be certified by the State Human Resources Division in accordance with the constitution of Mississippi, Article 4, Chapter 96 (1890).

7-21 Salary Range: In no case shall a salary increase result in the salary exceeding the ending salary assigned to a job class.

7-22 Minimum Wage: At no time will an employee be paid below the federally mandated minimum wage.

7-23 Probationary Period: The probationary period shall be the initial twelve months of service from the date of hire into the Military Department.

A. During this initial twelve-month probationary period an employee is eligible to apply for another position.

B. Any request for in-service movement (from one agency to another) will not reset the probationary period to the date of the new transaction.

7-24 Educational Requirements: Program Managers will determine education requirements when requesting state job announcements. Program managers will determine if skills and experience are suitable substitutions for degree requirements for the positions in their organizations.

CHAPTER 8

DISCIPLINE, CORRECTIVE ACTION AND SEPARATION OF EMPLOYMENT

8-1 Authority and Scope: Mississippi Code Ann. Section 33-3-11 (a), as amended, establishes The Adjutant General's authority to remove any state employee of this department at his discretion. The following section establishes the fair and objective procedures for correcting or treating unacceptable conduct and performance, and to distinguish between less serious and more serious acts of misconduct and the provision of proper and consistent disciplinary action. The processes set forth in this section do not apply to employees separated from employment due to an authorized reduction in force or to an employee during the twelve (12) month probation period.

8-2 Discipline and Corrective Action: All forms of discipline comport with due process. Disciplinary action shall be applied in steps of increasing severity whenever practical in order to stimulate a change in the behavior that activated the disciplinary process. Supervisory authority shall adhere to fair and objective procedures for correcting or treating unacceptable conduct and performance in accordance with the guideline herein; distinguish between less serious and more serious actions of misconduct and provide disciplinary action accordingly; and limit disciplinary action to employee conduct occurring only when employees are at work or when otherwise representing the state in an official or work-related capacity, unless otherwise provided for in this chapter.

8-3 Schedule of Offenses and Authorized Disciplinary Action: Discipline shall be administered in an equitable and consistent manner. The schedule of offenses and disciplinary actions below is intended as a guide in administering discipline.

- A. **Group One Offenses:** Generally, these offenses are less severe and may be disciplined by written reprimand. The accumulation two (2) written reprimands within a twelve (12) month period may result in suspension without pay, not to exceed five (5) working days. **State employees facing disciplinary action for accumulating written reprimands are entitled to due process prior to being suspended, demoted or dismissed.**

Group One offenses include, but are not limited to, the following offenses:

- (1) Unexcused tardiness;
- (2) Abuse of state time such as unauthorized time away from work area or failure to notify supervisor promptly upon completion of assigned work;
- (3) Obscene or abusive language;
- (4) Conviction of a moving traffic violation, excluding driving under the influence, while operating state vehicles.

- B. **Group Two Offenses:** Acts and behavior in this group are generally more severe than Group One offenses. Group Two offenses may be disciplined by written reprimand and/or

- C. suspension without pay not to exceed ten (10) working days. Two (2) Group Two reprimands within a one (1) year period may result in demotion, suspension or dismissal. Accumulation of one (1) written reprimand for a Group Two offense and two (2) written reprimands for Group One offenses within a one (1) year period may result in demotion or dismissal. **State employees facing disciplinary action for accumulating written reprimands are entitled to due process prior to being suspended, demoted or dismissed.**

Group Two offenses include, but are not limited to, the following offenses:

- (1) Violation of safety rules in the absence of a threat to life.
- (2) Leave usage without justifiable and reasonable excuse for such absence. Unapproved leave usage concerns should always be tied to job performance issues during counseling sessions. Leave should never be the sole reason for suspension or termination requests.
- (3) Failure to report to work without giving proper notice to supervisor.
- (4) Leaving the work site without giving proper notice to supervisor.
- (5) Unauthorized use or misuse of state property or records.

- D. **Group Three Offenses:** Acts and behavior in this group are of the most serious nature. Commission of one (1) Group Three offense may be disciplined by a written reprimand and/or may result in suspension without pay up to thirty (30) days, demotion or dismissal. **State employees facing disciplinary action for accumulating written reprimands are entitled to due process prior to being suspended, demoted or dismissed.**

Group Three offenses include, but are not limited to, the following offenses:

- (1) Insubordination including, but not limited to, resisting management directives through actions and/or verbal exchange, and/or failure or refusal to follow supervisor's instructions, perform assigned work, or otherwise comply with applicable established written policy;
- (2) Unauthorized absence or leave in excess of three consecutive working days without required notification and satisfactory explanation given to the employee's supervisor in a timely manner.
- (3) Use of alcohol or the unlawful manufacture, distribution, dispensing, possession or use of controlled substances while on the job or on the employer's premises.
- (4) Reporting to work under the influence of, or when ability is impaired by, alcohol or the use of controlled substances.
- (5) Falsification of records or data such as, but not limited to, vouchers, reports, time records, leave records, employment applications or other official documents.
- (6) Willful or negligent defacement of, or damage to, the records or property of the state or another employee.
- (7) Acts of physical violence or fighting. **Physical contact or aggressive behavior by a supervisor towards an employee will result in termination.**
- (8) Violation of safety rules where there exists a threat to life or human safety.
- (9) Unauthorized possession or use of firearms, dangerous weapons, or explosives.
- (10) Threatening or coercing employees or supervisors, members of the public, and/or other agency employees, including stalking.

(11) An act or acts of conduct including, but not limited to, the arrest or conviction for a felony or misdemeanor occurring on or off the job, which are plainly related to job performance and are of such nature that to continue the employee in the assigned position could constitute negligence in regard to the agency's duties to the public or to other state employees;

(12) Engaging in prohibited political activity.

(13) Theft on the job.

(14) Operation of a state-owned motor vehicle without a valid driver's license.

(15) Violation of Mississippi Military Department (MMD) Standards of Conduct, policies and procedures, included, but not limited to: creating or participating in discrimination in the workplace or a hostile work environment; refusing to cooperate and/or giving a false statement in an investigation of MMD policies and procedures as well as Violations of the Social Media policy.

(16) Refusal to take a drug or alcohol test when requested to do so in accordance with the MMD Drug and Alcohol Testing policy and Mississippi Code Annotated 71-7-3.

8-4 Forms of Discipline: All forms of discipline have grievance when applied to permanent state employees. Written notice of intent to affect any action adversely affecting compensation or employment status and the reasons for such action shall be given to the employee at least five (5) working days prior to the effective date of the intended action (See Paragraph 8-11). In extraordinary circumstances and with the State Human Resources concurrence, the employee may be placed on immediate suspension with pay pending final determinations.

8-5 Corrective Action Preliminary to Formal Disciplinary Action: Supervisory authority may attempt to correct unacceptable behavior with a verbal warning and/or counseling and/or other appropriate informal means, whenever practical, prior to taking formal action against an employee.

8-6 Documentation of Corrective and Disciplinary Actions:

- A. When supervisory authority takes informal corrective action preliminary to a formal disciplinary action, a written account of such action may be placed in the employee's local personnel file. Formal disciplinary actions include written reprimand, suspension, demotion and dismissal. All reprimands must be in writing.
- B. When an employee has been reprimanded, a copy of the reprimand shall be placed in the employee's official personnel file located at Mississippi Military Department, State Resources, Human Resources Office.
- C. Documentation of corrective actions, disciplinary measures and written reprimands may be kept indefinitely in the employee's official personnel file for the purpose of showing a pattern of employee conduct.
- D. Before any reprimand or other adverse comment is placed in an employee's local personnel file, the employee shall be given:
 - (1) A copy of the material to be placed in the file.
 - (2) Written notice that the material will be placed in the personnel file.

- E. Supervisory authority shall keep a copy of the notice which shall contain either the employee's acknowledgment they received the material and the notice, or a statement signed by the person who delivered the material and the notice that the employee refused to sign such an acknowledgment. Supervisory authority shall determine what job-related information would be included in each employee's personnel file. However, the inclusion of any information which may adversely affect a permanent employee's compensation or employment status can be contested.
- F. If the supervisory authority determines such documentation will be a part of the employee's permanent record, then the documentation will be sent to State Human Resources for inclusion of the official personnel file.

8-7 The Adjutant General: Retains sole authority for suspension without pay, disciplinary, demotion and dismissal of state employees. Requests for all disciplinary actions for all employees, including probationary employees, must be forwarded through channels to this office for presentation to The Adjutant General for adjudication and final disposition. Supervisors may advise employees of the intent to recommend any adverse actions.

8-8 Suspension:

- A. The supervisory authority may recommend suspension without pay for the employee as punishment for disciplinary cause.
- B. Extraordinary circumstances mean a situation in which, based on the judgment of the appointing authority, retention of an employee would result in damage to state property, would be detrimental to the interests of the Mississippi Military Department or would result in injury to the employee, a fellow employee, the general public, agents of the department or other agency personnel.
- C. The State Human Resources Director will be contacted prior to taking action of this nature.

8-9 Disciplinary Demotion: An employee may be recommended for demotion from a position in one class to a position in a lower class having a lower salary range and having less discretion or responsibility only for cause. The salary will be certified in accordance with policies and rules regarding initial salary determination.

8-10 Dismissal: A non-probationary employee may be recommended for dismissal only for cause.

8-11 Due Process:

- A. All non-probationary state employees of the Mississippi Military Department will be afforded procedural due process prior to any action to dismiss or otherwise adversely affect their compensation or employment status. The process due to the subject employee:
 - (1) Written notice of the recommended action.
 - (2) Summary of charges or allegations being made against the employee.
 - (3) What disciplinary actions are being considered/recommended.
- B. The employee must be provided with the opportunity for a conference with the Facility Commander/Directorate/Division Head allowing the employee to respond and present a defense to the allegations prior to final action by The Adjutant General. The written notice shall be presented to the employee at least five (5) days prior to the conference. Due process equals a written notice plus an opportunity to respond.

- C. Any process, grievance procedures, appeal procedures or other procedures set out herein are purely privileges, not rights. The Adjutant General may, in his/her sole discretion, grant or deny the Mississippi Military Department employees such process if he/she deems it is in the best interest of the Mississippi Military Department.

8-12 Procedural Process for Disciplinary Actions: Recommendations for suspension without pay, disciplinary demotions or dismissals must be complete and fully in accordance with this process.

- A. The supervisor takes the appropriate steps (see paragraph 8-6) and recommends the disciplinary action, in writing, to the Facility Commander/Directorate Division Head; the supervisor advises the employee, in writing, of the grievance procedure.
- B. Within two (2) days, the employee is notified in writing that a conference will be held with the Facility Commander/ Directorate/Division Head. This notification will include the date (within at least five (5) working days), time and location of the conference, subject of the conference (pre-suspension, pre- demotion, and pre-dismissal), all reasons for consideration of the adverse action(s), and an advisement that the employee should bring written comments or a response to the charge under consideration. Subsequent to the meeting with the employee, the Facility Commander/ Directorate/Division Head will concur or non-concur with the recommendation for disciplinary action. Upon concurrence, the documents will be compiled with the supervisory recommendation(s) for final action and forwarded to the State Human Resources Director for The Adjutant General’s consideration. Care should be taken to include the employee’s written comments/remarks or account for the lack of employee comments/remarks. In the case of non-concurrence, the documents will be returned through the supervisory chain with instructions for final resolution.
- C. If the employee waives a hearing, Facility Commander/ Directorate/Division Head will concur/non-concur with the recommendation for disciplinary action. Upon concurrence, the documents will be compiled with the supervisory recommendation(s) for final action and forwarded to the State Human Resources Director for The Adjutant General’s consideration. Care should be taken to include the employee’s written comments/remarks or account for the lack of employee comments/remarks. In the case of non-concurrence, the documents will be returned through the supervisory chain with instructions for final resolution. Waiver of a hearing is determined by the employee’s written statement of waiver, or by the employee’s failure to respond in writing or to appear at the pre-arranged conference.
- D. The State Human Resources Director will conduct an administrative review of the recommendations, to include the employee’s grievance, remarks and comments. If the action is found to be procedurally sound, fair and appropriate, recommendation for final action will be made to The Adjutant General. If deemed necessary, the State Human Resources Director may investigate the issue to gain any additional insight on information that may be required. The State Human Resources Director may not concur with the requested adverse action and make a separate recommendation to The Adjutant General. Accordingly, upon receipt of The Adjutant General’s decision, the State Human Resources Director will advise all parties of the determination. **The Adjutant General’s decision in these matters is final.**

8-13 Non-Retention of Probationary State Employees: During the probationary period, the employee's work and conduct is carefully observed. Within this twelve-month probationary period, the employee may be dismissed with cause and without due process. All requests for termination of probationary employees will be forwarded through channels to the Director, State Human Resources. The final disposition authority is The Adjutant General of Mississippi.

8-14 Procedure for Non-Retention of Probationary State Employees: Request for dismissal of a probationary employee will follow this process.

- A. Written recommendations for non-retention must be supported by good cause and submitted through the appropriate channels to the State Human Resources Director. There is no prior notification requirement for the employee.
- B. The State Human Resources Director will review the non-retention request. If deemed necessary, the State Human Resources Director may investigate the issue to gain any additional insight or information that may be required. The State Human Resources Director will concur/non-concur with the requested adverse action and make a recommendation to The Adjutant General for final resolution. Upon receipt of The Adjutant General's decision, the State Human Resources Director will advise parties of the determination. **The Adjutant General's decision in these matters is final.**

CHAPTER 9

GRIEVANCES

9-1 The employee grievance procedure is designed to:

- A. Resolve the grievance in an equitable and timely manner to avoid bias and unfair employment practices.
- B. Settle the grievance informally at the Facility Commander/Directorate/Division Head level whenever possible.
- C. Correct, if possible, the cause of the grievance to prevent future similar complaints.
- D. Assure fair and equitable treatment of all employees and to promote harmonious relations generally among employees, supervisors, and administrative staff.
- E. Afford the aggrieved party all the applicable safeguards of procedural due process.
- F. Guarantee that an employee who files a grievance is free from reprisal.

9-2 Who May File a Grievance: A non-probationary employee may file a grievance on those issues listed in paragraph 9-3. A probationary, part-time or time-limited employee in, or applicant for, an authorized employment position, may grieve only alleged acts of discrimination based on race, religion, national origin, sex, age, disability or political affiliation.

9-3 Grievance Issues:

- A. Disciplinary actions, including reprimands, dismissals, demotions, and suspensions. The grievance process for dismissals, demotions and suspensions is covered under the Due Process procedures beginning on page 8-4.
- B. Application of personnel policies, procedures, rules, regulations, ordinances, and statutes.
- C. Acts of reprisal against an employee for using the grievance procedure.
- D. Complaints of discrimination on the basis of race, color, sex, religion, national origin, age, disability or political affiliation.
- E. Any matter of concern or dissatisfaction to an employee if the matter is subject to the control of The Adjutant General (except as provided in paragraph 9-4).
- F. Performance appraisal ratings to the extent they affect an employee's employment status or compensation.
- G. Permanent relocation of employees as a disciplinary measure, for political reasons, and/or where the employee can present substantive evidence that the management decision to relocate the employee was arbitrary or capricious.
- H. Sexual harassment.

9-4 Non-Grievance Issues: The following are non-grievance issues:

- A. Issues that are pending or have been concluded by direct appeal through administrative or judicial procedures.
- B. Temporary work assignments which do not exceed ninety (90) calendar days.

- C. Budget and organizational structure, including the number or assignment of employees or positions in an organizational unit.
- D. Performance standards and performance elements established as criteria for performance appraisal.
- E. The selection of an individual to fill a position through promotion, transfer, demotion or appointment unless it is alleged that selection is in violation of a written policy.
- F. Internal security practices.
- G. Termination or layoff from duties because of shortage of funds or work, material change in duties or organization.
- H. Any matter that is not within the jurisdiction or control of The Adjutant General;
- I. The content of published policy.
- J. An action pursuant to federal or state law or directives from the Governor’s Office or court order.
- K. Establishment and revision of the compensation plan, and the policies, procedures, rules and regulations pertaining therein.
- L. Position classifications.
- M. Employee benefits.

9-5 Grievance Procedures: Except for a grievance that is directly related to a specific supervisor, the grievance must be processed through supervisory levels as indicated further herein. When the complaint is directly related to a specific supervisor, (such as a sexual harassment grievance) the employee may elect to bypass such supervisor. When a complaint is related to discrimination, or sexual harassment, the individual may file a grievance directly to the Mississippi Military Department, ATTN: State Human Resources Director, P.O. Box 5027, Jackson, MS 39296-5027, 601-313-6213. Normal grievance sequences and actions are:

- A. An employee who has a grievable complaint must identify the grievance in writing with the immediate supervisor within five (5) workdays of becoming aware of the cause of complaint. Relief sought by the grieving employee must be clearly stated.
- B. The supervisor will have five (5) workdays from the date of initial discussion to inform the employee of his/her answer in writing or the grievance form. If the complaint is mutually resolved at this level, the supervisor and employee shall jointly prepare and sign a memorandum or the grievance form stating, “ACCOMPLISHMENT OF ACTIONS INDICATED BY ABOVE RESPONSE REPRESENT ADEQUATE RELIEF AND THE GRIEVABLE COMPLAINT SUBMITTED BY ME IS CONSIDERED RESOLVED.” The original copy will be placed within the employee’s personnel record. The employee is entitled to a personal copy of the memorandum.
- C. If the problem is not resolved per Paragraph A and B above, the employee may submit a memorandum or grievance form, providing a detailed description of the grievance and specific relief requested within five (5) workdays following the immediate supervisor’s written response. The memorandum should be addressed to the Facility Commander Directorate/Division Head. The Facility Commander Directorate/Division Head will have five (5) workdays to inform the employee of his/her answer in writing or the grievance form. If the complaint is mutually resolved at this level, the written response will be annotated to indicate “ACCOMPLISHMENT OF ACTIONS INDICATED BY ABOVE RESPONSE

REPRESENT ADEQUATE RELIEF AND THE GRIEVABLE COMPLAINT SUBMITTED BY ME IS CONSIDERED RESOLVED.” The employee shall date and sign the annotation. The original copy will be placed within the employee’s personnel record. The employee is entitled to a personal copy of all writings.

- D. If the problem is not resolved per Paragraph C above; the employee may initiate an appeal to the Director of State Resources Office, Mississippi Military Department.
- E. Regardless of whether a grievance is resolved at facility level, a copy of all documentation relating to sexual harassment will be forwarded to the Mississippi Military Department, ATTN: State Human Resources Director, P.O. Box 5027, Jackson, MS 39296-5027.

9-6 Grievance Time Limit: If a grievance is not presented within the time limit as set forth above, it will be considered to be waived. If a grievance is not appealed to higher supervisory levels within the specified time limit or an agreed extension thereof, it will be considered settled on the basis of the last answer. If the supervisor does not answer the grievance appeal within the specified time limit, the employee may elect to treat the grievance as denied at that step and immediately appeal the grievance to the next higher supervisory level. Time limits may be extended only once by mutual written agreement of the parties involved or by direction of The Adjutant General.

CHAPTER 10

CONTRACT WORKERS

10-1 Purpose: Contract workers are utilized by the Mississippi Military Department for part-time, intermittent, or temporary work demands. If such manpower requirements exceed one year or more, then allocation, of full-time employment, may be necessary.

10-2 Contract Personnel: In accordance with the Mississippi Code of 1972, annotated, section 25-9-120 (1), contract workers shall not be deemed employees of the state of Mississippi and shall not be eligible for any program plans, and/or benefits established for Military Department state employees.

- A. Contract workers can be offered employment at the worksite level. State Human Resources will conduct a post-employment review to ensure the contract employee possesses the required experience, education, and personnel security attributes as provided in the applicable contract. Subsequent to the post-job offer, the field will be notified by State Human Resources of start date for the employee.
- B. Contract workers can be dismissed with cause without prior notification. **Request for dismissal of Contract workers must be forwarded to State Resources Human Resources Office for approval to terminate the employee.**
- C. Documents of cause for dismissal must be provided to State Human Resources along with the request to dismiss.

10-3 Contract Worker Salary Determination: The salary for a contract worker will not exceed the base salary plus 10% of comparable state employee jobs. If there is no comparable work identified within the Military Department, then compelling documentation supporting the requested salary must be provided to the State Human Resources Division. Comparable jobs in other state agencies will be identified prior to consulting other sources. At no time will a contact employee be paid below the federally mandated minimum wage.

10-4 Procedures for Establishing State Contract Worker Agreements:

- A. Contract Agreement. There are three (3) parts to the contact agreement.
 - (1) Attachment A- Authorization for Contract Personnel Service completed by the requesting entity.
 - (2) Attachment B-Agreement between Contracting Parties completed by the Contract Worker.
 - (3) Contract Justification-Completed by the requesting entity.
- B. Request for authorization for Contract Personnel Services contracts must be sent into the State Human Resource Division Office. Once received, it will then be submitted to The Adjutant General for approval. The entity will be notified of the approval and given the authorization to hire contract workers. The entity will not hire until this process is complete. It is not permissible to hire in the middle of pay periods. A new employee will start work at the beginning of a new pay period.

- C. Approved contracts must be acted upon within 30 days of notification of approval. If not acted upon within this 30-day period the contract will be considered void.

10-5 Contract Worker New Hire: Prior to hiring a contract worker, the facility must submit the PAR and Addendum, I-9 and two (2) forms of identification to the State Resources Division for approval. Once received, the State Human Resources Division will then notify the facility if the application will be approved or non-approved.

- A. The following forms will be submitted for each new contract worker. Proper paperwork is essential to processing the new employee. Failure to forward all paperwork may delay the employee of being hired.
- (1) Contract Worker Personnel Action Request Form (See Appendix D).
 - (2) Federal Tax Forms.
 - (3) State Tax Forms.
 - (4) I-9 Form, Employment Eligibility Verification. Complete section 1 and 2.
 - (5) Two (2) forms of identification, I-9 will provide acceptable versions of identification.
 - (6) Signed copy of Attachment B of the Contract Agreement (See Appendix E).
 - (7) Contract Personnel Personal Data Sheet (See Appendix F).
 - (8) Direct Deposit Request (must be accompanied by a voided, or copy of, a voided check).
 - (9) Addendum 1.
 - (10) Background check.

10-6 Timekeeping: State Human Resources Division will provide a list of pay dates to each point of contact prior to pay period due dates. These dates are given in advance. Contract workers are paid bi-weekly. Timesheets are due to the State Human Resources Division in a timely manner from the cut-off period. Timesheets are to have the employee and supervisor's signature. If the employee or supervisor is unavailable to sign, the timekeeper will note this on the timesheet and proceed with processing the timesheets.

10-7 Contract Renewal: Each entity will be notified each year prior to 30 June to begin to send in the new contract renewals. All renewals must be received and processed before 30 June of each year. The contract renewals must be signed by the Budget Program Managers.

10-8 Contract Modifications:

- A. Contract modifications can be made for the following:
- (1) Increase number of personnel.
 - (2) Increase amount of funding.
- B. Notification of such changes should be requested via e-mail or fax 601.313.6163. In the event the funds are either low or unavailable, the entity will then be contacted and the modifications will be delayed until funds are available.