

## Reduction In Force Priority

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### Policy

Legislation provides an employment priority to career state employees, subject to the North Carolina (NC) Human Resources Act, who have been officially notified in writing of Reduction In Force to enable a State employee to return to state service.

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### Coverage

Employees with career status (as defined by GS 126-1.1) who have received official written notification of imminent separation due to reduction in force, are eligible for priority consideration under the provisions outlined below.

An employee who is separated from a time-limited appointment is not eligible for priority unless the appointment extends beyond three years.

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### Relationship to Other Priorities

The priority for employees separated by reduction in force (RIF) and the priority for employees with less than 10 years of service subject to the NC Human Resources Act separated from exempt policy-making or exempt managerial positions are equal.

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### Appeals

A career State employee, as defined in G.S. 126-1.1, with priority consideration who has reason to believe priority consideration was denied in a selection decision, shall appeal through the agency grievance procedure in accordance with G.S. 126-34.02.

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### Official Notification Requirements

It is the employing agency's responsibility to notify the employee in writing of impending separation as soon as possible and in any case not less than 30 calendar days prior to the effective date of separation. The official notification shall include the employee's eligibility to receive priority consideration and appeal rights.

#### Advisory Note:

It is recommended that the official notification letter also include the following information:

- the expected date of separation
- reasons for the reduction in force
- benefits
- vacation pay, sick leave, pro-rated longevity (if applicable), severance salary continuation or discontinued service retirement (if applicable), insurance options (if applicable), and other benefits.

### Period of Priority

An employee shall receive priority consideration for a period of twelve months from the date of the official written notification.

Employees who have priority status at the time of application for a vacant position and who apply during the designated agency recruitment period will be considered as priority applicants until the selection process is completed for that position.

#### Advisory Note:

Once an employee has been officially notified of separation by reduction in force, the employee's twelve-month period of priority begins. This twelve-month period cannot be extended under any circumstances. Agencies may, however, if funds are identified to continue employment for the

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employee, delay the separation date beyond the date originally stated in order to continue employment as long as funds are available.

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### Priority Consideration

Within all State agencies, an employee officially notified of reduction in force shall receive priority consideration. If it is determined that an eligible employee and any other applicant have "substantially equal qualifications," then the eligible RIF employee must receive the job offer. However, the priority for employees separated by reduction in force (RIF) and the priority for employees with less than 10 years of service subject to the NC Human Resources Act separated from exempt policy-making or exempt managerial positions are equal.

"Substantially equal qualifications" occur when the employer cannot make a reasonable determination that the job-related qualifications held by one applicant are significantly better suited for the position than the job-related qualifications held by another applicant.

The nature of the priority to be provided is as follows:

Employees in a permanent full-time position that are notified of reduction in force shall have priority consideration to permanent full-time and permanent part-time positions. Employees in a permanent part-time position that are notified of reduction in force shall have priority consideration to permanent part-time positions.

#### Grade to Grade

RIF applicants shall have priority for positions at the same salary grade or below as held at the time of official written notification.

#### Grade to Band or Band to Grade

For RIF applicants applying for positions in a different classification system than their classification at the time of official written notification (i.e., from graded to career banded or vice versa), a salary grade equivalent will be assigned for each

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competency level within a career banded classification. Applicants shall have priority for positions at the same salary grade or below.

### **Band to Band**

RIF applicants shall have priority for positions in the same banded classification at the same competency level or lower as that held at the time of notification, or for positions in a different banded classification with the same or lower journey market rate as that held at the time of notification.

Advisory Note: The salary grade equivalent is not used when determining the RIF priority for a RIF applicant who was in a banded class at the time of notification and is applying for a position in a banded class.

Employees do not have priority consideration to exempt policymaking or exempt managerial positions.

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### **RIF from Trainee Positions**

For employees receiving notification of separation from trainee positions, who are eligible for priority consideration, the salary grade for which priority is to be afforded is the salary grade of the full class.

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### **RIF from Flat Rate Positions**

For employees receiving notification of separation from flat-rate positions, who are eligible for priority consideration, the salary grade for which priority is to be afforded is the salary grade which has as its maximum a rate nearest to the flat rate salary of the eligible employee.

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### **Priority for Retiring Employees**

An employee who, after receiving official written notice of impending reduction in force, retires or applies for retirement prior to the separation date, or leaves State government employment, waives the right to priority.

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### Priority for Employees Currently Possessing Priority

An employee notified of imminent separation through reduction in force while actively possessing priority consideration from a previous reduction in force shall retain the initial priority for the remainder of the 12-month priority period. A new priority consideration period shall then be afforded at the salary grade (or salary grade equivalency), of the position held at the most recent notification of separation, and expires 12 months from the most recent notification date.

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### Salary Requirements

The salary paid to a RIF applicant shall be calculated according to the salary administration policies. A RIF applicant shall not be paid a salary higher than the maximum of the salary grade (or banded salary range) of the position accepted.

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### Probationary Period

An employee, with reduction in force priority status is required to serve a new probationary period when there is a break in service.

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### Satisfaction of RIF Priority Consideration

If an employee accepts a permanent position with the State within the 12-month priority period, at the same salary grade (salary grade equivalency) or higher or the same salary rate or higher than the position held at the time of notification of separation, the priority is satisfied.

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### Effect on Priority if Lower Level Position and Salary Rate Accepted

When priority has been granted for a lower salary grade (or salary grade equivalency) and salary rate than that held at the time of notification, the employee retains priority for higher salary grades (or salary grade equivalencies) up to and including that held at the time of the notification of separation.

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### Termination of RIF Priority Consideration

Priority reemployment consideration is **terminated** when an eligible employee:

- applies for a position but declines an interview or offer of the position if the position is at a salary grade (or salary grade equivalency) or salary rate equal to or greater than that held at the time of notification;
- When an employee with priority status accepts a position at a lower salary rate or lower employee's salary grade (or salary grade equivalency) and is subsequently terminated by disciplinary action, any remaining priority consideration ceases; or
- has received twelve months priority consideration.

Priority reemployment consideration is **not terminated** when an eligible employee is placed in a position within 35 miles of the employee's original work station prior to the separation date due to reduction in force, if the position is at a lower salary grade (or salary grade equivalency) or salary rate less than that held at the time of notification, and if the position is at the same appointment status.

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### RIF Priority Consideration and Other Employment

An employee may accept the following employment and retain priority consideration throughout the twelve-month priority period:

- employment outside State government,
- a State position not subject to the NC Human Resources Act,
- a temporary position, or
- a contractual arrangement (see Advisory Note).

Advisory Note: Any employee separated from State government and paid severance wages shall not be employed under a contractual arrangement by any State agency, other than the constituent institutions of the UNC System and the constituent institutions of the N. C. Community College System, until 12 months have elapsed since the separation.

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### **Notification to the Office of State Human Resources**

State agencies shall notify the Office of State Human Resources when employees are officially notified in writing of the reduction in force. Also, state agencies shall notify the Office of State Human Resources when a RIF applicant is hired and when their priority is satisfied or terminated. Timely notification to the Office of State Human Resources is required to ensure the Priority Verification List is accurate. The Priority Verification List is a tool for agency HR staff to quickly assess priority status of applicants.