

## Priority Consideration for Reduction-in-Force Employees

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**Policy** Employees with career status 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 State Personnel Act separated from exempt policy-making or exempt managerial positions are equal.

RIF priority shall not apply when the only applicants considered for the vacancy are current State employees.

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**Appeals** A career state employee with priority status who has reason to believe priority consideration was denied in a selection decision may appeal directly to the State Personnel Commission through the established contested hearing process of the Office of Administrative Hearings.

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**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.

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**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, insurance options (if applicable), and other benefits.
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### Period of Priority

An employee shall receive priority consideration for a period of twelve months from the date of the official written notification provided the employee files a completed state application with the employee's agency within 30 days of receipt of written notification of separation. It is the agency's responsibility to submit such an employee's completed state application to the Office of State Personnel. If the employee does not want assistance in finding another State job, the agency shall obtain a written statement from the employee to that effect, and provide a copy to the Office of State Personnel.

Employees who have priority status at the time of application for a vacant position, who apply during the designated agency recruitment period, and are determined minimally qualified for the vacant position, will be considered as priority applicants until the selection process is complete.

**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 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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### Determining Priority

Within all State agencies, an employee officially notified of reduction in force shall receive priority consideration over all applicants who are not State employees but shall receive equal consideration with applicants who are current State employees not affected by a reduction-in-force. This does not include priority to any exempt policy-making or exempt managerial positions.

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

A RIF state employee with more than 10 years of service shall receive priority consideration over a RIF state employee with less than 10 years of service in the same or related position classification.

#### **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.

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### Determining Priority (continued)

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

**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.**

#### 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.

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### Who must be interviewed?

Within all agencies, an employee who has been officially notified of reduction in force, shall be interviewed for any available vacant position which is at a salary grade (or salary grade equivalency) equal to or below that held at the time of official written notification, at the same banded class and competency level equal to or below that held at the time of official written notification, or at a different banded classification with a journey market rate equal to or below that held at the time of official written notification, if the employee:

- has applied, or
- has been referred by the Office of State Personnel,  
**provided** the employee:
  - meets the minimum qualifications for the position and
  - could perform the job in a reasonable length of time, including normal orientation and training given any new employee

If the RIF employee meets the above conditions, the RIF employee must be offered the vacant position prior to employing anyone who is not a current State 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 waives the right to priority consideration and severance salary continuation.

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### When does an additional priority apply?

An employee officially notified in writing of imminent separation through reduction-in-force while actively possessing priority consideration shall retain the initial priority for the remainder of the first twelve month priority period. A new priority period shall then be afforded at the salary grade (or salary grade equivalent), salary rate and appointment status of the position held at the most recent notification of separation. The length of this additional priority period shall be equal to the time between the expiration dates of the old and the new priority, assuming that the second twelve month period started on the date of the most recent notification.

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### Requirements for Salary and Salary Grade (Grade to Grade, Grade to Band, or Band to Grade)

A reduction-in-force applicant who:

- accepts a position at the **same salary grade** (or equivalency) shall be paid at the same salary rate as that paid at the time of notification of separation by reduction-in-force;
- accepts a position at a **lower salary grade** (or equivalency) than that held at the time of notification shall be paid at the same rate as the rate paid at the time of notification unless the salary rate exceeds the maximum of the new grade. When the salary rate exceeds the maximum of the lower salary grade, the employee's new salary rate shall be reduced to the maximum of the new lower salary grade.

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

Refer to the chart on Page 28 for further clarification regarding issues pertaining to salary grade/rate.

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### Requirements for Salary (Band to Band)

A Career Banded reduction-in-force applicant who:

- accepts a position at the **same banded classification** and **same or lower competency level** shall be paid at the same salary rate as that paid at the time of notification of separation by reduction-in-force.
- accepts a position at a **different banded classification** with the **same or lower journey market rate** shall be paid the same rate as the rate paid at the time of notification unless the salary rate exceeds the maximum of the new banded classification. When the salary rate exceeds the maximum of the banded classification, the employee's new salary rate shall be reduced to the maximum of the new banded classification.

When priority has been granted for a lower competency level at the same banded classification or lower salary rate than held at the time of notification, the employee retains priority for higher competency levels in the same banded class/salary rates up to and including that held at the time of written notification of separation.

When priority has been granted for different banded classification with a lower journey market rate or salary rate than that held at the time of notification, the employee retains priority for classes with journey market rates/salary rates up to and including that held at the time of written notification of separation.

Please refer to the following chart for further clarification regarding issues pertaining to competency level/journey market rate and salary rate.

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### RIF from Flat Rate/Trainee Positions

For employees receiving notification of separation from trainee or flat-rate positions, who are eligible for priority consideration, the salary grade for which priority is to be afforded shall be determined as follows: For employees in flat rate positions, the salary grade level shall be the salary grade which has as its maximum a rate nearest to the flat rate salary of the eligible employee. For employees in trainee status, the salary grade level shall be the salary grade of the full class.

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The following chart summarizes the requirements

Position Offered/ Accepted	Priority Consideration [GS 126-7.1 (c1)(1)]	Salary Rate Guarantee [GS 126-7.1 (a2)]	Does Employee Have Any Priority Remaining
Higher salary grade (or s.g. equivalent)	NO	No Salary Rate Requirements.  Pay policies relating to promotion will apply if employee is in “notification” period and has not been separated.	<b>Priority not satisfied until all three conditions equal or greater than that held at notification (appointment status, salary grade/competency level/journey market rate and salary rate).</b>
Higher competency level in the same banded class			
Higher journey market rate in a different banded class			
Same salary grade (or s.g. equivalent)	YES	Rate dictated by statute. Must be same salary rate as that held at time of notification. <u>Options:</u> (1) grant same salary (2) employee voluntarily acknowledges salary rate less than statutory level in writing during pre-screening phase of selection process	<b>Priority not satisfied until all three conditions equal or greater than that held at notification (appointment status, salary grade/competency level/journey market rate and salary rate).</b>
Same competency level in the same banded class			
Same journey market rate in a different banded class			
Lower salary grade (or s.g. equivalent)	YES	Rate dictated by statute. Must be same salary rate as that held at time of notification. <u>Options:</u> (1) grant same salary (2) employee voluntarily acknowledges salary rate less than statutory level in writing during pre-screening phase of selection process	<b>Priority not satisfied until all three conditions equal or greater than that held at notification (appointment status, salary grade/competency level/journey market rate and salary rate).</b>
Lower competency level in the same banded class			
Lower journey market rate in a different banded class			

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**Is priority affected if employee accepts a lower status appointment?**

Priority consideration is intended to enable a State employee to return to career service at a salary grade and salary rate equal to that held at the time of notification. Acceptance of a position at a lower appointment status will not affect priority. (For instance, if an employee with priority status for permanent full-time positions is offered a time-limited full-time position and accepts or declines, priority is not satisfied.) Employees notified of separation from permanent full-time positions shall have priority to permanent full-time and permanent part-time positions. Employees notified of separation from permanent part-time positions shall have priority to permanent part-time positions only.

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**Can a new probationary period be required?**

An employee, who has a break in service (more than 31 calendar days), with reduction-in-force priority status may be required to serve a new probationary period if:

- the essential duties and responsibilities of the position into which the employee is being reemployed are significantly different from those of the position held at the time of reduction in force notification; or
- in the judgment of the employing agency, a new probationary period is justified.

The employee shall be notified in writing of the decision to require a new probationary period.

A decision by an agency to require a new probationary period will not nullify the employee's right to another future period of priority status should that employee receive notification of separation through reduction-in-force while serving in probationary status.

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### Termination of RIF Priority Consideration

Priority reemployment (grade to grade, grade to band, and band to grade) consideration is **terminated** when an eligible employee:

- refuses an interview or offer for a position within 35 miles of the employee's original work station if the position is at an appointment status, salary grade and salary rate equal to or greater than that held at the time of notification;
- accepts a position equal to or greater than the salary grade (or salary grade equivalency), salary rate, and appointment status of the position held at the time of notification; or
- has received twelve months priority consideration, or
- accepts a position at a lower salary grade (or salary grade equivalency) and/or salary rate and is subsequently terminated by disciplinary action.

For career banded RIF applicants, priority reemployment (band to band) consideration is also terminated when an eligible employee:

- refuses an interview or offer for a position within 35 miles of the employee's original work station if the position is at a the same banded classification and has a competency level, salary rate, and appointment status equal to or greater than that held at the time of notification; or
- refuses an interview or offer for a position within 35 miles of the employee's original work station if the position is at a different banded classification and has a journey market rate, salary rate, and appointment status equal to or greater than that held at the time of notification; or
- accepts a position at the same banded classification equal to or greater than the competency level, salary rate, and appointment status of the position held at the time of notification; or
- accepts a position at a different banded classification equal to or greater than the journey market rate, salary rate, and appointment status of the position held at the time of notification; or
- has received twelve months priority consideration, or
- accepts a position with the same banded classification at a lower competency level and/or lower salary rate and is subsequently terminated by disciplinary action.
- accepts a position with a different banded classification at a lower journey market rate and/or lower salary rate and is subsequently terminated by disciplinary action.

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### Priority Consideration Continues

#### **Grade to Grade, Grade to Band, Band to Grade**

If an employee accepts a position that is a lower salary grade level, lower salary rate, or appointment status than that held at time of notification, the priority consideration will continue for the remainder of the twelve-month priority period or until priority is otherwise satisfied, whichever occurs first.

#### **Band to Band**

If a career banded employee accepts a position that has the same banded classification and a lower competency level, salary rate, or appointment status than that held at the time of notification, or if the employee accepts a position that has a different banded classification with a lower journey market rate, salary rate, or appointment status than that held at the time of notification, the priority reemployment consideration will continue for the remainder of the twelve-month priority period or until priority is otherwise satisfied.

Or, an employee may accept the following employment and retain priority consideration throughout the twelve-months priority period:

- employment outside State government,
- a State position not subject to the State Personnel Act, or
- a temporary position, or
- a contractual arrangement.

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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### After Priority Expires

If an appointment has not been received within the priority period, a person previously eligible for priority will be considered under regular applicant procedures.

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### Agency Responsibilities

Agency responsibilities for assisting employees and reporting to the Office of State Personnel are outlined in Priority Referral System Procedures.

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